

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)
July 24, 2001 - 4:00 p.m.

(Continuation of the July 10, 2001, Board of County Commissioners Regular Meeting.)

Amended Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda
 - A. Amendments
 - B. Tabled or Withdrawn Items
- VI. Approval of Minutes
- VII. Consent Calendar
 - A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:
 1. CDRC Case #A/V 01-5120 - Mike Ferran Appeal Variance (Approved) (TABLED)
- VIII. Administrative Items:
 - A. Committee Appointments:
 1. Santa Fe Community College District Local Development Review Committee (TABLED)
 2. ~~Regional CIP Advisory Committee~~
- IX. Staff and Elected Officials Items:
 - A. Community, Health and Economic Development Department
 - ✓ 1. ~~Resolution No. 2001 - A Resolution Assigning the Santa Fe County Manager Signature Authority for the Santa Fe County Housing Services Division Home Sales Program~~
 - B. Finance Department
 1. ~~Presentation by Rick Johnson & Company Regarding the Marketing and Advertising Plan for Santa Fe County for Fiscal Year 2000-2002~~
 2. ~~Request Authorization to Enter into Amendment Number Five to the Professional Services Agreement, #20-0052FI, with Rick Johnson and Company for Lodgers' Tax Advertising and Marketing Services~~

C. Land Use Department

- 1. ~~Resolution No. 2001- A Resolution Replacing Resolution No. 1991-52 "Establishing Development Permit Fees"~~
- 2. Resolution No. 2001- A Resolution Supporting Continuing, Cooperative Efforts Between the City of Santa Fe, Santa Fe County and the New Mexico State Land Office to Protect, Preserve and Rehabilitate the Santa Fe River as a Valued, Local Natural Resource and to Promote Public Educational and Recreational Opportunities Along the River Corridor (TABLED)
- 3. ~~Request Authorization to Enter into a Memorandum of Agreement (MOA) with the City of Santa Fe for a Santa Fe Southern Rail Corridor Appraisal and Valuation Study~~
- 4. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 1996-10, Article II, Sections 1.2 and 1.3 to Restructure the County Development Review Committee and Local Development Review Committee and Local Development Review Committee Structures and to Create Local Planning Boards in Communities that have Adopted Community Plans (TABLED)
- 5. Request Authorization to Enter into a Customer Contract with Phillip and Deluvina Sena for Commitment of Water and Sewer Utility Service for a Project Utilizing the Transfer of Development Rights Program ~~(TABLED)~~ *off the table* *20,000 per acre fee*
- 6. ~~Request Authorization to Acquire the Following Real Property for the Wildlife, Mountains, Trails and Historic Places Program:~~
 - a. ~~South Meadows Tract - Located South Meadows Blocks 3 and 4, Section 1, Township 16 North, Range 8 East, Section 6, Township 16 North, Range 9 East~~
 - b. ~~Madrid Lot - Located in Madrid, Improvement No. 208G, 209G, 210, 211, 212 and 213 as Shown on the Residential Area on the Townsite of Madrid~~

approved

D. Matters from the County Manager, Samuel O. Montoya

E. Matters of Public Concern - NON-ACTION ITEMS

F. Matters from the Commission - 916

- 1. Resolution No. 2001- A Resolution Authorizing Expansion of the Santa Fe County's Water and Sewer Utilities Service Areas
- 2. ~~Resolution No. 2001- A Resolution Directing County Staff to Take all Reasonable and Necessary Action to Commence Planning and Development of a Regional Surface Water Diversion System at Buckman~~

approved

G. Matters from the County Attorney, Steven Kopelman

1. Executive Session

- a. Discussion of Pending or Threatened Litigation
- b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights
- c. Discussion of Competitive Sealed Proposals Solicited Pursuant to the Procurement Code Relative to Contract Negotiations - Adult and Juvenile Detention Facilities and Electronic Monitoring Program

X. Public Hearings

- A. Request Authorization to Proceed with Negotiations for the County Open Lands and Trails Planning Advisory Committee (COLTPAC) Recommended Vista Grande Ranch Trail Corridor Project - Located at the Ortiz Mine Grant, Township 13 North, Range 8 East (TABLED)
- B. Ordinance No. 2001- An Ordinance Amending Ordinance No. 2001-4, Declaring a Moratorium on New Subdivisions, Land Divisions and Master Plans for Projects Served by El Dorado Utilities, Inc. and Encouraging Conservation Measures within the El Dorado Utilities, Inc. Service Area to Establish Provisions under which Development can Proceed (First Public Hearing)
- C. Ordinance No. 2001- An Ordinance Amending the Santa Fe County Land Development Code, Ordinance 1996-10, to Add Section 13 to Article I Entitled "Procedures for Ordinance Amendments" (Second Public Hearing) (TABLED)
- D. **Land Use Department Items:**

Scheduled for Sept 11/04
Scheduled for Sept 11/04

- 1. **CDRC CASE #M 00-5630.** J.R. Hale Mine Contracting, applicant, Sam Bregman, agent, request approval for creation of a mine zone to allow sand and gravel extraction on 134.32 acres. The request includes a variance of Article VII, Section 3.4.1c1.a of the Land Development Code to allow for disturbance of rock outcroppings and a variance of Article VII, Section 3.4.1c1.c to allow for disturbance of slopes of 30% or greater. The property is located north of County Road 57, near Waldo, within Sections 12 and 13, Township 14 North, Range 7 East (Commission District 3). Frank White (TABLED)
- 2. **CDRC CASE #V 01-5200.** Copar Pumice Company Variance. Copar Pumice Company (Kelly Armstrong, President) requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow a Summary Review Subdivision of 2.01 acres into two lots; 1 acre and 1.01 acres in size. The property is located east of US 285, 2 miles south of Cuyamungue, within Sections 27 and 28, Township 19 North, Range 9 East (Commission District 1). Penny Ellis-Green (TABLED)
- 3. **LCDRC CASE #Z 01-5010.** Santa Fe Downs Master Plan. Pojoaque Pueblo Development Corporation applicant, Jim Siebert, agent, requests master plan zoning approval to allow for recreational/non-residential uses at the Downs of Santa Fe on 321 acres in 2 phases. The property is located southwest of the Intersection I-25 and State Road 599, within Sections 26 and 27, Township 16 North, Range 8 East (Commission District 3). Penny Ellis-Green (TABLED)
- 4. **LCDRC CASE #MIS 01-5011.** Downs Liquor License. Pojoaque Pueblo Development Corporation, applicant, Jim Siebert, agent, request approval to allow for a transfer of ownership of Liquor License No. 366 from PTE Inc. to the Pojoaque Pueblo Development Corporation, the liquor license is to remain at the present location at the Downs at Santa Fe, 27475 I-25 West Frontage Road. The property is located southwest of the Intersection of I-25 and State Road 599, within Sections 26 and 27, Township 16 North, Range 8 East (Commission District 3). Penny Ellis-Green (TABLED)

5. ~~CDRC CASE #Z 01-5130.~~ The Village at Eldorado. Allan and Stacy Crossingham, applicants, requests a Master Plan Amendment to include 30,000 square foot of retail shops (including take out food establishments, an open air market and a pub with the sale of liquor), a 21,000 square feet 6 screen movie theater, 5,000 square feet of office space and 14,000 square feet of Community Service space on 9.59 acres. The request includes the property to be served by an on site well instead of by Eldorado Utilities. The property is the Village at Eldorado (formerly Sierra Plaza) located at the southeast corner of Avenida Grande and Caliente Road, within projected Sections 9 and 16, Township 15 North, Range 10 East (Commission District 5). Frank White

6. CDRC CASE #MIS 01-5280. Agora Plat Vacation. Agora I and Agora II LLC, applicant, request approval to vacate a previous plat for the purpose of consolidating two lots and to remove a note on the previous plat which prohibits development on the lots until the Eldorado moratorium is lifted, in accordance with Article V, Section 5.7 of the Land Development Code. The property is located northwest of the Intersection US 285 and Avenida Vista Grande, within projected Section 9, Township 16 North, Range 10 East (Commission District 5). Penny Ellis-Green

7. CDRC CASE #MIS 96-5131. Mountain View Business Park Master Plan Extension. Coyote Moon Development, applicant, requests approval to allow for a 24 month extension to the expiration date of a master plan and master plat for a commercial subdivision on 10 acres (Mountain View Business Park), which was approved on July 9, 1996. The property is located 5 miles north of Edgewood, north of the intersection of State Road 344 and State Road 472, within Section 27, Township 11 North, Range 7 East (Commission District 5). Penny Ellis-Green

8. EZ CASE #S 01-4220. Sena Vista Heights. Phillip & Deluvina Sena, applicants, Jim Siebert, agent, request Master Plan, Preliminary and Final Development Plan & Plat approval for a 70 lot residential subdivision on 15 acres through a Transfer of Development Rights as set forth in the Santa Fe Metro Area Highway Corridor Plan. The property is located off of the I-25 Frontage Road across from the La Cienega Interchange, within Section 26, Township 16 North, Range 8 East (2-Mile EZ District). Vicki Lucero

EZ CASE #M 01-4260. Tesuque Knolls. Ralph Brutsche, applicant, Oralynn Guerrerortiz, agent, request authorization to proceed with a Master Plat procedure for a 15 lot residential subdivision on 65.92 acres. The property is located along State Road 475 (Hyde Park Road), within Sections 4, 5, 8 & 9, Township 17 North, Range 10 East (2-Mile EZ District). Vickie Lucero

XI. Staff and Elected Officials Items:

A. Land Use Department

1. Resolution No. 2001-⁹³A Resolution Creating the Simpson Ranch Contemporary Community Planning District and Establishing a Simpson Ranch Contemporary Community Planning Committee

Approved

approved

approved

approved

approved

*your approval
(1st
stop
of meeting)*

XII. Public Hearings**A. Land Use Department Items:**

1. **TDRC CASE #V 01-5210.** Simon Stertz Height Variance. Simon Stertz, applicant, requests a variance of Article XIV, Section 3.8.2d1 (Height on Slopes and Ridgetops) of the Land Development Code to allow for a 225 square foot residential stairwell to be 23 feet high instead of the Code required 14 feet on 51.7 acres. The property is located at 14 Via De Zorritos, within the Traditional Community of Tesuque, within Section 31, Township 18 North, Range 10 East (Commission District 1). Frank White (**TABLED**)
2. **CDRC CASE #V 01-5101.** Donald Kennedy Variance. Donald Kennedy, applicant, requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow the placement of three mobile homes on 1 acre. The property is located at #6 Tranquil Way, within Section 34, Township 16 North, Range 8 East (Commission District 3). Wayne Dalton (**TABLED**)
3. **CDRC CASE #A/V 01-5026.** Anna Hickey Appeal Variance. Anna Hickey, applicant, is appealing the CDRC's decision to uphold the Land Use Administrator's decision to deny a family transfer land division of 4.16 acres into two lots; both lots consisting of 2.08 acres. The property is located at 15 Wild Turkey Way, within Section 27, Township 16 North, Range 10 East (Commission District 5). Wayne Dalton (**TABLED**)
4. **CDRC CASE #Z 01-5140.** High Road Market Place. La Jicarita Enterprise Community, applicant, Jane Cook, agent, request Master Plan Zoning with Preliminary and Final Development Plan approval for an arts and crafts store providing networking, training, mentoring, exhibition and sales opportunities in an existing 1540 square foot structure. The property is located on County Road 94-C in Chimayo, within Section 1, Township 20 North, Range 9 East (Commission District 1). Wayne Dalton
5. **AFDRC CASE #V 01-5150.** Padilla Variance. Phillip and Mary Padilla, applicants, request a variance of Article III, Sections 4.1 and 4.2 (types and locations of commercial districts) of the Land Development Code to allow commercial zoning outside of a potential commercial district on a 0.78 acre tract. The property is located at Route 6 Box 89 within the Traditional Historic Community of Agua Fria, within Section 32, Township 17 North, Range 9 East (Commission District 2). Frank White (**TABLED**)
6. **CDRC CASE #V 01-5180.** Rosendo Lujan Variance. Rosendo Lujan, applicant, requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow a small lot family transfer land division of 0.58 acres into two lots; one 0.35 acre lot and one 0.22 acre lot. The property is located off County Road 101E, within the Traditional Community of Pojoaque, within Section 11, Township 19 North, Range 8 East (Commission District 1). Frank White (**TABLED**)
7. **CDRC CASE #Z 00-5965.** AT&T Wireless Cellular Facility. AT&T Wireless, applicant, Rodey, Dickason, Sloan, Akin and Robb PA., agent, request Master Plan Zoning with preliminary and final development plan approval for a cellular facility to include a 24 foot high cellular tower consisting of 12 panel antennas and equipment building. The property is located within the Mesita de Juana Lopez Grant on La Bajada Mesa, within

(6) approved

Section 20, Township 15 North, Range 7 East (Commission District 3). Frank White (WITHDRAWN)

Approved
8. EZ CASE #Z 99-4891. Airport Road Shell. Brewer Oil Co. (Charley Brewer), applicant, requests a transfer of ownership and location of a dispenser liquor license for an approved retail use (convenience store/gasoline) on .91 acre. The property is located at 7510 Airport Road within the two-mile Extraterritorial District, Section 11, Township 16 North, Range 8 East (Commission District 3). Joe Catanach

Approved
9. EZ CASE #S 00-4802. Rufina Meadows. Sun Mountain Estates, Inc. (Bill Chapman, President), applicant, request final plat/development plan approval for a 46 lot residential subdivision on 23.3 acres in accordance with the approved master plan. The property is located off the Rufina Road extension east of Jemez Road within the two-mile Extraterritorial District, Section 6, Township 16 North, Range 9 East (Commission District 3). Joe Catanach

XIII. ADJOURNMENT

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

1965414

SFC CLERK RECORDING 08/16/2004

SANTA FE
BOARD OF COUNTY COMMISSIONERS
CONTINUATION OF THE
JULY 10, 2001 REGULAR MEETING
JULY 24, 2001

Paul Duran, Chairman
Paul Campos
Javier Gonzales
Jack Sullivan
Marcos Trujillo

1965415

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

July 24, 2001

This continuation of the July 10, 2001 regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:25 p.m. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll Call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Commissioner Paul Duran, Chairman
Commissioner Marcos Trujillo
Commissioner Javier Gonzales [late arrival]
Commissioner Paul Campos
Commissioner Jack Sullivan

Members Absent:

None

I. APPROVAL OF THE AGENDA

- A. Amendments**
- B. Tabled or withdrawn items**

CHAIRMAN DURAN: Sam, are there any amendments?

SAMUEL MONTOYA (County Manager): Mr. Chairman, we have several tablings for tonight. Also, I just want to point out to the Board that at the last meeting, we tabled several issues as well, so I will only be going over the tabling issues for this evening. They begin with item VII. A. 1, which is the findings of fact and conclusions. We're also asking that item IX. C. 2 and C. 4 be tabled. Item X. A. and C. be tabled, and items XII. A. 1 through 7, except for four, excuse me. Items XII. A. 1, 2, 3, 5, 6 and 7 be tabled, Mr. Chairman.

CHAIRMAN DURAN: Tell me again on XII.

MR. MONTOYA: XII. A, we would table items 1, 2, 3, 5, 6 and 7. All the

items in blue.

CHAIRMAN DURAN: Okay.

MR. MONTOYA: Mr. Chairman, it is also recommended from counsel that there be a motion from the Board to reconvene from the last session.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Okay. There's a motion and a second. Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

MR. MONTOYA: Mr. Chairman, noting the fact that one of our commissioners is traveling to the meeting, I wasn't sure if the Commission wanted to move to the Land Use cases or if you wanted to go directly to the executive session, Mr. Chairman. It would be up to the discretion of the chair.

CHAIRMAN DURAN: Do you want to do executive session?

COMMISSIONER CAMPOS: I would prefer to just go as scheduled and reschedule executive session maybe in a couple hours when we've heard some of these cases and people can go home instead of waiting around for another hour or so for us to discuss things in executive session.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: We only have four Land Use cases and we have three public hearings. Do we want to go ahead with those or do we wait typically until 5:00 for the public hearings? It seems if we could get—some of the applicants are here. It seems that we could get a few of those out of the way and then go into executive session.

CHAIRMAN DURAN: The reason I tried to get executive session at the front is we always put it to the back and staff hangs around waiting for us to discuss executive session and we end up recessing because we didn't get to finish the entire agenda. I think if we went into executive session now we'd be in there and we'd take care of business and come back out. We wouldn't be in there for any unnecessary length of time.

COMMISSIONER CAMPOS: Mr. Chairman, I'd say let's go for a couple of hours on the regular agenda. Perhaps by that time Commissioner Gonzales will be here. Go to executive session at about 6:30 or 7:00.

COMMISSIONER TRUJILLO: How long is executive session?

MR. MONTOYA: Mr. Chairman, I would say we would need approximately half an hour to 45 minutes.

COMMISSIONER TRUJILLO: So that's not extreme. In the meantime, hopefully Javier, Commissioner Gonzales, will show up and he can be involved in the public hearings and the Land Use items.

MR. MONTOYA: That's correct, Mr. Chairman, Commissioner Trujillo. Mr. Chairman, I was going to recommend that we go to item VII, CDRC Case 96-5130, the Mountain View Business Park since I do know that staff is here and so are the interested parties.

CHAIRMAN DURAN: How about if we go into item X. D. 6, and then work our way through the balance of those Land Use issues and then go to XII. A. 4, 8 and 9.

MR. MONTOYA: Mr. Chairman, the representatives from Agora are not here but the Mountain View Business Park are here.

CHAIRMAN DURAN: Okay, why don't we start that, get the ball rolling on that, and see where we are after that one, and then we'll talk about the rest depending on what's going on at that moment.

MR. MONTOYA: Thank you, Mr. Chairman.

CHAIRMAN DURAN: Okay, first on the agenda, and the agenda is still subject to change. I guess I need a motion to approve the agenda first. Is there a motion to approve the agenda as amended?

COMMISSIONER CAMPOS: So moved.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: There's a motion and a second. Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

- X. D. 7. **CDRC Case #MIS 96-5131. Mountain View Business Park Mater Plan Extension. Coyote Moon Development, applicant, requests approval to allow for a 24-month extension to the expiration date of a master plan and master plat for a commercial subdivision on ten acres (Mountain View Business Park) which was approved on July 9, 1996. The property is located five miles north of Edgewood, north of the intersection of State Road 344 and State Road 472, within Section 27, Township 11 North, Range 7 East**

PENNY ELLIS-GREEN (Review Specialist): Thank you, Mr. Chairman, Commissioners. On July 9, 1996 the BCC granted master plan and master plat approval for an eight-lot commercial subdivision and the creation of a community center commercial district. The master plat allows for administrative approval of the final development plan and plats to create up to eight lots and give the developer flexibility, depending on the needs of the purchaser. Article V, Section 5.2.7 of the County Code states that the master plans are valid for a period of five years from the date of approval by the Board. Upon request of the subdivider, a master plan approval may be extended for up to an additional two years by the Board.

The applicant states that the project has been delayed due to litigation with the former project agent and that this type of development is still needed in the Edgewood area.

Recommendation: Article V, Section 5.2.7 of the Code allows an extension of time for up to two years to be granted by the Board. Staff recommends approval of the two-year extension of time to the master plan and master plat, subject to the following condition. And just one condition, stating the existing conditions of approval will be complied with. Thank

you.

CHAIRMAN DURAN: Any questions of Penny?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Penny, what happens—first of all, I assume that this is not in the town of Edgewood. It's right on the periphery.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, this is just north of the town Edgewood. It's outside of the incorporated area.

COMMISSIONER SULLIVAN: Okay, so first question is what happens in the two-year period if it's incorporated?

MS. ELLIS-GREEN: If this piece of property is incorporated we won't have any jurisdiction and at that time, the applicant would follow any regulations that the town of Edgewood has for zoning.

COMMISSIONER SULLIVAN: Okay, then the second question is what happens during the two-year period if the area undertakes or possibly even completes a community plan that's been discussed for the area?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, if a community plan is done and this area is included in the community plan, then when the applicant comes in for a development plan approval, they would need to comply with any design criteria or design standards set by that community plan or by the ordinance.

COMMISSIONER SULLIVAN: But they already have a pre-approved master plan, correct?

MS. ELLIS-GREEN: That's correct. The zoning would remain in place for a period of two years.

COMMISSIONER SULLIVAN: That would be my only concern, would be the grandfathering in of the zoning. I don't have any problem with extending it if the town of Edgewood doesn't have any problem with it. Have you discussed this with them?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, no we haven't, since it's not in the town of Edgewood's jurisdiction.

COMMISSIONER SULLIVAN: The only—and I think it's a fairly remote possibility that a plan for that area, a County plan for that basin would be completed within two years, but in the off possibility that it were, it would seem to me that we'd want a condition on the extension that that would control over prior approvals were there any conflicting provisions.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, usually when we look at a community plan and the plans that have recently been adopted, they look at if you've got a valid master plan that you're grandfathered in for that zoning. One other thing is that section of the Code allows for up to an additional two-year period. So if the Board did not want to grant two years, but a slightly shorter period, that would be your option as well.

COMMISSIONER SULLIVAN: I don't think the community plan is going to be done in one year much less two. But it is right across from the school. The school is expanding and of course there's the Section 16 commercial area that the town is planning to develop. So things are going to change there over the two-year period and I'm not sure we

want to provide that grandfathering if in fact there is a valid change.

CHAIRMAN DURAN: Penny, I have a question. Or is she in the middle of answering your question.

COMMISSIONER SULLIVAN: Perhaps we can just hear from the applicant and when you get to that point perhaps you can respond to that.

CHAIRMAN DURAN: Have you received any objections from the community or those people that are developing the community plan?

MS. ELLIS-GREEN: Mr. Chairman, no we haven't received any notice of objection for this project.

CHAIRMAN DURAN: And is the process of notice the same? They have been notified, all the neighbors in the area that this was coming forward for this extension request?

MS. ELLIS-GREEN: Mr. Chairman, there's been a notice in the *East Mountain Telegraph*. Certified letters to surrounding property owners and a yellow poster board on the property.

CHAIRMAN DURAN: Okay.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Penny, do we have any idea why the extension is being requested?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, the applicant has stated that they've been in litigation with the former agent of the project and that's recently been resolved, so now they can move forward with a development plan and developing this lot.

COMMISSIONER TRUJILLO: Do you feel that those are reasonable reasons to grant the extension? Is that a recommendation that staff would make?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, yes. That is our recommendation.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Question. Ms. Ellis-green, this five-year master plan expired on July 9. Do we have jurisdiction after it's expired to revive it?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Campos, the applicant made application to extend this in June. However, with the legal noticing requirements they couldn't actually get to the meeting until the July 10th meeting and then this case was tabled at the July 10th meeting. So they had made application before this expired.

COMMISSIONER CAMPOS: Mr. Kopelman, do you think that's enough?

STEVE KOPELMAN (County Attorney): Mr. Chairman, Commissioner Campos, I think you have some discretion in this case. I think you can certainly take the position that because the application was put in prior to that date and it's merely asking for an extension then I don't believe there's any real serious legal issue.

COMMISSIONER CAMPOS: Okay. My next question, Ms. Ellis. Do you have the detail as to what about the litigation caused the long delay?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Campos, I don't have the detail on that but the applicant is present.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: Any further questions of Penny? Is the applicant here? Please come forward and state your name for the record and let the Clerk swear you in.

PATRICK BURKE: My name is Patrick Burke.

[Duly sworn, Patrick Burke testified as follows:]

CHAIRMAN DURAN: Do you have anything you'd like to add?

MR. BURKE: Just that it was delayed because the project planner never completely finished the job and I had to help finish it up, and we just got in some litigation over that, and when the attorneys got involved it turned into five years and everything was just stalled for that whole time.

CHAIRMAN DURAN: Thank you. Any questions of Mr. Burke?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Burke, could you give us more detail?

That's pretty general.

MR. BURKE: Well, I hired—do you want to know the people I hired?

CHAIRMAN DURAN: I don't know if we need to get into a personal matter here.

MR. BURKE: They just never finished the job themselves. I had to come in, get with Penny, find out what had to be done to get the project finished. I had to go out and get all the signatures and I just had to spend a lot of time finishing the project, which they didn't, basically. It wasn't much to start with but when the attorneys got involved it just went on for five years. It only settled like two months ago, finally.

COMMISSIONER CAMPOS: So you actually filed a court action?

MR. BURKE: Yes.

COMMISSIONER CAMPOS: Okay. And did the judge say you could not continue with the development?

MR. BURKE: No, he did not, but because of the litigation we had going, my attorney did not advise me to go on with it any further until everything was settled.

COMMISSIONER CAMPOS: Could you simply have hired another consultant to move forward through the plans?

MR. BURKE: No, because these guys were involved in getting one of the lots in the subdivision for their payment in getting the master plan set for me.

CHAIRMAN DURAN: Any other questions of Mr. Burke? Okay, this is a public hearing. Is there anyone out there that would like to speak for or against this request? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Move for approval of the plat extension for CDRC Case #MIS 96-5131, that is for 24 months.

CHAIRMAN DURAN: Okay. There's a motion. Is there a second? I'll second it. Any further discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I just don't believe the applicant has justified a basis for us believing that he in good cause could not develop for five years.

CHAIRMAN DURAN: And what caused you to believe that?

COMMISSIONER CAMPOS: His testimony was quite sketchy. There's litigation. This happened. This happened and that took up five years.

CHAIRMAN DURAN: And what's wrong with giving him another two years?

The Code allows for extension of two years and it doesn't say that you have to have a good enough reason for the extension it says that if in the discretion of the Commission we can grant, we have the right to grant another two year to the extension.

COMMISSIONER CAMPOS: I think we do if we have good cause.

COMMISSIONER TRUJILLO: I think there are legitimate reasons why the applicant was not able to start construction, beyond his control, and it would behoove this Commission to grant this extension. The community is for the project. The master plan has been approved. I don't see any reason why this project should not be extended for another 24 months.

CHAIRMAN DURAN: You're the only one opposed to it. None of the neighbors came out here opposed to it. They didn't receive any opposition to it.

COMMISSIONER CAMPOS: Mr. Chairman, let's vote.

CHAIRMAN DURAN: We're debating the issue. I want to point out how I think disapproving this wouldn't be right to the applicant. There's no harm in giving him another two years. The neighborhood hasn't come out here. They've been notified. Just because you don't think that this man has a good enough reason to give an extension, I don't think is enough reason to deny it.

MR. BURKE: I'm not a great public speaker and I'm a little nervous being here and if I can't explain it properly to him I'm sorry, but that's all that happened and that's the truth.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd throw out the consideration of a one-year extension. Things are changing very rapidly in Edgewood and particularly in this area, which is right on the boundary of the annexed areas. I think that that would encourage the applicant to move forward with the master plan or end it if it's not a feasible one. So that would be my suggestion.

CHAIRMAN DURAN: Commissioner Trujillo, would you agree to amend it to one year?

COMMISSIONER TRUJILLO: I would agree. I would like to hear from the applicant to see what he has to say about that.

MR. BURKE: Well, one year is a short period of time. I would like to get the

two years if possible.

CHAIRMAN DURAN: Commissioner Sullivan, if it was one year he could come in in a year and if he felt that he needed another year we would grant him that option?

COMMISSIONER SULLIVAN: I think we should perhaps check with legal counsel. The other year would still be an option, would it not?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I believe this Commission does have the authority to extend it for one year, with a condition that if it's not done within one year, then the applicant has the right to come back and request an additional year. I think that's within your jurisdiction.

CHAIRMAN DURAN: Would that be your amendment?

COMMISSIONER SULLIVAN: Yes.

CHAIRMAN DURAN: Would that be okay?

COMMISSIONER TRUJILLO: Yes.

CHAIRMAN DURAN: And that's okay with the second. Any further discussion?

The motion passed by majority [3-1] voice vote with Commissioners Trujillo, Duran and Sullivan voting in the affirmative and Commissioner Campos voting against.

CHAIRMAN DURAN: If you don't do it in a year, get a hold of Land Use and they'll tell you what you need to do to come in to ask for another year.

MR. BURKE: Okay. Thank you for your time.

CHAIRMAN DURAN: Thank you.

- X. D. 6. **CDRC Case #MIS 01-5280. Agora Plat Vacation. Agora I and Agora II, LLC, applicant, request approval to vacate a previous plat for the purpose of consolidating two lots and to remove a note on the previous plat which prohibits development on the lots until the Eldorado Moratorium is lifted, in accordance with Article V. Section 5.7 of the Land Development Code. The property is located northwest of the intersection of US 285 and Avenida Vista Grande, within projected Section 9, Township 16 North, Range 10 East**

MS. ELLIS-GREEN: Thank you, Mr. Chairman, Commissioners. On March 14, 2000, the BCC approved Ordinance 2000-02, which extended the Eldorado moratorium. And exemption was included in this ordinance to allow for the creation of a single lot for an existing commercial building. That exemption states a single division of land under Article II, Section 2.3.1.a 7 or 8 of the Land Development Code shall be permitted for commercially zoned property to create a tract for an existing commercial building subject to the following conditions:

1. That this is for the purpose of sale.

2. That the plat will contain a note that no development will be permitted on the vacant tract until this ordinance as amended is lifted.

In accordance with Ordinance 2000-02, the Land Use Administrator approved a summary review subdivision, which divided the Agora property into two lots. On April 24, 2000 the following note was added to the plat: "This subdivision is subject to the Santa Fe County Ordinance 2000-02. No development shall be permitted on lot 33A-2 until this ordinance is lifted."

The applicant purchased both of the lots and is now requesting to consolidate the lots and to remove the note on the plat. Article V, Section 5.7 of the Code states any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if the owners of the land propose to be vacated, sign an acknowledged statement declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board.

The applicant is therefore requesting that the BCC approve the statement to vacate a portion of the previous plat to allow the Land Use Administrator to approve the proposed plat, which shows one 9.57-acre tract, and the removal of the note. If this request is approved, the applicant is required to amend the existing master plan and to indicate that only one lot exists, and this process can be handled administratively.

Recommendation: Staff recommends approval of the partial plat vacation subject to the following conditions:

1. All other plat consolidation requirements are met.
2. The plat shall be recorded in the office of the County Clerk.
3. The master plan shall be amended and recorded to indicate that only one lot exists.

Thank you.

CHAIRMAN DURAN: Any questions of Penny?

COMMISSIONER TRUJILLO: Penny, Mr. Chairman, just one question.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: You say remove a note from the previous plat which prohibits development until the Eldorado moratorium is lifted. Where's the water going to come from for this lot?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, there's no actual proposal. What the applicant previously had done was to divide the land and that was an exemption allowed under the Eldorado moratorium. But to prevent the vacant lot then being developed, there's an understanding that a quarter acre-foot of water per lot could be used, even on EDU. So to prevent that loophole of having that lot developed with a quarter acre-foot, that note was put on the plat.

Now the applicant wants to go back and consolidate the lot so there is only one lot, and go back to the original standing on this lot. So therefore remove that note.

COMMISSIONER TRUJILLO: I understand.

CHAIRMAN DURAN: What development right then would exist?

MS. ELLIS-GREEN: Mr. Chairman, the same as existed before April 2000. There's an existing master plan on that lot. Phase I has been built out. Phases II and III, I

believe have not been built out, so it would still fall under the Land Development Code. Any more water being used would need to prove a 100-year water supply. So it would be exactly the same as existed in April 2000.

CHAIRMAN DURAN: Okay. Any other questions of Penny?

COMMISSIONER CAMPOS: I have a question. Ms. Ellis, initially this was one lot and it broke off into the lot with a property and a vacant lot.

MS. ELLIS-GREEN: That is correct.

COMMISSIONER CAMPOS: That's correct? The ordinance talks about the creation of a single lot for an existing commercial building. So the other lot had no existing commercial building.

MS. ELLIS-GREEN: That's correct. The lot—that section of the ordinance was created to allow, for example, the existing commercial building was the Agora shopping center, would be to allow that piece of property to be divided off for the purpose of sale. In this case, the applicant purchased the Agora shopping center and then later purchased the vacant lot as well. So now it's a whole tract.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: Any other questions of Penny?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: So Penny, there's no requirement now in a consolidation that it be for the purpose of sale. There were two requirements initially, the purpose of sale and it claimed it contained a note that no development would be permitted on the vacant tract until this ordinance as amended is lifted. Those were requirements when it was originally divided. Is that correct?

MS. ELLIS-GREEN: That's correct.

COMMISSIONER SULLIVAN: Those requirements don't apply to a reconsolidation.

MS. ELLIS-GREEN: No.

COMMISSIONER SULLIVAN: I just want to be clear that this is for the purpose of sale. It is not a requirement on the applicant now.

MS. ELLIS-GREEN: No, Mr. Chairman, Commissioner Sullivan, there had been a requirement but now the applicant wants to go back to having one lot, the same master plan and remove that note.

COMMISSIONER SULLIVAN: And staff's recommendation?

MS. ELLIS-GREEN: Staff recommends approval of this.

CHAIRMAN DURAN: Is the applicant here? Please come forward and state your name for the record and let the recorder swear you in please.

GARY BOYLE: Gary Boyle. I live at 830 Acequia Madre, Santa Fe.

[Duly sworn, Gary Boyle testified as follows:]

CHAIRMAN DURAN: Do you have anything to add for the record, Mr. Boyle?

MR. BOYLE: Just to say that in late—just to add a little background. In late

'99 and early 2000, when we were talking to Dos Griegos people about purchase of the center, and they were looking for a buyer, there was only one piece on the table at that point in time, only one piece under contract, and that was the current center sitting on four acres of land. There was no negotiation in any serious manner and no contract on the empty land. That was to be kept by Dos Griegos at that point in time.

But we needed to have a legal lot of record to consummate the sale, hence the request by Alex Kosanteros of Dos Griegos before the Commission in late February that there'd be a friendly amendment to the moratorium to allow him to make this sale. And in fact, the minutes of that minute, just to quote say, this is Alex Kosanteros before the Commission: There is a portion of vacant land that remains undeveloped and will remain undeveloped within the law of the ordinance and the moratorium. And he goes on and says The sole purpose is for financing the Agora shopping center and for selling, trading and buying at this point in time. As such, I'm requesting for either administratively or through a friendly amendment to allow an additional lot split to take place.

And then Chairman Griñé says, Are there any questions? There were no questions and that was the end of the subject. And as Penny has described, when the moratorium wording was actually put together and approved two weeks later, there was an addition put in there, an addition to the idea of subject to the moratorium, and that was no development and that was because of the reason that Penny described.

When we put this lot together, as we're now requesting, that issue of the quarter acre-foot is moot; it doesn't matter anymore and is really not a practical matter. So that's why we're requesting that both the lot consolidation be approved as well as the note taken off. Any development—I'm just going to make one more comment about development. We do have a plan before Land Use to finish the center at some point in the future, hopefully sooner rather than later, because we believe the supermarket needs to be expanded and certain other services need to be added to what exists presently.

If that's done, our plan is to use a water recycling plant, which is being used in other places in this country, and we would make the capital investment to do that. It would be absolutely water neutral. There'd be no new use of the aquifer or no new connection, even the quarter acre-foot, to EDU. We would be using the water that we already have allocated to the center. So any development that takes place would be absolutely water neutral. And that's all I have to say.

CHAIRMAN DURAN: That's great. Any questions of Mr. Boyle?

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

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Boyle, do you have the requirement to report your water usage to the County?

MR. BOYLE: No, I don't.

COMMISSIONER CAMPOS: So the County really doesn't know whether you're within or without the budget?

MR. BOYLE: I submitted recently, I think it was either March or April, in a presentation to Land Use staff, and actually Katherine Yuhás was there. All of our records,

going back to the beginning of the center, which was '95 to date, and would be glad to do that. I've done it by tenant and for the total of the center and we have for all those years, have been under actually, slightly under our allocation.

Our allocation is 4.4 acre-feet and at the maximum, we were probably just about four acre-feet in usage in an annual level.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Any other questions of Mr. Boyle. Thank you, Gary. This is a public hearing. Is there anyone out there that would like to speak for or against this issue? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Move for approval of CDRC Case MIS 01-5280, the Agora Plat.

CHAIRMAN DURAN: There's a motion to approve. Is there a second?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: With conditions?

COMMISSIONER TRUJILLO: Yes, with the conditions that are delineated by staff.

COMMISSIONER CAMPOS: What about conditions of reporting of the County as to water usage on an annual basis?

COMMISSIONER TRUJILLO: Is that one of the conditions?

COMMISSIONER CAMPOS: No.

COMMISSIONER TRUJILLO: It's not?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, it's not one of the suggested conditions. The applicant does have water restrictions, recorded water restrictions, and if there is any additional development that certainly would be a condition of approval.

COMMISSIONER TRUJILLO: I don't see any reason why we need to put that condition in. The applicant articulated that there usage of water is less that the allocated water for that development.

CHAIRMAN DURAN: Second. There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

- X. D. 8. **EZ Case #S 01-4220. Sena Vista Heights. Phillip and Deluvina Sena, applicants, Jim Siebert, agent, request master plan, preliminary and final development plan and plat approval for a 70-lot residential subdivision on 15 acres through a transfer of development rights as set forth in the Santa Fe Metro Area Highway Corridor Plan. The property is located off I-25 frontage road, across from the La Cienega interchange, within Section 26, Township 16 North, Range 8 East**

ROMAN ABEYTA (Deputy Land Use Administrator): Mr. Chairman, before I call Vicki up, there is an issue with this case. When it was heard by the EZC, they placed a condition that stated that Mr. Sena had to work out a water and sewer contract with the BCC before the Board could grant final approval. So we're prepared to make our presentation this evening, but at this time we would only be able to recommend master plan and preliminary, unless the Board is willing to hear his request for a contract. That request was tabled at the meeting last week, and since then we've met with the applicant and he's agreed to paying the \$20,000 per acre-foot, which was the issue that was holding it up at the last meeting.

So I don't know if the Board wants to hear this case and then the water contract. In other words, in order for staff to recommend final, we would need a contract in place and so I just leave it to the Board. I wanted to give the Board that information.

COMMISSIONER TRUJILLO: Mr. Chairman, can we listen to both simultaneously. Can we listen to the applicant and have him talk about the contract and then vote on the project?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, I think before you can hear the water contract there would need to be a motion by the Board to remove that item from the table because right now it's item IX. C. 5, and it was tabled. So if that's taken off the table, you can certainly hear both of them together as long as you vote separately on the issues that wouldn't be a problem from a legal standpoint.

CHAIRMAN DURAN: IX. C. 5 is the water contract?

MR. KOPELMAN: Mr. Chairman, that's correct. The customer contract with the Senas.

CHAIRMAN DURAN: Oh, and that was tabled? It was tabled, wasn't it?

COMMISSIONER TRUJILLO: I make a motion to remove it, the contract, from tabling.

CHAIRMAN DURAN: I wasn't aware that it was tabled. I second it. If there's no further discussion—

COMMISSIONER SULLIVAN: I've got some discussion, Mr. Chairman, but I don't think you can discuss a tabling motion.

CHAIRMAN DURAN: Right. So those in favor, this is to take it off the table?

MR. ABEYTA: Yes, Mr. Chairman, the contract.

CHAIRMAN DURAN: Can't we talk about it? The motion isn't to table, it's to take it off the table.

MR. KOPELMAN: Mr. Chairman, there's nothing in our rules that would prevent you from discussing the matter at this juncture.

COMMISSIONER TRUJILLO: And let me understand this, Mr. Chairman. The whole reason that it was tabled was because it was an issue of finances. \$10,000 versus \$20,000. He wanted to be able to pay \$10,000 to provide affordable housing. The Land Use Administrator and the water company, there's precedents that we sell water rights for \$20,000. That was the whole reason that it was tabled. Now the applicant has agreed to pay \$20,000 per water right.

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, that's correct.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I don't have any problem, Mr. Chairman, hearing both of the issues or taking that off the table but I do feel that it's premature to take this development to final plat approval. There are a number of unresolved issues. There's 29-plus conditions here that the applicant has to comply with. There's a lot of uncertainties. They seem to be coming up every day. There's issues of trails. There's issues of the sewage treatment. There's issues of off-site drainage. The applicant doesn't have the required off-site drainage commitments yet.

There's a number of issues but even more importantly than all those technical issues is the fact that this is the first TDR project that the Commission has undertaken and I think it's not responsible to move that all the way through the final plat approval based on a sketched plat that we have at this point and based on the number of uncertainties that exist.

I'm assuming that all of these things can be worked through as it moves forward but I think given the issues and the learning curve that we have here on the TDR program that it's extremely appropriate that at a minimum, this development come back to us at least one time. I would prefer to see it come back twice as would be the normal case for preliminary and for final.

I have no problem listening to the water issue and taking that off the table but that certainly would be my feeling in terms of where we move along with this. I think there are a number of issues and concerns that development be not just affordable as a manufactured home development but that it be a quality type development and while we have plenty of assurances of that I think we'd like to see that a little later on when things are more formalized in the final stage. That would be the issue that's of utmost importance to me.

CHAIRMAN DURAN: I think that seems fair to me. This is going to be the very first affordable housing project that the County kind of endorses and I think by giving them water we are endorsing them. So you don't have a problem with taking the water contract off?

COMMISSIONER SULLIVAN: I don't have a problem with taking off and listening to the terms of the water contract. If the purpose of voting on the water contract

is to go through final plat approval, then I would vote against the water contract for that reason. Not because of the water contract. Number two on the contract is there's no water contract in our book. I haven't seen or read the water contract so I find it fairly difficult to vote on the water contract not having seen it. Was the one put in originally? Have you seen the water contract?

CHAIRMAN DURAN: No.

COMMISSIONER SULLIVAN: I haven't seen it. I have a little trouble voting on it having not read it.

CHAIRMAN DURAN: Have you delivered us a water contract?

MR. ABEYTA: Mr. Chairman, it's my understanding that Estevan Lopez handed it out the last meeting but again, I wasn't responsible for that. I thought he had passed it out last meeting.

CHAIRMAN DURAN: Okay, so what if to amend Commissioner Trujillo's motion to take it off the table, if he agrees to amend it so that we start discussing the other issue so that it's not final plat approval. It's just what? Preliminary?

MR. ABEYTA: Mr. Chairman, it would be master plan and preliminary.

COMMISSIONER TRUJILLO: So the applicant is not even coming forth for final plat approval, right?

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, he is coming forward for final also.

CHAIRMAN DURAN: So we take it off, talk about the water contract, vote on that and then talk about the affordable housing project. And if we approve it then he would just go to master plan and preliminary. Right, Roman? And then it would have to come back to us for final? Is that acceptable to you?

COMMISSIONER SULLIVAN: I think we should vote on the development first before the water contract.

MR. ABEYTA: Mr. Chairman, if I might, the contract does have a provision that states that it is subject to final approval for the subdivision. It's subject to the subdivision getting final approval. So you could act on the contract, approve the contract, and only grant master plan and preliminary, and then come back and see the finals. In other words, you could either not approve the contract or approve it. It doesn't matter what you do with the contract as far as what you do with the subdivision plat as it relates to the subdivision plat.

CHAIRMAN DURAN: But the only way Commissioner Sullivan is going to agree to bring the water contract off the table is that if the case is amended to reflect that he's only in here for master plan and preliminary. Is that correct?

COMMISSIONER SULLIVAN: I think that's very important, Mr. Chairman. I don't know if tabling is the proper mechanism.

CHAIRMAN DURAN: So I have a question for Steve. Do we have the right to do that? I don't really think we need any public comment right now, Jim.

JIM SIEBERT: I was just going to maybe make this easy for you. I was just going to say the applicant agrees to limiting the request to master plan and preliminary

plan.

CHAIRMAN DURAN: There you go. We can do that. Is that your answer?

MR. KOPELMAN: Mr. Chairman, it is.

COMMISSIONER SULLIVAN: To continue the discussion, Mr. Chairman. Again, no problem about bringing the water contract back for discussion. I want to hear about it. But to vote on it, I haven't read it. Now, are we going to sit here and read it or table it?

CHAIRMAN DURAN: Why don't we talk about it and then if we haven't discussed all the issues let's table it.

MR. KOPELMAN: Mr. Chairman, I don't know. In my book I have a copy of the draft contract. I think it is in the packet. It's behind IX. C.

COMMISSIONER SULLIVAN: Okay, I know why I didn't read it. Because it was tabled, that's why. By all means, let's discuss it. And if we decide we're comfortable enough, we can vote on it.

CHAIRMAN DURAN: Okay, that sounds good. The motion is to bring item IX. C. 5 off the table. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

Okay, do we want to talk about the water contract before we talk about the development?

COMMISSIONER TRUJILLO: Yes, I think we do because I think that is what is driving this development.

IX. C. 5. Request authorization to enter into a customer contact with Phillip and Deluvina Sena for commitment of water and sewer utility service for a project utilizing the transfer of development rights program

DOUG SAYRE (Water Utility Director): Thank you, Mr. Chairman, Commissioners. As previously stated, there's a contract before you for water and sewer service. That contract contemplates 18 acre-feet of water commitment by the County Utility company at a cost of \$20,000 per acre-foot. Previously, the client had requested a reduction to \$10,000 per acre-foot but he has rescinded that request and has agreed to \$20,000 an acre-foot in a subsequent letter and a signing of the existing contract. And I do want to apologize that the contract, if it wasn't before you I apologize for that. We thought it was in your packet and that's why it would be reconsidered.

Also, the contract is structured to allow the Senas to pay a ten percent down and the remaining balance through five equal payments at eight percent interest over five years. Also, the sewer service will be provided pursuant to our County sewer ordinance that requires I think a commitment of about \$330 per resident as a connection fee and also an inspection fee that he understands is also required. Of course I think you've previously

been advised that there are 70 lots and we've looked at the water budget on this and find it to be reasonable as far as what he's requesting in water service allocation.

I think previously there was some discussion about affordable housing and I believe in the contract or in the BCC, the remaining part of this there is a requirement that he meet the affordable housing ordinance regarding this development. So I think that will be taken care of. At this time, could I possibly answer questions on this contract? I don't have one before me but I can go through my mind and pick it up. I do now.

COMMISSIONER TRUJILLO: Mr. Chairman, is this consistent with the way that the County is making water rights available to other developers?

MR. SAYRE: It is consistent in the way in that we had some rights available that could be committee from the County for affordable housing and with the TDR program that was developed. It is consistent with that.

COMMISSIONER TRUJILLO: So there's no special treatment for other sorts of issues that come into play. It's egalitarian, it's fair, it's consistent with the way that other developers are afforded the same opportunity.

MR. SAYRE: The contract is consistent with the other contracts that have previously been written and what's required of them in the way of I guess commitment and also time to pay and then requirements for development approval in there. If you'll notice, I think, under termination, it requires that certain things be done by certain dates. If it's not, the contract would terminate.

COMMISSIONER TRUJILLO: And the altruism here is this project will stipulate, will make available affordable housing. Is that part of the requirements of other developers?

MR. SAYRE: Mr. Chairman, Commissioner Trujillo, that has not been previously a requirement of other developers, although the allocation policy gives priority to people that make affordable housing available.

COMMISSIONER TRUJILLO: But in this contract it's inherent.

MR. SAYRE: Yes.

COMMISSIONER TRUJILLO: It's innate to the contract to provide affordable housing.

MR. SAYRE: It would be, based on the development he's proposing.

CHAIRMAN DURAN: For the benefit if Commissioner Sullivan and Commissioner Campos, about two years or so ago, we had some concern about the process of allocating these water rights. So we asked Estevan, who was in charge of the department at that time to come up with a list of uses that represented our vision, the vision and goals that the Commission had and affordable housing and economic opportunity, I think, rose to the top of that allocation list. So this particular list does conform to the vision or the use list we developed. Is that correct?

MR. SAYRE: Yes, sir. That is correct, Mr. Chairman.

CHAIRMAN DURAN: Any questions of Doug?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: A couple of questions. The allocations—well, first of all, a simple question. Once water is supplied to the applicant by the County, then all of the 70 residences, if that's how many end up being there, because the staff report indicates that six of them are in a drainage channel. All 70 or 64 residences then become on the County water system. Is that correct?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, that is correct. They would become customers of the County utility system.

COMMISSIONER SULLIVAN: Customers of the County utility system. This is not a master metering agreement to the developer. This is an agreement to provide water rights at x-dollars and once the development is approved and recorded then those residences become customers of the County utility company.

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, that is correct.

COMMISSIONER SULLIVAN: We were talking about affordable housing. In your memorandum of May 8 breaking down the allocation of water rights, and the Commission's action was to reserve 25 acre-feet of water rights for the transfer of development rights program. There is in that list also 9.4 acre-feet of water rights reserved as a part of the County's 116.98 that he has reserved for affordable housing. So my question is, will this allocation of 18 acre-feet that the applicant is requesting in his contract at \$20,000 per acre-foot, will that come from the affordable housing allocation, or will it come from the TDR allocation?

MR. SAYRE: I think what we tried to do was to show you there was an availability of County-approved allocations that could be re-allocated or however you wanted to do it. We suggested in a previous memo, I believe it was 23 acre-feet to the TDR program for allocation. Within that I think we tried to put the 9.4 acre-feet to affordable housing. That sort of went in that 23 acre-feet. We haven't really come down and re-allocated to you. We just indicated that there was 23 acre-feet available, we felt to the TDR program.

COMMISSIONER SULLIVAN: I may be wrong, but I recall the Commission approving 25, but whether it's 23 or 25—I think I just would like to get that clarified because I think that although manufactured housing certainly fills an important need in our housing mixes, I see affordable housing as being a mixture of housing of various income levels. So we are trying to do that in other areas, such as Rancho Viejo where we're trying to have affordable housing by definition being a variety of products available in a wide range so that we're not creating subdivisions that are all the same income range.

So it's been a desire of this Commission to move this project forward as a TDR project. I think we should keep that affordable housing 9.4 acre-feet if that's what it is for what we truly define as affordable housing, which is a mixture of housing types and this should come from the TDR allocation, as I think has been the case all along, but I just wanted to clarify that.

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, I suggest I come back to you based on the consideration that was done the previous meeting and what I

understood based on the memo and what was acted upon, that I resubmit to you what the current allocation is, based on what I thought had been done at previous meetings, so that we understand what's available for say TDR, and also if there's still some remaining amount for affordable housing, which I think there is.

COMMISSIONER SULLIVAN: Because I think you took the TDR amounts out of the detention facility, didn't you? I think that's what you testified. The public safety complex.

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, some of it came out of there. I think we were trying to look at reallocation. Part of it, we tried to look at the County detention center, and then I wanted to make sure that there were rights reserved for the public safety complex, because I did an evaluation on that and I probably just need to come back and give you a listing of what we think is available based on what's happened in the last three months so that you get a good picture and our picture is accurate.

COMMISSIONER SULLIVAN: And I think that's an excellent idea and in the process of doing that I just want to be sure that we don't siphon off all of the water rights for affordable housing as a part of this manufactured housing project, because I'm concerned that thereafter, every manufactured housing project would come to us and say we're affordable housing; sell us water rights. And we're very quickly out of water rights. Although this project fills a need, as I say, I don't think it fills the real definition of affordable housing, which is a mixture of housing types and costs.

MR. SAYRE: That would be agreeable with the department and I'm sure with Land Use.

COMMISSIONER SULLIVAN: We'll very quickly run out of water rights. We only have 117 acre-feet allocated to County projects and we're going to use up 80 or so of those at the detention center and the public safety complex. So we're not going to have a lot more of these to sell.

MR. SAYRE: Mr. Chairman and Commissioner Sullivan, I just want to advise you that basically, the detention center is using approximately 50 acre-feet presently, for the last three years. A little bit less than that. And then with the public safety complex. We're probably up to 57 acre-feet. So that's for, basically, I think I came up with the 23 acre-feet available to be allocated. We can look at some of those other things that are in there and make sure that we're covered on say, the County development project out near there, and also I think the affordable housing and come back with a list we suggest what you consider. Then that would give you an availability of what rights could be allocated to TDR, mainly TDR, and also for affordable housing.

COMMISSIONER SULLIVAN: Thank you.

COMMISSIONER TRUJILLO: Because not every manufactured housing project is part of the TDR program. This is one that's part of the TDR program and it's in a different light.

MR. SAYRE: Also in the ordinance, Mr. Chairman and Commissioner Trujillo, it states that the BCC has the right to look at allocating to specific projects if they so desire within those. There is a portion in that ordinance that goes to that avenue for the

BCC to consider.

COMMISSIONER SULLIVAN: My concern is just that by generically using the term affordable housing, I don't want that 9 acre-feet that we've set aside to be absorbed at this point in time because I think we want to keep it as an incentive for truly mixed use affordable housing. And I don't know of any such project that's currently on the table, other than ones that have already been approved such as Rancho Viejo, but I would certainly like to have that encouragement and that incentive for future developers to provide truly mixed use affordable housing.

MR. SAYRE: So noted and we'll come to you with that.

CHAIRMAN DURAN: Doug, how many water rights do we have allocated to our economic development park?

MR. SAYRE: My recollection is 25 acre-feet.

CHAIRMAN DURAN: So that hasn't been touched.

MR. SAYRE: No, it has not. That's still available and we're reserving that for that purpose. And there may be some consideration on that, since that sort of seems to be at kind of a slow pace as far as how that's going. But that's certainly up to the BCC.

CHAIRMAN DURAN: We need to keep that water set aside for that use.

MR. SAYRE: Very good.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: May I ask a question.

CHAIRMAN DURAN: Please.

COMMISSIONER CAMPOS: Mr. Sayre, how many contracts have you entered into for County water?

MR. SAYRE: Could I ask for some definitions? Since the beginning of the formation of the water company?

COMMISSIONER CAMPOS: Yes.

MR. SAYRE: I think you have a list. I gave you a list.

COMMISSIONER CAMPOS: Roughly. I would say there's approximately 40 contracts. I apologize. I have a list but I left it in one of the pews back there.

COMMISSIONER CAMPOS: Are these contracts in standard form?

MR. SAYRE: Yes, they are. The original contracts, Mr. Chairman, Commissioner Campos, the original contracts were similar form but the contract they used back when they contracted back in 1994, the water rights allocation amount was for \$12,500. But that was to get an initial input from those people to develop the system that's presently in now. Then, in 1996, it was changed to \$20,000 per acre-foot and that has maintained itself in that time period. The reason for the \$20,000 was basically looking at a commitment, what was going to be required to go to the river and get infrastructure and build so that we could get water back to the south county area or any other users that we deemed necessary. But that was determined back at that point in time, and that's where that \$20,000 came from to the best of my knowledge.

COMMISSIONER CAMPOS: The form that you use to sell this water, is it

basically in a standard conditions and terms?

MR. SAYRE: Mr. Chairman, Commissioner Campos, yes it is.

COMMISSIONER CAMPOS: And the form you're using tonight is a standard form?

MR. SAYRE: It is.

COMMISSIONER CAMPOS: In this case, you're providing for ten percent down and the balance to be paid off in five years at eight percent. Is that something you've done before?

MR. SAYRE: Mr. Chairman, Commissioner Campos, yes that is. That's been a standard form for what we've used since '98. We've allowed them to pay it off in a one-time commitment or a ten percent down with the remaining over five years.

COMMISSIONER CAMPOS: So the contracts since '98, how many have been with the ten percent down?

MR. SAYRE: Mr. Chairman, Commissioner Campos, previous to this time there have been three, and those were to state lands, with John McCarthy, to Greer Enterprises, and to Browncastle Ranch. Then of course this current one which is not quite approved.

COMMISSIONER CAMPOS: Now you're hook-up fee of \$330 per dwelling unit, \$330, does that cover your cost?

MR. SAYRE: As far as the wastewater? Mr. Chairman and Commissioner Campos, that pretty well will cover the connection cost and an inspection fee, and yes it would as far as we're concerned. We figure we'll be going out on a regular basis during construction to make sure it's done properly and that we inspect where the service is.

COMMISSIONER CAMPOS: What does the City charge for that type of connection?

MR. SAYRE: Commissioner Campos, my recollection is it's around \$180. It may have been changed in the last few years. It seems like it was \$182 for some reason. I'm not sure if that's been changed in recent years. I'd have to check with them. We basically patterned our ordinance somewhat after the City sewer use ordinance. We tried to take that and some other ordinances when we developed the County ordinance.

COMMISSIONER CAMPOS: Is the City reconsidering its charging scale.

MR. SAYRE: I'd have to say I have not checked into that but I can.

COMMISSIONER CAMPOS: I'm just curious because I think I read in the paper, the newspaper that they were considering raising the fees considerably.

MR. SAYRE: Mr. Chairman, Commissioner Campos, I think right now, we're trying to get as many users as we can on the system, because we've got available capacity on the system. Presently, we're treating about 150,000 gallons. We have about 200,000 gallons available and we certainly want to get as many customers as we can because it offsets our operating charge.

COMMISSIONER CAMPOS: I understand that.

MR. SAYRE: But we'll certainly look into that again. We're looking at a whole rate structure, whether it's reasonable and just to all customers. And we figure

we'll probably come back to you at some point in time about that.

COMMISSIONER CAMPOS: That would be good if you could do that in the near future.

MR. SAYRE: Thank you.

CHAIRMAN DURAN: Doug, how is the balance owed to the County secured, and if it's secured by the water rights, what happens if the applicant defaults on the contract and the project is approved? How are we protected?

MR. SAYRE: Mr. Chairman, I guess I somewhat want to defer to Steve on this. The protection has been that if they default, then we go and we issue a demand letter. If he does not pay we go back and rescind the commitment of water rights to them.

CHAIRMAN DURAN: But in three years, the project's developed and houses are built and people are living on the lots and they're using the water that's allocated. Are we going to shut that water off? Take the water back?

MR. SAYRE: Well, Mr. Chairman, that would be a case in point. I guess that we basically provided water service to those people. It's not their problem but it was the developer's problem.

CHAIRMAN DURAN: I think I have an answer to it. I think that prior to final plat approval that the entire amount has to be paid, unless you can come up with another idea on how to protect us, Steve.

MR. SAYRE: Mr. Chairman, the other thing would be to have them bond for the total amount. That would be one way also that we've required in the past, that they bond for the total amount. And that bond is held until he's paid it off.

CHAIRMAN DURAN: It doesn't matter to me which way we do it just as long as we're not left with someone in default of a note and we can't secure the collateral or take back the collateral. So why don't you figure something out.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: There is a provision in the contract. Does this do what you are talking about? Kind of in the middle of page 2. See where it says, starts off the paragraph, customer understands and agrees. Go down to the bottom of that and it says, The customer shall pay or bond for the total water rights charged in full to County prior to or coincident with recording the final plat approved by the County.

CHAIRMAN DURAN: Fair. Sounds good. Maybe I should have read that.

MR. SAYRE: I should have read that. You have to remember that both of us probably did not write this contract totally and we can't remember what's in here.

COMMISSIONER SULLIVAN: I see Mr. Kopelman's signature. I think he read it.

CHAIRMAN DURAN: Okay, good. Any other questions of Doug? Thank you, Doug. Is the applicant here? Would you like to come up and say a few words?

PHILLIP SENA: Mr. Chairman, Commissioners, ladies and gentlemen,

my name is Phillip Sena. I have Sena Vista Heights and I'm the applicant for the water. I just want to say that we've waited so long and to so many people out there in dire need of affordable housing and I believe that I'm prepared to show Santa Fe County, the City and any alike that we have a program that cannot be touched. And I mean cannot be touched. We'll offer 1300 to 1600 square feet. We'll still come back and give the prospective buyer or buyers a \$2,000 rebate from the developer and our homes are FHA/VA approved. Right now we have a rating in *Look* magazine, Carsten Homes is one of the most highly recommended manufactured homes in America.

We talked to several lenders and we believe we can get seven percent financing, which is tremendously good. We'll have a total payment, principle, interest, taxes and insurance, which includes also a mortgage insurance premium, which any time you put down less than 20 percent down on a property you have to get a secondary lender and in that MIP in total payment would be \$892 a month, which is unbelievable, as we all know for Santa Fe County.

I feel that with this kind of a thing that Santa Fe County has worked so hard with me on, I work with staff almost on a day to day basis. They've been tremendous as well as the Commission, the EZC, everybody. We're just anxious to get it off and make it happen for everybody. We want to keep our loved ones home and this is one of the ways we feel we can do it and we're sure looking forward to doing it with your help, Mr. Chairman, Commissioners.

CHAIRMAN DURAN: Any questions of Mr. Sena?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd just like to ask a question to Roman.

On the County Housing that's right adjacent to this development where we are selling housing, what will the residents of our County housing project will be paying?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, I'd have to defer to Robert Anaya from our Housing Division.

CHAIRMAN DURAN: Could you explain the question once more?

COMMISSIONER SULLIVAN: The question was, Mr. Sena was saying that he's estimating that \$892 will be the payment, the monthly payment that residents of this manufactured home subdivision will be paying for 1200 to 1600 foot units if I got that right and I was just asking for a comparison. We approved a sale program in our public housing project right next to this project, this development. And some of those are brand new pitched roof homes and some of them I guess are the older, flat, pueblo style homes and I was just trying to get a comparison on what will those people be paying.

ROBERT ANAYA (CHEDD Director): Mr. Chairman, Commissioner Sullivan, because of the structure of the public housing, Santa Fe County affordable housing program, the rates of payment will vary, depending on size of unit and income level, but some of the units that we are currently under purchase agreements to sell will go as low as a monthly payment of \$500, \$550 a month on up, depending on the affordability level that is needed by each individual family.

1965438

SFC CLERK RECORDING 08/16/2004

COMMISSIONER SULLIVAN: Would that be for the new homes that are under construction or that would be for the existing homes or both?

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, that would be for both the new units as well as those that are being rehabilitated for sale.

CHAIRMAN DURAN: I was wondering if the Commissioners might be agreeable to, if we decide to move forward on the water contract, I would like for it not to be tied into the letter sent to us by Mr. Sena relative to what he plans on providing. I think it's good as a matter of information, but I think when we start talking about the project itself, and the requirements that we might impose on that development that we should leave that for some debate and further discussion rather than tie this contract into his definition of what he thinks is affordable.

I talked to Roman, who I think got Robert Anaya involved in the project, and one of the things that we're trying to do is that if the County's going to endorse this kind of a project that the affordable housing project that comes out of this is more than just affordable, that it's livable and I'm sure that Mr. Sena's in agreement with that. I'm not sure though that all the things that you have mentioned in your letter conform to what Mr. Anaya's going to recommend and I would like for it to be independent of the approval of the contract. Any other questions?

COMMISSIONER TRUJILLO: If not, Mr. Chairman, move for approval of the contract with your recommendation to remove Mr. Sena's memo from the contract. But insofar as the other stipulations, I move for approval.

CHAIRMAN DURAN: I'll second that. I just have a question though. Steve, is this a public hearing issue?

MR. KOPELMAN: Mr. Chairman, this is not a public hearing issue.

CHAIRMAN DURAN: Okay, and that would be with the recommendations of staff?

COMMISSIONER TRUJILLO: With the recommendations of staff? Any further discussion?

COMMISSIONER SULLIVAN: Could you clarify, Mr. Chairman, what are the recommendations of the staff?

CHAIRMAN DURAN: Actually, I don't think there are any. I think just whatever is inherent in the contract, right?

COMMISSIONER TRUJILLO: The \$20,000 fee and those are the recommendations from staff.

CHAIRMAN DURAN: Okay, so the motion is to approve the contact at \$20,000 per acre-foot and with all the other terms and conditions as stated in the customer contract. Okay. Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

Okay, Mr. Sena. Hope you do a good job out there. We definitely need it.

MR. SENA: Thank you.

CHAIRMAN DURAN: While you're still on the hot seat we might as well bring it up now.

- X. D. 8. **EZ Case #S 01-4220. Sena Vista Heights. Phillip and Deluvina Sena, applicants, Jim Siebert, agent, request master plan and preliminary development plan and plat approval for a 70-lot residential subdivision on 15 acres through a transfer of development rights as set forth in the Santa Fe Metro Area Highway Corridor Plan. The property is located off I-25 frontage road, across from the La Cienega interchange, within Section 26, Township 16 North, Range 8 East**

VICKI LUCERO (Review Specialist): Thank you, Mr. Chairman, Commissioners. Have you all received the revised memo that was put into your boxes? I might have some extra copies. Mr. Chairman, Commissioners, The applicant owns 7.19 acres of property at the intersection of NM 599 and County Road 62, which lies within the highway corridor area where commercial development is discouraged. Under the Highway Corridor Plan there is a provision to allow the Transfer of Development Rights to a more suitable location.

On May 30, 2001, the EZA and BCC adopted an ordinance to provide for land use and zoning regulations for the transfer of development rights.

Under this ordinance the applicant's property qualifies for the transfer of development rights program. The applicant's 7.19-acre parcel is located within an area that was designated as potential commercial node by the EZO prior to the Highway Corridor Plan. In this specific area, the applicant will be allocated 12 TDRs per net sending acre to be developed at one of the receiving areas as designated in the TDR Ordinance.

The applicant wishes to transfer the development rights to a 15-acre parcel within receiving area number five as designated by the ordinance. The maximum allowed density in area five is five dwellings per acre. The minimum lot size in this area is 2.5 acres per dwelling unit, therefore the applicant is automatically allowed six dwelling units. The allowance of the additional dwelling units will come from the transfer of development rights at the highway corridor property at a rate of one TDR equals one dwelling unit. The applicant will transfer 64 TDRs for a total allowance of 70 lots. The applicant is now requesting master plan and preliminary development plan and plat approval for a 70-lot subdivision.

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

Recommendation: This application is in conformance with the EZO requirements for master plan approval as well as the Extraterritorial Subdivision Regulations and the Transfer of Development Rights Ordinance. Staff's recommendation and the decision of the EZC was to recommend master plan and preliminary development plan and plat approval for a 70-lot residential subdivision under the Transfer of Development Rights Ordinance subject to the following conditions. Mr. Chairman, may I enter the conditions

into the record, and then I'll go over the modifications and the additional conditions.

CHAIRMAN DURAN: Yes, that's fine.

[The conditions are as follows:]

1. All redline comments must be addressed, and original redlines must be returned.
2. A land division plat creating the 15-acre parcel that is being purchased by the applicant must be recorded prior to final plat recordation.
3. Slope analysis must be stamped by a professional engineer.
4. Road names and rural addressing must be approved by the County prior to recording the final plat.
5. The standard County water restrictions, final homeowner's documents, and disclosure statement must be recorded with the final plat.
6. The developer must pay the solid waste fee in accordance with subdivision regulations (\$44.71) per lot, prior to recording the final plat.
7. All lots are subject to the Santa Fe County Fire and Rescue Impact Fees. This must be clearly noted on the final plat.
8. A TDR easement must be approved by the TDR Manager prior to this case being heard by the BCC. The TDR easement must be recorded prior to final plat recordation.
9. A deed of transfer of the development rights from the sending area must be recorded prior to final plat recordation.
10. Written confirmation that the development rights on the sending area property have been extinguished must be submitted to the TDR Manager prior to final plat recordation.
11. A deed restriction designating the sending area as permanent open space must be recorded prior to final plat recordation.
12. A contract with Santa Fe County granting water and sewer service must be submitted prior to final plat recordation.
13. Restrictive covenants shall address development standards as set forth in Section 14.D.5.c (Transfer of Development Rights Standards) of the EZO.
14. The applicant must submit a contract from a licensed solid waste disposal service prior to final plat recordation.
15. All utilities must be underground.
16. The applicant must acquire drainage easements for off-site retention ponds prior to final plat recordation.
17. The applicant must acquire an easement for the connection from Metro Boulevard to Sena Vista Road prior to final plat recordation.
18. The applicant must provide proof of legal access through Valle Vista Boulevard prior to final plat recordation.
19. A detailed signage plan must be submitted for review and approval prior to final plat recordation.
20. The applicant must submit an engineer's cost estimate and financial guarantee for all required improvements (i.e., street and traffic signs, park amenities, fire

- protection, etc.). A schedule of compliance projecting time period for completion of improvements must be included. Upon completion, the applicant must submit a certification by a registered engineer that improvements have been completed according to the approved development plan.
21. In order to create lots 24-29, which are located within a flow line, density tests at 18-inch lifts must be submitted for approval.
 22. A grading and drainage plan must be submitted for individual lots in the overall subdivision.
 23. Asphalt paving is required to have a minimum depth of four inches.
 24. A stand-up curb and gutter will be required to provide for pedestrian sidewalks.
 25. Additional landscaping will be required in the park area to provide shade.
 26. The applicant must provide additional acreage for the park area or otherwise pay the fee in lieu of the additional dedication.
 27. Compliance with applicable review comments from the following:
 - a. State Engineer's Office
 - b. State Environment Department
 - c. State Historic Preservation Office
 - d. Soil & Water District
 - e. State Highway Department
 - f. County Hydrologist
 - g. County Development Review Director
 - h. County Fire Marshal
 - i. County Public Works

MS. LUCERO: We have a modification to condition number 26, which should read that the applicant must provide additional acreage for a trail to be constructed throughout the subdivision in addition to the proposed park to meet the minimum park requirements as set forth in the EZO.

CHAIRMAN DURAN: And have you gone over that with the applicant?

MS. LUCERO: Yes.

CHAIRMAN DURAN: And he's in agreement with it?

MS. LUCERO: As far as I know, they're in agreement with it.

CHAIRMAN DURAN: He just shook his head yes. Okay, great.

MS. LUCERO: And also, one more modification to condition number 27, which requires the applicant to comply with the comments from the following agencies, and we'd like to add the County Utilities, letter j. at the bottom. Then there's two additional conditions:

28. All 70 lots must be sold as affordable housing units as defined by County ordinance 2000-11.

CHAIRMAN DURAN: And is that the ordinance that we developed last year that Mr. Anaya helped us with?

MS. LUCERO: Yes.

CHAIRMAN DURAN: And is the applicant in agreement with that?

- MS. LUCERO: Yes, I believe he is. And there's one additional condition:
29. The final plat shall not be recorded until the developer has entered into an affordable housing agreement with the County. The affordable housing agreement will describe how homes and/or lots will be marketed and sold to eligible buyers as well as place restrictions on the future sale of homes and/or lots within a three-year period. The agreement will also describe how the County and/or County-designated affordable housing organization will monitor compliance with the Affordable Housing agreement. Any decision or determination made by the County-designated affordable housing organizations may be appealed to the EZA.

CHAIRMAN DURAN: That's great. And the applicant's in agreement with that one too?

MS. LUCERO: Yes sir.

CHAIRMAN DURAN: I know it seems like a lot but it will be worth it. Any questions of Vicki?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Vicki, in the original submittal on July 10, there was a handwritten condition down at the bottom which I can't read. The copy is too light. Starting out with the words The EZC added a condition. Can you explain to me what that is and what number condition is that?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, that was when this case went before the EZC they made a recommendation that the applicants work out the water contract and the water issues prior to this case being heard by the BCC. So that's what that was.

COMMISSIONER SULLIVAN: I see. Then I have a question on condition 21. There's apparently six lots, lots 24 through 29, which according to the staff are located within a flow line, and so the condition says Density tests at 18" lifts must be submitted for approval. That would seem to indicate to me that you're going to fill up that area with fill to build the houses on it. Is that what's being proposed? It seems again that if it's a flow line that we should keep it flowing.

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, that condition was actually added on by our technical review division and I believe it falls within one of the lots. Let me look at the site plan.

COMMISSIONER SULLIVAN: There's six of them and they're all in one corner.

MS. LUCERO: Mr. Chairman, their proposal was to include these six lots and there's actually nothing in the ordinance that prohibits a lot from being created as long as there's density tests that are done on those lots.

COMMISSIONER SULLIVAN: Is it wise to create lots on top of an existing flow line that clearly drains other areas? This lot isn't the end of the drainage area. There's other drainage that's coming through this lot.

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, the applicant stated that this flow line was actually an artificial flow line and I've actually been out to the site. There's a man-made berm along that flow line as well, so they're just going to be filling it back in.

COMMISSIONER SULLIVAN: Usually when someone goes to the trouble to build a berm they did it for some reason and that was probably to protect their property or their homes from being flooded. I'm concerned with the way this is worded. We're only going through the preliminary stage so this can be looked at further but I would suggest some modification of that condition that indicates rather than presupposing that lots 24 through 29 can be created, that in fact lots 24 through 29 be investigated to the staff's and the Commission's satisfaction that they are buildable lots.

MS. LUCERO: That's fine, Commissioner. We can do that.

COMMISSIONER SULLIVAN: So perhaps we can just say—

CHAIRMAN DURAN: What number is that?

COMMISSIONER SULLIVAN: Twenty-one. And we're supposing that we're going to fill this flow line and compact it to 18" lifts and I'm a little nervous about filling in flow lines until we have a little more engineering on the property.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Is this a flood-prone area? Is it on the maps of the Corps of Engineers? Is a drainage? Is it a flood-prone area that can flood every 100 years, every 50 years? Say there's a manmade berm, it was built to protect what? Is there a natural drainage there?

MS. LUCERO: Mr. Chairman, Commissioner Trujillo, this property is not actually, it's not located within a floodplain area.

COMMISSIONER TRUJILLO: So the line of questioning that Commissioner Sullivan is following then would be null and void because it's not in a flood-prone area.

CHAIRMAN DURAN: I think it was drainage that was the problem.

COMMISSIONER SULLIVAN: Right. I think, Mr. Chairman, Commissioner Trujillo, that the question wasn't flooding per se but it was drainage. And it might be a little bit clearer if you can find in the maps that are in the packet, the one designated A-6, down in the right hand corner. You turn it sideways.

CHAIRMAN DURAN: It's A-6.

COMMISSIONER SULLIVAN: A-6. It would be in the righthand corner if you turn it sideways. Maybe you could share it with Commissioner Trujillo.

CHAIRMAN DURAN: Twenty-four through twenty-nine?

COMMISSIONER SULLIVAN: Right. If you look at the lower lefthand corner of the map, you'll see lots 24 through 29, see those six lots? And right next to them is a note on the plat saying To offsite drainage. In fact there's two of them there. So the site, and there's no topography on this map but from those notes and from looking at it in the field, which I've done, the site drains off from upper right to lower left of your drawing. So those lots are potentially a part or a concern, drainage-wise. And I don't think we can solve that here tonight, obviously. But I was just concerned with the language that presupposed that by simply

filling these lots that we've solved the problem. I think it does need more study, that's all.

CHAIRMAN DURAN: Well, I have a question. What was the intent of paragraph 21, when you said in order to create lots 24 through 29 density tests at 18" lifts must be submitted for approval. What do you mean, density tests? Is that a compact?

COMMISSIONER SULLIVAN: I'm supposing that typically, you do 18" lift density tests when you're filling up an area. At every foot and a half, as you fill it up you take density tests to get adequate compaction. That would be the only reason for doing density tests, other than in the footings of the buildings themselves. And that seems to me, I guess the technical person that recommended that isn't here this evening so we're kind of in the dark.

CHAIRMAN DURAN: Is Tom the one that made that recommendation?

MS. LUCERO: Mr. Chairman, it was actually Tom Dominguez and Paul Kavanaugh from our technical review division. Neither one of them is here tonight, but based on what I've seen out on the site, I would assume that that is what they were talking about, to fill up that site.

MR. ABEYTA: Excuse me, Vicki. And then, Mr. Chairman, again, we're only recommending master plan and preliminary. So we'll make sure that before the final comes back to the BCC that we get those engineering concerns addressed.

COMMISSIONER SULLIVAN: Mr. Chairman, perhaps we could just change the wording to say if it is determined that lots 24 through 29 can be developed, density tests at 18" lifts must be submitted for approval.

MR. ABEYTA: Mr. Chairman, that's acceptable to staff.

COMMISSIONER SULLIVAN: And then condition 22 below it goes on to say that a grading and drainage plan must be submitted. Oh, that's for individual lots. That's not applicable.

CHAIRMAN DURAN: Can't we even do that? We still have the right to impose that requirement at final plat approval.

COMMISSIONER TRUJILLO: That's right. In looking at the map, my conjecture is that the offsite drainage is being caused by the development. So the developer will take every precaution to make sure that that drainage that does not affect buildable sites. And of course we can discuss that later but I would say that that's what's happening is that the drainage is being caused by the developer and is being diverted to a place where it's not going to in a disparate way affect other buildable sites. So we'll look at that in the final plat.

COMMISSIONER SULLIVAN: You may be right. Commissioner Trujillo may be correct. My concern is that those lots abut right up onto Valle Vista and Valle Vista is right behind it there. And if we raise those lots elevation-wise, we're going to dump that water on to the backyards of the people in Valle Vista, unless some other protective measure is designed it, which it perhaps could be, but we don't know that yet.

CHAIRMAN DURAN: Why don't we get into—let's talk to the applicant and see what his thoughts are on this. We could make the change to it right now, but why don't we hear what he has to say and move into the balance of the meeting.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer. Mr.

Chairman, Commissioners, let me just say that I think we're making a mountain out of a molehill here in this process. What happened, and I'm not sure how this area got graded. It's right adjacent to Valle Vista. When the owner bought the property, and this was ten years ago, the berm and the graded area existed. The only drainage that flows down it is the drainage that was created by the grading itself. I think Tom's concern was that when it was filled back up that it be an engineer fill, and we certainly don't have any problems with that.

I think there's two different things happening here. You have, on these lots you have bermed area here that's creating problems, which is really a fill issue and I think as Commissioner Sullivan correctly pointed out, we have an offsite drainage. What's happening is the water is being collected in the streets and then it's going down to a pond further down to the south. So there are really two separate issues. And we have no problem providing whatever engineering information is needed. We'd be happy to take Commissioner Sullivan into the field and provide any engineering documentation that's needed regarding the fill on that site.

There's one other condition that maybe we could just discuss here very quickly and that is the one on the park area. And one think that I think that we would request is—the park dedication requirement in the Code is based on 1990 data. The census data for 2000 for that exact same standard is now available. So we would simply request that we be allowed to use the year 2000 data which as I understand is kind of a customary practice anyway. I assumed that it will now be used across the board when calculating the park dedication requirement. And I'll answer any other questions you may have.

CHAIRMAN DURAN: Any questions of Mr. Siebert?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Do you have a copy, Jim, of your drawing A? Your existing conditions map, the topo map.

MR. SIEBERT: I have a full scale plan. It's hard to compare them because when the reduce them I think they assign different numbers to them.

COMMISSIONER SULLIVAN: Let me call the Commissioners' attention to the map that's handwritten at the bottom NB 5-34. I can't quite read what it is. I'm not quite so sanguine about the drainage. If this were a master plan approval, we would say, well, we'll work it out. But the applicant is also requesting preliminary plat approval, and for preliminary plat approval you need a drainage. The drainage needs to be addressed. And I wanted to put that map out to the Commission because in response to Commissioner Trujillo's question, I wanted to show you where the 100-year flood plain is. It's right next to the property. It butts up to it, right in that corner, and I need that map to show it to you.

CHAIRMAN DURAN: I see it.

COMMISSIONER SULLIVAN: You see it?

CHAIRMAN DURAN: Yes.

COMMISSIONER SULLIVAN: Can you point that out to Commissioner Trujillo?

CHAIRMAN DURAN: It's not on the property.

COMMISSIONER SULLIVAN: And it is not on the property according to this

map, and you will also see all along the bottom of that property, those lines, those topo lines, the way they are running, indicates that that's a drainage swale, that it's draining an area that's currently on the property, into the 100-year floodplain. The parallel line, the horizontal line down at the bottom, that's where the natural drainage goes, into that 100-year floodplain.

If we fill that up with dirt, we eliminate that drainage. Now, there may be other ways to handle that drainage but it's clear that the homes in Valle Vista are using that drainage as well, at least from this map. So again, I don't mean to engineer the project for the applicant at this stage, but condition 21 seems to presuppose that there will be six units at that location and I'm just trying to indicate that that may or may not be the case, depending on what the final engineering shows.

MR. SIEBERT: Just referring, Mr. Chairman, referring to the same map, if you take a look at the southern boundary of the 15 acres, it's approximately 1000 feet from the 100-year floodplain.

COMMISSIONER SULLIVAN: Not on my map. The limit of the 100-year floodplain almost touches the boundary.

MR. SIEBERT: I think we're looking at two different boundaries. There's a—

COMMISSIONER SULLIVAN: I hope we're only approving one boundary here tonight.

MR. SIEBERT: The total tract is around approximately 100 acres. It's 96 acres. Within that, is a 15-acre tract.

COMMISSIONER SULLIVAN: It's the smaller boundary. I see what you're saying. So we're only approving the smaller boundary within the larger one.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: Which also sits right in the middle of that depression. It flows out through that 100-year floodplain but you're right. Then it is not as close.

CHAIRMAN DURAN: Which is this one here.

COMMISSIONER SULLIVAN: Correct.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: But you all of those—Commissioners, you see those lines that are kind of like a little vortex or little concentric circles. That's the depression area that's collecting the water and carrying it out in a westerly direction to the 100-year floodplain to the arroyo, and I think we need to be careful about filling that up for the purpose of getting those last six lots.

CHAIRMAN DURAN: Is the ownership in the same name? The subdivision that's coming before us and the property that is—what is that? Southwest?

MR. SIEBERT: Correct.

CHAIRMAN DURAN: Does Parker own both those?

MR. SIEBERT: Yes. Paul and Mary Parker own the entire 96 acres.

CHAIRMAN DURAN: Okay. So if there are problems that occur on this smaller one, they would work with the Commission on making it, correcting it, if there's some correction required on their piece adjoining it. I would think.

MR. SIEBERT: Certainly. We have no problem whatsoever.

CHAIRMAN DURAN: Okay. So would you agree that we have plenty of time before master plan approval to deal with it, Commissioner?

COMMISSIONER SULLIVAN: I would hope we do, but I would also ask that they make that change that I requested in the wording. I think it's minor but I want to be sure.

Quite frankly, I've been less than impressed by the level of drainage analysis on these projects so I'd like to see more attention paid to that. And I'm not singling this project out, by the way.

CHAIRMAN DURAN: We know that no one can do it better than you.

COMMISSIONER SULLIVAN: Thank you, sir. I'll take that as a compliment.

CHAIRMAN DURAN: It was.

COMMISSIONER TRUJILLO: Mr. Chairman, it is a public hearing?

CHAIRMAN DURAN: Yes, we need to go to the public hearing. Okay.

Thank you, Jim. This is a public hearing. Is there anyone out there that would like to address the Commission on this issue, either for or against? What's the pleasure of the Board?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I had some more questions for Mr. Siebert.

CHAIRMAN DURAN: Oh, let's let Rebecca Frenkel speak first then we'll go back to him if you don't mind.

[Duly sworn, Rebecca Frenkel testified as follows:]

REBECCA FRENKEL: Rebecca Frenkel, 1252 Vallecita Drive. I just have a couple of questions. One, this was advertised in your agenda as the approval of the final development plan, so what you're voting on is not approval of the final development plans, is that right?

CHAIRMAN DURAN: No.

MS. FRENKEL: You've changed the agenda item.

CHAIRMAN DURAN: We've changed it. It is master plan and preliminary plat approval.

MS. FRENKEL: Okay. And then a follow-up question to Mr. Sullivan's on the water issue, since there was no opportunity to address the water contract. One of the problems that the County and the City, all of the residents of the county, have is knowing how much water we're using, where it's coming from and where it's going. And who's using it. Because traditionally, over the time, we've used wells and since there has been no way to meter these wells, then we've not been able to keep track of this water.

So I'm wondering, one, will this water be metered by the County? Will the water use be metered by the County? Will the residents of this area be charged a fee for the water that they use? Will it be collected by the County? And in addition to their sewer hook-up, will there also be operating and maintenance charges which the residents will pay as far as having a sewer system?

CHAIRMAN DURAN: The answer to all your questions is yes.

MS. FRENKEL: Good. Thanks.

CHAIRMAN DURAN: Doug was shaking his head telling me yes. Okay. Anyone else out there like to address the Commission? Commissioner Trujillo, I think you made a motion?

COMMISSIONER TRUJILLO: To approve, yes.

COMMISSIONER CAMPOS: Mr. Chairman, I had some questions for Mr. Siebert.

CHAIRMAN DURAN: Oh, that's right. I'm sorry. Mr. Siebert.

COMMISSIONER CAMPOS: Mr. Siebert, how are you addressing the aesthetics of this development, including the highway corridor?

MR. SIEBERT: Well, the unique thing, I guess we could go back—do you still have that map in front of you that Commissioner Sullivan referred to before.

COMMISSIONER CAMPOS: We have a lot of maps up here. Yes. This one here?

MR. SIEBERT: Yes, the 15-acre site, if you'll notice that there is a considerable distance between the I-25 frontage road and this particular site. What happens—and if you'll notice on there too there's a 50-foot easement where there's an existing power line. What happens is the property slopes up to the power line and then at that point it will be sloping away, it will be sloping down towards the drainage. So what happens is very little of this site from the high voltage line back will be visible from I-25.

COMMISSIONER CAMPOS: But are you within the corridor or not?

MR. SIEBERT: No, technically we're not.

COMMISSIONER CAMPOS: Not at all? What do you mean technically?

MR. SIEBERT: Well, if you're referring, there is a required setback, which is 220 feet. As I recall, the distance from the required setback to the high voltage line is around 450 to 500 feet. So we're outside the required setback area.

COMMISSIONER CAMPOS: Question for staff. Is there agreement to that, that we are outside the highway corridor, Mr. Abeyta?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, the property is outside the required and desired setback, however, it's within the fringe area and condition number 13 requires the applicant to submit restrictive covenants that address development standards that are set forth in the TDR Ordinance. Those standards were taken directly out of the highway corridor plan.

COMMISSIONER CAMPOS: Thank you. Those deal with aesthetics?

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

COMMISSIONER CAMPOS: And can tell me what those standards are?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, not off the top of my head I cannot.

COMMISSIONER CAMPOS: Okay, Mr. Siebert, going back to the aesthetics, how do you plan to deal with those issues? How do you plan to—

MR. SIEBERT: Well, I can tell you some of the elements of the aesthetics in the highway corridor. It deals with the types of roof, the reflectivity of the roof, the types of setting that are permitted and reflectivity of that siting and landscaping standards and we will be

meeting all of those.

COMMISSIONER CAMPOS: Okay, are the walls going to be stuccoed for example?

MR. SIEBERT: That I cannot guaranteed whether they will be stuccoed or not. We will meet the requirement that all—as set forth by the highway corridor.

COMMISSIONER CAMPOS: Do you have any photographs to show the homes you propose to put on this property?

MR. SIEBERT: I don't.

COMMISSIONER CAMPOS: Okay. As far as the park, it seems that you designate that in one corner. You separate that. What is the quality of the property where the park is situated? That's on the higher end?

MR. SIEBERT: It's on the high end. It's flat, extremely flat. The whole property is relatively flat.

COMMISSIONER CAMPOS: What was the reason for putting it in that corner?

MR. SIEBERT: Frankly, from a design standpoint, I don't think there was. I think it was an area that was—if you notice that there's kind of a short turn in the roadway. What happens when you have that kind of a sharp turn it's difficult to create usable lots and I think the idea was that we'd put a park where we'd have kind of normally odd-shaped lots.

COMMISSIONER CAMPOS: Okay. Is it possible to maybe centralize this park to make it more usable to more people, along with the trail system?

MR. SIEBERT: Well, think the park's in a good location. I'm not sure in terms of centralizing it what's being achieved on that. I don't think it's a particularly bad spot. We can certainly integrate the trails.

COMMISSIONER CAMPOS: The trees you're proposing, you're proposing Russian Olives?

MR. SIEBERT: Yes.

COMMISSIONER CAMPOS: Now, if I understand correctly, some jurisdictions have outlawed the use of Russian Olives.

MR. SIEBERT: I haven't heard of that but it could very well be.

COMMISSIONER CAMPOS: Las Vegas, Nevada.

MR. SIEBERT: Frankly, I don't know what the landscape standards are in Las Vegas, Nevada.

COMMISSIONER CAMPOS: I just bring that up because—

MR. SIEBERT: I think it's something that if it's a concern of the Commission, when we come back for final plan, when we come back for final plan what we can do is we can provide you with a landscape plan that you feel is more suitable.

COMMISSIONER CAMPOS: And I would like to see photographs of the units that you propose to put on.

MR. SIEBERT: Certainly.

COMMISSIONER CAMPOS: Maybe even try to look at centralizing this park. That would be one of my concerns. So that there is quality of life. I look at the plat and it

seems to me you're just putting in a lot of houses into a small area of land and to me, if it's going to be affordable there has to be some real quality for the kids that live there. It has to be quality for the entire community or in ten or fifteen years you're going to have something that a lot of people may not want to live in. That's my major concern, making it quality for the people that are going to live there. Having parks that really work. For example, in your park, covered space, picnic tables and some playground equipment for the kids, and some trails that connect. That would be very important.

MR. SIEBERT: There is, we specified in the report that there is improvements that will be made to the park.

COMMISSIONER CAMPOS: Okay. Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jim, one other question. What are the typical lot sizes in Valle Vista and in the County housing development which about this?

MR. SIEBERT: Oh, I'm just guessing. I have some familiarity with it. They are 50 by 100, 55 by 100, 60 by 100.

COMMISSIONER SULLIVAN: So, around 5500, 6000 square feet?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: And these are being proposed at 5000 square feet.

MR. SIEBERT: They range in size but probably the average is around 5500.

COMMISSIONER SULLIVAN: On the plat, it says, typical lot size, 5000 square feet.

MR. SIEBERT: Well, you could take a look at—

COMMISSIONER SULLIVAN: Slightly more dense than Valle Vista and—

MR. SIEBERT: It would be slightly more dense. Correct.

COMMISSIONER SULLIVAN: I think that emphasizes Commissioner Campos' concern that we perhaps break up the row housing or the—in some way creatively expand that space while still, perhaps maintaining the same number of units so there's economic feasibility. But providing some relief to that look of government housing as it were.

MR. SIEBERT: No, I understand the comment and when we come back for final plan I think you'll find you can have a plan that reflects those concerns.

CHAIRMAN DURAN: How many lots would you have if we required that you had 6000 square foot lots?

MR. SIEBERT: I don't know. I'm just guessing you'd lose probably six to eight lots, something like that.

CHAIRMAN DURAN: Maybe lots 24 through 29.

MR. SIEBERT: Maybe it's a perfect place for the park. I don't know.

COMMISSIONER SULLIVAN: That makes sense.

MR. SIEBERT: At some point you have to understand that you're paying \$5,000 for water. You're paying considerable costs to develop the lots and at some point it just—if you have to provide an affordable unit, it gets to the point where there's no profit

margin and then there's no point in the developer doing it. So you have to strike a reasonable balance at some point.

CHAIRMAN DURAN: Good answer. Okay. Did we have the public hearing? You made a motion to approve? And Commissioner Sullivan was wondering if you would accept an amendment that if lots 24 through 29 are determined be feasible for development then density tests at 18" lifts must be submitted for approval.

COMMISSIONER TRUJILLO: That's fine.

CHAIRMAN DURAN: That was it? So those in favor of the motion with the amendment by Commissioner Sullivan signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

Mr. Sena, I know this has been a long road for you and I commend you for hanging in there and working with us not only on preserving our highway corridor, but also providing affordable housing to the community.

MR. SENA: Thank you, Mr. Chairman.

[The Commission recessed for ten minutes.]

- X. D. 9. **EZ Case #M 01-4260. Tesuque Knolls. Ralph Brutsche, applicant, Oralynn Guerrerortiz, agent, request authorization to proceed with a master plat procedure for a 15-lot residential subdivision on 65.92 acres. The property is located along State Road 475 (Hyde Park Road) within Section 4, 5, 8 and 9, Township 17 North, Range 10 East**

MS. LUCERO: Thank you, Mr. Chairman, if I may, can I just summarize the report?

CHAIRMAN DURAN: Yes, please. This is the project that came before us a few months ago that had 57 acres of open space dedicated?

MS. LUCERO: I believe it was about 67, yes.

CHAIRMAN DURAN: Why don't you summarize unless the Commissioners have some specific questions, then we can get to that.

MS. LUCERO: Thank you, Mr. Chairman, Commissioners. The applicant is requesting to proceed with a master plat which will give them the flexibility to cluster the units and blend them into the natural terrain. Each buyer will work with the owner to design a home that not only meets the buyers' desires, but is also well screened from the neighbors, protects the many beautiful trees on the property, and fits the terrain. The applicant states that there is a great need for lot configuration flexibility when the objection is to provide cluster development in the mountains.

Recommendation: In the previous memo, staff was not in support of this proposal because of concerns about administratively approving subdivisions within this type of mountainous terrain. Since then, staff has conducted a site visit and met with the agent for this project. The agent stated that as part of the master plat application, they would

comply with all the development plan submittal requirements. Included in this submittal would be the engineer drawings for all of the infrastructure would be constructed and/or installed prior to the division or sale of any lots.

Any variances that may be required will also be addressed with the master plat application. After meeting with the agent and having our concerns addressed, staff feels comfortable with this proposal. Therefore staff recommends approval of this request to proceed with the master plat.

CHAIRMAN DURAN: Any questions of Vicki?

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

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Lucero, this is built in the forest, right?

MS. LUCERO: Mr. Chairman, Commissioner Campos, the property is located off of Hyde Park Road next to the Summit Subdivision. It's vacant land right now. This parcel's vacant as of now.

COMMISSIONER CAMPOS: Okay, but it's a forested land? There are a lot of trees there?

MS. LUCERO: Yes, that's correct.

COMMISSIONER CAMPOS: Okay. Now, does the County have any authority to deal with this danger? I mean building homes in the forest where there are a lot of trees, in the situation we're in could be a danger to the destruction of some of these homes and injuries to some of these people. Do we have any authority to mitigate any problems related to fire?

CHAIRMAN DURAN: Are the houses sprinklered? Are they required to be sprinklered?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, the property is not located within the Mountain Special Review District, so it's not required to comply with those fire protection requirements. However, the Urban Wildland Code will be coming before the BCC and I believe that area will be subject to those provisions. And so the subdivision, when the plat comes forward to the BCC, will be subject to meeting those requirements, plus, the Fire Marshal is going to be required to review the master plan, in addition. And he probably would require sprinklers in the homes.

COMMISSIONER CAMPOS: What authority does the Fire Marshal have as far as protecting these homes from forest fire?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, I don't know what authority he has. I would, again, I would just refer to the Urban Wildland Code, if that gets adopted then that would give him the authority. And then I'm not sure what the Uniform Fire Code states about that. But again, we'll make sure that the Fire Marshal sees the master plat before it comes to the BCC.

COMMISSIONER CAMPOS: Okay. Question for Mr. Kopelman. What authority, if any, does the County have to protect the homes built in the forest where's there's a high likelihood, or there's a good likelihood of ignition and fire with a lot of fuel out there? Do we have any responsibility to the people who are buying? Do we have any

authority to take measures to protect these homes from fire?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I don't believe there's any liability in terms of approving homes in forests areas, but clearly, the County has zoning authority and the authority under the general health, safety and welfare provisions. As Roman indicated, the Urban Wildland Interface Code really is geared toward taking additional steps than what is currently in the Code and those areas are specifically being mapped and will be brought for public hearing shortly. But that really does exactly what you're saying and as Roman indicated, if this area, and I believe it is, is within one of the designated areas, it would be subject to all the provisions in that code.

COMMISSIONER CAMPOS: Would this application be subject even though we haven't adopted the ordinance?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, assuming that that code is adopted prior to them coming in actually for building permits, the answer would be yes, it would be.

COMMISSIONER CAMPOS: Okay. What I'm concerned about is safety for people living in the forest because actually, it can be pretty hazardous out there the way things are, with the number of trees, the amount of fuel, the dryness. And should we give notice to consumers, potential consumers about the dangers out there? Because it seems that a lot of people aren't really aware of how dangerous it could be.

MR. KOPELMAN: Mr. Chairman, Commissioner, I think that that's a difficult question in terms of whether the Commission is in a position to do that. I think legally, we can. I think we need to be careful though to ensure that if in fact we're giving those kinds of warnings that the facts support that. So I think it's a murky area. It's a difficult one and again, I think the approach that the Fire Marshal is taking in terms of the Urban Wildland Interface Code is really probably the best way to approach it because there are objective criteria that are used and evaluated in order to determine whether a particular section of land has a high fire risk. And if it does, then that code would apply.

So that's really, I think, the best approach to take, as opposed to just kind of having a blanket statement, which probably isn't going to be very helpful.

COMMISSIONER CAMPOS: How far away are we from the adoption or the consideration of the Wildland Ordinance?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, my understanding is that the ordinance has been totally redrafted and there have been meetings now with public groups. The ordinance has been taken out to the public groups, and I believe it's going to be coming for public hearing in August and September. So it's not that far down the road.

MR. ABEYTA: September 25 is the date it's been scheduled for BCC and EZA review and approval.

COMMISSIONER CAMPOS: Thank you very much.

MR. ABEYTA: And Mr. Chairman, again, this is just a request to proceed with the master plat. If you grant this request, they still have to come forward with the master plat and at that time, the master plat could be approved, approved with conditions,

or even denied at that time. Again the applicant has agreed to do all the engineering up front and to address fire protection before bringing this master plat forward.

CHAIRMAN DURAN: Isn't it true that the Fire Marshal actually will look at the plat and make his recommendations?

MR. ABEYTA: Mr. Chairman, that's correct and also this property is going to be on City utilities, water and sewer and there are hydrants out there now that provide fire protection for the Summit Subdivision.

CHAIRMAN DURAN: Great. Is the applicant here? Please come forward, state your name for the record and let the recorder swear you in.

ORALYNN GUERRERORTIZ : Hi. I'm Oralynn Guerrerortiz of Design Enginuity and I'm at P.O. Box 2758, Santa Fe, New Mexico.

[Duly sworn, Oralynn Guerrerortiz testified as follows:]

CHAIRMAN DURAN: Are there any questions of the applicant?

MS. GUERRERORTIZ: Commissioners, if I could just address some of the fire issues. The developer of this project put in a half-million-gallon storage tank. It's developed in Summit phases 7 and 8. It would serve this area. The fire hydrants flow at 1000 gallons per minute. It's one of the best systems we've got in the area.

COMMISSIONER TRUJILLO: Very good.

COMMISSIONER CAMPOS: What's your fuel load out there?

MS. GUERRERORTIZ: I don't know how that's actually measured, but it is heavily treed. Plus the tree coverage helps screen the development. This project is right next to Nun's Curve, so part of it would be well screened from Nun's Curve.

COMMISSIONER CAMPOS: There's some talk in the report about variances, may be required, will be addressed with the master plat application. What kind of variances are you looking at?

MS. GUERRERORTIZ: The only variance that we anticipate at this point is the length of cul-de-sac. We're talking now about the road. These homes here would actually be served by a loop road, but this would be on a cul-de-sac.

COMMISSIONER CAMPOS: Question for Mr. Abeyta. How do you feel about that proposed variance involving the cul-de-sac.

MR. ABEYTA: Mr. Chairman, Commissioner Campos, the requirement has to do with fire protection and life safety so we would send it to the Fire Marshal, and it's been my experience in that past that because there's hydrants and fire protection, they've normally supported those. But this is in a heavily wooded area. They may not. I don't know. But again, because of the hydrants and the water system that's out there they may support this variance.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Any other questions of the applicant. This is a public hearing. Is there anyone out there that would like to speak for or against this project? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Move for approval of EZ Case, #M 01-4260.
CHAIRMAN DURAN: Okay, there's a motion to approve, with staff recommendations?

COMMISSIONER TRUJILLO: With staff recommendations.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER SULLIVAN: I'm looking, Mr. Chairman, for the staff recommendations. Are there any?

MR. ABEYTA: Commissioner Sullivan, in the recommendation, we're going to require that the master plat include engineered drawings and other drawings that are development plan stage. So it's incorporated into the overall recommendation.

COMMISSIONER SULLIVAN: Oh. I see. Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this motion.]

Thank you. And thanks for all that open space. We love it.

- X. D. 4. **CDRC Case #Z 01-5140. High Road Market Place. La Jicarita Enterprise Community, applicant, Jane Cook, agent, request master plan zoning with preliminary and final development plan approval for an arts and crafts store providing networking, training, mentoring, exhibition and sales opportunities in an existing 1540 square foot structure. The property is located on County Road 94C in Chimayo, within Section 1, Township 20 North, Range 9 East**

WAYNE DALTON (Review Specialist): Thank you, Mr. Chairman. The applicant is requesting approval for an arts and crafts store providing networking, training, mentoring, exhibition and sales opportunities in an existing 1540 square foot structure. The main gallery room is 1050 square feet in size. There also is a break room, an office, and bathroom that will not be open to the public. The basement is used for storage.

Recommendation: Staff's position is that this application is in accordance with Article V, Section 5 and Article III, Section 4.4 of the County Land Development Code. Staff recommends master plan zoning with preliminary and final development plan approval. The decision of the CDRC was to recommend master plan zoning with preliminary and final development plan approval subject to the following conditions. Mr. Chairman, may I enter those conditions into the record?

CHAIRMAN DURAN: Yes.

[The conditions are as follows:]

1. The Master Plan/Development Plan will be recorded with the County Clerk's office.
2. All staff redlines will be addressed, original redlines will be returned with final plans.

3. Prior to recording the Master Plan/Development Plan a permit for the septic tank and leachfield system should be obtained from the Environmental Department.
4. Water use shall not exceed a 0.25 acre-foot per year. A water meter shall be installed on the well. Annual water meter readings should be submitted to the County Hydrologist by June 30th of each year.
5. The applicant shall comply with all Fire Marshal requirements.
6. All outside lighting on the property shall be shielded.
7. All improvements, including parking area, and fire protection, shall be in place prior to recording of the Master Plan.

CHAIRMAN DURAN: Any questions of Wayne?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: This is located adjacent to the Santuario?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that is correct.

COMMISSIONER SULLIVAN: And how does it relate to the COLTPAC land? Where is that located, that we just bought or are in the process of purchasing?

MS. BOKDE: Mr. Chairman, Commissioner Sullivan, the property that's currently are the tracts that are directly behind the Santuario de Chimayo. So it's the valleyway that's between the Santuario, behind the Santuario, next to BLM property. So I'm not familiar where this specific project is located.

COMMISSIONER SULLIVAN: Can you show us on the map where the Santuario is in relation to the project?

CHAIRMAN DURAN: Where's Santo Niño Church?

COMMISSIONER TRUJILLO: It's right near the Santuario, in the complex.

COMMISSIONER SULLIVAN: That's it, isn't it? So it looks like, Mr. Chairman, the Santuario is due southwest of this property and the COLTPAC parcel that we're negotiating for is due southeast of this property. So this is a fairly sensitive property. They'll be expanding the use of this one building. Are there parking requirements associated with that expansion?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, there is five parking spaces for this development.

COMMISSIONER SULLIVAN: That exist now?

MR. DALTON: No, they're going to install the five parking spaces.

COMMISSIONER SULLIVAN: They're going to add five parking spaces.

MR. DALTON: That's true. There's five total.

COMMISSIONER SULLIVAN: In your judgement that will be adequate?

MR. DALTON: Yes.

COMMISSIONER SULLIVAN: Are there any comments regarding the COLTPAC prospective in terms of screening, traffic, pedestrian use? In our connection to COLTPAC property do we have any feeling for that, Alina?

MS. BOKDE: Mr. Chairman, Commissioner Sullivan, my understanding is

that it's an existing property, an existing building, so I don't think it would have any impact on the properties that are going to be acquired for open space in terms of the intent and why COLTPAC has brought those properties forward for acquisition. I don't think it will compromise the value of this project.

CHAIRMAN DURAN: It's historically been used as a store, is that correct?

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

CHAIRMAN DURAN: And it meets the Code for this type of use?

MR. DALTON: That's correct.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: If Commissioner Sullivan is done. There are existing commercial arts and crafts shops and buildings in and around the immediate area of El Potrero, which is the Santuario de Chimayo. Isn't that right?

MR. DALTON: That's right.

COMMISSIONER TRUJILLO: How—do we have any idea how this project will complement or take away from the existing market of arts and crafts and/or artists? Do we have any idea what it will do to the existing way of life in the community? And also, what sort of input did we get from the community regarding this enterprise coming into their community and essentially competing with a lot of the existing businesses there? Did we get any pulse from the community as to how they feel regarding this activity?

MR. DALTON: Mr. Chairman, Commissioner Trujillo, there was no opposition to this case. There was one person in opposition at the CDRC meeting but as far as this business helping the community, I believe maybe the applicant can answer that question a little better than I can.

COMMISSIONER TRUJILLO: Okay. I'll wait.

CHAIRMAN DURAN: Are there any more questions of Wayne?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: There's been some discussion lately about the water situation in the Chimayo area. There's some quality issues. Is this property within that area?

MR. SAYRE: I'm sorry, Mr. Chairman. I was talking to Katherine about another water problem. Could you rephrase the question to me?

COMMISSIONER CAMPOS: Mr. Sayre, there's been some discussion that in the Chimayo area that there are water problems involving contamination and pollution. Is this project in that area, near the Santuario?

MR. SAYRE: Mr. Chairman and Commissioner Campos, I cannot answer that question. The hearing I went to last weekend at Chimayo indicated there are a number of problems but NMED is currently evaluating that but they did not get site-specific as to where the problems are. They generally—the problems looked at some high nitrates, some

profit project to help people in the community who are artisans make more money from what they produce so that these crafts can be continued in future generations. And the project runs from Chimayo around, across the mountains through Mora.

There's 200 artisans in our project. At the moment we have around 50 artisans exhibiting work in the shop. I'll just answer—there's limited use of natural resources, next to none. We don't offer any food service. The water has been tested. I don't know if we've gotten the report back but there was a free public water testing in Chimayo several weeks ago, about a month ago, and the reports are now being sent out. So we'll soon know whether the water there is potable. In the meantime we've been bringing in our own drinking water and we serve no water to the public.

And the septic system has been completely checked out and occasionally a customer asks to use the restroom and of course we allow them. There are public restrooms nearby that serve the people who come to the area. I'll answer any other question you have.

CHAIRMAN DURAN: Any questions of Ms. Cook?

COMMISSIONER TRUJILLO: Mr. Chairman, what are the types of people or artists that are utilizing your enterprise? Are these learning? Are they learning carvers?

MS. COOK: It's a mixture, because we also have a mentorship program. Many of the artisans in our store are master artisans and have been recognized as such by the state and New Mexico Arts.

COMMISSIONER TRUJILLO: Like who? Like Charles Carrillo? Ernie Lujan?

MS. COOK: It's only people who live in this particular region who are shown. Aurelio Pacheco got a master artisan grant recently from New Mexico Arts. He's a carver of traditionally carved doors. Maximiliano Garcia makes colonial style furniture and also was awarded a master artist grant for New Mexico Arts recently. We have a total of seven artists over the past couple of years who've been awarded these grants as master artisans and many of the other artisans would qualify but they have not applied.

COMMISSIONER TRUJILLO: So these are pundits that are training the novices.

MS. COOK: Some are and some aren't. It's totally up to the artisans whether they want to take on apprentices. We do, as a rural economic development project, we do encourage master artisans to train other artisans and we pay them to do so.

COMMISSIONER TRUJILLO: How are you networking with the community?

MS. COOK: Most of our networking has been within the artisan community of the small communities like Cordoba and Truchas and Ojo Sarco, Chamisal, and around the mountain. We have regular community meetings within those communities to talk about what people need, what kind of projects they're interested in. This project has been going for four years now. We feel it's been very successful. La Jicarita Enterprise Community is a much larger economic development project and it has agriculture and water resource development projects and education in the schools, training,

career training projects. This is one small project that's part of La Jicarita Enterprise Community, that deals specifically with artisans and a little bit with small agriculture—jams, jellies, dried flowers, herbs, those kinds of things.

COMMISSIONER TRUJILLO: Yes, because the concern that I had initially was that this project was going to compete with the existing arts and crafts economy of the area, which is nominal to begin with. And that was the concern, but you're saying it will complement.

MS. COOK: We feel that it does and I believe that our neighbors do. I think there was a little bit of misgivings on some of our neighbors' parts at first when they heard about it because it was a federally funded project and they were afraid that they weren't going to be able to compete. But our products are different. We have a very friendly relationship now with our neighbors. In fact we have one of the people in our project distributing red Chimayo chile, but the person lived in Ojo Sarco and we decided not to let that person have that product in our store out of respect for the store across the street that says that the main bulk of their business is from selling that chile.

Most of the people who are represented by this project are long term members of these very same communities and have, just not had a way to sell their work successfully within their home communities in the past. I think it's quite fair to offer them that at this time.

COMMISSIONER TRUJILLO: Thank you.

CHAIRMAN DURAN: If there are no more questions of the applicant, this is a public hearing, is there anyone out there that would like to speak for or against this proposal? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman, move for approval.

CHAIRMAN DURAN: Motion to approve. That would include staff recommendations?

COMMISSIONER TRUJILLO: That's right.

CHAIRMAN DURAN: I'll second that. Any further discussion?

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Abeyta, what if it turns out that this is within a polluted area? If this project is within an area that has a lot of water pollution? They say the water quality is not good. We have a septic issue. How would you handle it or what would you recommend?

MR. ABEYTA: Mr. Chairman, I'll go ahead and defer to either Doug Sayre or our hydrologist, Katherine Yuhas.

MR. SAYRE: Mr. Chairman, Commissioner Campos, I believe there's a lot of systems available onsite that if the water showed to be of non-drinkable quality that they could put in a treatment system to make it that they furnish potable water. They're not so costly that it's not beyond their capacity, especially for relatively small use to invest in this and I would recommend that that be considered if that's of concern.

COMMISSIONER CAMPOS: As a condition of approval? If for example,

1965461

SFC CLERK RECORDING 08/16/2004

the water quality—

MR. SAYRE: If the analysis showed there was some problem with the water drinkability and potableness according to the Safe Water Drinking Act, that they consider, that it's mandatory that they put in a treatment system that meets drinking water standards.

COMMISSIONER CAMPOS: What about the septic issues, because those are usually the cause of the pollution.

MR. SAYRE: Mr. Chairman, Commissioner Campos, in some cases that could be true. In some cases, a lot of cases, older wells, it was completed inadequately and there's ways to reconfigure the well so it's not having a problem. I think you'd have to address that issue in particular as to what their water supply is. If it's too close to a septic system, it could be that's the problem. It seemed to be that the problems were variable up there and I couldn't—I think we'd have to look at the particular problem at the time. I think maybe Roman could speak to that.

COMMISSIONER TRUJILLO: I think what you're representing is sort of short term, piece meal resolution. We need to look at that community from a holistic standpoint. If I understand correctly, there's a major health and safety problem in that area from a quality of water standpoint. And in fact, the community has got \$400,000 to initiate an engineering study of the existing utility for the Chimayo area and there's a possibility that that existing utility will be expanded to serve all of the Chimayo proper area. That's the long term resolution.

And yes there is a dire need for potable water in the community. In fact, I have been asked to make the parking lot of the community center available for distribution of potable water by the National Guard. But long term, the infrastructure needs to be implemented in that community to provide a sustainable source of potable water. Because there are problems with quality.

MR. SAYRE: Mr. Chairman, Commissioner Trujillo, it was my understanding, based on what was said up there that they are applying for funding to do an engineered study so that they can identify these problems and decide on what kind of system would be necessary to look at the long term, more regional problems up there so that that's addressed. I think we all supported that and I think they're on the right track, based on what was discussed at that meeting, a week ago Monday night.

COMMISSIONER TRUJILLO: But what I'm trying to impress is that this problem is not segregated to the applicant or the applicant's neighbor. This permeates across the community, and it's a real problem. It needs to be looked at.

MR. ABAYTA: Mr. Chairman, if I might add, specifically for this case and Commissioner Campos' concerns we have condition number three, that will require the applicant to obtain approval from the Environment Department for the existing septic tank and leachfield prior to recording her master plan. Condition number four requires the applicant to submit annual water meter readings to the County Hydrologist and I don't think it would be unreasonable to add that she also submit water quality test results to the hydrologist, along with the meter reading on a yearly basis. We can add that in as a

condition if the Board chooses.

COMMISSIONER TRUJILLO: I don't—I think that's redundant because if we require that of the applicant, the neighbor is going to be drinking the same water and the neighbor's neighbor will be drinking the same water. So it's not going to resolve anything. This is a holistic problem that needs to be addressed that way.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I disagree with Commissioner Trujillo. It's a major problem but you can start resolving major problems in a little way. If this septic system is in fact leaking or not functioning appropriately, if we can fix this one, that's positive. And water quality is a big issue. I think the recommended conditions are good. I think they would help us in a little way to move forward.

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, in the past, and Penny just reminded me that in the past in this area a condition we've put on projects before is if and when a regional system is in place, then the developer or the applicant would be required to disconnect the well and septic and tie into that. And we can add that as an eighth condition. And we probably will be bringing that to you from now on.

COMMISSIONER TRUJILLO: But the quality of the septic system is not even under our jurisdiction. That's an EID jurisdictional area. So we don't have any authority to mandate anything regarding septic tanks.

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, you're correct. We don't have that authority but we do have the authority to comply with what it is that ED requires.

COMMISSIONER TRUJILLO: And they have to do that anyway.

MR. ABEYTA: Right.

CHAIRMAN DURAN: Well, there's a motion and a second. Those in favor of the motion signify by saying "aye."

COMMISSIONER CAMPOS: Mr. Chairman, is the movant going to consider those amendments proposed by Mr. Abeyta, including sectional to the regional system, the EID check and the water quality check.

COMMISSIONER TRUJILLO: Sure.

COMMISSIONER CAMPOS: Okay. The second?

CHAIRMAN DURAN: I seconded it. Okay. So those in favor of the motion signify by saying "aye," with the amendments. [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

- X. D. 8. EZ Case #Z 99-4891. Airport Road Shell. Brewer Road Oil Company (Charlie Brewer) applicant, requests a transfer of ownership and location of a dispenser liquor license for an approved retail use (convenience store, gasoline) no .91 acres. The property is located at 7510 Airport Road within the Two-mile Extraterritorial District, Section 11, Township 16 North, Range 8 East**

JOE CATANACH (Review Specialist): Thank you, Chairman Duran. State Alcohol and Gaming Division has granted preliminary approval of this request in accordance with the State Liquor Control Act. Legal notice has been published in the newspaper and the request is subject to consideration by the Board of County.

On November 30, 1999 the Extraterritorial Zoning Authority granted zoning approval to permit the sale of packaged liquor and I refer you to attached meeting minutes for November 30, 1999 in your packet and the Board of County Commissioners subsequently approved a liquor license transfer. The applicant owned a liquor license and had transferred it from another convenience store/gasoline service facility also owned by this applicant. Packaged liquor has been sold from the Airport Shell since that time period. The applicant's present request is to purchase a liquor license utilized Roybal's Groceries and Liquor located in the Nambe area and transfer it to the Airport Road Shell.

And the request is in accordance with the zoning granted by the EZA to permit the sale of packaged liquor. Staff recommends approval for a transfer of ownership and location for a dispenser liquor license.

CHAIRMAN DURAN: Any questions of Joe? Is the applicant here? Please step forward and state your name for the record and let the recorder swear you in.

[Duly sworn, Maurice Bonal testified as follows:]

MAURICE P. BONAL: My name is Maurice P. Bonal, 685 Callecita Pecos in Santa Fe, and I'm a license broker representing Cordelia Roybal, who is the seller of the license to Brewer Oil Company, and I will stand for any questions.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: My understanding, Mr. Bonal, is that the applicant already has a liquor license at this establishment, so why are we, or why is he purchasing another one?

MR. BONAL: Mr. Chairman, Commissioner Sullivan, the license currently located at Rodeo Road, Airport Shell, is what they call a retailer's license. There are 57 if those in the state of New Mexico. Those can travel anywhere in the state and retain their package capability. Mr. Brewer has the opportunity to purchase Mrs. Roybal's license, which is a full service package license to move it to the current location at Rodeo Road and take that license to I believe it will be transferred to Ruidoso, for their operation there in Ruidoso. It's what we call a switch-out.

Certain licenses have certain capabilities. The capability that is at that current

license currently at Airport Road has a—it's the grandfather of all the licenses in the state of New Mexico. So they have the opportunity now to purchase Mrs. Roybal's license, a full service Santa Fe County license, move it to that location, take that license that's currently there, and move it to Ruidoso.

COMMISSIONER SULLIVAN: And does that license that they're moving in provide any expanded capabilities other than what they have now?

MR. BONAL: There would be no expansion that the current licensee is doing now. Correct.

COMMISSIONER SULLIVAN: It's package sales only.

MR. BONAL: Package sales. Correct.

COMMISSIONER SULLIVAN: So both licenses are package sale licenses.

MR. BONAL: Mr. Chairman, Commissioner Sullivan, I believe that's the way the zoning reads too.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Any other questions of the applicant.

COMMISSIONER CAMPOS: Mr. Chairman, I have a question for Mr. Catanach. What are the statutory criteria that we're supposed to apply to making a decision here? What does the state ask us to do as far as decision making? What are we supposed to look at?

MR. CATANACH: There is a reference to the statute that applies right on the front of the letter. My simple response would be that the local governing body has approved the zoning, but I don't know if Steve Kopelman would have other information.

COMMISSIONER CAMPOS: Mr. Kopelman?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, generally, the statute provides that the Commission or local governing body can deny a license request, but generally, it's usually through the zoning process. If they have the zoning and they come in for the license, there has to be a very tangible health, safety and welfare basis to deny it, and there's a long line of cases from the New Mexico Supreme Court that make it real clear that there has to be very tangible evidence given and it has to be documentary evidence, not just testimonial evidence. So it's a very high standard to turn down a license request.

COMMISSIONER CAMPOS: What do you mean by documentary evidence?

MR. KOPELMAN: In other words, Mr. Chairman, Commissioner, it could be a situation where the traffic concerns, by virtue of moving a license in, might create a very dangerous situation. There's situations where maybe the location is very close to a school and maybe the hours are such that there might be some problems along those lines. But again, it has to be very tangible. For example, another example might be an owner who has a record of selling alcohol to minors and has been caught on numerous occasions. That might present a health, safety issues.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: It's a public hearing. Is there anyone out there

who would like to address the Commission concerning this issue, either for or against?
What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Move for approval of EZ Case Z 99-4891.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

- X. D. 9. **EZ Case #S 00-4802. Rufina Meadows. Sun Mountain Estates, Inc. (Bill Chapman, president) applicant, requests final plat/development plan approval for a 46-lot residential subdivision on 23.3 acres in accordance with the approved master plan. The property is located off the Rufina Road Extension, east of Jemez Road, within the Two-mile EZ District, Section 6, Township 16 North, Range 9 East**

MR. CATANACH: In October, November 2001 the EZC-EZA granted master plan approval for a 70-lot residential subdivision, and in April/May 2001 the EZC-EZA granted an amendment for the purpose of designating and reserving the south portion of the property for a public school site and the north portion of the property for 46 residential lots on 23.3 acres. And that's the current request for final plat development plan is the 46 residential lots on 23 acres.

The proposed lots range in size from .26 acre to .52 acre with 1.5 acres of common recreational open space/park which constitutes a gross density of one residential unit per .50 acre to be developed in two phases as follows: Phase 1- 34 lots, Phase 2- 12 lots and a passive park.

The density is in conformance with zoning for the urban area based on utilizing a community water and sewer system. City services for water and sewer will be utilized. Water and sewer availability statements have been issued by the City.

CHAIRMAN DURAN: Joe, you can just, we can just enter the road access, terrain, open space, landscaping, archeology, homeowners association in the record and get into the recommended action.

MR. CATANACH: Thank you, Mr. Chairman. The proposed subdivision is in accordance with the approved master plan and the Extraterritorial Subdivision Regulations. Staff recommends preliminary and final plat/development plan approval, subject to the following conditions.

CHAIRMAN DURAN: And you can enter those into the record also.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:

- a. Sangre de Cristo Water Utility
 - b. City Wastewater Division
 - c. City Traffic Division
 - d. City/County Fire Department
 - e. County Public Works
 - f. County Technical Review Division
 - g. Soil and Water District
2. Final plat shall include but not be limited to the following:
- a. Note that subdivision utilizes common retention/detention facilities for post-development drainage control
 - b. Signature lines for committees, staff, and utility companies
 - c. Conditional dedication to County/City of future arterial identified as County Road 62 alignment
 - d. Compliance with plat check list
 - e. Grant subdivision roads for public use
 - f. Cross reference for recording covenants and disclosure statement
 - g. Development permits for housing construction or manufactured homes will not be issued until required improvements for roads, drainage and fire protection are completed as approved by staff
 - h. Prohibit direct driveway access to Rufina, Agua Fria and future arterial identified as County Road 62
 - i. Vicinity map
 - j. Approval of Rural Addressing and street names.
3. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not be limited to the following:
- a. Maintenance plan to protect quality and function of roads and drainage facilities
 - b. Homeowners shall contract with a registered business for collection and disposal of solid waste at approved landfill site
 - c. County water conservation measures
 - d. Outdoor lighting shall be controlled and shielded
4. Submit final data recovery plan for archeological remains.
5. Solid waste fees (\$39.44 per lot).
6. Submit cost estimate with acceptable financial surety for completion of required improvements (including street and traffic signs) as approved by staff. Upon completion submit certification by registered engineer that required improvements have been completed in conformance with approved development plans.
7. Detail for cul-de-sac.
8. Applicant shall be responsible for fair share cost of Rufina/County Road 62 alignment intersection improvements are required by City.

MR. CATANACH: Thank you, Mr. Chairman and my understanding is the

applicant is in agreement with conditions.

CHAIRMAN DURAN: Any questions of Joe?

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: Joe, I've had some calls, concerns from people living on Jemez Road, with the new proposed school site, which I think Mr. Chapman provided for the schools. The concern is that Jemez Road would be used as an access route to the school site. Is there any chance of that happening?

MR. CATANACH: This issue was discussed at the master plan level and the discussion we had was that Jemez Road is currently being utilized by people wanting to get from Agua Fria to Airport Road. Certainly when the school--the school has agreed and it was a condition of the approval that the school is required to submit a development plan for approval by the EZC/EZA. Certainly part of that development plan would be a traffic impact analysis.

COMMISSIONER GONZALES: Okay, so it wouldn't be until the school actually presents, comes for the zoning for the property that we would address the issue of the access roads into the property?

MR. CATANACH: Well, a development plan for the property. Essentially, the zoning was granted as part of the master plan amendment.

COMMISSIONER GONZALES: Is there anything we could do at this level for consideration by the Commission that would expressly prohibit such an action from taking place, because Jemez Road is already overtaxed as it is. There are a lot of people along that road that are very, extremely concerned about its use for a school route. And so, I don't know how to send that message or how this Commission could consider preventing Jemez Road from being an arterial or having access to the school site.

MR. CATANACH: I think it's certainly a concern we've all expressed.

COMMISSIONER GONZALES: So where do we actually address it though? Do we address it here or at the development plan level for the school?

MR. CATANACH: If it's an issue having to do with traffic impacts from the school, I believe it's an issue that we deal with in the development plan for the school.

COMMISSIONER GONZALES: For the school?

MR. CATANACH: Yes sir.

COMMISSIONER GONZALES: So it probably wouldn't have any bearing at this point on this development though.

MR. CATANACH: That's correct.

COMMISSIONER GONZALES: Okay. Thank you.

CHAIRMAN DURAN: Any other questions of staff? Is the applicant here? Please come forward.

[Duly sworn, Bill Chapman testified as follows:]

BILL CHAPMAN: My name is Bill Chapman. I live at 1083 Sunshine Way in Santa Fe.

CHAIRMAN DURAN: Mr. Chapman, are you in agreement with all of

staff's recommendations?

MR. CHAPMAN: Yes, sir, Mr. Chairman, my only concern is that, my understanding is that the redlines from the City should be returned to me before the EZC hearing which we had in June. There have been several departments I haven't received the redlines from so I'm concerned that I'm agreeing to things I haven't seen yet and I don't know the order of, if they asked me to build a bridge on the bypass as a condition, where do I take that? Can I bring it right back here? Do I have to go back through the entire EZC/EZA process, and that's my only concern is that those comments haven't come back yet and so—I'm not expecting any big 800 pound gorillas, but they've been very slow on getting me comments.

I'm also afraid of how much longer they, how much more time does the City get before they're required to give me comments. We have winter coming. I need to pay before November. Can they wait until November to give me my comments or what's my—

CHAIRMAN DURAN: They can probably wait a couple years.

MR. CHAPMAN: So those are my concerns, but other than that, I agree to all the other conditions.

CHAIRMAN DURAN: Joe, I think if we approve this tonight with staff recommendations, can the City impose other ones?

MR. CATANACH: I talked to Bill Chapman about this earlier and Bill has already had a substantial amount of—he's already done a lot of work with the City traffic engineer regarding the proposed road intersection coming off the Rufina Extension. So I think there's already been quite a bit of work and there's an understanding of what design and construction is going to be required for that intersection. So I don't really think that's going to be an issue.

Things coming from City Wastewater and Sangre de Cristo I believe are going to be standard engineering type requirements and what I mentioned to Bill is certainly, I don't think he's going to come up—there's going to be any surprises because he's already gone through several steps and he's already met and spoke with City staff and I don't think there's going to be any very big surprises. Certainly the issue of the City saying, Well, we're not going to act on this as quickly as we can to sign off on your plat. I advised him certainly that his options are to speak directly to the City Manager and to the Councilors that sit on the EZA and I really didn't know how else to advise him in order to get the staff to follow up on the responsibilities.

CHAIRMAN DURAN: So we basically have no control over anything that comes out of the City or any recommendations or changes.

MR. CATANACH: Well, certainly if there's some condition that Bill Chapman does not agree to he would certainly be able to come back before the BCC and request resolution that way and I mentioned to him, unless it was some substantial issue of increasing density or otherwise increasing the land area of the subdivision or something like that, which isn't going to happen, then he could come straight to the BCC and not have to go through the EZC and BCC.

CHAIRMAN DURAN: So your concern is just that you wouldn't have to go through the process all over again.

MR. CHAPMAN: Yes, because I'm being asked to agree to a condition I haven't seen yet. So that's my only concern.

CHAIRMAN DURAN: That sounds reasonable.

COMMISSIONER CAMPOS: Who's requiring the condition, Mr. Catanach, the City or the EZA?

MR. CATANACH: Well, there's—before the City signs off on engineering plans, certainly, they may want certain things. And like I say, I think Bill's already done quite a bit of work and meeting with the City that I don't think there are going to be any big surprises. So the City needs to sign off on the engineering plans. But also, in the County conditions, they're kind of redundant but I just keep track of the approval process and one of the conditions is obviously, number one, compliance with applicable review comments from Sangre de Cristo, City Wastewater, City Traffic Division.

Mr. Chairman, obviously, I know that he's complied with those conditions once the City signs off on the engineering plans and the plat.

COMMISSIONER CAMPOS: Tonight is just plat approval by the BCC for subdivision purposes.

MR. CATANACH: Plat and development plan, that's correct.

COMMISSIONER CAMPOS: And development plan. Okay.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: What I hear Mr. Chapman asking is that if there's something that he doesn't agree with after the redline marks are provided to him, if you could come straight back to the Commission for appealing those? Or the EZA? Or are you asking whether you have to go the full route?

MR. CHAPMAN: My understanding from Joe is that I can come back here.

COMMISSIONER GONZALES: So you're okay with that? Fine. So I think we've pretty much addressed it.

MR. CHAPMAN: Then you've addressed it.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER CAMPOS: Question.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, part of the property we're looking at is for a proposed elementary school. If that doesn't happen, if that sale doesn't occur, what will happen to that property?

MR. CHAPMAN: Mr. Chairman, Commissioner Campos, that sale has already happened and the schools currently own it. They have their designs in process and plan to open it in the fall of 2002. So I assume they'll be back here pretty quick.

COMMISSIONER CAMPOS: As far as quality of life issues, what amenities are you providing to this development?

MR. CHAPMAN: Well, there are two things that I wanted to do when I

did this development. One, I wanted to hit a market that was highly needed. Right now, in the City of Santa Fe and in the County—well, maybe not the County—but in the City of Santa Fe you can buy very small lots at under \$70,000 and we're talking 2,000 to 4,000 square foot lots. You cannot buy a big lot, which is the reason most people who own manufactured homes move into La Cienega or Pecos, because they want a little more land and they can get more house, because maybe they have three kids and they need a bigger space.

So I wanted to provide that niche. So we're doing quarter to half-acre lots. So these are quite significantly larger lots than you would typically see in any other part of the urban area, which may allow for other properties in the same neighborhood to go higher density since that's mostly what's being proposed in Tierra Contenta is R-5 to R-7 and this is R-2. So I think that's a significant quality of life.

We are providing about three acres of open space and in the park is mostly park benches and some trees and a walking trail. We have a rural atmosphere. We have rural road requirements and so we're going to have a walking trail along the sides. And those are the majority of the quality of life issue. We're fencing the entire exterior of the subdivision and currently, right now we have about 40-some buyers on a waiting list. About 22 of them are pre-approved. Many of them work at the City. We have a few interested people from the County. So they're local people that want to put their manufactured homes on permanent foundations and we will also allow people to build, if they want to build their own home, because I've had several contractors that are interested for their own, like a framer or a painter or a plumber wants to build his own house. And those are more difficult to do. We have very flat lots so it's fairly inexpensive to build, and they will be able to build in there.

We have one builder who wants to go in there with a modular home with stucco, possibly a detached garage and so I think those types of things add a different quality of life than you might get, say, in Tierra Contenta for the same \$150,000 to \$160,000, you might have to spend over there, you'd get a very—you'd probably get a smaller house on a much smaller lot. And so this just provides a different quality.

COMMISSIONER CAMPOS: What is your price range?

MR. CHAPMAN: The lot prices will range from about \$47,000 to about \$68,000. Currently, we have to say underneath the HOP agreement max, which changed. It was originally \$70,000 and they just changed it recently so I have to adhere to their price cap unless I can prove that we have some affordable houses in there.

I believe total packages, which would differ from a stick-built subdivision, I think our total packages will probably range from about \$110,000 to \$170,000 depending on how much the manufactured homes cost. To do the permanent foundations and the utilities to the house is about \$10,000 and then they'll need—whatever the cost of the manufactured home is, plus its delivery and set-up. We are having some folks that want to move out of Cottonwood and Riverside that are renting spaces in there. Rents in town are going up. I think Riverside right now is \$404. Well, my \$50,000 will have a payment less than that, so it's a good move. It's a good move for people. I think that's providing a benefit.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Bill, how are you preventing speculative purchases?

MR. CHAPMAN: Well, I haven't at this moment. I know we have a builder that wants to buy four lots and put up modular homes, and put those in there for resale at about \$160,000, \$170,000. He's kind of doing it—he wants to do an affordable housing project in Cañoncito with the Santa Fe Community Trust and he wants to see how much these things cost to build type of thing. So I haven't put that in there as a preventative measure.

CHAIRMAN DURAN: So if I wanted to buy five lots and put some manufactured homes on it and rent them out, I could do that?

MR. CHAPMAN: At this particular time, we have not put any restrictions in that would restrict that. I haven't been asked to.

CHAIRMAN DURAN: Would you be opposed to that? If what we're truly being asked tonight is to assist you in developing an affordable housing project and we haven't taken into consideration the fact that this could be a windfall for someone, I'm not sure that we're doing our job. There are a lot of people out there that might find it affordable. It might be nice to buy five \$45,000 lots and go and buy a \$60,000 mobile home, put it on there and then rent it for \$1200 and have it pay the debt. And it's a good investment.

MR. CHAPMAN: And I'm not sure in America that's a bad thing. The market place decides what's good and what's not. I believe if that's what the market's wanting is \$1200 rentals then this is the place to do it. One of the problems in Santa Fe is that you cannot find—I'm even considering my own self. I live in about a \$160,000 house in Fairway Village and I want to have more kids. Well, if I have four kids and I want to live in a four-bedroom house, there's no place for me to go where I can buy a \$50,000 and build me a 2500 square foot house that I can afford and get in under the \$250,000 price range.

In Phoenix, if I wanted to move up to a four-bedroom it would run from \$160,000 and I'd just have to pay \$180,000 and I'm in a four-bedroom. But here you have to skip to \$250,000, \$300,000 and there's this huge void for large houses in the under \$250,000 price range. I think that's a niche and I think that would be—whether the people need to rent a four-bedroom house because they have that many kids or because they want to own a house because they have that many kids. I think that the market should supply it.

CHAIRMAN DURAN: I also think that you have been expounding the benefits of homeownership, not rental, and all I'm trying to do is ensure that it represents homeownership and not a rental situation.

MR. CHAPMAN: I have not marketed for rental at all. I can tell you if the market came to a complete halt and I had no sales for a year, I would be considering trying to figure out what to do about how to carry my interest note, but right this moment—

CHAIRMAN DURAN: I doubt that will happen at \$45,000 a lot.

MR. CHAPMAN: I agree. So right this minute we're promoting it as sales, whether or not an investor would do that or not, I don't know. I have—

CHAIRMAN DURAN: I would like the Commission to consider putting a requirement in here that would limit the number of lots to any one entity to three. And I think that would prevent speculative purchasing and truly address the affordable housing problem that we have here in our community and which you yourself want to help address.

MR. CHAPMAN: What if they were to use them, Mr. Chairman, if they were to use them for a resale purpose? If they were just putting the house on the market? Zia Homes wants to buy some lots because they want to put their houses on there and Joe Ortiz wants to buy some lots because he wants to put some modulars on there for resale.

CHAIRMAN DURAN: Well, are there any affordable housing requirements that we've imposed on the property at all?

MR. CHAPMAN: I'm required to adhere to the HOP agreement with the City. As long as I stay under—it's about a \$68,000 cap on lot prices, then I don't have any affordable housing requirements other than I can't sell a lot over \$68,000.

CHAIRMAN DURAN: That's okay. I'd like to hear what some of the other Commissioners have to say. If I'm off base, I'll be the first to say. What do you say, Commissioner Sullivan, you always have something to say.

COMMISSIONER SULLIVAN: That's a nice lead-in. Actually, my question was about something different but I think that in that same line, you have, Mr. Chapman, lot sizes it sounds are running 10,000 to 15,000 square feet per lot. Is that—

MR. CHAPMAN: My smallest lot in there is over 11,000 square feet. My largest is —

COMMISSIONER SULLIVAN: We just reviewed and approved a subdivision that had median manufactured home prices around \$114,000 with 5,000 square foot lots and that seemed to be fairly tight to me and to some other Commissioners. That may change when they come back for the final development plan. But it seems that you can make a go of it with larger lot sizes under this condition. If all of that property, following up on Chairman Duran's question, were to become rental units, is there any indication in the market that you've seen that that's where it's going? I ask not only for your situation but I don't think we'll have this for the other development off the frontage road because there is an affordable housing agreement tied to that development. But what do you see the market—there's manufactured home subdivisions on both sides of you, I believe. Isn't that correct?

MR. CHAPMAN: There's one to the east of me, one piece of land over.

COMMISSIONER SULLIVAN: Are those primarily owner-occupied or are they rental?

MR. CHAPMAN: I don't know. I've never done a study.

MR. CATANACH: The people own the lots. They're fee simple lots, Commissioner Sullivan.

COMMISSIONER SULLIVAN: I understand. But the people who own those lots also own the homes and live there?

MR. CATANACH: Yes sir.

COMMISSIONER SULLIVAN: So the general trend in the area is homeownership as opposed to rental.

MR. CATANACH: There's definitely a mix of both. I couldn't say—there's some large mobile home parks in the area where people are renting lots, leasing the lots.

COMMISSIONER SULLIVAN: Yes.

MR. CHAPMAN: Is your concern, Commissioner Sullivan, excuse me for interrupting, the rental of the lot or the rental of the house?

COMMISSIONER SULLIVAN: I was just trying to tie down Commissioner Duran's concern as to whether this promotes homeownership as opposed to rental. There's Fairway Village. There's Rancho Zia nearby that's a manufactured community and I was just asking what are we seeing in the surrounding area?

MR. CHAPMAN: Mr. Chairman, Commissioner Sullivan, I haven't done a study on the number of manufactured homes that are rented versus the ones that are owner-occupied. There's certainly a lot of lots that you can rent lots, but I would typically believe, and it's just a gut feeling that most of the people that live in the home itself own the home. But I couldn't answer that question.

COMMISSIONER SULLIVAN: So someone could purchase a lot from you. They could bring in—must these all be manufactured homes or could they be trailers also?

MR. CHAPMAN: Well, manufactured home is just defined by a double-wide and there's only double-wides allowed, double-wides built after 1978.

COMMISSIONER SULLIVAN: Are the only thing that would be allowed here?

MR. CHAPMAN: That, or modulars or stick-builts.

COMMISSIONER SULLIVAN: If someone were to purchase a lot, he could rent that lot to me and I could bring my double-wide in?

MR. CHAPMAN: That's a good question. I have not entertained that concept and I haven't—

COMMISSIONER SULLIVAN: So I wouldn't have to invest it—

MR. CHAPMAN: In the home itself, just the lot.

COMMISSIONER SULLIVAN: I'd just buy a lot and I'd say bring your double-wide in and I'd rent the lot out. Is that permissible?

MR. CHAPMAN: I think it would probably be permissible. At least currently, we haven't said we wouldn't do that. I might agree not to do that. The one deterrent to that would be the \$10,000 investment they have to make into the foundation and the utility work because, depending on the size of the manufactured home that's coming in and how long you're going to rent it to them for, I don't know that that \$10,000 investment—because if you only had a 28 X 48 foundation and after a year that guy moves and somebody else wants to come in and they have an 80-footer, then you've got to go invest another \$5,000, \$10,000. It may not justify it for that reason.

COMMISSIONER SULLIVAN: It seems like there's probably a need for some rentals, as well as homeownership. Young people need a clean place to live before they can afford to own a place.

MR. CHAPMAN: True.

COMMISSIONER SULLIVAN: I think maybe the intent is to be sure it's not a trailer park. It's a homeownership—and I'm not sure if what you're suggesting does that, limiting it to three.

CHAIRMAN DURAN: How about 50-50?

COMMISSIONER SULLIVAN: It seems like this could change over time too. It would be pretty hard to monitor once he's sold all the lots.

CHAIRMAN DURAN: I guess all I'm really worried about is that it doesn't turn into some glorified mobile home park. It sounds like you don't have anything in place that would prevent that. That you yourself could go buy—how many lots are there?

MR. CHAPMAN: Forty-six.

CHAIRMAN DURAN: Forty-six mobile homes, put it on there and rent them out.

MR. CHAPMAN: That would be certainly a possibility. I'm not intending to do that.

CHAIRMAN DURAN: So what do you suggest?

MR. CHAPMAN: I don't know and maybe Mr. Kopelman can chime in, Mr. Chairman. I don't know if covenants can restrict the number of rental units in a division. I would certainly hate to make it zero, because I agree with Commissioner Sullivan. There is a need for young families to rent a house before they can own.

MR. KOPELMAN: Mr. Chairman, members of the Commission, I guess I have a slight amount of trepidation about putting on conditions regarding rental versus ownership. We don't have a provision in the Code to deal with that and there's not an ordinance that requires them to do affordable housing. So I'm a little concerned about the authority to impose those kind of conditions. And I'm not quite sure whether—I think if Mr. Chapman is willing to voluntarily come up with some kinds of restrictions, he certainly can do that, but I'm a little concerned about what our authority is to do this after this stage after he's come through the process. This is the third board that he's come before in this project. So I'm just a little concerned about—

CHAIRMAN DURAN: Just because no one else has ever thought about it doesn't mean it makes it right.

MR. KOPELMAN: No, Mr. Chairman, I'm not saying it's not right and it's not a good idea. I'm just a little concerned about what our authority would be to impose those conditions, short of having some kind of ordinance.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: Mr. Chairman, I was just going to say, it seemed to me it's before us whether this use is something that the County wants to support. Whether we want to support half-acre lots that will provide housing, either for people that

want to purchase or who want to rent in that area. We know that there's a need and I'm really concerned when the Commission, for the Commission to start regulating what percentage of a development can be rented out and what can't, to try and promote affordable housing. I'd be opposed to any type of requirement. I think that the market should determine that.

I think Mr. Chapman has a long history of developing in this community and he's never done a bad project or certainly one that he's regretful of. He's standing before us today saying he wants to provide homeownership. I think he's got the credibility in my mind to actually deliver on what he's saying he wants to do. I would just encourage us to stay away from trying to regulate how much development should go towards renting and how much should go towards actual homeownership and trying to give—one, see if what he's asking us to approve meets the Code and meets the needs of the surrounding community, and two, whether this developer has a credible past that will lead us to believe that whatever he's going to fill up is going to be something good for the community. In my mind, I think he's met both those objectives.

CHAIRMAN DURAN: Okay, I'll back off. You've made some good points. Commissioner Campos.

COMMISSIONER CAMPOS: I agree with Commissioner Gonzales. I mean if this were any other type of subdivision, we wouldn't even be asking these questions. I don't see how we can differentiate on them. We don't have legal authority to delve into this area I don't believe.

CHAIRMAN DURAN: Okay, okay. Any other questions?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: My other question had to do with the last meeting, Mr. Chapman, a representative from the Jones Firm came forward representing the trust that's adjacent to your property, expressing some concerns, I believe, about the road system and the traffic. I don't recall exactly what those concerns were but I do recall that I asked you if you could work with them and try to arrive at some resolution. So were you able to work with them and if so, what resolution did you arrive at?

MR. CHAPMAN: Chairman Duran, Commissioner Sullivan, we have met with the Jones Firm and we've entered into a verbal joint venture agreement and are in the process of doing some land planning for their properties, some preliminary land plans and hopefully we'll be here maybe within the next 12 months.

COMMISSIONER SULLIVAN: Could you explain again what the concern was with your map there? It had to do with the way the road—you were required to bring the road down the property line, as I recall, in order to provide for the future—

MR. CHAPMAN: There's two maps here. This is the future road network ma the Urban Area Task Force came up with, and there's the CR 62 Extension. And on this map it's shown going through their property in its entirety. But because of a project that Mr. Siebert brought through on the other side of that Rancho Zia Mobile Home Park, it got shifted partly to the property that I'm going to own. So the schools have agreed to

carry County Road 62 for the full length of their property and I took that into consideration when I sold it to them. And then once it gets north of Rufina Street, it then turns back and goes back onto the Stacy Trust property. You can see where that little curve is.

COMMISSIONER SULLIVAN: Right now, it curves into your property.

MR. CHAPMAN: This road here, this is County Road 62. Up here it will cross and it will turn into their property.

COMMISSIONER SULLIVAN: Okay. And then you have a little left turn into your property.

MR. CHAPMAN: Yes. So their concern is that a future arterial road, their concern is where does it go on their property. They have a couple of houses and they have a narrow property and they're concerned how much land value they're going to lose because the arterial road is there. So I was asked to meet with them and we met with them and they came back and said I think the best person to develop our property is you, right, as long as you're next door. You have a feel of the market. Same thing that Commissioner Gonzales said.

So we entered into a verbal joint venture agreement and have come up with some preliminary designs to see—because this road is going to turn. It's going to come over here and we'll have two pocket to develop. Here and this piece over here. So we're working to promote possibly some affordable housing, maybe some apartments. The Southwest Area plan isn't done yet and so we're just kind of—

CHAIRMAN DURAN: When is that going to be finished?

MR. CHAPMAN: I don't know. They've done some preliminary reports but that's all they're doing. So we're kind of the low-density guys. When you do a zoning area they want some low density, some medium density, some high density. We're kind of low density here. My guess is—this piece being cut by this arterial road does not lend itself to larger lots. It's going to lend itself to smaller lots. I'm meeting with the Santa Fe Community Housing Trust tomorrow to talk about possibly doing an affordable housing subdivision there. Because there is this manufactured home park here and it sticks right up in the air and [inaudible] but I'm not sure how it can fit in here.

The Community Housing Trust did a nice job there. So that's where we're at.

COMMISSIONER SULLIVAN: Okay. So assuming that representative from the Jones Firm, Mr. Sneed is not here this evening, or if he is he can during the public comment. It sounds as though we've at least initiated working relationships with them.

MR. CHAPMAN: Yes sir.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN DURAN: Okay. It's a public hearing. Is there anyone out there that would like to address this issue either for or against? What's the pleasure of the Board?

COMMISSIONER GONZALES: Move for approval.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

COMMISSIONER GONZALES: With the conditions that have been

1965477

SFC CLERK RECORDING 08/16/2004

presented and with the acknowledgement that if after the redline comments come back from the City, if there's some disagreement that it be brought back for clarification before the Board, for some resolution before the Board.

CHAIRMAN DURAN: Okay. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

XI. STAFF AND ELECTED OFFICIAL ITEMS

A. Land Use Department

1. Resolution No. 2001-93. A resolution creating the Simpson Ranch a contemporary community planning district and establishing a Simpson Ranch Contemporary Community Planning Committee

JACK KOLKMEYER (Planning Director): Thank you, Mr. Chairman. Good evening, Commissioners. In your packet for this item you have a staff memo, you have a proposed map for the Simpson Ranch Contemporary Community, you have a letter of submittal from the Simpson Ranch Planning Committee, you have a copy of the Community Planning Ordinance and you have the proposed resolution that would officially adopt this district and allow a planning committee to move forward.

The possibility of developing a community plan for the Eldorado and/or the greater Eldorado Area has been a subject of intense debate for several years. Issues concerning new roads, the location of commercial development, water availability, public services, open space and incorporation have been discussed by many different groups in the area. Individual groups and organizations such as the Eldorado Community Improvement Association (ECIA) and the 285 Coalition have sponsored numerous meetings focused specifically on the subject of area-wide planning. The County initiated the US 285 South Highway Corridor Plan to work on understanding and solving some of the highway issues along the roadway from the I-25 interchange down to the Galisteo turn-off. All of these initiatives have led to a community-wide agreement that a regional plan for this area is not only important, but also imperative.

On October 5, 2000 The Eldorado Contemporary Community Planning Committee sent a request to the Board of County Commissioners for authorization to proceed with a Contemporary Community Plan for the Eldorado at Santa Fe subdivision area according to the requirements outlined in County Ordinance 1998-5, the County's Community Planning Ordinance. At a BCC meeting in early January, 2001, it was suggested by both staff and Board members that additional meetings should be conducted to determine if the planning area should be enlarged to incorporate some, if not all, of the other 22 residential subdivisions in the area. Residents in attendance at that meeting agreed to conduct additional meetings and come forward with a recommended action.

In January and February, several meetings were conducted with interested parties in the County building to go over issues and study a larger area that might become the study

area for a regional plan. During these meetings, it was suggested that the area be referred to as The Simpson Ranch Contemporary Community, as most of it was part of the original Simpson Ranch in that area. This was agreed to and a map of the area was completed.

Public meetings were advertised and conducted in Eldorado on April 9, 2001 and June 10, 2001, to allow all community members the opportunity to understand the planning process being recommended and to voice their opinions. Both meetings were well-attended and very constructive. There was no major opposition to proceeding forward with an area plan for the Simpson Ranch Contemporary Community.

County Planning Division staff is therefore in support of the request to create a Simpson Ranch Contemporary Community Planning District, create a planning committee, and to initiate a formal planning process. Staff is requesting the Board of County Commissioners to adopt a resolution for this purpose. In addition, staff is recommending that part of the resolution include the need to begin this process with a Community Needs Analysis to be undertaken and paid for by the County, and for County staff to prepare a position paper on the current water moratorium and options for future development in this area.

The map in your packet outlines what has been agreed upon by the members of the community. It is the blue line that goes all the way around the Eldorado at Santa Fe Subdivision. It includes the San Sebastian area, which is the junction of the Old Las Vegas Highway/I-25 North intersections, goes eastwards to include the wilderness area, the area known as the wilderness area, and then follows that boundary on its eastern side all the way down to just north of Lamy. We've excluded the community of Lamy as it is a traditional community and therefore has the ability to come forward to do its own plan if it so chooses. It follows a ridgeline that goes across to the west and then goes up around Sun Ranch, includes state land, which is the blue area, then goes back up to the northern boundary of Eldorado, which is also the boundary of the Community College District.

That's the map. We worked on that quite a bit actually, and there's a great deal of agreement on that map. The resolution that you're being asked to adopt includes a provision to recognize the contemporary community planning district, according to the submitted map, that the Simpson Ranch Planning Committee be established to prepare a plan in conjunction with the Community Planning Ordinance. The Simpson Ranch Planning Committee would include residents from all subdivisions and neighborhoods, landowners within the designated boundaries, appropriate government agencies and non-governmental organizations such as churches and schools and other community and neighborhood members, and that, as I have already stated, initial planning activities include a Simpson Ranch community needs analysis and a County position paper on the current water situation in the community.

There are a number of members of the Simpson Ranch Community here in attendance this evening and all of us collectively will be happy to answer any questions that you might have. Thank you.

CHAIRMAN DURAN: Any questions of staff? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two questions. One is in the last sentence

of your memo, you're suggesting that the County staff prepare a position paper on the current moratorium and options for future development in this area. Hasn't that already been done? In fact, we're going to discuss it in the first hearing tonight.

MR. KOLKMEYER: I guess it has, but if that's the position that you feel should be adopted then that's probably the one that we could go forward with. It hasn't been done, I guess, until we do it later on in this meeting, but if that's the sentiment that you feel that that would accommodate that position, then that would probably be adequate.

COMMISSIONER SULLIVAN: I'm just trying to get a feel for, is there a feel from the residents that there would be some other paper or some other analysis that should be done?

MR. KOLKMEYER: The feeling that we get from the meetings is that unless there's some direction—let's put it that way—some direction from the Commissioners about what the water situation is, where we are with the moratorium, then there may be some questions that arise about whether then this is the appropriate time to do a community plan or not, until that is in some regard resolved. So if we do that through the other item that's on the agenda this evening, then that would probably answer that question for most of the people that have raised that concern.

COMMISSIONER SULLIVAN: And the second question I had then was on this needs analysis, I heard or I understood at one time that, and perhaps it was in the budget hearings, if I recall, that you were considering hiring a consultant to do that aspect of it, to augment your staff. Is that still the plan?

MR. KOLKMEYER: Yes, Commissioner Sullivan, that would—that's what we'd like to do. That kind of would set up gathering the information as we see it on a real neutral basis to bring in a third party to come in and look at particularly that new census data and the demographic information, economic information that we can derive from that and use that as the basis then to make suggestions for, particularly things like school and economic issues that are arising out there right now. And we would do that through hiring a consultant.

COMMISSIONER SULLIVAN: And will that come back to the Commission or is that someone you already have on board for that?

MR. KOLKMEYER: No, we have not yet begun to consider who that would be at this point. You mean the hiring of that person?

COMMISSIONER SULLIVAN: Yes.

MR. KOLKMEYER: It would probably depend on how much we have to end up contracting that person for. We'd have to come back to the Commission when it's over \$20,000. If that's the case then that would come back to you.

COMMISSIONER GONZALES: You would, just for clarification, you still need to come back if it's less than \$20,000. You could sole-source it though for under \$20,000. But you'd have to actually go out to bid for over \$20,000.

MR. KOLKMEYER: I don't see how we could sole source that. We'd probably want to do an RFP and advertise fairly widely to do that. But it would come back again.

1965480

SFC CLERK RECORDING 08/16/2004

COMMISSIONER SULLIVAN: So that is the next step. After an approval tonight, that's essentially your next step here?

MR. KOLKMEYER: Commissioner Sullivan, there would probably be one additional step. We'd begin some organizational meetings with the group to actually bring the committee and to kind of get ourselves organized, but the first work item would be that needs analysis, yes.

COMMISSIONER SULLIVAN: Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Question. Mr. Kolkmeier, do you anticipate that there will be a sizable fiscal impact?

MR. KOLKMEYER: A sizable impact from doing the study?

COMMISSIONER CAMPOS: No, from the improvements or the needs. You're going to address the needs, I assume with infrastructure, things like that.

MR. KOLKMEYER: Commissioner Campos, it's hard to say at this point, actually. There will be issues of infrastructure for sure. Water, which is again, why we'd like to get some direction from the Commission on where we collectively stand on that issue. Roads will be an issue. Potential public services and public buildings in that area would become an issue. Open space will be an issue. To what extent or to what degree that might be, it's hard to speculate on that right now, but those were some pretty hefty categories. So the guess would be that there may be some significant fiscal impacts that we'd have to study. Again, to predicate that on the needs analysis that we would do, seems to be a good way to start that, to make sure that we have our demographic information really solidly together. And the sense is we'd get a certain amount of economic data too, and then so as to be able to use that to build towards the structures that we would anticipate needing in that area, would give us that direction.

COMMISSIONER CAMPOS: So once you do your needs assessment, we can proceed to do a fiscal impact?

MR. KOLKMEYER: We would probably do, there would be a whole series of other planning steps like we did in the Community College District for example. We'd look at open space, we'd look at circulation, we'd look at infrastructure. We would look at development patterns. There would be a series of other studies that we would undertake and the fiscal impact probably comes out closer to the end.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: Any other questions of Jack. Okay, this is the first hearing?

MR. KOLKMEYER: This is the only one.

CHAIRMAN DURAN: It's the only one. It's a resolution. This isn't a public hearing, is it? Is there anyone out there though that would like to say a word or two? Please come forward.

ROSEMARIE BAGIONI: My name is RoseMarie Bagioni. I reside at 28 Camino Caballos and I come to you on behalf of the US Highway 285 South Coalition.

We want you to know that we firmly endorse this request to pass this resolution. We have worked since January with the original committee and through several meetings, we've come to several agreements and are really united on this being a comprehensive community plan to include the 24 subdivisions in the greater Eldorado area. During the public process, the public forums, rather, the first public forum, 35 percent of the participants were from outside of the subdivision of Eldorado. At the second public forum, 40 percent of the participants were from outside of the subdivision of Eldorado. And that's really quite remarkable when you look at the population base just within that subdivision versus the other subdivisions.

The Coalition also sponsored three additional informational meetings and those were well attended by residents from throughout the area. And we have really felt a tremendous coming together of the entire community. So we urge you to approve this resolution and to let us go forward in developing a cohesive community and looking at it as a whole, rather than split up into multiple little subdivisions. Thank you.

CHAIRMAN DURAN: Thank you. Okay. What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman, move for approval.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion on the floor. There's a second for discussion. Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

COMMISSIONER SULLIVAN: And I do want to thank, by the way, the planning staff and the residents in the Eldorado Subdivision and in the 285 are for their cooperation and their stick-to-itness in bringing together a lot of the Hatfields and McCoys and developing and coalescing a group that now has an even greater charge to produce something, as opposed to just organize. And that's the tough road ahead.

X. PUBLIC HEARINGS

- B. Ordinance No. 2001-__.** An ordinance amending Ordinance No. 2001-4 declaring the moratorium on new subdivisions, land divisions and master plans for projects served by Eldorado Utilities, Inc. and encouraging conservation measures within the Eldorado Utilities, Inc. service area to establish provisions under which developments can proceed (first public hearing)

MS. YUHAS: Mr. Chairman, Commissioners, before we begin discussing the amendments, I'd like to take a minute to discuss how they came about. In May, the BCC asked County staff to examine the moratorium in light of the report from John Shomaker and Associates to see what, if any changes could be made that might allow orderly development to proceed in the Eldorado area. First, I spent time reviewing the Shomaker Report. He examined several scenarios for water production in the area.

In his worst case scenario, Dr. Shomaker looked at what would happen in the Eldorado area if the current water supply system continues to be used and wells cannot be deepened or replaced. In this worst case scenario, Eldorado would not be able to supply current needs by the year 2028. Dr. Shomaker went on to state though that it is probable that by drilling new wells in the service area that Eldorado Utilities could supply an average rate of 750 acre-feet per year from 2001 to 2009, and 1000 acre-feet per year from 2010 to 2100. Now, as a reference, their average use right now is around 500 acre-feet. So that essentially says they could meet their need and maybe even a little bit more for growth.

In order for that to happen though, new wells will need to be drilled and new appropriations filed with the office of the State Engineer. So John Shomaker's recommendation and my recommendation, which comes out of this information is that more wells, especially deep wells, need to be drilled in the Eldorado area to explore the water resource more fully. And that new applications for water rights need to be filed with the State Engineer's Office. It would be best if those new wells were drilled by Eldorado Utilities, but if that isn't happening, drilling by other parties may be the best way to get the information that we need.

So, given that information, staff came up with three critical review criteria for any changes to the moratorium. The first criteria was that any changes to the moratorium would need to leave Eldorado Utilities in no worse position to deliver water to its present customers than it's already in. The second that encouraging further delineation of the water resource in the Eldorado area is a good idea, and the third was that encouraging conservation and use of innovative technology in this critical water conservation area is also a good idea.

It was based on these three criteria that we came up with the three amendments that have been proposed. The first amendment removes the restriction of a 12.5-acre minimum on residential lot sizes in the Eldorado Utility service area. The second amendment would allow an applicant with a well and water rights to transfer their well and their water rights to Eldorado Utilities and then take service from Eldorado Utilities for that amount of water, less 20 percent to account for leakage, and the third amendment would allow reuse of water or water conservation to be used to expand a development. So you could in essence, by using your water more efficiently. make your development larger without actually using more water.

It is in light of the three criteria that I've discussed though, that I've rethought about the first amendment. The first amendment was the one that removed the restriction the 12.5-acre lots. What that would do would be to put everyone in Eldorado under the same criteria as the County Code and anyone who could prove a 100-year water supply could go down to 2.5-acre lots. But as I reconsidered this, I think that the first amendment actually could put Eldorado Utilities in a worse position to produce water, and the reason is this. As more wells are drilled in the Eldorado area, which are not part of the Eldorado Utilities system, Eldorado Utilities will have fewer areas in which they can drill without impairing a prior water user.

Of course we need to consider that Eldorado Utilities has not been drilling new wells and may therefore not need or want this extra protection. Also, at the June BCC meeting, a further amendment to the moratorium was proposed by Commissioner Sullivan, which as I understood it was to disallow drilling of new wells in the Eldorado area. This amendment needs to be evaluated tonight, along with the other three which are in the draft moratorium language. The reason I did not include the prohibition on well drilling in the draft language is that it directly conflicts with two of the other amendments, so I couldn't figure out a way to put them all in there at once. But we do need to talk about it.

The moratorium right now does not limit well drilling in the Eldorado Utilities service area, so if this were adopted it would be a new constraint of the moratorium. It wouldn't be a way that would allow development to proceed.

Finally, on June 14, 2001 a community meeting was held at the Eldorado Community Center to give residents in the Eldorado area a chance to become familiar with the proposed amendments and get their questions answered. The meeting was attended by approximately 50 residents of the Eldorado community and the surrounding area and a list of the attendees is attached as appendix D of your memo. Jack Frost of the State Engineer's Office, Jay Lazarus of Glorieta Geoscience, Ray Nichols of the Eldorado Water and Sanitation District, and I all made presentations at the meeting. When the community began discussing the proposed amendments, the overwhelming sentiment was that they did not want any of these amendments to be passed. Much of the concern throughout the evening was that water resources are too limited in that area to allow any further development.

The packet contains letters and comments from residents, developers, and consultants. In addition to the materials in your packet, I received an e-mail today from Laura Gordon, a phone message from Lois Lockwood, and a letter from 71 residents of the Galisteo area, all of whom object to any changes in the moratorium. That was one letter signed by 71 people. I have copies of all of these and I can submit them into the record, and just this afternoon, I also received a letter from Eldorado Utilities, which is very short, and if you'd permit me I'd like to read. Do you want copies of it before I read it to you? Would that be best?

CHAIRMAN DURAN: Go ahead and read it.

MS. YUHAS: Great. It's just a couple paragraphs. This was addressed to Estevan Lopez. *Dear Mr. Lopez, Our law office represents Eldorado Utilities. Recently the Utility was informed that the County of Santa Fe is considering certain amendments to the subdivision moratorium encompassing the utility's franchise area. Please be aware that the utility supports not only the proposed amendments but also the repeal of the entire moratorium. Certain proposed changes to the utility's line extension policy have rendered the subdivision moratorium wholly unnecessary. On July 14, 2001, the New Mexico PRC is expected to approve an amended line extension policy applicable to the utility's franchise area. We have enclosed with this letter a copy of the amended policy for your information and review. Please note that pursuant to paragraph 2A of the policy, any subdivision consisting of ten or more lots is required to contribute to the utility both a well and water*

rights sufficient to meet the needs of the new subdivision. Further, pursuant to paragraph 2B of the policy, any new subdivision of nine or fewer lots is required to contribute funds into a special account for the sole purpose of purchasing water and water rights for the new subdivision.

That letter is from Lastrapes, Spangler and Pacheco, which are the attorneys for EDU.

And the last point is that it was pointed out to me that in the amendment language, I've used the term impairment, which is a legal term that the State Engineer's Office uses. I would propose that throughout the amendment when I've used the word "impair" that we change it to "impact" just so that there isn't any confusion that I'm expecting the State Engineer to render a decision on this or something like that. I'll stand for questions.

COMMISSIONER GONZALES: Mr. Chairman.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales, then Commissioner

Trujillo.

COMMISSIONER GONZALES: I know that this is a public hearing tonight and we'll actually be able to debate the merits of the amendments at the next hearing so I'll keep it very brief. It's important for me to understand what the studies are telling us out there and then what the perception is. It seems to me, listening to your report there's a disconnect between what the community thinks is the reality and what Dr. Shomaker is saying is actually available. And I'm trying to understand how you kind of find the balance or how you try and make the two meet.

Is it true though, is there enough as Dr. Shomaker—is that his name?

MS. YUHAS: That's correct.

COMMISSIONER GONZALES: Is Dr. Shomaker—I don't know this individual. I don't know his background. I'm not sure, reports that he's published, but he is a credible hydrologist that has provided data that we can rely on. If he's saying they're going to have water out there through drilling more wells for the next hundred years, and be able to double the size of the current population of Eldorado, which in effect that's what would happen if we went to 1000 acre-feet by new production wells. Is it reliable?

How do we as a Commission assess data that's brought forward and determine whether it's reliable data or just something that someone's throwing in for the sake of—and I keep thinking of the joke that they say about hydrologists, right. They're like sponges. If you squeeze them hard enough you're going to get some water. Which is not to offend any of the hydrologists.

MS. YUHAS: No offense taken.

COMMISSIONER GONZALES: But the point comes from a lot of skeptical people who view hydrology reports as being driven to support development needs and not necessarily the full and accurate picture of what truly exists. And I don't want to find us in that position here in Eldorado where you have a hydrologist that's presenting information that may be slanted or tainted. How do we create the independence or how do we know that it's an independent, factual, scientific data that says by drilling more

production wells you're going to be able to meet the needs of this community, and double the size of the community over the next several years.

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, you raise, I think perhaps the critical point about the moratorium discussion. And as far as John Shomaker is concerned, he is one of the most credible hydro-geologists working in New Mexico. I trust what he has to say absolutely. He's served as an expert witness all over the world and for the State Engineer's Office many times, things like that. I think he was actually the County Hydrologist for a while.

COMMISSIONER GONZALES: So what he's saying is pretty reliable. So is there a disconnect, and maybe this is more of a question for Commissioner Sullivan, being that he spends a lot of time in the community. Does there appear to be a disconnect between what we're being told by the experts and what the community believes to be the case?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I think maybe the disconnect is between what Eldorado has right now, which is not the best water system they could have, that hasn't been fully characterized and explored in the way that you would if you really wanted to provide a reliable water source for your community, and what Dr. Shomaker says could be done in that area. And that is, what I presented was the very worst case he looked at and the very best. And the truth is in between.

COMMISSIONER GONZALES: I think I see what you're saying. Because what you're saying, is in its current capacity, its current state, 2028 is the time line to meet the current needs. But he's saying through exploring other options, new production wells, which he believes can actually deliver 1000 acre-feet will in fact take us out to the year 2100 and be able to provide water for twice the current size. Is that a correct assessment of what you've presented?

MS. YUHAS: That is what his best case scenario postulates could happen. I'd like to put forward that we should still consider in the Eldorado area the importance of conjunctive use and getting surface water out there so they're not relying solely on their wells.

COMMISSIONER GONZALES: So it seems to me then the community's concern is real, and it is factual, given the current state of Eldorado Utilities.

MS. YUHAS: That's absolutely true.

COMMISSIONER GONZALES: Okay. Thank you.

COMMISSIONER TRUJILLO: So, Mr. Chairman, if I understood correctly, one of the recommendations is to dig more and deeper wells. And the solution to provide a sustainable source of water in that scheme is nominal. What are we trying to do? Are we trying to deplete, mine the water table until we exhaust it in Eldorado, and then provide a sustainable source? I'm confused. It seems that we're perpetuating an existing problem by going down deeper and more. We're mining the water table without looking at the real issue, which is a sustainable source of water, long term. Not 40, not 50, but 100 years and beyond, for that area.

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, you've hit on what I think is sort of a paradox in what I'm recommending, because I think it is critical that we

get surface water so that we can have what we call conjunctive use, where they would rest some of the wells and allow recharge to happen, and use some surface water in that case. But I also think that we don't want to not explore for fear of using up the water faster. I don't think that makes a whole lot of sense. When you have a system that is not optimized—that's the word I'd use—it would be better to go and look for other sources of water.

There may be sources of water that are not currently tapped at all by Eldorado Utilities. I don't know that that's true and Dr. Shomaker doesn't know that it's true but it's a possibility that has not been explored and ruled out. And I think that ought to be looked at before we say there isn't any water here.

CHAIRMAN DURAN: I have a couple questions. One of them, why doesn't the County get involved in doing the exploratory well, so that we're in control of it and we can make the decision and the assessment as to whether or not there is more water available than what we think there is today. The other thing is I thought that we, as a Commission, had pretty much committed ourselves to working on the solution—I'm sorry, on working on the Eldorado water problem by finding a way of getting surface water out there through a wheeling agreement, through our water negotiations with the City, so that the Eldorado community's water system or water isn't derived only from the wells they have out there. So I thought that that was one of the commitments we had made.

It seems to me that this lifting or lessening of the moratorium might be a little premature without having really found or explored the other alternatives that are available to us. I think that would be a little more appropriate and safer for the community.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I would agree with you on that. It may be premature also because the community is just now getting into a plan, community plan, and that's going to be very important that we have something to base our land use decisions on. And also when you look at the recommendations in the report and think about it, if Dr. Shomaker is right, and over 100 years the aquifer could sustain another 500 acre-feet per year, which over 100 years would double the size of Eldorado. That's nowhere near as fast as Santa Fe County or Santa Fe is growing. That's much slower. And in fact, that's on a per-year basis, there's about 6,000 people living in the Eldorado area, in the service area. That's only 60 people per year growth in Eldorado.

The Eldorado area is growing more than 60 people per year right now under the moratorium. So that recommendation is a fairly red-flagged one. That one really says, not that there's another 500 acre-feet of water that we can glom up immediately for development in Eldorado, that says we've got to parcel that water out, use conjunctive use, because the rate at which that water can support development is half that of what's going on in the county right now, in terms of percentage growth in the county, and in particular in that area and in the southern part of the county.

So that's the first thing I think we need to look at is what is he actually saying. There may be some food for thought here, in the County being involved in looking for

exploratory wells, where we can evaluate and control the results. This could possibly be in agreement with EDU to then sell the well to them. That type of thing. Because we couldn't deliver water because we're in their franchise area unless we purchased the system or someone else purchased the system. I know it's been for sale for many years.

In terms of the other restriction on wells that we brought up, Katherine, that I had mentioned earlier, let me clarify that. I would context that in the no new private wells being drilled and—

MS. YUHAS: I'm sorry. Could you repeat that?

COMMISSIONER SULLIVAN: No new private wells. We certainly would want, I think to encourage Eldorado Utilities to drill wells. That's been one of the problems all along is capital improvements and planning for the future. So we wouldn't want to discourage that. But I certainly think we'd want to discourage people from drilling private wells and we'd want to prohibit them from drilling private wells and include some provision such as the Community College District has that if you're within 200 feet of a public water system, you can't drill a well. That's a provision they already have in the Community College District. So that seems like that's appropriate for that as well.

And in fact, you could put it into the clause that refers to transferring water to EDU just by simply saying no new private wells shall be drilled, however, if an applicant has a well and water rights that are transferred to the EDU water system, then they can take service for their development the amount of water donated minus 20 percent. You could work it into that. But I think what we want to discourage and prohibit the use of private wells which don't carry water rights with them under the State Engineer's laws, and we want to require that the local basin rights be used whenever wells are drilled and that developers bring those rights to the developments, while at the same time doing these things that the other Commissioners have suggested which is looking, as Commissioner Trujillo says, at the long term sustainability of that area. And perhaps as Chairman Duran says, becoming more active in the investigation phase of this.

I attended the meeting out in Eldorado and I think you're characterization of the meeting is accurate. I think that was exactly what people felt. I think there is a disconnect in what the report says and what people perceive, and that's because I think most people rightfully perceive the moratorium was put in place because Eldorado has a shortage of water, not because we're trying to force EDU to do something, but because Eldorado is short of water. And that's been—that generated the study, which ultimately was funded by the state. That study said, yes, Eldorado is short of water. It can sustain growth at a far lower rate than the rest of the county is growing.

Now we have to take a step back and say what's the most important thing we can do on a proactive basis now? Would lifting the moratorium be the right answer? Would allowing 2.5-acre lots with individual wells be the right answer? I think you've rethought your thinking on that and you're saying no, that appears that we're just putting a lot of little straws into the aquifer there, which is ultimately going to impact any municipal system out there, whether it belongs to Eldorado Utilities or whoever.

Should we encourage conservation? Just in discussions with people after the

meeting, I think most people were okay or neutral on the provision of allowing developments to proceed that didn't use any more water, that stayed within—that promoted conservation and reuse, and that that would be a good pilot type project to see if we could apply it in other developments. So people seemed to be okay with that. I think you're right—they were extremely negative on the other two issues and now what we have to do is listen to people in the hearing and think about it ourselves. We have to say what is our plan here? Do we just say, okay, we've won the war and go home? Or do we come up with a pro-active plan that now approaches what we know are the problems. I think we can do that. I'm feeling comfortable we can do that. I don't feel that lifting the moratorium is the way to do that but I think we've come up in this time period with some real good ideas starting with the Shomaker Report.

CHAIRMAN DURAN: Well, why don't we get into the public comment, since this is the first hearing. Is there anyone out there that would like to address the Commission? How many of you would like to address the Commission? Please raise your hand. Come on forward please. Do they need to be sworn in? Just state your name for the record please. First speaker. Carolyn, why don't you take the floor?

CAROLYN SIGSTEDT: I just want to briefly say that there might be another disconnect and that is that the Shomaker Report is talking about drilling more large, deep, commercial wells for their system. But what will the draw for those wells be on the entire basin which has very minimal wells and a lot of them could go dry due to a bathtub effect. So, I wonder about that aspect. I don't know the answer but it is important to think about that because the community, the bedroom communities around Eldorado, it's huge. And it's important to consider that as well.

The other aspect of that is the development in those bedroom communities is growing faster than Eldorado, which has the moratorium. But those bedroom communities are continuing to grow, and it is affordable to live out there. So, they are tapping into any extra water that's available already, which Shomaker's report may not reflect either. Those are my two concerns.

The other thing is, I agree with—actually, Marcos, you know, being conscious of minding the aquifer and Commissioner Sullivan. I have always felt that water should be in the public domain, and that in some instances we can't trust every hydrological report, because people have deep pockets. But this is one area, since you guys don't have all the money in the world, that is not the best area to go exploring for water. So I just warn you that you may come up with sulfur water or a dry hole, and you've got to be ready for that, and to swallow the cost. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker, please. Please state your name.

RICHARD GRISCOM: Yes, thank you. My name is Richard Griscom. I appreciate the opportunity to address you. I'm a resident of Galisteo, I have been a resident for the past 30 years. I'm treasurer of the Galisteo Water Association, and I'm one of the 71 signatories of the letter that you all received from residents of Galisteo about this situation. I think now would not be a good time to loosen the restrictions on development in Eldorado,

given the fact that we have reports all over the county and, in this case, particularly in the southern part of the county and the central part of the county, about wells going dry. I think it would be totally irresponsible of the Commission to loosen the moratorium under those circumstances.

As Commissioner Sullivan pointed out, even the best case scenario that the hydrologists cited calls for a slower rate of growth than is currently happening under the moratorium. That's a pretty amazing statement. I believe it's true, and something we should all consider. I think it's also true that to make decisions about development in Eldorado at this point would be irresponsible and illogical because a community planning process has recently begun. It makes much more sense for the planning process to take its course and then for whatever decisions should be made to be made then.

I would support any one of the amendments, and I think there's one that is truly water neutral, that would not require any more additional water. And I don't see any reason not to support that. But the other two proposed amendments are not water neutral, and I don't think it would be responsible for you to approve them at this point. Thank you.

CHAIRMAN DURAN: Thank you, sir. Next speaker, please.

JOE OLIVER: My name is Joe Oliver, and I want to tell you that as a well owner who had my well go dry, and we had for 250 feet we had to drill a new well for 500 feet. And then somebody up the road, maybe three or four miles says they have a killer well, well good for them. But that water runs downhill. And within 300 yards of my house, two years ago a fellow's 500-foot well went dry, and he went down 1000 feet, to get 3 gallons a minute. So I'm very much opposed to changing anything other than possibly the water-neutral proposal. I don't see anything really wrong with that because we're not using any more water. Thank you.

CHAIRMAN DURAN: Thank you, sir. Next speaker, please.

STACY CROSSINGHAM: Hi, my name is Stacy Crossingham. I'm totally opposed to all three amendments. I have had extended conversations with Katherine Yuhas about these. The moratorium, I believe, should be lifted in its entirety only because the current County rules, not just in Eldorado area, but the current County rules stay in effect. And the current County rules are the same under the moratorium. The moratorium is a black cloud over the Eldorado community for real estate values and whatnot. So the entire lifting of the moratorium does not necessarily mean that the rules change. You still have to supply a hundred-year water supply. I think a lot residents are unaware of that. The original purpose of the moratorium in 1996 was to give Eldorado Utilities time to improve their system. It's been 5, 6 years and they haven't lifted a finger to do that. Right now, developers who want to go ahead are forced to drill wells to do their development. What I would like to recommend is a fourth amendment that Katherine and I had talked about that has not been submitted in your package tonight. That is to allow developers who have had to drill a well, and may have a good well to contribute to the community system, be allowed to sell or donate that well to EDU to support the community's endeavor to get new wells on the system, but not to stop the project from going forward. Right now, under the current rules, if a developer gives up their well,

their project stops. So, this way, we're spending our private money to develop wells and help the system that EDU has not taken steps to do, and as well, benefit the community and contribute our well to that.

The problem with the three amendments that stand before you tonight, they don't benefit everybody. And even amendment number three, will only benefit one person in the community. That's not right. It has to benefit everybody in that area. Commissioner Sullivan's comments about no private wells, you know, Commissioner Sullivan, it's the private people who are spending the money to try to do what EDU hasn't done anything. And here we are, we have an option to contribute to it. And I think that that cannot be overlooked.

EDU may have the water rights, we may not have the water rights, but we have the wells that they need to drill. So I think putting them together and having a happy marriage may benefit the community as a whole. Again, I endorse lifting the moratorium completely, the rules do not apply, the hundred-year water supply still remains the same. But to provide a more constructive amendment if we're going to amend the moratorium at all. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker, please.

LOIS LOCKWOOD: My name is Lois Lockwood, I am speaking on behalf of the U.S. Highway 285 South Coalition. The Coalition has supported and continues to support the current development moratorium ordinance, originally enacted in 1996, that placed a hold on new proposed subdivisions until Eldorado Utilities could prove an adequate water supply. To date, this has not been addressed, nor the problem solved. The proposed amendments are written to appease developers, and, again, do not bring resolution to the original concern. These amendments do not address the concerns or needs of the residents, who are primary water users and the core of the community. The coalition requests that the Board of County Commissioners not approve these amendments nor abolish the current ordinance, but instead, first and foremost, focus on the development of a long range plan to meet the water needs of the residents. We would like to know what you are doing to benefit and protect the 7,500 residents who depend on Eldorado Utilities and the aquifer in this area for their water supply. Thank you.

CHAIRMAN DURAN: Next speaker, please.

NATHAN OTTMAN: My name is Nathan Ottman and I'm a resident of Eldorado. The gentleman from Galisteo pretty much represented my point of view. I think he delivered a very effective discussion illustrating why he's against the first two amendments, which I am, and approves the third amendment, which I am. The third one is the only one which is water-neutral. The first two amendments are really straws that will actually milk the aquifer and the attempt by Stacy and her developers to drill wells is just putting more straws in the aquifer. The hydrologist who has been behind helping these developers drill these wells, namely Jay Lazarus, indicated in the June 14th meeting, which I was present at, that yes, there are pools of water under Eldorado which haven't been used, mined, yet. Those are potential sources for so-called new water.

However, Jack Frost did make his couple comments saying one does not know how

long these pools of water will be independent of the aquifer. As time goes on, through fractures and so forth, earth movements, many of them will probably connect to the aquifer and therefore will mine the aquifer. So I'm for the statement that Paul Duran, the idea of cooperating with the city, to develop the Rio Grande water source. It'll take some time, but we certainly in Eldorado could—don't mind holding off development till we're sure of the water source for future. Thank you very much.

CHAIRMAN DURAN: Thank you, sir. Next speaker, please.

NORTON BICOLL: Hi, I'm Norton Bicoll, I'm a resident of Eldorado. You see what's happened here at night, with the tremendous opposition to doing something to the moratorium. Please, I'm asking you to pay attention to your constituents. I have been a developer, and I have paid attention to hydrologists. I have never met a hydrologist who could specifically say to me, "Yes, that is definitely what's going to happen." Weather conditions, and there are many, many other conditions that can change everything that the hydrologist says.

So there is really, they can give you educated guesses, that's all they can give you. As far as the water-neutral situation is concerned, that's the only one that I think anybody in Eldorado, or most people would support besides some developers. And it does not suit just one person, as has been said here a minute ago. It will suit the entire community. Thank you.

CHAIRMAN DURAN: Thank you, sir. Jim?

JIM SIEBERT: Mr. Chair, Commissioners, my name is Jim Siebert. I'm actually representing the owners of the Eldorado Veterinary Clinic. The reason I'm here is that they've been informed by staff that in order to expand their clinic, they can't presently do that, and the reason for that is that when they had a plan approved, the plan was approved at the level of their existing building. The only way for them to proceed forward, even to request any kind of development plan approval would be first to amend the moratorium ordinance.

What I have is a proposal, and the reason for this is that, firstly it's something that's needed in the community, it's a service. The reason they're growing is that it's a service that's needed in the community, and a service to the residents of the area. The clinic was approved for 0.3 acre-feet. They used substantially less than that, and they can prove that, historically through records over the last three years. What they would like to be able to do is simply expand their development, but not to the point where they would exceed their present allowable water use of 0.3 acre-feet.

I have a proposal for an amendment and I'd like to hand that out. It reads: *Existing approved commercial uses may expand providing such expansion does not result in the use of water greater than previously approved by the Board of County Commissioners. The amount of water that the existing development has historically used will be based on an average water use by the development in previous years. A water budget shall demonstrate that any expansion shall not result in a use greater than previously approved for the development.*

I would request that you consider that as part of the packet, for part of the

amendments to the moratorium.

CHAIRMAN DURAN: Would that not be covered under amendment three?

JIM SIEBERT: I don't believe so. I don't think it really clarifies for existing approved developments that you would be allowed to expand up to, not to exceed your previous water allocation. I think this one specifically does that.

CHAIRMAN DURAN: Okay.

COMMISSIONER CAMPOS: I have a question for Mr. Siebert. Mr. Siebert, how do we monitor or police your proposal?

JIM SIEBERT: I think that's easy in this particular case. It would be similar to putting a meter on the well. In this case you would have an existing meter that would be where you'd send in, I guess, periodic statements of water use. Just the way it's done now.

COMMISSIONER CAMPOS: You're not with the Eldorado Utility?

MR. SIEBERT: Yes, the clinic is connected to the Eldorado Utility.

Correct.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: Thank you. Next speaker, please.

ROSANNA VAZQUEZ: Good evening, my name is Rosanna Vazquez, and I would like to propose an amendment to paragraph number four, and I would propose that we, that you strike out the sentence starting with "The applicant shall furnish funds for the county to hire an independent hydrologist," and end at the end of that sentence. The reason for this is that currently, under the system now, when somebody applies for a well permit, there is a review of the information that you submit to the State Engineer by the State Hydrologist. When that application comes to the County for a development approval, your hydrology report and your information on your well is again reviewed by the County Hydrologist and/or the State Engineer.

So at this time, currently in the system, there are three reviews of a hydrology report by an independent hydrology report. I would further request that this be removed because I believe that if a case goes to court on an appeal issue, it raises a lot of questions as to, for the defendant or the County or the plaintiff to rely on which hydrologist report, when you've got so many different experts giving opinion as to the same well. So I just request that you do that.

I agree with Katherine with respect to the language on impairment. It is a legal term, and I would request that you amend that to say "negatively impact" as opposed to just simply "impact" a well. I would concur with Ms. Crossingham. The current County Code does require people to prove hundred-year water supply with or without the moratorium. That would still be a requirement in existence for any development in Eldorado. Thank you very much.

CHAIRMAN DURAN: Rosanna, can you provide those amendments to staff?

MS. VASQUEZ: Yes, I would.

CHAIRMAN DURAN: O.K, those language changes. O.K, that concludes

this public hearing. Thank you very much. O.K, next is—

COMMISSIONER SULLIVAN: Mr. Chairman?

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: When will this come up for second hearing?

CHAIRMAN DURAN: Roman?

MR. ABEYTA: August 14th, Mr. Chairman.

COMMISSIONER SULLIVAN: Is it possible to amend that to the meeting at the end of the month?

CHAIRMAN DURAN: Well, that meeting's during the day, though. We have EZA at 6.

COMMISSIONER SULLIVAN: Well, then perhaps the following month. My current schedule is that I'm going to be out of town that week, and since this area is within my district, it's important, I think to —

COMMISSIONER TRUJILLO: We could have a special meeting.

MR. ABEYTA: Mr. Chairman, that would be September 11th.

CHAIRMAN DURAN: So either September 11th or a special meeting, whatever—if we can arrange a special meeting with all of our schedules, why don't you try that. The other alternative is the 11th. Is that fair?

COMMISSIONER SULLIVAN: I would appreciate that.

CHAIRMAN DURAN: Why don't we just do it the 11th?

COMMISSIONER GONZALES: No.

CHAIRMAN DURAN: Then we'll have a special meeting.

COMMISSIONER GONZALES: Is that what you want us to consider, a special meeting first and then the 11th?

COMMISSIONER SULLIVAN: Well, I think, we've been through the special meeting thing before. And then we never seem to get a time that agrees with everybody, so maybe unless we can, just schedule it for the 11th.

CHAIRMAN DURAN: Okay

COMMISSIONER SULLIVAN: I'm concerned that people get adequate notification, because that is the decision.

MR. ABEYTA: Mr. Chairman, we'll notice that for September 11th.

CHAIRMAN DURAN: Okay.

MR. KOPELMAN: Mr. Chairman, there's no problem having it on September 11th, but we're gonna have to carry it over to the next meeting and we'll notice that it's been tabled until the 11th. Because the legal notice has already indicated that the hearing was going to be in August. So we'll just carry it through to September and we'll publicize the fact that it's going to be in September.

CHAIRMAN DURAN: It's been tabled — somehow the public will know that they don't have to show up that night?

MR. KOPELMAN: Yes, Mr. Chairman, we'll make sure we get notice out, we'll publish it in the newspaper and we'll make sure there's no problem about publicizing

1965494

SFC CLERK RECORDING 08/16/2004

the dates.

CHAIRMAN DURAN: Okay, matters from the County Manager?

MR. MONTOYA: Thank you, Mr. Chairman. I don't have anything.

IX. E. Matters of Public Concern - NON-ACTION ITEMS

CAROLYN SIGSTEDT: Actually, the reason I'm here this late this evening is that I want to keep the negotiations between you and the City alive. And I actually want some real action to take place. I've offered suggestions to the City, and tonight, I have some for you. I continue to encourage you to think regionally, especially when it comes to our water.

Commissioner Javier Gonzalez stated it quite succinctly when he once said that the City and the County's differences do not relate to water, so much as land use practices. Over the years I have shown a genuine appreciation of County government, and we as a community have seen many good changes in public process here at the County. The County's master plan is a wonderful document to work from, but that doesn't mean we don't need to take inventory.

Two areas of concern that I think are concerns of your constituents as well as concerns of the City. Firstly, Tom Turney, our State Engineer, last week placed a moratorium on wells in the Española and Pojoaque Valley due to the density of lot splits and septic tanks contaminating those wells. As elected leaders, we cannot allow these practices to continue or in the future we will be spending additional millions of dollars to clean that up. Secondly, and this is an entirely different matter, these are just two big areas that I think are questions that the City looks at, and your constituency looks at. Secondly, we have a County water system that is structured so that it is in the hands of the developers. It's actually the developers that bring water rights to our county. This is inappropriate and clearly not in the best interests of water sustainability. No one likes to - if I can just finish, Paul.

CHAIRMAN DURAN: That's fine, that's fine.

MS. SIGSTEDT: I know it's hard to hear this, but actually I'm working with you. You have to believe that. No one likes change, but the very land practices that have taken place in the last 20 years to help the local residents are now hurting that very same population. It is the responsibility of our elected officials to see this and to educate and empower our traditional and new communities to change these land use practices.

The Mayor has recommended to the Councilors that they, this week, at the last City Council meeting, the Mayor recommended that the City Councilors all meet together, that there was no point in coming to the County Commission with nine different positions. They really need to come to consensus. What I think the County needs to do is something different. But I think that you need, I recommend, that the County meet to draft a written pledge changing some of the County practices that can no longer work. Even though we all know there are very good things going on here at the County, we do know that some

things can be improved.

It's just so—don't take this incorrectly, I'm just telling you that there are some big areas that you yourselves can improve, rather than have the City tell you how to do it. You really know how to do it right yourselves. Take that time together and figure out these two areas, one at the developmental end and one kind of at the local end, where you're actually empowering yourselves at the developmental end, and at the local end you're empowering the local people living in these new communities and traditional communities.

The San Juan Chama water is the last block of affordable water. We as a City and County do not want to use that up overnight. It's a block of water that we have to think about how we grow, when we grow, where we grow, at what pace we grow, which really means limiting growth. And that is the concept that we are going to have to think about if we're going to take care of our own, assess the effects of unlimited growth on the monies and resources available. I think you will agree that the traditional attitude towards unlimited growth as an economic benefit to our community needs to be re-evaluated. Take this message to the City in a real way and it will be the beginning of a long and wonderful relationship. Thank you, Carolyn.

IX. F. Matters from the Commission

1. Resolution No. 2001-94. A resolution authorizing expansion of the Santa Fe County water and sewer utilities service area

MR. SAYRE: Thank you, Mr. Chairman, Commissioners. Before you for consideration I have a map. This is an expansion consideration of this water and sewer service area boundaries. The two areas that we're considering are one, which would be the Airport Development District, which is out on the west side of the present district. By the way, the green basically shows our current district here in this area up here. Those are our current service area districts and what we want to do is expand the service area to include the Airport Development District and then also extend it to the area that we proposed to serve in the La Cienega area, which is down in the Paseo C de Baca area.

So the reasons for expansion are the following: In the Airport Development District this has been designated as a receiving area for the transfer of development rights. The second reason is the Land Use Planning Department is currently developing a district plan for this area, and thirdly, the County wants to ensure orderly growth in this particular area right here. And then the Paseo C de Baca area of course is where we want to expand the system based on your directive to do that and we want to make sure it was in our boundary area.

CHAIRMAN DURAN: The Paseo C de Baca area, where is that exactly. I see it on the map, but give me a geographic talk.

MR. SAYRE: The La Cienega exit is where our service area boundary basically goes. It's sort of the north direction from the interchange and goes up and then

proceeds kind of in an eastward direction and then parallels the interstate up to approximately this side of the racetrack, the west side of the racetrack, and then back up in here to include some of the south area of the airport.

COMMISSIONER GONZALES: To answer your question, I think, Mr. Chairman, Paseo C de Baca is actually if you take the La Cienega exit—

CHAIRMAN DURAN: The main exit.

COMMISSIONER GONZALES: The main exit in La Cienega. It's your first left.

CHAIRMAN DURAN: Okay. Right.

COMMISSIONER GONZALES: And then you're heading south on Paseo C de Baca. That goes down—

CHAIRMAN DURAN: Oh, where Linda Grill --

COMMISSIONER GONZALES: Linda Grill lives there.

MR. SAYRE: It goes about a mile and then it hits the Lakeside Mobile Home Park.

CHAIRMAN DURAN: Right.

MR. SAYRE: And these people are the ones that have gotten money and were going to expand the system, approximately one mile down this road. It's basically Section 6 but we just said the south part of Section 6 that's south of La Cienega Creek.

CHAIRMAN DURAN: So we're trying to get those people off of shallow wells onto water.

COMMISSIONER GONZALES: We've actually been approached by the community out there, the mayordomo, Charlie C de Baca is in favor of this. They're willing to become customers. There's going to be limited use on the wells. I don't think they're going to be capping the wells. They're just going to be using them for agricultural uses. Is that right?

MR. SAYRE: They will furnish their domestic use right to the County Utility Department and therefore we will be able to furnish them water in that area, just for their domestic use. It won't be that they will cease use of their domestic well but they will take the domestic use out of there. They are having a lot of problems with quality. I think a lot of them are shallow and there is some nitrate contamination out there that we're having to consider down there. So this would get them to where they would have good, potable drinking water for that area.

Presently, we have about 55 signees that want to participate in the system and I think I came and talked to you about what was logical and what we could work out for getting the system in there. So we're certainly in the area of I think seven or eight dollars per residence for additional cost over ours. Our current rate is about \$20 for 5,000 gallons per month. So this certainly addresses this issue that they need to get good potable water down there. Maybe if there's some other questions I could answer them, but for consideration we'd like you to look at the ordinance. I'm not sure what the number of it. I know it's 2001-something. Not ordinance—resolution. Regarding water and sewer.

CHAIRMAN DURAN: Any questions of Doug?

COMMISSIONER CAMPOS: Question.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Is there any urgency to do this?

MR. SAYRE: I think there is urgency on the Paseo C de Baca because we're planning on extending the line down there and serve those people within the next six months. Therefore I think that area specifically. The other area, I think we're just trying to look at those issues I've presented to you.

COMMISSIONER CAMPOS: Is it urgent that we look at the Airport Development District at this time?

MR. SAYRE: I guess I would defer to Land Use on that. Perhaps Roman would be best on that because this seems to be a land use issue more than it is a utility service issues.

COMMISSIONER CAMPOS: Let me ask you this. Who has energized this issue? Who has brought it forth? Land Use?

COMMISSIONER GONZALES: Actually, I had ask the staff--

CHAIRMAN DURAN: And I had concurred.

COMMISSIONER GONZALES: And it was an issue, Commissioner Campos, because it was designated a receiving area and in the TDR Ordinance it calls for community water and sewer. And so I felt that to fully complete the TDR Ordinance and have all the mechanisms in place that this would be a logical next move to do that. There's still a lot that needs to happen in that area. There needs to be the build-out of the infrastructure, the plan needs to come forward, the developers need to provide the water if they're going to use it. But we've already gone through an extensive process of designating it as a receiving area. This is just basically taking it the final step of bringing the receiving area into the County's water service area so that in fact community water and wastewater systems can exist in that area and the County's taking the proper action to make that happen.

COMMISSIONER CAMPOS: But is there an urgency to do so?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, staff is supporting this not only for the TDR but also the fact that the Board has authorized us and has actually directed us to start putting together a plan for this area. So now that we go into our planning, we want to be able to determine whether or not, we want to know whether or not we need to consider County water and sewer in planning this area. So that's why we're in support of this also.

COMMISSIONER CAMPOS: Mr. Sayre, as far as the water itself, where's it coming from?

MR. SAYRE: Mr. Chairman, Commissioner Campos, the Paseo C de Baca, I think I explained that that probably would come from a transfer of rights from those people that become users and would offset their use. The Airport Development District I think we'd have to look, as somebody comes in there, they would probably have to look at a transfer of water rights to that, to the system to provide water for them. I'm not sure, I don't think we've designated where that water may in particular come from.

COMMISSIONER CAMPOS: It's not the County water then?

CHAIRMAN DURAN: It could be County water.

MR. SAYRE: Ultimately, I agree it would be County water but it wouldn't be out of the current allocation I don't believe.

CHAIRMAN DURAN: If you'll allow me to answer that. Part of the goal here is to provide some opportunities in this Airport Development District that are not available in the City because of lack of zoning or annexation and zoning of properties that allow for industrial use or other economic uses that we have perceived are needed in the community. So the idea was to create this Airport Development District, to bring it into the water service area with the idea that perhaps we could provide water to it, or if the City found it appropriate enough to extend water to it, that they would do so. And I think that in the long run, they will recognize the need for this type of zoning and land uses that are non-existent in the community today. So I don't think exactly where the water is going to come from has yet been determined, but the options are we could extend it, the City could extend it, or perhaps the private sector could bring water to the system and it could be wheeled to them through our system.

COMMISSIONER GONZALES: Along those lines, Commissioner Campos, if you recall the resolution that was created actually to create the planning that includes neighborhoods from around the area and also City planning staff. So it is a very comprehensive effort with all the stakeholders at the table currently planning this area, but infrastructure is going to be a critical part and component for how that plan comes forward. I think that by approving this water district area tonight it's the County's statement that we basically feel that an infrastructure commitment needs to be made in that area to support some of the uses that Commissioner Duran has laid forward.

MR. ABEYTA: Mr. Chairman, if I may also add, by designating this as a service area for the County, that will not affect the zoning in that area. The plan would still have to come forward and be adopted by the BCC. So just by designating this, it's not going to guarantee anybody a higher density, anything like that. It's not going to affect the current zoning that's in the area, other than a TDR application.

I wanted to reassure the Commissioner that just because now a property owner is in that service area, now, all of sudden they get urban densities or higher densities. The zoning would still remain, which is one DU for 2.5 acres, unless it's a TDR application.

CHAIRMAN DURAN: And actually kind of end it, we're hoping that the Regional Planning Authority will have as much input into how that area is planned, as any other committee or governing body that's going to have any jurisdiction over the planning process.

COMMISSIONER GONZALES: Move for approval.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

COMMISSIONER GONZALES: Mr. Chairman, another Commission issue, I'd like to direct the staff—I've been getting inundated as I'm sure the chair has and many members of this Commission by members of the Eldorado community for clarification of issues

on the approval of the Crossingham—I'm sorry, what's the name?

CHAIRMAN DURAN: That's it. Crossinghams.

COMMISSIONER GONZALES: For the development that came forward. So what I'd like to do, according, I guess to Robert's Rules being part of the motion that voted to approve the amendment is to ask that that be brought back for clarification on issues as to whether things like they need to come back to the BCC for final approval, clarifying some issues of access. I think we need to tighten it up just a little bit so I'd like to direct the staff to bring that forward at some future date. I know that the chair is doing a very admirable job of managing our work load so I would just direct them to work with you, Mr. Chairman, to find a time when it's suitable to bring it back and still meet the legal requirements for having—I don't know if there's any legal requirements for reconsidering. I don't know if it would be a reconsideration or if it would be a clarification of the motion and the intent.

CHAIRMAN DURAN: I think it might be both.

MR. KOPELMAN: First question, I just need to know, Mr. Chairman, Commissioner, you're not reopening the public hearing. Is that correct? What you want to do is clarify the decision that you made?

CHAIRMAN DURAN: Right.

MR. KOPELMAN: Okay. That's fine. And do you want us to put in on for the meeting—

COMMISSIONER GONZALES: I want to put it on, I want it put on—I know that the chair is managing the work load so whenever he determines it, but I want to make sure it fits within the legal time line to do whatever—

CHAIRMAN DURAN: I'd say as soon as possible so that the public knows. Is that all you had, Commissioner?

COMMISSIONER GONZALES: That was it.

CHAIRMAN DURAN: I have a couple. Steve, we had talked about changing the rules of order that govern this body, and I'd like to make a formal request that you do whatever it takes to get the—the Commission needs to have alternates on all the committees that we sit on: Regional Planning, the EZA and Solid Waste. All of those committees that we sit on need to have the ability to ask one of the other Commissioners to step in and take our place in the event we can't make it. So I know we talked about it before, so whatever you can do to put that in motion would be appreciated.

And the other thing I'd like for staff to check into, and Doug, if you could check into this for me, I mentioned it a little bit to Estevan, but I don't think we have yet purchased the Valle Vista water system and I know that there's been some issues raised in the paper relative to its—whether it's drinkable. There's some viruses—not viruses, but there might be some problems with it. And before we actually purchase it, I'd like to make sure that we receive a clean bill of health before we buy it.

MR. SAYRE: Mr. Chairman, could I comment about that? By the way, that problem that developed out there was a sampling error. They contaminated a sample and they sent it in, so it was not the system itself that caused the problem, but the sample taker that caused the problem. Right after they had the problem, I know the notice in the

paper, Valle Vista themselves tested that system on two occasions right after that, as well as NMED came and tested the system, and they found no problem with *e. coli* in that system.

CHAIRMAN DURAN: Okay.

MR. SAYRE: As far as we're concerned, there was a problem. We're continuing to monitor that situation and we are continuing to try to purchase the over system. There is some, I guess legal problems with just all the easements and everything else going on with that, but we are trying to proceed to acquire the water and the wastewater system at the present time.

CHAIRMAN DURAN: Okay.

MR. SAYRE: But in my own way of thinking the wells were not contaminated and that's what I was worried about, but we will continue to monitor that and we will probably do some testing ourselves to make sure that we do purchase a good quality system.

CHAIRMAN DURAN: Okay. Thank you. And Sam, at the next meeting, I don't know if it's the next one—at the next opportunity we have, can you make a presentation to us relative to where we are in the business park, the 99-year lease. I'd like to know since Berron's not involved in that, who's going to take over the day to day, overseeing that on a day to day basis. I know, I talked about maybe getting Rudy to do that, but I'd like to come back with some recommendations so that the Commission can make a decision on that as a body.

MR. KOPELMAN: Mr. Chairman, just real quickly, we are bringing forward, we have an amendment to the lease that is going to be coming forward at the next meeting next week. And then also we've been working, Ann Lovely in my office has been looking at the long term lease also. So we are moving forward with it, out of the legal office at least.

CHAIRMAN DURAN: Oh, great. And then the last thing, and Mr. Garcia's position is part of this. Since we have two vacancies in the policy analysts section of the Manager's office, I kind of would like to figure out what we're going to do with those two positions. And maybe the Commission could come up with a list of issues or concerns that they have or projects that need to be addressed by the policy analysts. How do we—I would just really like to utilize these policy analysts to help all of us and further our interests and our constituents' interests. And I think that's it. Anyone else have anything?

COMMISSIONER TRUJILLO: I'd just like to say one thing. I think that this is a very exciting time in the annals of Santa Fe County history. One of our very own was inaugurated last week as president of the National Association of Counties, Commissioner Javier Gonzales, who happens to be the youngest and the first Hispanic ever elected as president of the National Association of Counties. I just want to say that he's going to do a good job for Santa Fe County and it's a great honor.

CHAIRMAN DURAN: I'd like to congratulate you also and I look forward to seeing all the good things you're going to bring to this community, because I'm sure

that you're going to. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I wanted to just clarify for the staff in looking at some of the issues on the Village at Eldorado, the Sierra Plaza clarification that Commissioner Gonzales requested. I just want to mention a couple of the items that have been mentioned to me, and that may give you some guidance in things to look at in terms of clarifying that.

One was an issue that Commissioner Gonzales brought up during the hearing and that was the issue of marketing and a need for a marketing plan. A second issue was the issue of using private wells for commercial development and the need for us to be consistent in our policy throughout the county that developers must bring water rights to a project, transferable water rights to a project, as opposed to relying on a residential well permit to provide commercial water.

A third issue that I received numerous calls on was a clarification on the theater size. The applicant had requested 800 seats for the theater. The Commission approved—in six theaters. The Commission approved a motion included three theaters, but there was no indication whether in three theaters there could be 400 seats or 800 seats or what. The intent seemed to be to cut it in half, but that wasn't made specifically clear.

Another issue was the one of access. Staff requested or recommended against the theaters because of the access issue and I think that that was discussed but there wasn't any direction given on that and I think the direction that could be given on that is that access be limited to Avenida Vista Grande, which is the same main road that the Agora has its access on and the emergency access could be potentially allowed off Caliente Road, which is the residential road adjacent to the other side of the development that so many of the residents were complaining about. Fire access or emergency access but not regular access. So I think that would go a long way toward resolving many of the access issues that residents were commenting on.

And then the last two are basically housekeeping issues and one was there seemed to be a general consensus that the matter come back for BCC approval, and that was not included in the motion to my recollection.

And the last one was, I don't remember that the motion included staff conditions. I don't think it did and I think that was just an oversight being made late in the meeting. And that's one, and if it didn't, and I haven't seen the minutes yet of course, but if it didn't, we would want to correct that as well.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: And one other before we go into executive session. Whenever possible, we try to compliment people, as Commissioner Trujillo has done this evening. I did receive a call, one call this week, complimenting the County's Public Works Department. I'll say that again, complimenting the County's Public Works Department, which needs a lot of compliments. It does a great job, and in the Eldorado area, and it was the foreman for District Two out there, Richard Martinez, for timely handling a problem and handling it diplomatically with the resident. He called me up. I was sure that I was in for another earful, but he actually said that he wanted to compliment

the County employee and I suggested that he write Sam a letter and give you the facts and when that letter comes in if you could put it in the employee's file, I would appreciate it. That's all I had, Mr. Chairman. We've got one more I think from Commissioner Campos.

COMMISSIONER CAMPOS: Just a quick, raising one issue for Mr. Montoya. Last week we received some bad press about solid waste. Maybe we can address that at the next meeting. Is it going to be a continuing problem or is resolved? What do you plan to do about it?

MR. MONTOYA: Mr. Chairman, Commissioner Campos, the situation related to the fact that we had three resignations in that department that occurred at the same time. They all happened to be truck drivers and they put us in a really interesting situation. But we are currently now filling those positions and we covered them over the weekend. So we are doing our due diligence to fill those jobs and I don't believe we'll go there again, Commissioner.

COMMISSIONER CAMPOS: Why did the three resign almost simultaneously?

MR. MONTOYA: Well, Mr. Chairman, Commissioner Campos, interesting myriad of circumstances. Two of them got work with the Highway Department that the pay scale was a bit better. And the third basically resigned due to the fact that there was an issue relative to his performance.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: What was the solid waste problem?

COMMISSIONER CAMPOS: The closing of some of the—

CHAIRMAN DURAN: Which ones?

COMMISSIONER CAMPOS: Eldorado, Jacona.

MR. MONTOYA: I might also add, Mr. Chairman, that we're going to need your assistance once again in talking to the members of the SWMA Board to open that facility on weekends. The reasoning behind the pressure is that the director is willing to open the facility only for four hours on Sunday, which does not allow us enough time to make deliveries. So it would have to be an eight-hour day to make it really work.

CHAIRMAN DURAN: You know what, Sam, the direction was given to them already to open it up on Sundays. We didn't limit it to four hours. So why don't you give Mr. Rivera a call and ask him to revisit the direction that was given to him.

MR. MONTOYA: Thank you, Mr. Chairman.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: In the meantime, on that same issue, Sam, I would suggest and I think a lot of the county residents would be willing to participate in this, that we put a notification in the paper urging residents to use the transfer stations, if at all possible, during the weekdays. And perhaps, particularly now since it's the summer, taking one or two nights a week and extending the hours, because I think they close down at 4:30. So the people who've actually come home from work can use them.

There are retired people and so forth and the impetus is to use it on the weekend

and that's when we're having the big problem due to storage of materials, the 120 yard limitation, and due to the closing of the landfill, as you've indicated. So if we could just simply put a request in, giving the hours of the stations, a public service announcement if you will, and requesting residents to use the transfer stations on the weekdays and there will be less chance of them being turned away and of there being problems of trash being left outside the gates and all those environmental issues if we just notify them that this is a problem. We're working on it. The Eldorado transfer station is under construction. It will have a greater capacity than they have there now, but in the interim, I think people will pitch in if we notify them that there is a problem here and could they try to level out that load.

MR. MONTOYA: We'll work on that message, Mr. Chairman,
Commissioner Sullivan.

CHAIRMAN DURAN: Okay great.

- IX. G. Matters from the County Attorney
1. Executive session
a. Discussion of pending or threatened litigation
b. Discussion of possible purchase, acquisition or disposal of real property or water rights
c. Discussion of competitive sealed proposals solicited pursuant to the procurement code relative to contract negotiations – Adult and juvenile detention facilities and electronic monitoring program

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


[The Commission met in executive session from 9:40 to 10:00 p.m.]

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

ADJOURNMENT

Chairman Duran declared this meeting adjourned at approximately 10:00 p.m.

Approved by:



Board of County Commissioners
Paul Duran, Chairman

Respectfully submitted:

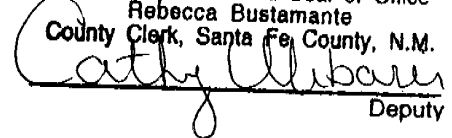

Karen Farrell, Commission Reporter



ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



COUNTY OF SANTA FE 1779 SS 424
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on the 29 day of Aug. A.D.
20 01 at 10:34 o'clock A.M.
and was duly recorded in book 1965
page 408 - 504 of the records of
Santa Fe County
Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.

Deputy