

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING  
(Public Hearing)  
August 14, 2001 - 4:00 p.m.

1965900

Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda

B. Tabled or Withdrawn Items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:

*Approved  
unanimously*

1. CDRC Case #A/V 01-5120 - Mike Ferran Appeal Variance (Approved)
2. CDRC Case #MIS 01-5280 Agora Plat Vacation (Approved)
3. CDRC Case #MIS 96-5131 Mountain View Business Park Master Plan and Plat Extension (Approved)
4. CDRC Case #Z 01-5140 High Road Market Place (Approved)
5. EZ Case #S 01-4220 Sena Vista Heights (Approved)
6. EZ Case #M 01-4260 Tesuque Knolls (Approved)
7. EZ Case #Z 99-4891 Airport Road Shell (Approved)
8. EZ Case #S 00-4802 Rufina Meadows (Approved)

VIII. Staff and Elected Officials Items:

A. Land Use Department

*4-1  
Gonzales  
approved*

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  
next  
month*

2. CDRC CASE #V 00-5861. Barbara Zavada Variance. Barbara Zavada, applicant, requests 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 0.90 acres. The property is located at 24 Meyers Road, in the Traditional Community of

*approved w/changes  
July 24, 2001 - approved w/changes*

Arroyo Seco, within Section 30, Township 20 North, Range 9 East (Commissions District 1). Wayne Dalton (For deliberation only)

**B. Matters from the Sheriff's Office**

*Approved* 1. Request Authorization to Enter into Amendment Number Two to the Lease Agreement with Plaza Del Sol for Animal Control Office Space

**C. Matters from the County Attorney, Steven Kopelman**

*not held removed* 1. **Executive Session**  
a. Discussion of Competitive Sealed Proposals Solicited Pursuant to the Procurement Code Relative to Contract Negotiations - Adult and Juvenile Detention Facilities and Electronic Monitoring Program

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

**E. Matters of Public Concern - NON-ACTION ITEMS**

**F. Matters from the Commission**

**IX. Public Hearings**

*117*  
A. Resolution No. 2001- A Resolution Amending Resolution 1999-137, the Santa Fe County Growth Management Plan, as Amended, to Adopt and Incorporate the La Cienega and La Cieneguilla Community Plan (Second Public Hearing)

*August 28, 2001*  
B. Ordinance No. 2001 *D* 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)

**C. Land Use Department Items:**

*Approved at court*  
1. **LCDRC CASE #Z 01-5010.** Santa Fe Downs Master Plan. Pojoaque Pueblo Development Corporation, applicant, Jim Siebert, agent, request master plan zoning approval to allow for recreational/non-residential uses at the Downs at Santa Fe on 321 acres in 2 phases. The property is located southwest of the intersection of I-25 and SR 599, within Sections 26 and 27, Township 16 North, Range 8 East (Commission District 3). Penny Ellis-Green

*Approved*  
2. **LCDRC CASE #MIS 01-5011.** Downs Liquor License. Pojoaque Pueblo Development Corporation, applicant, Jim Siebert, agent, requests 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 SR 599, within Sections 26 and 27, Township 16 North, Range 8 East (Commission District 3). Penny Ellis-Green

*tabled*  
3. **CDRC CASE #M 00-5630.** J.R. Hale Mine. J.R. Hale Contracting, applicant, Sam Bregman, agent, requests 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 3.4.1c.1.a of the Land Development Code to allow for disturbance of rock outcroppings and a variance of Article VII, Section 3.4.1c.1.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)

*approved*

4. **TDRC CASE #V 01-5210.** Simon Stertz Height Variance. Simon Stertz, applicant, requests a variance of Article XIV, Section 3.8.2 d1 (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

*approved*

5. **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

*filed*

6. **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

*filed*

7. **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

*approved*

8. **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: 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

*approve*

9. **CDRC CASE #V 01-5200.** Copar Pumice Co. Variance. Copar Pumice Co. (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

10. **CDRC CASE #Z 01-5250.** Genuity Building. Genuity, applicant, Hoch Associates, agent, request Master Plan with Preliminary and Final Development approval for a 400 sq. ft. fiber optics facility within a 9,380 sq. ft. leased area on 1.93 acres. The property is located off State Road 553 on El Capitan Lane, within the Traditional Community of Lamy, within Section 33, Township 15 North, Range 10 East (Commission District 5). Frank White

11. **EZ CASE #S 00-4560.** Tesoro Enclaves. Las Campanas Limited Partnership (Michael Baird, Vice President), applicant, requests final plat/development plan approval for a subdivision phase consisting of 140 residential lots on 440 acres in accordance with the approved master plan, and a variance of the minimum road standards to permit finished road grades exceeding 3 percent for 100 feet from the intersection. The property is located off Las Campanas Drive within the five mile Extraterritorial District, Sections 10 and 15, Township 17 North, Range 8 East (Commission District 1). Joe Catanach

**X. 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).



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**SANTA FE**

**BOARD OF COUNTY COMMISSIONERS**

**REGULAR MEETING**

**AUGUST 14, 2001**

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

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

**August 14, 2001**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:20 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  
 Commissioner Paul Campos  
 Commissioner Jack Sullivan

**Members Absent:**

None

**IV. INVOCATION**

The invocation was given by Dr. Dave Heady with the First Baptist Church.

**V. APPROVAL OF THE AGENDA**

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

CHAIRMAN DURAN: Sam, are there any amendments or changes to the agenda?

SAMUEL MONTOYA (County Manager): Mr. Chairman, members of the Board, good afternoon. We have one tabling today, Mr. Chairman. That is item IX. C. 3, the J.R. Hale Mine issue on page 2. That is the only amendment or tabling for today's agenda, Mr. Chairman.

CHAIRMAN DURAN: Are there any amendments that the Commission would

like to bring forward?

COMMISSIONER TRUJILLO: If not, Mr. Chairman, move for approval of the agenda as amended.

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.

**V. APPROVAL OF THE MINUTES: July 10, 2001 (Regular Meeting)**

CHAIRMAN DURAN: Are there any changes to that meeting?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I have a couple of minor changes that are primarily editorial and if it's all right with you I can just provide those to the recorder, unless you would like to see them.

CHAIRMAN DURAN: That's fine. You can just give them to the recorder. They're just typos—

COMMISSIONER SULLIVAN: They're just basically typos. You're welcome to see them if you want. If she sees that they're more than typos she can bring them back to the Commission.

[ Page 6, bottom of page, what's the pleasure...Page 12, state should be stage. Page 47, first paragraph, The County Commission has a procedure that this chairman has adopted that it does not allow personal attacks. Page 88, first line should read there were conditions on the subdivision.]

I did want to add one other thing with regard to the minutes of July 10 and that was that we had had some discussion after the approval of the Village at Eldorado project as to whether the staff conditions—and I know we're not going to discuss that today but as to whether the staff conditions were included in the motion and in my reading of these minutes, they weren't. So I just want to point that out if you wanted to look that over.

CHAIRMAN DURAN: They should have been though, right?

COMMISSIONER SULLIVAN: I think they—you were the maker of the motion, I believe.

CHAIRMAN DURAN: Right. How would we correct that, Steve?

COMMISSIONER SULLIVAN: I think when we come back for these clarifications on the 28<sup>th</sup>, probably.

CHAIRMAN DURAN: Okay. We haven't done that.

COMMISSIONER SULLIVAN: We haven't done those clarifications. Is that right, Mr. Kopelman?

STEVE KOPELMAN (County Attorney): Mr. Chairman, Commissioner

Sullivan, August 28<sup>th</sup> it's scheduled to come back and that's one of the issues that you'll deal with.

COMMISSIONER SULLIVAN: So with those minor corrections, Mr. Chairman, I would move for approval of the July 10<sup>th</sup> minutes of the regular meeting of the Board of County Commissioners.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

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

**July 24, 2001 (Continuation of July 10, 2001 meeting)**

CHAIRMAN DURAN: Any amendments or changes to those minutes?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Again, is just have three minor editorial changes. With the Commission's permission I'll just give those to the recorder. [Page 67, middle of page, ...in the 285 area for their cooperation. Page 73, I would context that was changed to I would put that in the context. Page 87, The Commission approved a motion ~~included~~ including three theaters.]

CHAIRMAN DURAN: Any objections? Okay. Thank you. So the chair will entertain a motion to approve the minutes of July 24<sup>th</sup>.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

COMMISSIONER GONZALES: Second.

COMMISSIONER SULLIVAN: As amended.

COMMISSIONER TRUJILLO: As amended.

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

**VI. 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)
2. CDRC Case #MIS 01-5280 -Agora Plat Vacation (Approved)
3. CDRC Case #MIS 96-5131 - Mountain View Business Park master plan and plat extension (Approved)
4. CDRC Case #Z 01-5140 High Road Market Place (Approved)
5. EZ Case #01 4220 - Sena Vista Heights (Approved)
6. EZ Case #M 01-4260 - Tesuque Knolls (Approved)
7. EZ Case #Z 99-4891 - Airport Road Shell (Approved)
8. EZ Case #S 00-4802 - Rufina Meadows (Approved)

CHAIRMAN DURAN: Does the Commission have any questions relative to these cases?

COMMISSIONER TRUJILLO: If not, Mr. Chairman, move for approval of the Consent Calendar.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER SULLIVAN: Second.

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

## **VII. STAFF AND ELECTED OFFICIAL ITEMS**

### **A. Land Use Department**

- 1. Request authorization to publish title and general summary of an ordinance amending Ordinance No. 1996-10, Article II, Section 1.2 and 1.3 to restructure the County Development Review Committee and Local Development Review Committee structures and to create local planning boards in communities that have adopted community plans**

TOM DOMINGUEZ (Subdivision Engineer): Mr. Chairman, Commissioners, thank you. If you recall, on June 12<sup>th</sup>, a presentation was made before the Board of County Commissioners with an idea of something that we were directed or asked to bring forward as a presentation during the budget hearings. We brought it forward and were given direction to bring forward an amendment to the County Code to restructure. So we're requesting title and general summary.

CHAIRMAN DURAN: Any questions of Tom?

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: I guess I have some concerns. I understand that from a staff perspective that it's burdensome to be able to deal with all these local development review committees, but I think that they work well for communities, and I think that that's where we need to keep our focus on is that communities that go through the process of petitioning the Board to create community plans and go through the process of establishing them and adopting them should have individuals from those communities that actually oversee the guidance of those plans the management of those plans. And I'd be concerned about changing that process, consolidating that process or doing away with it the intent of empowering local communities to be involved in any decisions that are made that affect those communities.

Is that the intent of the staff in doing this, or what is your intent?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Gonzales, regretfully,

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hand, they are able to make decisions that are important to their community as well.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Gonzales, those are very valid concerns and I'd be more than happy to sit down and kind of explain the thought process behind it. And we have requested that the member of the different committees that have to us, I've requested that they come to all of you to express their concerns also.

CHAIRMAN DURAN: But nobody has.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Tom, just a clarification. Is the intent of what you're publishing here is the substance of the chart you presented to us several weeks ago? The breakdown of the various LDRCs and so forth? Has anything changed from that?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, no.

COMMISSIONER SULLIVAN: So for example, in the case of the Community College District, your idea there was to eventually consolidate them with the Airport Road District and form a planning board that would consist of those two districts.

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

COMMISSIONER SULLIVAN: So there will be more than one local planning board.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, as presented, we had what was called the local development review committee and then we had the planning district review committee. And the planning district would encompass what you brought up, the Community College and the Airport Redevelopment District.

COMMISSIONER SULLIVAN: That would be the local planning board that you're defining here?

MR. DOMINGUEZ: That's correct. And we've just titled it the planning district. It separates it from the local communities, the traditional and historic communities.

COMMISSIONER SULLIVAN: And that would be staffed by County—or not staffed by County staff, but supported by County staff.

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

COMMISSIONER SULLIVAN: But the LDRCs would not?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, the LDRC would. The local planning, the individual community planning boards that we were trying to accomplish to try and address some of Commissioner Gonzales' concerns. We would be there and assist them and help them but they would not be like a quasi-judicial hearing.

COMMISSIONER SULLIVAN: So explain to me on the Community College District LDRC that that would be, that is now an LDRC and that would remain that way. Is that right?

MR. DOMINGUEZ: That's correct.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I think it's a good idea. We talked about this thoroughly. I thought we did have pretty good consensus on the Commission, but I'd like to make a motion, unless there's further discussion.

CHAIRMAN DURAN: I just have a point of clarification. The local planning board in communities that have adopted community plans will—for instance the Community College District doesn't have an LDRC.

COMMISSIONER SULLIVAN: It does now.

CHAIRMAN DURAN: It does not have right now, right?

COMMISSIONER SULLIVAN: Yes it does.

CHAIRMAN DURAN: An LDRC?

COMMISSIONER SULLIVAN: Yes it does.

CHAIRMAN DURAN: It does. So this local planning board will be in addition to the local development review committee? Or will it take the place?

MR. DOMINGUEZ: Mr. Chairman, if I could give a little clarification just briefly. What we have now, for example, we've got the Agua Fria Development Review Committee, the La Cienega Development Review Committee, the Tesuque Development Review Committee. The intent was to have one local development review committee, a quasi-judicial board, that would consist of representation from each one. And then what we would try and do is instead of each one having the AFDRC, the LCDRC, we would have a local board in each community that would review and, to address the concerns that Commissioner Gonzales is bringing up, that they would have the opportunity to have a voice in what's taking place in their community. And then we're still, as we develop this and we'll be bringing forward if we're authorized to come forward with this, we have a couple options.

One would be that the developers would go to them and then get a letter or something that says we've reviewed this and we're okay with it or we're not okay with it. But that in the spirit of trying to accomplish what their concerns have been, that they feel like they're being pitted against their neighbors, and to address concerns that staff has that with all these 16 or 17 different communities that we showed at the presentation, if we had to staff 17 of these meetings it would be really difficult, to schedule them during the week and then to staff them and all of that.

COMMISSIONER TRUJILLO: Mr. Chairman, Tom, we have 16, 17 traditional communities in the county?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Trujillo, I'm trying to find where we came up with the total. I believe that 17 was the total possibility that we were likely to come up with once every community had come forward with a plan.

COMMISSIONER TRUJILLO: So initially, all of those traditional

communities would be represented on the review board? Or only the communities that have approved a community plan? How would it—

MR. DOMINGUEZ: Mr. Chairman, Commissioner Trujillo, if you recall during the presentation, what was proposed was, currently, according to the ordinance, as a community comes forward and brings forward their plan, I think it says the board shall appoint a local development review committee. So the intent was that all those that exist, for example now, with the three that exist, they would get representation on the LDRC. As Arroyo Seco completed their plan and then came forward, instead of making their own committee, we would give them representation on that local development review. So as they came forward—what we're looking at is changing, instead of mandating that they each have one, that they would just get the representation on the one or two boards as it evolved.

COMMISSIONER GONZALES: So are you envisioning that if we have 16 traditional communities that we'd have 16 members of a local development review committee? Or we'd have to go into geographically, try and separate them?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Gonzales, what was presented was when we get, not if, because I would assume that eventually we'll get to the point that all the communities come forward. What we had presented was we would look at the make-up or the cosmetics. For example, the northern communities have a lot of things that are similar. Lot sizes, the water issues and all of these things and we felt that at some point, we weren't going to call it the north, the south, we were just going to look at communities that would have similar issues. And at some point, break it into that, whether it be regional or whatever. And that was the proposal, was instead of having 16 or 17 members on one board, we would have two boards.

COMMISSIONER GONZALES: But aren't communities more inclined to be involved in the decision making process when there are matters of zoning and subdivisions than—we know through this process that it's very hard to get communities to leave their families, to show up to some planning committee meeting that may or may not result in something, whereas you have a local development review committee that's reflective of a community, that's made up of members of that community. That may create or assure that there's more community participation at that local level than would otherwise be the case.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Gonzales, that's a true statement and that was what we were trying to accomplish by bringing back into the community a formalized board that could meet and then what we were proposing was that out of that local board, they would have the representation, the person from the local development review committee would sit on that board so they would basically come as representation from the committee.

COMMISSIONER GONZALES: So you're saying the two primary reasons for this is one, that it is a burden on staff and two, that local development review committee members don't want to be in a position of having to make decisions about their



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neighbors?

MR. DOMINGUEZ: That's correct, Mr. Chairman, Commissioner Gonzales.

COMMISSIONER CAMPOS: Mr. Chairman, as I understand it, Mr. Dominguez, there's also been an issue about quorums. Often it's hard to get quorums at the local level. Has that happened?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Campos, this is true of the existing local committees. We would hope that that would change with this type of a structure change. And I think, Commissioner Gonzales I know is aware because he took the time to develop a letter that we send out to all our committees now, reminding them of their commitment that they made to serve and all of that. But we do—and I won't say which committees but there have been times when we've gone two or three months waiting for a quorum to show up, which puts a damper on our time frames that we have, the 30 to 60 days to hear a case.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: I have a quick question. So you're saying that the local planning board—who are going to be the members of the local planning board? People that live in the community?

MR. DOMINGUEZ: Mr. Chairman, that's correct.

CHAIRMAN DURAN: So what's the difference between a local planning board making recommendations for their community or a local development review committee comprised of people within the community making decisions for their community?

MR. DOMINGUEZ: The local development review committee would be, Mr. Chairman, the group that would come here to these chambers, that we would fully staff with a recorder and that would be the quasi-judicial committee. The other one would be—it would be a requirement for any developer coming forward to the local development review committee to have gone before that board, so the community is apprised of what's taking place in there. And we would offer somebody from our staff to sit in case they had any types of questions, but it would not be a decision making body.

CHAIRMAN DURAN: But it would be a recommending body.

MR. DOMINGUEZ: That's one of the proposals. Again, we have a couple different proposals to bring forward.

CHAIRMAN DURAN: What would they do if they didn't make recommendations?

MR. DOMINGUEZ: Just it would be an informational—

CHAIRMAN DURAN: For whom? Information for whom?

MR. DOMINGUEZ: For the community. Kind of like the early neighborhood notification, for example. They would have to go and present to the community what they're doing. And that's why we're looking at the proposal saying they would do that, they would present it and then they would in turn come back with some sort

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of a recommendation.

CHAIRMAN DURAN: But doesn't that already happen at the LDRC level? Aren't affected neighbors or people that are concerned have the same right?

MR. DOMINGUEZ: Yes. And I guess the big difference would be that the quasi-judicial board would be the one that's a public hearing whereas the other one would be more informational. They hear what's going on in the community and they would send forward.

CHAIRMAN DURAN: But doesn't that happen at the LDRC level?

MR. DOMINGUEZ: Mr. Chairman, it's not a requirement that any developer go to the community before they come here, before they would come to the local development review committee. Some do and some don't. They just wait and let the public hearing take its course.

CHAIRMAN DURAN: Okay. I understand now.

COMMISSIONER GONZALES: But we have a mechanism in place right now by the fact that that local development review committee consists of members of the community where that development is taking place.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Gonzales, that's true.

COMMISSIONER GONZALES: So there is, there's already a built-in public review process from within that community that can occur. I guess the other issue is the staff administering the Commission policy on unexcused absences and removing individuals from these development review committees when they have two unexcused absences and replacing them with someone else who will be able to attend?

MR. DOMINGUEZ: Mr. Chairman, Commissioner, yes we are. Again, as I mentioned, we go over at the training the three absences. It just turns out that generally, they're always excused absences, according to the chair or whoever's chairing the board.

CHAIRMAN DURAN: Why don't we just require early neighborhood notification? Why do we have to go through such a—it sounds to me like we're trying to reinvent the wheel here.

MR. DOMINGUEZ: Well, Mr. Chairman, keep in mind that we're talking about, under the second issue is staff timing and the burden on staff. In the presentation we talked about how many staff hours are put into each meeting, which we understand that's our job, but as we start compounding and we look at the total, we're looking at now having four meetings with the possibility of having 17 meetings. And I understand Commissioner Gonzales' concern, but right now the ordinance was written so that whoever comes up with a plan would be able to get their own local development review committee, but we run out of days, hours, deadlines.

What was presented the last time, we've got 12 deadlines per committee, staff does, including the notification to the applicants for certified mailing for the notice to the *New Mexican*. Then we have to publish our agendas and on and on.

CHAIRMAN DURAN: So this would be similar to the Planning Commission at the City.

MR. DOMINGUEZ: Mr. Chairman, I'm not real familiar with how the Planning Commission works so I wouldn't respond to that.

CHAIRMAN DURAN: Well, they don't have—that's the body that reviews all development prior to going to the City Council. Right?

COMMISSIONER GONZALES: I'd just say—I'm sorry, Tom. This is something I really believe in and really encouraged from the get-go, and I appreciate the fact that you're really trying to help address the community's needs and the staff's needs as well, but as to the issue of the time that's spent doing this, whether you have a local development review committee process or not, you still have all these applications that your staff is going to have to review. Is that correct? It's not like it's encouraging more work. What it's doing is it's actually encouraging, it's taking time away from the staff that could be working on an application or reviewing an application and having them sitting in the chambers over here for that period of time to staff a meeting that's taking place on an issue within a certain community. Is that right?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Gonzales, it would either be the same amount of applications or more as the county continues to grow. But one of the concerns that we have is, what we're trying to do is manage the number of times because if we get into the seventeen different, and presented was a list of the 17 different possible communities, we're looking at scheduling, scheduling of the chambers, we're looking at when staff has to come in and if we're continually working on deadlines for 17 different meetings, if we're continually staffing 17 different meetings, I would ask the question, when does staff have time to process the applications.

Versus, if we know it's one meeting month, and then we work off of those deadlines. We do all the reviews and we keep—because keep in mind, we have 13 review agencies that we have to also coordinate with in order to get reports back in a timely manner.

COMMISSIONER GONZALES: Which you have to have anyway. You have to coordinate that anyway.

MR. DOMINGUEZ: Right. But if you could imagine, Commissioner Gonzales, trying to coordinate 17 different meetings with 17 different deadlines versus one organized meeting with a certain deadline that everybody knows. And that's what we're trying to accomplish is the coordination of everything.

COMMISSIONER GONZALES: But the trade-off you're asking the Commission to do is to make it—and I understand it, because you're staff and you would want that, but make it easier on staff to manage that, and take away from communities having more of a direct input on developments that are taking place in their communities with representatives of their community. Because these communities can always have the opportunity to go to this bigger board or this different board that you're talking about. I think we all believe that. But to actually have members of communities that are sitting in positions of authority, making decisions on zoning applications, I think is very important to communities, knowing that individuals who have to live with that decision have to live in

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those communities.

And I think that that's my concern and maybe that's the reason I wanted this to happen. You really empower communities to care about what was happening in their communities, so much so that they were making the decisions or they had to make the decisions.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Gonzales, again, we appreciate that concern and we're just trying to deal with the reality of all this coming to pass and that was why we suggested or recommended the local planning board, so they would still, to a certain degree have that. And they would have that representation on the local development board.

COMMISSIONER GONZALES: I think you guys are doing a great job. Thank you for everything you do.

COMMISSIONER TRUJILLO: And Mr. Chairman, I think that Commissioner Gonzales' concern would be taken care of during the planning process, where the whole community is involved for the compilation and completion of the plan itself. Then the whole community itself elects one individual to represent them in this body, and that's the voice of the community. This individual would be a conduit to the community, to represent their positions, their concerns, their desires regarding community planning in a specific community.

And we're going to have planning districts for contemporary communities that are going to be different, the boards are going to be different from the traditional community boards. Is that correct? Because there are two separate needs and issues and concerns.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Trujillo, that was the discussion that took place the last time was that they would have things in common by that make-up.

COMMISSIONER TRUJILLO: So the process would continue to be conducive to self-determination by communities. It would not take away from that.

MR. DOMINGUEZ: Mr. Chairman, that's correct, and that's what we're trying to encourage. We're not trying to diminish the communities or take anything away. We're trying to provide a better service by managing our time better and addressing the concerns that have been voiced to us.

CHAIRMAN DURAN: Okay. Let's move on. We're going to have plenty of time to talk about this. Is there a motion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I'd like to move for the 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 development review committees.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion? Those in favor signify by saying "aye." [Commissioners Campos, Trujillo, Sullivan and Duran voted with the

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motion.] Opposed? [Commissioner Gonzales voted against.] Motion carries.

MR. DOMINGUEZ: Thank you, Mr. Chairman, Commissioners.

- VIII. A. 2. **CDRC Case #V 00-5861. Barbara Zavada Variance. Barbara Zavada, applicant, requests 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 0.90 acres. The property is located at 24 Meyers Road in the traditional community of Arroyo Seco, within Section 30, Township 20 North, Range 9 East**

CHAIRMAN DURAN: What do you mean "For deliberation only?"

MR. KOPELMAN: Mr. Chairman, the last time that this matter came up before the Board, there was a 2-2 tie. What happened was Commissioner Gonzales was not present and I believe that Commissioner Trujillo made a motion to deny the variance request, Commissioner Campos seconded. The vote was 2-2 and under the new rules that we have if it's a 2-2 ties and one of the Commissioners wasn't there, that is automatically tabled. So really, what this is to merely re-vote the matter now that Commissioner Gonzales is here. It's not to rehear the hearing at all or debate the issues. It's merely to—

CHAIRMAN DURAN: Well, how can he vote on it without hearing the testimony?

MR. KOPELMAN: Mr. Chairman, he would just have to review the minutes.

COMMISSIONER GONZALES: And I've not done that in this case, Mr. Chairman, honestly. I just heard about this from the staff earlier today that that was going to be an issue that I was going to have to deal with and I've not had a chance to review the minutes. Does this have to happen today?

MR. KOPELMAN: Mr. Chairman, it could be tabled until the next meeting.

CHAIRMAN DURAN: Unless you want to vote in favor of it. I'll let you do it tonight.

COMMISSIONER GONZALES: I'd prefer to wait, Mr. Chairman and review the minutes.

CHAIRMAN DURAN: I think in all fairness to the applicant that if that's—if we're not going to hear the testimony then I think it's appropriate that Commissioner Gonzales review the minutes before he makes a decision. So the chair will entertain a motion to table this until the next meeting.

COMMISSIONER GONZALES: So moved.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

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COMMISSIONER TRUJILLO: One question. Does the community get the opportunity to voice their position so that Commissioner Gonzales' recommendation or vote is going to be made solely on the record, including the community's input, comments?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, that's probably one of the weak points in this provision in the rules of order because really only [inaudible] I guess the Commission has certainly could have the hearing go forward again and notice it appropriately, but I don't think that was anticipated by the rules. I think the rules—before the rules were changed, a 2-2 tie would have meant the matter didn't get approved. But now, with the chairman voting, a 2-2 tie automatically comes back. So the Commission could certainly vote to rehear it again. That's definitely within your purview.

COMMISSIONER TRUJILLO: And this would be the third time that it would be heard. My concern is that the voice of the community, the comments made by the community will not be taken into consideration because those are not part of the record.

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, my understanding is it is verbatim minutes. So the comments made at the public hearing should all be in there.

COMMISSIONER TRUJILLO: From residents—

MR. KOPELMAN: From those who attended the hearing and spoke either in favor or against the matter.

COMMISSIONER TRUJILLO: Again, this would be the third time that this case would come before the Commission, right?

MR. KOPELMAN: I believe that's true, Mr. Chairman, Commissioner.

CHAIRMAN DURAN: Well, it's almost true. One time it came with access on Meyers and the second time was access off of the main road.

COMMISSIONER TRUJILLO: The main road. But it's the same development.

CHAIRMAN DURAN: It's the same use. Just a different configuration. When did we make that rule?

MR. KOPELMAN: Mr. Chairman, that rule took effect I believe it was January 1<sup>st</sup>. And this might have been the first time that we had a tie vote, so it's come back. I don't recall any other instances.

CHAIRMAN DURAN: What's the pleasure of the Board?

COMMISSIONER CAMPOS: Just a point of clarification from Mr. Kopelman, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: It seems that this is really a request, almost a request for reconsideration. Ordinarily, it has to be done the next meeting. That's been the rule also. So is there a conflict between the rules?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, the rules of order now say in case of a tie it does come back. So it's specific to this particular instance, this kind of situation.

COMMISSIONER CAMPOS: When does it come back?

MR. KOPELMAN: It should be the next meeting or as soon as practicable.

COMMISSIONER CAMPOS: When was this case heard last?

WAYNE DALTON (Review Specialist): Mr. Chairman, Commissioner Campos, this case was heard on June 12<sup>th</sup>.

COMMISSIONER CAMPOS: June 12<sup>th</sup>? So now we're in August. We've missed a number of meetings.

MR. KOPELMAN: Mr. Chairman, Commissioner, I think one of the problems was—and I take responsibility for this—is that the vote came in at 2-2 and thought that denied it. And then I went back and looked at the rules again and realized I'd made a mistake. So this will be the first time under the rules that the vote comes back.

CHAIRMAN DURAN: I don't see what time has to do with it. So there's a motion to table. Any further discussion? Those in favor signify by saying "aye." [Commissioners Gonzales, Trujillo, Sullivan and Duran voted aye.] Opposed? [Commissioner Campos voted nay.] Motion carries.

So Ms. Zavada we'll hear your case at the next Board of County Commission meeting.

Why don't you check with Tom and he'll advise you. I don't know, but Tom Dominguez will let you know.

**VIII. B. Matters from the Sheriff's Office**

**1. Request authorization to enter into amendment number two to the lease agreement with Plaza del Sol for Animal Control office space**

KATHERINE MILLER (Finance Director): Mr. Chairman, Commissioners, two years ago the Sheriff's Department entered into a lease with the Plaza del Sol which is off of St. Michael's near the Furr's Food Emporium for their animal control office. I believe that that lease is about 1425 square feet and they extended it last year and they're requesting to extend the lease again this year. I believe the payment is \$1068 a month, up from \$1044. It comes out to about \$9 a square foot annually. And it's where the Animal Control officers work out of. So the Sheriff is requesting authorization to extend that lease for another year.

CHAIRMAN DURAN: Any questions of Katherine?

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Miller, how long, if we initially started with a one-year lease, how many extensions can we have?

MS. MILLER: Mr. Chairman, Commissioner Campos, real property leases are actually exempt from the procurement code and they're based upon the need for the property, the reasonableness of price. They really don't have a limit as to how long they can be. This lease is a year-to-year lease. So it's as we need it and as funds area appropriated for it.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Any further questions of Katherine? What's the

pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: There's a motion to approve. Is there a second? I'll second it. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

MS. MILLER: I'm sure the Sheriff appreciates that. Thank you.

**VIII. C. Matters from the County Attorney**

**1. Executive session**

- a. Discussion of competitive sealed proposals solicited pursuant to the procurement code relative to contract negotiations – adult and juvenile detention facilities and electronic monitoring program**

CHAIRMAN DURAN: Actually, we are going to table executive session because we are having another meeting tomorrow to talk about it, right?

MR. KOPELMAN: Mr. Chairman, members of the Commission, again, it's your prerogative. We were going to talk about the competitive sealed bids and that's coming before you tomorrow.

CHAIRMAN DURAN: The chair will entertain a motion to table C. 1. Executive session.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

CHAIRMAN DURAN: Actually, do we have to table it?

MR. KOPELMAN: Mr. Chairman, we can remove it.

CHAIRMAN DURAN: Okay. Motion to remove?

COMMISSIONER TRUJILLO: So moved.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

**VIII. D. Matters from the County Manager**

MR. MONTROYA: Mr. Chairman, members of the Board, the issue that I have before you is tomorrow morning at 10:00, Mr. Chairman, and that relates to the adult detention facility and the contract that we'll be discussing in detail with the members of the Board and fielding any questions you might have. We'll also have representatives from MTC, who is the company that will be discussed as well.



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Mr. Chairman, other than that, I just wanted to point out to the members of the Board that the County had a very successful County Fair and was well attended and many people were very happy with the outcome and lots of great participation from our youth in the community and lots of good baked goods and lots of fun. I just wanted to let you know that it was a great success this year.

COMMISSIONER TRUJILLO: Who won the frog contest?

MR. MONTOYA: That I don't know. I stand for any questions, Mr. Chairman.

CHAIRMAN DURAN: Any questions of Sam?

**VIII. E. Matters of Public Concern – NON-ACTION ITEMS**

CHAIRMAN DURAN: Is there anyone out there that would like to address the Commission on any issue?

CAROLYN SIGSTEDT: Commissioners, my name is Carolyn Sigstedt. I have two matters of public concern. One deals with your request of authorization for restructuring the County Development Review Committee. And I just want to make a comment that I tend to agree with Javier Gonzales. I think it's important. When we came up with our master plan for the county, the whole basis of that master plan was to empower our traditional communities and our new communities to run their own future and plan their communities. And I think it's really important to keep those development review committees as closely connected to government as possible, and not to have them a step away.

The other thing, Commissioner Trujillo, when you mentioned that they could have that local meeting and then have one representative speak for the entire community, sometimes that's an impossible thing to have happen, that you can't have one voice for a community. There are often times many different factions within a community, and that's what makes these decisions that the communities have to make so difficult. But it's important to keep that struggle within the community, rather than hand it over to a board that's steps away and that comes from, that represents a larger region. I love the way the master plan is designed now and this element of it is its preciousness.

The second matter of concern is the fact that the City has a Policy Planning Commission that for a number of months has been discussing water issues. And this Commission, I should first tell you, in my opinion, is actually made up of a very diverse, thoughtful group of people. And I think they have done very good work. Actually, a staff member of yours, Estevan Lopez, has attended I think all of these meetings. At any rate, the Citizens Policy Planning Commission has recommended the City, or has proposed that the City consider a water budget. And then Councilor Bushee kind of tweaked it, that idea of a water budget by adding the concept of having a water budget as well as priorities for how and where we grow. I think that's also important.

A water budget which sets priorities for how we grow is just the ticket. A timely device at a timely time, just in time. Yet, to be effective, the budget really should be regional, not just for the City area. A water budget which focuses only on the city might have an effect of pushing the less well planned development into the county, and the City could thus inadvertently promote further sprawl, which in turn could threaten our region's water sustainability and supplies.

This is to say that as good as it is to have a City water budget, it would be much better to introduce a regional, county-wide water budget. That way, the rules would change for everybody at the same time. There would be no further need for Councilors or Commissioners to distrust or discuss past land use practices. It's time for the City and County to see themselves as part of the other's solution. For the City and County to think separately is not in the best interest of our region. Let's no longer think your way or my way, but rather the higher way. Thanks. Good evening.

CHAIRMAN DURAN: I actually think it would be wonderful if we had a regional plan based on water.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me just add one footnote to Ms. Sigstedt's comments. I think the County has been the leader in trying to achieve a regional water plan and it looks like we may be the only one that's seriously positioned to do that. The City has its own concerns that we've seen recently articulated in their public meetings. So I think the County is very well aware and is taking action at looking at a regional water plan. We have our own County 40-year water plan which is coming up, which is in progress now and is coming up fairly soon for review by the Commission. But I also wanted to point out one very important difference, and that is, in the County, we in essence have a water budget in that in terms of County supplied water we have a limit of 500 acre-feet right now that's available. So if a developer wants to propose a development anywhere in the county, they have to bring water rights to that development and it has to come from somewhere. It has to come from somewhere else in the basin to do that.

In the city, if a development is approved, it automatically gets water. So the City's in a situation where any development that they approve will then be served with City water upon payment of necessary fees and so forth. So they're in a situation where they really do have to ration water because they're approving more developments or have in the past than it appears they have water for.

So we have a self-limiting device in effect right now in the county in that, unlike in the city, someone developing in the county must bring water rights forward to make that development viable, even though it may have been approved, for example in the Community College District, or zoned, rather, for a particular development, if there's no water brought to that development and paid for, then the development is not going to be approved. So we have a process in place that addresses part of that issue. It doesn't address the whole issue which is we need to look at regional water supply throughout the

county and particularly in the Extraterritorial Zone in the rapidly growing areas. And I think from our recent experiences in dealing with San Juan Chama water, I think it's going to turn to the County to be the leader in that. Excuse me for interrupting.

CHAIRMAN DURAN: Next speaker please.

ELAINE CIMINO: I've come here today to talk to you a little bit about a notification problem, one that I have personally experienced in the County, one that forced me to file a petition with the district court last week. I would like to say that I have worked with the County for the past four years and most of it has been on a basis that we develop an understanding and try to educate each other on what the environmental impacts or land use impacts are to the La Cienega and La Cieneguilla areas. And it has snowballed into a lot of regional issues. It stretches out to the Airport Development District and to the Community College District.

I was requested to write a letter introducing Citizens for Environmental Safeguards, our mission, and that we would like to have notice, appropriate notice, on developments in our planning area and in those adjacent areas to us. I had worked with the Land Use Planning Department on this and they had requested that I put this in writing. I did so in December. Over the past year, we've come to a little bit of odds on certain issues and one is the airport issue and the others are the land use issues concerning water in the area.

It shouldn't matter if I am in a more contentious or I challenge the status quo on approving land use; I should be able to get notification like anyone else in this county. I, not only I but Jose Villegas and a few others in our community, was asking for the last six months, why is the trenches being dug to put in power lines and electric lines? Where are they going? We would get responses from Public Works or Land Use that Oh, this is probably part of the National Guard installation out in the Caja. Well, we never got answers to those questions and a couple of weeks ago, I was going up the side of the petroglyphs, up the Camino Real Road onto the Caja, with a photographer from the *Reporter* and we came across a public notice sign. And this sign was for a subdivision, going in on the Caja del Rio.

Now, this is adjacent to the COLTPAC property that the County bought, and at no time was anyone that I know of in our community informed of this development. Little did I know that the power lines, the phone lines, the road cuts, the lots, were for a subdivision that was divided into four tracts, and that they were going for administrative approval without coming to any committee, and that they were only subdividing this land in small portions at a time in order to not have to go before the committees.

GLORIA MENDOZA (from the audience): That's called movidas.

MS. CIMINO: And so what I have here is I got a couple of members of the COLTPAC committee and we went up and we took pictures of where this sign was posted and I'd like to give the Commission these pictures and to look at them.

CHAIRMAN DURAN: I'd like to see what a movida looks like.

MS. CIMINO: I have to state my name for the record. Elaine Cimino from Citizens for Environmental Safeguards. We got up there and it is one mile off the

side of the road and there was a little yellow sign. You cannot see the sign from County Road 56 and I was in there, I was in the car with the reporter saying, Oh, nobody will ever build out here. This is all public land and it's been preserved by COLTPAC. And we come across this sign on this post on top of the petroglyphs. And I find it very disturbing that we could have developments go in without any say in our community.

This is going to ruin our vistas. This is going to be an eyesore on the views of Santa Fe under Tetilla Peak and we have to do something about this notification problem. I think that passing all these committees to oversight this doesn't really deal with the problem of people getting the proper notification. I felt that a lot of the notification wasn't given because I challenged other aspects of planning in this county. Now I feel and I think that I'm not getting the feedback that is appropriate.

So I brought this matter before the Commission today because I think it's important that we mediate this problem and we do it effectively so that all people have an opportunity to voice their opinion and that these things cannot come forward for administrative approval when you have 260-some acres being subdivided into four tracts that can then be dealt with on a piecemeal basis. I believe that this has the appearance of usurping of the subdivision law and I would really like the County to look into this matter.

And I would like to receive the appropriate notification on the developments in our area. I would like to receive notification on those developments or those planning areas like the Airport Development redistricting and the Community College area. That's another example of working and writing a stormwater management section into that ordinance and it being thrown out after being approved by the CDRC and members of the Commission. And when it came back forward on the second time on the ordinance, everything was taken out. We have a stormwater management problem we need aquifer recharge. We need to include this as part of our regional water planning, but we also need to deal with it on a community planning level. And I thank you for your time.

CHAIRMAN DURAN: Tom, maybe you could spend some time with Ms. Cimino and explain the process to her. This looks far from a movida to me. It looks like what the Code allows. But if the process is flawed, maybe we should look at it to change it. But maybe you could spend some time with her in the near future going over the process. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I would just like to ask Mr. Abeyta, Roman Abeyta, to look into the notice issue. It concerns me that there's so little notice for such a big development that could become a huge development. And it may be inadequate. If it is, I think you have to make a ruling on it. If you could let me know, I'd appreciate it.

CHAIRMAN DURAN: I don't see where you see a huge development here. You see somebody that owns 263 acres dividing it into 60-acre lots. The potential of someone dividing it further definitely is there but that's called a serial subdivision and there's state law that deals with that. I don't see where you make 60-acre lots a major

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development. Commissioner Trujillo.

COMMISSIONER TRUJILLO: Yes, that was exactly my point. I was going to ask Steve. There is a state law that stifles the serial subdivision, isn't there?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, that's correct. If a large lot split is done, that land cannot be further subdivided at all for a period of five years unless it's a full subdivision, so that is correct. And there is an exception under the State Subdivision Act for large lot divisions of this type.

CHAIRMAN DURAN: By that same individual. That same individual can't subdivide it.

MR. KOPELMAN: Correct.

CHAIRMAN DURAN: But they could convey it to someone else that would have the right to subdivide it, and that's where the movida issue comes in and that's where the problem lies in the subdivision regs. But at this point in time, there's nothing in place that prevents people from doing that. So you're right to assume that that 60-acre parcel could be something smaller, but it couldn't get any smaller with the individual that owns it, and it would have to be conveyed to another party, who would have the same rights to subdivide as the person he bought it from had. Next speaker.

MS. MENDOZA: Mr. Chairman, Commissioners, I think what she was trying to say is we have a representative in La Cieneguilla and in the La Cienega area, and that representative which sits on this body should be notifying us about things that are going on like that. That's not your fault. That's not any of the other Commissioners' fault. That is our own representative's fault, because he's out of touch with his constituents.

I'd like to talk about water and you know, I'm really having a problem, not only with the City of Santa Fe but I'm having a problem with the County of Santa Fe regarding water. I find that both governing bodies continue to approve development and continue to sell water rights and yet the people of Santa Fe don't know from this month to next month whether we're going to have water or not.

I think this sitting and arguing about water and regional waters and whatever else is nothing but a smokescreen for people to be able, for these governing bodies to be able to continue to rubber-stamp developments. Nobody in the City and nobody in the County has ever tied in these two words: development and water. The last time I came to a County Commission meeting, I was so upset. I was so upset. I left so upset from here. Because here you have all these people who are trying to protect the corridor, 599. So here we have somebody, who's a property owner, gets a little idea that wants to put out a market. That's what Peter Komis did a few years ago. He decided he was going to put out one of these open markets because they know nobody likes them.

And you go into your TDRs, which we told you I did not think were, I think were very biased because you're sending everybody out to the La Cienega area. But I understand. I understand why you're sending them out there. There's an agenda here with the County, and your agenda is to overpopulate the La Cienega area so that you can send

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your pipes down there with water so that people can hook up and so that they can retire their water rights to you or give you water rights.

The governing bodies are becoming more and more and more sinister. When they put you a public notice a mile from the road, that's sinister. When they go and they buy water—see, water, this building, your toilets, they all belong to us. You had no business going into partnership with the horse park to buy the Hagerman well without a public hearing. And maybe you held your little public hearings but I know your public hearings now. All the real important, the sinister little movidas are always done at 10:00 in the morning. I've seen your agendas, man, I have a computer.

CHAIRMAN DURAN: I wish that if you're going to take personal attacks on us—

MS. MENDOZA: No, I'm not taking personal attacks. Did I say Commissioner Duran? Did I say Commissioner Campos?

CHAIRMAN DURAN: Could you please get to the point?

MS. MENDOZA: I am at my point.

CHAIRMAN DURAN: Well, if your point is to accuse this Board of impropriety, then you are out of order and I'm going to ask you to sit down.

MS. MENDOZA: I'm accusing this Board of not having a public process on a public, on public water. You tell me I'm wrong. If you think I'm wrong, I'll shut up.

CHAIRMAN DURAN: You're wrong.

MS. MENDOZA: Oh, so you had a public hearing to purchase the Hagerman well, go partnership with the horse park.

CHAIRMAN DURAN: We had public hearings relative to that and I don't want to sit here and argue with you.

MS. MENDOZA: When? When did you have them?

CHAIRMAN DURAN: You have the floor and as soon as you are through we have another speaker. So please get to the point.

MS. MENDOZA: I'd like to know, I would like to ask, who took the minutes here?

BECKY BUSTAMANTE (County Clerk): We have verbatim minutes and I—

MS. MENDOZA: I'd like the verbatim minutes on all your public hearings that have to do with the purchase of the Hagerman well, please. I'd like to know, who in the people in the public, who came up to speak on it? May I have a copy of that?

MS. BUSTAMANTE: They're part of the public record. We'll make them available.

MS. MENDOZA: Okay, could you let me know when you have them available? Thank you. All I've got to say is this. I've been coming to the meetings here and you know what? I'm not going to go to City Council anymore. I'm going to come to the County meetings, because last time we were talking about affordable housing, I

couldn't believe how hard some Commissioners were wanting Phil Sena to start his affordable housing. Pre-fab homes, man. You call that affordable housing. Don't insult us. Don't insult us.

Why don't you get County land that the County owns—

CHAIRMAN DURAN: Excuse me, Gloria—

MS. MENDOZA: And go and have, do a sweat equity housing where people can build their homes.

CHAIRMAN DURAN: Gloria, you are wrong on this.

MS. MENDOZA: I have the floor.

CHAIRMAN DURAN: You have the floor only if you're going to tell the truth.

MS. MENDOZA: Well, I'm making a suggestion. I'm not talking about truths.

CHAIRMAN DURAN: If you're going to sit there and lie and distort the record, I'm not going to let you do that. The affordable housing project that we approved had an attachment to it that the affordable housing had to meet the County guidelines for affordable housing and if you look at the minutes, that was a requirement of it and for you to sit here and say that we approved—and what's wrong with a manufactured home subdivision anyway if it's affordable?

MS. MENDOZA: There's nothing wrong with it but to use it, to say it's affordable housing, \$120,000 for that kind of a home is not affordable for people. So why do you use the word affordable?

CHAIRMAN DURAN: It met guidelines.

MS. MENDOZA: \$120,000 to \$140,000 is not affordable. It's affordable to the upper middle class.

CHAIRMAN DURAN: You have three more minutes to make you point and then you will sit down.

MS. MENDOZA: I will sit down if I'm done in three minutes.

CHAIRMAN DURAN: No, you will sit down in three minutes.

MS. MENDOZA: You know what? Don't get huffy with me, Mr. Duran. You know what? This is my rights.

CHAIRMAN DURAN: Sheriff, would please ask this woman to sit down? Remove her from the chambers.

MS. MENDOZA: Anyway, what I was saying is that the County has a lot of land.

CHAIRMAN DURAN: I'm sorry Gloria, but you're out of order.

MS. MENDOZA: You said I have three minutes.

CHAIRMAN DURAN: No, you are now out of order. Okay, you have three minutes, Gloria. Excuse me Sheriff. We'll give her three minutes.

MS. MENDOZA: Do you do that to the people of La Cienega all the time?

CHAIRMAN DURAN: I do it to people who are out of order.

MS. MENDOZA: You do it to people who you do not want to be accountable to. And that's the public. That's who you do it to. I've seen other people do worse than I have and you've never done nothing because they're from the East Side of Santa Fe or the North Side of Santa Fe. You never done nothing—

CHAIRMAN DURAN: Okay, Sheriff. You can come and get her now.

MS. MENDOZA: So the County owns land and what they should do is they should start sweat equity housing.

COMMISSIONER GONZALES: Mr. Chairman, Gloria, if we could just—

CHAIRMAN DURAN: Next speaker please.

[Ms. Mendoza was escorted from the chambers.]

#### VIII. F. Matters from the Commission

CHAIRMAN DURAN: Are there any Matters from the Commission?

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: Just a suggestion. I was prepared for this debate on water and dealing with the City and working towards some type of regional relationship. One of the suggestions that was brought forward and I'm not sure if Carolyn—is Carolyn still here? I'm not sure if it was brought forward by Carolyn or by members of the Land Use Resource Center had suggested that it would be a good exercise for the County to go through a process of identifying our priorities. What is it that the County needs in terms of water? What are our needs for water over the next 15 to 20 years and how are we going to use that water? Is it going to be used for large scale subdivisions? Will it be used for affordable housing? Will it be used for economic development?

It seems that there might be a good exercise that could take place to send out not only communications to the City but to the community as to how the County intends to use water over the next 20 years. So I don't know, Mr. Chairman, if that would be done during a public process or if the staff would come back with recommendations but I think that it would be a good exercise and I think that it's important for us to go through how we intend to allocate waters that we're trying to work with the City in obtaining or other types of water.

And I think that's what I hear continuously is that the County wants water but what exactly does the County want to use that water for. And I think it would be important to make those statements up front, to set those priorities, similar to what we did for the COLTPAC, that we've gone out and we've identified the lands. We established the public purpose and then we went and allocated the money. I think that something like that could similarly be done in terms of the water usage, that we could identify what needed to be met, who was going to benefit from that and then actually go out and get the water. So I would just suggest that, Mr. Chairman, that we go through that process because I think



that is an element that has been missing in this water debate and it's certainly an issue that comes up continuously from people in the community as to really what are the County's needs. Is it just because of this growth that's occurring or are we actually going to use it for something that's going to benefit the community?

COMMISSIONER TRUJILLO: Mr. Chairman, I'd also like, for the record and to set the record straight and to address some of Gloria Mendoza's concern is to invite Estevan Lopez to talk about the Hagerman well and just inform the community that the purchase of the Hagerman well was not done in a surreptitious way, circumventing the community, rather it was done to benefit the public, and the process was made available to public input. So I'd like to invite Estevan Lopez to talk about the Hagerman well and how that purchase came to be.

ESTEVAN LOPEZ (LAND USE ADMINISTRATOR): Mr. Chairman, Commissioner Trujillo, would you want me to give a recap right now or set up a separate opportunity?

COMMISSIONER TRUJILLO: Do a recap, just for the record.

MR. LOPEZ: All right. Mr. Chairman, I'll try and do that. I don't remember all of the specifics relative to the number of meetings, the dates and so forth, but I will give at least a broad recap of the process that we went through relative to the Hagerman well.

First of all, as all of you are aware, we began pursuing the purchase of the Hagerman well probably three years ago. Initially, we made an offer to the City because the City held an option for the purchase of that well. The City rejected that offer and subsequently, we went and made an offer directly to PNM. PNM also rejected that offer and said that they had at least verbally extended the option for the City.

After the period of that verbal extension, we again began negotiations with PNM. PNM at that point was more amenable to negotiating that purchase. These negotiations continued for a period of approximately nine months. During that entire time frame, at a number of meetings at La Cienega with the La Cienega Valley Association, I alerted the community that we were negotiating for the purchase of that well and the water rights. We had pretty much sewn up the negotiations with PNM and at the eleventh hour, Mr. Kokesh, on behalf of the horse park, made an offer for that well that exceeded our offer.

We then explored the avenue of condemning the well but after extensive legal research we felt that it was going to be pretty risky to put out potentially an inflated price without really knowing what water rights we would yield. We have to go through the State Engineer process before we close on this deal. Ultimately, we were able to make an agreement that we felt, it was a partnership with the horse park for the purchase of it. This was done specifically to limit our risk that might happen in a condemnation where we wouldn't know what exactly it was we were getting. It specified the percentage share that each party would bear. It specified who would bear what costs and have what responsibilities.

Once we were actually able to complete the negotiations, we presented the essence

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of the agreements we had negotiated here in open session and I believe that there was comment from the public on those sessions. Part of the comment from the public was that the public wanted access to the agreements we had negotiated. We made those available, per your instructions. We made them available to the La Cienega Valley Association and to anyone that wanted copies of the agreements. Further, we offered to meet with anyone and discuss the specifics of this. Nobody took us up on that offer.

This happened all before the final action was taken by this Board. The final action was taken at a duly noticed meeting. I believe there was public comment allowed for at that meeting and I don't believe that there was any public comment but I think you gave allowance for it. And you acted on the agreements that have been made available to the public. In a nutshell, that's how we got to that position.

COMMISSIONER TRUJILLO: Thank you, Estevan.

CHAIRMAN DURAN: Is there any other issue or matters from the Commission?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me just add to Estevan's summary on the Hagerman well too that there is a potential that by participating in the purchase of it, and once the water rights are evaluated and confirmed, that we may actually be protecting the groundwater supply in the La Cienega area because if that well is not used, then those water rights are moved somewhere else then we'll actually have a situation where the well would otherwise have been pumped and it won't be. So there is that potential that that purchase will be extremely beneficial to the groundwater table in the La Cienega area.

The one item, Mr. Chairman, I wanted to bring up was at the last Extraterritorial Zoning Authority meeting, a notice to publish title and summary was brought forward regarding making some zoning changes requested by developers in the Community College District area. During the Community College District plan, and I know Commissioner Gonzales was very adamant about this, it was agreed that that plan would be reviewed each twelve months. As a new and large plan, it was felt that there would obviously be items that needed to be tweaked. And I think there are. This may be one of them but I don't feel it's—and that particular item has not been brought before the BCC for notice of title and summary yet.

I feel that rather than being reactive to developer requests for zoning changes in a plan that's now only eight months old, that we should consider those types of changes in an overall review of the plan at the 12-month level. Now, certainly, as developers bring forward development proposals we're going to hear them within the time frame that our Code specifies, but simply to make changes in the zoning map or in the zoning procedures, I think there may be other issues, particularly now that there's an LDRC formed in the Community College District that people may want to address in the Community College District plan and that would be the appropriate time to do that.

So my suggestion would be that zoning issues, requests for changes of zoning that aren't

specific to a particular development that's come through the process be put into a public process and a 12-month review process, rather than being brought forward separately. That's all I have, Mr. Chairman.

CHAIRMAN DURAN: Steve, I was wondering, remember we asked you to bring forward an amendment to our guidelines allowing a Commissioner to be a substitute for any board that one of us can't attend?

MR. KOPELMAN: Mr. Chairman, that's in process. We're working on that now.

CHAIRMAN DURAN: Okay. Commissioner Gonzales.

COMMISSIONER GONZALES: I was just going to say to Commissioner Sullivan on that issue, I've got no problem, Commissioners. I talked to the Manager this afternoon and waiting, the time line that you proposed as being December as bringing this up for consideration. Is that what you—is that the issue we dealt with at the EZA?

COMMISSIONER SULLIVAN: Yes, that's the same issue.

COMMISSIONER GONZALES: Okay. So maybe what we need to do when it comes back to the EZA is just, we can either hold a hearing and postpone action until December or postpone the hearing until that, but I've got no problem in waiting. However is most appropriate, after it's been noticed to support Commissioner Sullivan in this effort.

CHAIRMAN DURAN: Okay, any other Matters from the Commission? We're going to take a ten minute break.

[The Commission recessed from 5:47 to 6:05.]

### **VIII. PUBLIC HEARINGS**

- A. Resolution No. 2001-117. A resolution amending Resolution 1999-137, the Santa Fe County Growth Management Plan, as amended, to adopt and incorporate the La Cienega and La Cieneguilla Community Plan (Second hearing)**

CHAIRMAN DURAN: I want everyone out there to understand that I am not going to allow any personal attacks to take place. The public testimony is going to be focused on the plan, what the individual likes or dislikes about it, suggestions that the individual might like the Commission to consider and the minute that there is a personal attack, that individual is out of order and will be asked to sit down. The other thing is we have a pretty big agenda, so when it comes up for the public hearing, I am going to ask how many of you plan on speaking, and I am going to limit the time, depending on the number of people that are going to speak. If there is one of you out there that represents a group, please let us know when you come up to speak and perhaps that individual can speak for the group and the other people wouldn't have to speak. But in any case, I want you all to be aware that we have a large agenda. We're going to finish the meeting tonight

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and depending on the number of speakers, you will be limited and I'll try and be as flexible as I can as long as you're coming up with new points and staying with the guidelines that I have set out.

PAUL OLAFSON (Planner): Mr. Chairman, Commissioners, my name is Paul Olafson. I'm a staff planner and I'll be presenting the La Cienega and La Cieneguilla Community plan this evening. Just to give you a brief outline, I think I'd like to begin with just outlining my memo very briefly, and then running down some issues that were raised at some community meetings. I think you'll remember from the first hearing in May that the Board directed staff to return to the community and specifically conduct meetings in Upper La Cienega and La Cieneguilla to generate further community input regarding the plan and the issues surrounding the plan.

And I'll begin with a summary of those meetings as well as some of the discussions from the community planning committee regarding the issues raised and secondly, I'd like to present a set of amendments, and these are both in your packets. They'll be under attachment 1 and attachment 2. First of all, I'd like to begin by saying that the La Cienega and La Cieneguilla Community plan is in accordance with Article XIII of the Land Development Code and staff, as well as the community planning committee is recommending adoption at this hearing tonight. And this is the second hearing for the plan and so action is appropriate if the Board so determines.

I'll wait a second for Robert to hand out—these are some additional hand-outs, some materials that were brought in after the submittal time for the packets. [Exhibits 1, 2 and 3] Okay, I'd like to begin with attachment 1. This is the attachment that is in your packets following the community plan, the copy of the plan, following the memo and the resolution and the plan, it should begin with attachment one. And again, as I just mentioned, at the first hearing for the plan, the Board directed staff to conduct additional community meetings in Upper La Cienega and La Cieneguilla. And we had conducted those meetings on June 24<sup>th</sup> and 25<sup>th</sup>.

Following that, we compiled the issues and the concerns raised and had a meeting with the community planning committee to address the concerns and see if there were any amendments or changes that would be proposed from the plan, based on those community meetings. And I'll begin with item one. At the community meetings, there was mentioned that community members were not aware of the planning process and should have more notice and opportunity to get involved in the process. Notice of the planning process included efforts beyond the requirements of the Community Planning Ordinance. We held over 60 community planning meetings. We've had four community-wide meetings of approximately 140 individuals have participated in the process over the period that's been going on since 1997. We've also published announcements in the newspaper of both the community meetings in March as well as the Board hearings for the plan here, as well as additional notices have been posted throughout that four-year period regarding the planning process.

Also fliers have been handed out door to door by community members regarding

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the plan and asking for input. Also signs have been placed on main roads into and out of La Cienega to also notice people of the planning process and also the planning staff has conducted or sent out several mailings using both the Assessor's list for property owners as well as the County Clerk's records for registered votes within the area. And those lists have been updated as we get new information and as people tell us they're interested in getting information about the planning process.

We've used due diligence to get notice out to the community members and get people involved. I think the planning committee also held twice monthly meetings in 1999 and 2000 to ask residents to come and talk about the plan and give input and generate comments about how they felt about what the plan was and what should be in it as well. Staff feels that due diligence was followed and notice was provided. And the community planning committee and staff does not recommend changing the plan in that notice was provided.

COMMISSIONER GONZALES: Paul, can I ask you a quick question in terms of you stated that in here you listed that community membership participated in the plan. What was the attendance, generally speaking, the attendance of people that you listed who actually participated in the plan? Was it good participation? Was it just a core of those people? Did you keep attendance records and things like that?

MR. OLAFSON: Mr. Chairman, Commissioner Gonzales, yes, we do keep sign-in sheets for the meetings, and I would say, I've been involved with the plan for the last year and the initial three years there was another planner, Kenny Pin was working on it. I would estimate there's a core group of approximately 20 people who have attended regularly throughout that four-year period and the other individuals have participated at different levels and different intensities.

COMMISSIONER GONZALES: Just quickly, how many were involved in—how many total members were involved or appointed to the plan? How many total members were appointed to work on the plan?

MR. OLAFSON: Mr. Chairman, Commissioner Gonzales, I don't know that exact number. I understand it's approximately 20 people.

COMMISSIONER GONZALES: So the number of people that are listed here.

MR. OLAFSON: Yes, the majority of them, but not all. And some of those names have come in after the plan was initiated in 1997.

COMMISSIONER GONZALES: Okay. So would you say though, from what you know, and maybe this is a better question for Jack, that of the total people that were appointed over this process that the people actually participated, it was a majority, a small percentage of the group, or—

MR. OLAFSON: I think of the initial group that signed up or was appointed with the authorization to move forward with the plan has stuck with the plan. Or has stuck with the process, I should say.

COMMISSIONER GONZALES: Okay.

MR. OLAFSON: Does that answer the question?

COMMISSIONER GONZALES: I'm trying to gauge if the people that originally signed up or that the Commission appointed to this planning process, which we do, right? The Commission appoints individuals to the planning process, is that right?

MR. OLAFSON: Mr. Chairman, Commissioner Gonzales, that's correct.

Yes.

COMMISSIONER GONZALES: And those individuals that the Commission appointed to the planning process, do you have an idea whether a majority or just a small fraction of them actually consistently participated throughout these last four years, three years, or however long it's been to develop the plan?

MR. OLAFSON: Mr. Chairman, Commissioner Gonzales, again, I don't have an exact number. Robert is showing me here a list of approximately 20 people who have consistently participated throughout the planning process.

COMMISSIONER GONZALES: And how many were appointed originally?

MR. OLAFSON: I don't have that record in front of me right now. I can look it up. Maybe during—

COMMISSIONER GONZALES: Let me just ask this question as we go forward, because these are issues that have been brought up, Mr. Chairman, since the first public hearing and if we're at this point I just want to make sure they're bringing forward. Of the 20 people that participated consistently, was there representation from all the segments of the La Cienega planning area?

MR. OLAFSON: Mr. Chairman, Commissioner Gonzales, I believe there was. I think it depended on the time and the period in the process as well. I think some people participated for periods and then stepped back and then came back in and participated. But I believe there was representation across the three areas throughout the process.

COMMISSIONER GONZALES: Thank you.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: And this is no different than what took place in Tesuque for example, where a core group of about 20, 25 people with participation through community fairs and community events participated in the process. Usually a core group does give impetus to the process but the whole community understand that they can participate in the process and unanimously, when the plan comes before the Board, there's unanimous support, like there was—not unanimous, but there was the majority or the community supported the Tesuque plan for example. Because there was four years of planning for the core group of about 20 to 30 people but the decision making and comments permeated the community and ultimately, when it came to the Board, the majority of the community acquiesced or agreed with the content of the plan.

MR. OLAFSON: I don't know if I should respond to that or—

COMMISSIONER TRUJILLO: No. I was just making a comment.

CHAIRMAN DURAN: I think a yes is adequate.

MR. OLAFSON: Thank you, Commissioners.

CHAIRMAN DURAN: Any other questions of Paul? Did that complete your presentation, Paul?

MR. OLAFSON: Certainly not. There's quite a bit more.

CHAIRMAN DURAN: Okay. Please proceed.

MR. OLAFSON: Okay. Thank you. Next, within these community meetings also participants asked the plan be tabled and that individualized plans be developed for each area within the community which would be Lower La Cienega, Upper La Cienega, and La Cieneguilla, or that the plan be completely dropped and that new plans be developed for each individual area. Again, going back to the earlier comments, I think over the years the plan has worked to incorporate the common ideas and concerns for the three community areas.

Additionally, I feel that the plan can and should be amended as conditions arise and conditions change and demand new amendments or changes to the plan. And as I get into the amendments presentation, you'll also see that there is a process developed and outlines how the plan should be amended and providing for representative community body to oversee that process as well.

The community planning committee in reviewing this felt that it was better to move forward with the plan as is, and then come forward and amend the plan through individualized, tailored planning for each sub-area, if that's important and if there's community members that feel that that should be done in the future, and that the plan does represent common interests and common goals and helps serve to benefit and to maintain the rural character of the entire planning area and as need arises in the future it can be amended.

Next, on page 2, under item C, several participants also felt that the plan was too restrictive and again, it wasn't tailored to each sub-area within the planning area. Again, the plan is really tailored to respect the individual property owners and residents and it's for the separate geographical areas to also address common concerns across all the geographic boundaries. Again, I just mentioned that we've provided in the amendments a potential mechanism to address changes in tailoring the plan for each individual area. And again, the planning committee suggested that having this process for amendments but not canceling the plan at this time.

Next, under item 2, Water. Some community members felt that the requirement for proof of 100-year water availability for land division was onerous or too restrictive, and again, that's already a County Code requirement and it's already established within the plan and we're trying to re-emphasize this is an important issue. And the committee discussed, should that be dropped and the committee felt that it was important to have water connected to development and that availability of water should be a part of the determining factor in increased development.

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Next, under item B, people asked that no water restrictions be imposed or that water restrictions be more liberal or generous. And currently, under the County, we have the La Cienega Watershed conditions and those impose a .25 acre-feet of water consumption for domestic consumption per new land division within the La Cienega Watershed. Additionally, within the County Code, of course any time you divide below the minimum lot size with the Homestead, Basin Fringe, Basin or traditional—not in the traditional community zone, you also have to restrict water consumption to .25 acre-feet. The committee felt that this was an appropriate mechanism to help conserve water resources within the community and protect the existing landowners and their wells as well as ensure that future development for families could occur and there would be water available for everyone to share and use.

Additionally, the plan, the plan calls for an additional .5 acre-feet that could be allotted for a property owner if their conditions or the family, their personal conditions required more water consumption and the key would be that the person would have to come in and apply for that extended water by proving that they had a 100-year water supply, or that their water availability was there. This would be a one-time request for that extension of up to .5 acre-feet. And this would be for people, say, with a large family or an extended family living on their property or horses, other agricultural activities.

CHAIRMAN DURAN: Excuse me, Paul, these are the things that you went over with us the other day, is that correct?

MR. OLAFSON: Correct, sir.

CHAIRMAN DURAN: Okay. What would the Commission think if rather than spending all the time re-explaining it to us, that you just highlighted the issues that you've been asked to change? Is that okay? Can you make your presentation in that manner or does it dilute it?

MR. OLAFSON: I think I can try to be a little more brief on each point and then I would like to run through the amendments specifically, so that we do address them directly. And they're kind of intermingled, so in a little bit, it will come to make sense.

CHAIRMAN DURAN: Thank you.

MR. OLAFSON: So again, the committee felt that it was important to maintain some kind of control on water consumption to protect resources, but also has included a flexibility there to allow for individuals or situations that may require additional water consumption.

Next, also under the existing La Cienega Watershed conditions there's a requirement that new land divisions will agree to hook up to the County water system when and if that system is available and has a capacity for new hook-ups, and is within 200 feet of the property line. And in the original draft of the plan the committee had listed 500 feet of the property line, making it have a larger grasp. At the community meetings, people felt that 500 feet was too much and asked that it be returned to the 200 feet that's already existing under the La Cienega Watershed conditions. The community discussed this and



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felt that it was appropriate to move it back to 200 feet and that the effect and the result of the required hook-up would still be the same with the 200 versus 500. So that amendment will be noted in a moment.

Next, some participants asked that individuals be allowed to use their existing wells until the chose to hook up to the community water system for new land divisions. And again, the community felt that it was important to have the hook-up condition required but understood that sometimes with people's development if you don't have a specific time of when that water line will come in, it's hard to plan for your development, so in the amendments you'll see we've created a six-month—if the County can demonstrate that the water lines will be in within six months, the landowner should agree to hook up immediately. If not then the landowner should have a five-year grace period before they're required to hook up after the line is in. And I'll go through that in the amendments in a moment.

Next, some community members stated that they felt the plan supports community-wide development and restrict La Cienega area water and would support development in other parts of the county. The plan clearly states that one of the main intentions of the plan is to protect local water resources and to not support over-development or over consumption of water. And the committee suggested no changes to the plan on that issue.

Next, community members also stated they felt more study of water impacts was necessary and important and existing in the plan was a call for a study of both population and development pressures within the planning area and in areas surrounding the planning area to get a better grasp on what are the actual water resources, and try and find a common ground to help direct future development. The planning committee advised adding a three-year clause to have that study completed. And I'll get that in amendments in a moment as well.

Next, under wastewater it was mentioned that people felt wastewater was not adequately addressed and actually water quality is a very significant issue. Within the plan it's fairly clearly addressed. There's stronger septic system monitoring, community education for how to manage wells and water systems. Also well testing to help make sure that the wastewater and wastewater problems are not affecting other domestic water consumptions. The committee felt that the plan does adequately address wastewater. Additionally, the plan does not specific concerns regarding the wastewater treatment plant and calls for working more directly with the City to give better understanding and monitoring of how wastewater treatment plant activities will impact water quantity and quality within the planning area.

Next, there was mentioned that there's a manure pile at the Santa Fe Downs that was not addressed in the plan. The plan actually does address stockpiling manure as a potential contamination and prohibits it for future development. It also calls for working with any property owner who may have potential contaminants within their property to work with the County and the community to help alleviate that situation at the nearest possible date.

CHAIRMAN DURAN: Paul, I have a question. Is the horse park in this planning area?

MR. OLAFSON: Sir, there's a tiny corner that was in the original boundary proposed and tonight we're proposing amending the boundary that would take that out.

CHAIRMAN DURAN: To take it out?

MR. OLAFSON: Yes, because the horse park is now part of the Airport Development District, so we're trying to make those two—

CHAIRMAN DURAN: Are they stockpiling manure there?

MR. OLAFSON: Sir, Mr. Chairman, I don't know.

CHAIRMAN DURAN: I see some heads nodding. Okay, Roman, can you talk to me about that at some time?

MR. OLAFSON: Next, under item four, family transfers, some community members stated that there should be no new restrictions or conditions or no alterations to the family transfer process. Under the proposed plan, the plan proposes having a five-year holding period between family transfers. So that every time a family transfer process is used to divide land, there would have to be five years of waiting before the next division of land through a family transfer. That doesn't mean that other divisions of land could not be used at that time but that the family transfer process would not be used.

And the plan also proposes having a development review of administratively approved, or administratively reviewed family transfer applications. And I'll get into that with the amendments as well. And again, just to emphasize that the community planning committee does feel that family transfers are an appropriate tool for the community and for people to provide for their families and their children and they don't feel that it should be removed but they also feel that it has often been abused, particularly in the planning area, and they want to find some way to help make sure that there's a stronger review process for family transfers.

Next, under local development review, it was stated that the local development review committee that we were discussing earlier, or actually you all were discussing earlier, for the La Cienega and La Cieneguilla should not review development proposals in that planning area. And again, I think you just had a discussion around that. Just to note that a local development review committee was established under the traditional historic community status that was granted in May of 2000, and that the Board would have to remove that and additionally, the community planning committee felt it was important to have local people with knowledge of the local area and conditions to help review these projects as well and they propose no change to the plan on that.

Next, under item 6, commercial development. On participant stated the plan did not adequately address commercial development. The plan addresses commercial development specifically by saying existing commercial development should be respected at the same level and intensity, but no increased intensity or levels of commercial should be added to the community area. It also asks that no new commercial nodes, and that

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commercial nodes be taken out of the area, allowing for existing commercial nodes to be there and not allowing for increased or more intense commercial in the future. And that's to help maintain the rural residential character of the area.

The plan also calls for enlarging the home occupation category to allow for some people to have some small businesses when they're home so that they can stay at home and work and provide, through that means an expansion of the home occupation without creating full scale commercial within the residential areas of the community.

Next, under residential development, one participant also stated that they felt the plan would not adequately address residential development and the plan does call for maintaining existing zoning within the planning area. There's no change to existing zoning, which is primarily residential uses right now. The person also stated there should be some kind of design standards for mobile homes, trailers in that area. And again, the planning committee felt that design standards were not—they weren't clear on what kind of design standards would be proposed but that any design standards could be brought forward at a future point through an amendment process.

Next, some residents had concerns regarding transfer of development rights and again, under the TDR Ordinance that was passed, the La Cienega area is identified as an area that could have lands protected through TDRs and the densities then would be taken or used elsewhere in the county. And it was just to clarify that TDRs are not being imposed through this plan but the plan does support TDRs and conservation easements and other ways to help protect sensitive and important areas within the community.

Next, on item nine, one participant stated they did not feel trails or developing trails in the community planning area was appropriate. The plan does call for open space and trail planning within the planning area and along with that it requires a community process to help design and work with the County open space program in laying out where would open spaces and where would trails be. It also calls for respecting private property rights and individuals and trying to work through community education and other means to help prevent trespass and people crossing private properties that aren't supposed to be on private properties.

Finally, under the plan boundary, one participant also stated that the planning area boundary should be returned to its 1997 status and I believe I went through that at the first hearing and I can briefly go through it again right now. The planning boundary was proposed for amendment for a slightly expanded on the west side in order to—this was from the GIS Department, they asked that we follow this line and they felt it was a better mapping line to follow. Again, it's on Forest and BLM lands so it wasn't an issue there.

The other change, if I can just point out, was in 1997, this piece was included. However, when the traditional historic community was designated in 2000, this piece was removed. The landowner requests to have this property removed because they felt they had—it was important for them and their development potential that they have access to City water and sewer. So the traditional historic status would potentially remove that access for the developer and the Board decided at that time to amend the boundary to

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follow this line and since that time, legal has advised us to also follow this line in order that we have a consistent and coherent boundary and that they're contiguous.

So that's part one. Moving on. Next I'd like to direct you to attachment two, and these are some proposed amendments for the plan, and I just want to briefly run through these so we are all clear on what the amendments are. The first one is under page 2 and Ms. Gloria Mendoza requested at the May 16 hearing that her name be removed from the planning document and we've proposed that that be done.

Next, there's some language under the heading Page 9. We propose inserting this language and it reads, and I don't think I have to read it directly, but it says that the community plan is intended as an active document and should be maintained and updated as conditions change throughout the planning area. Additionally, it is recognized that the plan may be tailored to include specific concerns and conditions in smaller geographic areas within the planning area boundary, such as La Cieneguilla, Upper La Cienega, and Lower La Cienega. The following provides how the plan may be amended in the future. This amendment is calling for, number one, an annual review of the community plan at the community level, and this would be an annual review for community members to come and give their voice and their opinion as to what, how the plan is working. Are the projects the programs being implemented and what changed, if any should be made.

Secondly, on item number two, we propose adding this language, that we create a permanent plan committee to help oversee and monitor and implement the plan. The committee would be composed of nine members, three each from Lower La Cienega, Upper La Cienega, and La Cieneguilla. Members would be nominated from each respective community area by residents, property owners and business owners. They would have to be resident, property owner or business owner to serve. They would serve for two years. Staggered terms to ensure there was some continuity throughout the process and this group would then be in charge of monitoring and implementing the plan and also proposing amendments and forwarding changes for the Board to address, if any are proposed.

Next, under item three, this language is to clarify how amendments to the plan could be processed. Basically, it says that amendments should be brought forward through this planning, this permanent body, with representatives from each area, and that that body should then propose amendments for the plan and monitor any changes or tweaks the plan might need over time.

Next, under item four, we direct area-specific planning, and this was one of the concerns raised again, that the plan does support creation of area-specific sub-plans and requires that they be proposed through an amendment that would be run by this process I've just described above. Secondly, then it also outlines that any community, of course, has the right to approach the Board and request for a planning area and within this planning area, under the ordinance we have for community planning, that there could be a proposal for a separate community plan as well.

Next, item five, we call for a bi-annual review of the plan in front of the Board of

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County Commissioners. And this would be the responsibility of the plan committee, to bring forward a report to this body every two years as to how the plan is working and if it was addressing the needs and concerns in the community.

Next, on the bottom of that page, page 16, again this item goes to the extension of water lines and hook-ups and it's changing the requirement from 500 feet to 200 feet. Additionally, it adds some clarifying language at the bottom saying that this is not intended to impact any private water rights or irrigation rights.

Next on page 3, we have the first item again is regarding the .25 acre-feet water consumption and then the request to have additional water if the individual would like it, and there's some clarifying language in the first part just saying that this would be a one-time request only for this and it wouldn't be an annual request. And secondly, again the clarifying language that this is already included under the La Cienega Watershed conditions and it's not intended to impact any private or irrigation water rights.

Next, on page 16, there's some small wording changes on top, with the word "applications" replacing "requests" and "granted" replacing "considered." And at the bottom, again, this is some clarification language that the policy to require proof of water is already used by the County and it cites the County Code and ordinance.

Next on page 16, Ordinance action item D, again this is changing the 500 foot to 200 foot, you see right at the top there, and then again, the language at the bottom is clarifying language as well.

Next on the bottom of that page 3, this item is regarding the requirement to connect to the County water system when it's within 200 feet, when it's extended to within 200 feet of the property line, and this is creating a standard where if the County can demonstrate that the water system will be in place and have adequate capacity to provide service within six months of a land division application, then the requirement to hook up would be immediate, and secondly, it outlines that if the County cannot demonstrate that the water line would be completed and have capacity within six months, that there would be a five year grace period between the time that the land division, the land parcel, between the time that the water line gets to the parcel and they would be required to hook up. This is to help people who are planning or want to develop their property but cannot be given a specific time frame of when this water line might come in. This is to help them kind of amortize over time, the cost of constructing a well, if they choose to do so.

Next, on page 17, again, there's one wording change on the top there. The rest of that is connected to the statement above and it's clarification language regarding what the intent of the policy is. On page 17, again we changed the word "development" for "construction" and then there's a new sentence added. Projects may also be subject to monitoring which will be designed on a case-by-case basis to ensure that water rights associated with the project are not exceeded and to address any possible negative impacts associated with the project. This is a proposed ordinance that would require riparian and wetland projects to demonstrate that they have adequate water rights and/or a water source to support those and that they would not be impairing existing users or existing water

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rights.

Next under the heading page 18, this is when I was mentioning before the need for a study of water issues in the area and this calls for this study to be completed within three years of adoption of the plan.

Next, on page 37, this was an item that was brought up by Commissioner Sullivan at the first hearing regarding looking at options for an airport and possible relocation. And again, the intent was not to have the County purchase or build a new airport and this language is here to clarify that to explore options and constraints of locating an airport facility away from its current location or heavily populated areas and also that the action is intended as an investigative measure and does not imply any type of commitments by any party for siting of future facilities.

Next, under page 45, there's a clarification that Legal asked us to insert, that roads and driveways must meet all Land Development Code requirements, for example, fire.

Next, at the top of page 5—we're almost done—under the heading page 46, this is again language that I mentioned early. It's regarding having a local development review committee have kind of a review of administrative decisions of family transfer issues, or family transfer applications, I'm sorry. And what it lays out is that family transfer applications would still be reviewed administratively, as they are currently, and it requests that a copy of the final administrative decision would be sent to each local development review committee member for them to review and they would have five days, which is the same time period as currently exists for anyone to review and protest or comment on an administrative decision, and if a quorum of the body, the committee decided or asked in writing to have the proposal brought forward, then the application would be moved to the next nearest date for the local development review committee. If a quorum does not ask for that, then the application would be passed as is, under the regular process.

Next, under, there's a heading there, amendment proposed by the La Cienega and La Cieneguilla Development Review Committee, and these come from the April 12 meeting when they reviewed the plan. On page 44, there's a sentence here they directed to insert. It says that the plan recognizes that the long-term wellbeing of the community will require a sustainable economic base and local services which are provided by allowing the existing commercial development areas to continue to meet the needs of the community and the county. And we support adding this in.

Finally, under the local development review committee meeting, as well as at the first board meeting, there was two members of the Gallegos family spoke and mentioned that they would be interested in having part or all of their property included in the traditional community zoning district. And staff has contacted them, we've actually contacted three members that had identified their interest in this and to date, we have not received a formal proposal on this, so we have nothing to present to you on that issue.

That concludes my presentation. I just wanted to briefly run over also that what was handed out to you were three pieces. One is a Part 13 to the plan. This is simply a resource guide. It's phone numbers and contacts for people to call regarding the plan and

has the County Hydrologist, the Planning Division, the Fire Department, etc. And this is just an informational piece that goes along with, that would be included with the plan. [Exhibit 1]

Next, there is a petition for the plan, supporting the plan that was asked to be presented to you all tonight, and those copies were handed out. [Exhibit 2] And finally there's a map that was also called in the plan. It's an illustrative map of where service areas currently are for water systems within the community planning area. [Exhibit 3]

CHAIRMAN DURAN: Thank you, Paul. I'd like the Commission to consider going into the public hearing and saving questions that we might have for staff after we hear the public hearing. Thank you, Paul. So this is a public hearing. Could I have a show of hands of those that would like to speak to this issue? Okay. Are there any of you out there that feel that you need a lot of time to make your point, over three or four minutes? How about if those that need more time—I'll tell you what. Why doesn't the next speaker just come on up no matter who you are. You don't need to state your name for the record, correct?

MS. BUSTAMANTE: They need to state their name but they don't need to be sworn.

MS. MENDOZA: When we met with the County out at Cieneguilla there was a consensus there.

CHAIRMAN DURAN: Excuse me, Gloria, that microphone needs a battery. Could we take a break?

MS. MENDOZA: When we met in Cieneguilla—

CHAIRMAN DURAN: Please state your name for the record.

MS. MENDOZA: Everybody knows who I am.

CHAIRMAN DURAN: Please state your name for the record.

MS. MENDOZA: The County Clerk knows who I am so she can just write my name down.

CHAIRMAN DURAN: For the record, this is Gloria Mendoza. Thank you.

MS. MENDOZA: When we met with the County out in Cieneguilla, the one thing people were disappointed in is that our Commissioner was not there. The second thing is that we would discuss the whole plan. And there was a consensus there that Cieneguilla wants the name "La Cieneguilla" taken off the community plan, and that they did not want to be part of this community plan.

The solution was and when this whole thing started about the community plan, and I'm here on behalf of those people from Cieneguilla, when this whole thing started about the community plan, number one, they didn't want to include Cieneguilla or Upper La Cienega. So after this big old round of hashing it out they finally included us.

And when they included us we told them, at that point right there at the beginning, we told them that Upper La Cienega wanted to do their own community plan and La Cieneguilla wanted to do their own community plan and Lower La Cienega should do their

own community plan and that those three plans put into one plan.

And the reason for that is because many of you are not familiar with that area there. But there are three different communities there in La Cienega. La Cienega is very different from Upper La Cienega and Cieneguilla. And Upper La Cienega is very different from Cieneguilla. It's three totally different communities three different visions.

The Lower La Cienega has a lot to protect, which is their acequias and which is their agricultural type of community that they have there. Upper La Cienega has a little bit more to protect. They're being bombarded by the commercial development going on there. And Cieneguilla has a lot to protect there, and that's other development, undesirable development like the one that's going up on top of the mesa and things like that.

Upper La Cienega, well, Cieneguilla and most of the people in Upper La Cienega don't have water rights, they don't have acequias. So they don't have anything to do with that. So these three different communities and if it would have been done the way had suggested from the beginning, it would have been a wonderful community plan. I'm not saying this isn't a good community plan. It's a good community plan for Lower La Cienega.

And the reason I say that is because there was a question that one of the Commissioners asked and said that out of the people that started the whole process of this community plan, how many stayed with the process throughout the process. And we can answer that, Delfina, myself and some other people. Out of the 20 there were probably about eight that stuck with it. And I think all of them except one person were from Lower La Cienega who stuck to the plan.

The problems that the people from Cieneguilla found with that plan is, on water, the fact that a family transfer, they felt that this community plan, the mission like I've seen other community plans and those community plans have dealt with what the community is going to do to protect the quality of life issues which is health, safety and welfare of the community.

This plan has more to do with restrictions. More restrictions that what the County is calling for or the same restrictions the County is calling for, and the people from Cieneguilla do not feel that they wanted to go that route. They did not feel that they should have to answer to another set of rules and regs or codes or whatever other than the County. They wanted to deal with the County completely.

Anyway, that is the consensus that La Cieneguilla does not want to be part of this community plan and so we would like to—if our community decides they want to come up with a community plan we would start working on a community plan and then we would have it amended to the Lower La Cienega community plan. But at this point, until a decision is made, the people there are not going to decide whether they want to make a community plan or not.

And you know what, I don't blame you guys for all looking down while I was speaking and not giving me your eyes because I was never so insulted in my life. And I'm



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glad it's on TV cause I hope it calls other activists to come to your meetings. Thank you  
CHAIRMAN DURAN: Thank you very much. Next speaker please.

KENNY PIN: Mr. Chair, Commissioners, my name is Kenny Pin. I'm the former County planner. I was involved in the first three years of the planning process for this plan. I think to address some of the questions that, Mr. Chair, you had had about participation and public participation in this process, and just let me say a few things.

The Valley Association appointed or selected members of the community to be representative of the entire community planning area. There were representatives chosen from Upper and Lower Cienega, the Ditch Associations and from La Cieneguilla. The planning process started in January of 1997 and there were like, I believe, monthly meetings up until probably at this point.

At the conclusion of every meeting, minutes were typed up and mailed out to a list of 30 to 35 people in the community who had expressed interest in participating. They did not attend all the meetings but they received a summary of every meeting and a notice of when the next meeting was going to be. Many of those people lived in La Cieneguilla.

At one point, one of the residents who I guess you can consider a community advocate or activist, Jose Villegas, who lives or who has property in La Cienega, said that he wished to start a community plan just for La Cieneguilla. As you may recall, Commissioner Gonzales, we had this conversation and your response to me was, "Well how many other people are willing to work with him?" And I asked Jose that and he didn't really have anybody else to work with at the time cause nobody else was interested in working with him or doing a separate plan.

So I think the important thing here is even for me to come back before the Commission after being away from the job over a year, is how important this plan is to the people in the community. There has been a lot of work put into it. There have been a lot of issues specifically a lot of issues regarding water and growth and the racetrack and family lot splits and those issues. All of those issues were always discussed; summaries of the meetings were always distributed and sent to people who said they were interested in knowing about what's going on.

The process has always been wide open. The meetings have always been advertised in the newspaper. Drafts were always given out at the annual community meetings at the community center. I have even spoken to Gloria, if she may recall, because she didn't come to the meetings after I had mailed her copies and minutes of the meetings and summaries. I would call her up and ask her for input, if she had any input that she wanted to put into the plan, and she did make suggestions and the draft language of her comments were put into the plan.

After the first draft was completed, I believe in December of 1999 or early 2000, there was a section that was missing on wastewater and the water treatment plan. At that time Elaine Cimino was involved and she said she wanted to write part of the section of the plan. And I told her to go ahead. And we incorporated her language into the plan.

So I think the Commissioners need to be aware that there has been a lot of

openness, there has been a lot of advertising. Members of the community were always encouraged to attend and if they were not able to attend, those who expressed interest received copies and minutes of meetings, and always got notices of upcoming meetings. Thank you.

COMMISSION DURAN: Thank you. Next speaker please.

CAMILLE BUSTAMANTE: My name is Camille Bustamante. I'm at 04 Cerro del Alamo and I'm from Upper La Cienega. And I have worked, off and on, on the plans since 1997. During that time period, as has been stated, ample effort was out to get everyone in the community involved. All I ask, and obviously having worked on the plan, I am in full support of this plan and I ask that you do not buy into the divisive nature of and the spirit of dividing the community. Our fate is tied within each other Upper, Lower and La Cieneguilla. We are one community. And I think to keep our strength as a community we need to continue to work that way. And I appreciate your time and your support.

CHAIRMAN DURAN: Thank you. Next speaker please.

PAIGE GRANT: Good evening, Commissioners. My name is Paige Grant. I'm the executive director of the Santa Fe Watershed Association. And I just have a very brief comment. First of all, to applaud the community of La Cienega, for having pulled off this amazing feat. I say that as a member of the community of Cañada de Los Alamos, which tried it and did not succeed. So I know how tough it is and I really think it's a great piece of work that they've done.

One comment is on the area of the regulation of riparian restoration projects which there's a complicated history about a restoration projection that went in, in the Cieneguilla area with very little community input and very little design phase in terms of what the objectives of that project were.

We'd like to bring it to the Commission's attention that riparian restoration projects can actually create more water than the vegetation of such a restoration project would consume. This is going to be something that you have to look at on a case-by-case basis. It's not something you can promise unilaterally. You have to look at the geo-hydrology of every given situation.

But it would be a real shame to come up with an ordinance, I think, that would discourage riparian restoration projects that could have real multiple benefits for the community. Thanks to Katherine Yuhas, your County Hydrologist, I have a two-page comment on just this one point, which I believe is in your packets. [Exhibit 4]

And I have a suggestion for some alternative language that I think would really address the concern about being sure that you have community input on these riparian restoration projects, the design phase. And you also look at them from the standpoint of whether there's going to be downstream impacts from a riparian restoration project. It would put much of the review in the hands of the County Hydrologist, which I think is the right place for it to be.

So I would draw your attention to that two-page summary and thank you very much

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for your time.

CHAIRMAN DURAN: Thank you Paige. Next speaker please.

TOM KELLIE: Mr. Chairman, I'm Tom Kellie. I live in Paseo C de Baca in Lower La Cienega. I served on the Valley Association Board. Now the Valley Association Board has been very fortunate to have two excellent presidents. First Ben Montalbano and now Robert Romero, who have given much time and effort to the events, good or bad, which affect our community.

In April of 1997, a committee was formed to gather information about the water situation in the valley. It met every week for three months and wrote a water report, which was the beginning of our community plan. For the past four years, the planning committee has met briefly monthly, sometimes more often. The meetings have been open and any resident in the valley could attend.

We also had the benefit of being guided by the county planners, Kenny Pin, Paul Olafson, and Robert Griego, who assisted us in choosing the policies and the language of the plan. It was also an advantage that they could come consult with the County Legal Department. Every aspect was discussed fully and often at great length. Many people contributed to its formation. If adopted, it is open to annual review and amendment. I recommend it to you for approval. Thank you

CHAIRMAN DURAN: Thank you sir. Next speaker please.

GARY HAUG: My name is Gary Haug. That last is spelled H-A-U-G. I live at 22 Cerro del Alamo in Upper La Cienega. And I come forward, basically to support the community plan largely as drawn. I think that those of us who live in the general area, Upper Cienega, Lower La Cienega and Cieneguilla have more in common than separates us.

We each have areas that may be of particular interest or concern to us but the same might be said for the people who live on my road versus the people who live on Sunset. So that in having read and reviewed this plan, I see it addressing lots of areas of common concern to the people who live in the planning area.

And I would support your adoption of this plan and with the hope that as it guides decisions that you make, that you give it the kind of concern that in making those decisions, that you show the kind of concern that has gone into the expression of the desires of the community as they're stated largely in this plan. Thank you.

CHAIRMAN DURAN: Thank you sir. Next speaker please.

CHARLIE GRIEGO: Commissioner Paul Duran and the rest of the Commissioners, my name is Charlie Griego from Santa Fe, New Mexico. And Paul, I just want to tell you something. You know, right there sitting on the Commission Chair, you know, I forgive you about Gloria Mendoza here but I think that you, yourself, you need to apologize. You know, you can't be coming up here and she has the right to come up here and speak and you can't get so mad and grouchy about the people talking and saying this and that.

I did not like the way your officers took her away for a little while because that's

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not right. You've got the right to speak. You've got the right to say anything about your property. You've got the right to say anything about your water, about anything.

But tonight, Paul, I'll tell you something. You're Commissioner for this committee and all of you are Commissioners here, and I want to say something about the property development right here. Between all three of them, that's Cieneguilla, La Cienega and the rest of them that you want to put in into your committee, altogether. I have a book here that I put together with the City of Santa Fe fighting for Las Campanas and fighting that we do not have no water.

And who bought the water company if it's not the City of Santa Fe or Las Campanas? And now they're fighting for the water use. Who's going to own the water company and they don't even know yet. And I want to tell you something. You know, all these people that are getting involved together with this development right here, you better think once, twice or three times, because we might not even have no water. Because we are developing too many houses in the City of Santa Fe, in the County of New Mexico and we do not even know if we're going to have water out there.

And I'm just saying this in a good faith of yours, for the Commissioners, for the City of Santa Fe because we are having problems even. I sat down with one of the men that are selling houses and they can't even sell them because; you know why? Because a lot of people are moving out of Santa Fe, going into the County, because they can now afford what the City of Santa Fe and Las Campanas are fighting for the water.

I'm just telling you in a nice way, you people better think before your approve anything about water or any houses. And I'll tell you something and if I was the Mayor of Santa Fe, I would stop the building in Santa Fe. And if I were the County Commissioner here in Santa Fe County, I would stop developing houses here too. You know why? Because we're impacting, too much traffic. We're impacting, too much for our young generation, and we cannot think because they cannot even afford the house. They cannot afford what's going on out there. They can't even afford to pay them off.

And the people right here, I apologize tonight for what I'm here, here, I'm here to speak on not to develop so many stuff going on. Because we are going to get into a big old mess that it's going to get us together, the City and the County, that where are we going to get all the water development, where are we going to get all the water and the building for our daughters and sons out there if we need to buy them affordable housing. That's what you need to think about.

I told the City of Santa Fe, "Think about your children out there, about you're developing their houses." Some of those kids out there can't even afford it. Some of those students can't afford it. And where do they have to live? They have to live up there to try to get, buy themselves a trailer, try to buy themselves something so they can live together, them and their wives and their husbands. Think before you do anything with the developing together because I'll tell you one thing, I'm not putting nobody down but it's going to come to the nitty gritty that one of these days it's going to come that we're not going to have no water. The City of Santa Fe will not have no water. The County here,

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will not have no water. You know why? Because there's too much development. And Santa Fe is growing and growing and guess what? In back of the Villa Linda Mall, they're building more houses and more development and they can't even--

CHAIRMAN DURAN: Excuse me Charlie. Can you please address the community plan?

MR. GRIEGO: Yes. I'm just telling you but this plan right here looks real good for your people here in the County. But I'm just telling you if you people approve it tonight and get together, think before you do it. Think about it maybe about six months more. Let it go for development because it is getting worse and worse out there for anybody to start building and get together and get a development going together because it's going to come to the nitty gritty that we're not going to get to be able together if we don't have no water. Think about that before you do anything else. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please. Is there a next speaker please?

BEVERLY GARCIA: My name is Beverly Garcia. Do we need to be sworn? No?

With regard to what Kenny Pin said a while ago. I worked with Elaine Cimino on drafting some language to include in this plan. I guess I've lived in La Cienega almost three years now. I didn't even hear about this plan the first year I was there. I think toward the end of the second year is when I heard there was a plan.

I then met Elaine Cimino about that time and I helped review some of the language she was so concerned about dealing with wastewater treatment. And I worked very hard in editing it. She worked very hard in coming up with a lot of original concepts.

I was at that meeting, one of the planning meetings and I only attended four or five. And it was very apparent to me how unwelcome and how wanted I was there. I was considered a newcomer that was coming in and telling acequias people how to run their business.

I can only speak from my perspective. If this is deemed to be or viewed as being divisive by some people, it's the truth the way I know it. Everything, almost, that Elaine had proposed and that I had worked on was thrown out of that plan.

So Kenny Pin is right up to a certain point. That yes, he did accept that language from Elaine. And I called it to his attention while he was walking back there and I said, "But you know most of the language was thrown out." And he says, "Yes, but that's for you to come up and present." That's why I'm making that statement. If not, you're left with the idea that everything that he accepted from Elaine Cimino is a part of this plan and it's not.

I also came up with a lot of language and proposal at the four or five meetings that I attended. I don't know if you can see this but here's some of my original draft language and stuff that I went in with and my notes and stuff. You know, I have draft after draft that they were coming up with and I would go in with proposals. Almost everything that I proposed to that committee, at the very end, they said, "You know, Beverly, you've got to understand,

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we've been working on this for four years now. And we don't want to be making those kinds of changes." They really didn't want input from other people.

There was a group of about eight people that came up with this plan. And there are some good things in it. There are also a lot of very self-aggrandizing statements that are made in this thing. I mean like, "We met and we had all these meetings and we sent out all these notices." Well, if you sent out notices and minutes to 35 people in a community that has a few thousand right now, that's not very much.

All I know is that each neighborhood or community meeting that I've gone to in the last year and a half, I keep asking people, "Did you know there was a plan?" And without fail people say they did not know about it.

Now, I'm not trying to discredit the work that a few people did. And the plan probably does work for Lower La Cienega. And maybe some people think it was for Upper La Cienega. It's very hard to propose specific amendments to a plan, though, when you don't agree with it's very core, with its underlying content in some places, but more than that, with its philosophy.

There's five thousand acres of land in La Bajada, that is part of La Cienega's plan. I mean I don't get it that that's part of the La Cienega community. I mean there are things like that that I find very strange. Maybe it's because La Bajada is closer to Lower La Cienega. Lower La Cienega is about 3-1/2 miles away from where I live in Upper La Cienega. I mean I don't know what their common area of community interest is. Maybe it's there. I never saw it in those four or five meetings that I attended. It's very hard to do piecemeal amendments to a plan when you don't really believe that it has a real vision in it.

Myself, personally, I see Los Pinos Road as an area that could look like another Corrales. If we had water for trees along that roadway and there's a pipeline that comes in from the wastewater treatment plan from the City and goes directly to the racetrack. And somebody will tell you later on about how they transport water out of there very early in the morning. There's no permits, by the way. But we're not getting the benefit of that water in La Cienega. Others are outside of there.

You know, I mean, there could be some vision for that community. We need a lot of things. There isn't even one single playground in that entire community. I defy anyone here to tell me where this plan even talks about a playground for that community. Just basic simple things that we wanted to include in there are not there. That's why I'm opposed to this plan.

There are 125 people that are signed up in our new Upper La Cienega Neighborhood Association. So far, all 125 are against this. Just today, we were able to get another, about 50 signatures here opposing this. So you add the 50 signatures to the 125, well we've already got close to 200 people that are opposed to this from up in La Cienega, a few from Cieneguilla. But most of these are from Upper La Cienega. [Exhibit 5]

It's very hard to go in and rewrite an entire new document without the benefit of

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participation of other people. And if I would sit down to do that, I would be doing exactly what I'm accusing a group of eight of doing, just trying to shove my ideas down someone else's throat. We really would like to have an opportunity to have some working meetings over the next several months with people in La Cieneguilla and Upper La Cienega and come up with a working draft that is meaningful to us that can possibly be incorporated in total or partly with this plan. But we think it's very premature to adopt this in its present form. Thank you.

CHAIRMAN DURAN: Next speaker please.

RAY ROMERO: Mr. Chairman, members of the Commission, my name is Ray Romero. I'm a farmer and I also represent the acequias of La Cienega. I'm the mayordomo of the Acequia of La Cienega along with three commissioners. I would like to let you know that I farm both Lower and Upper La Cienega and the Acequias de la Cienega has about half of the acreage under irrigation in Upper Cienega.

But before I go any further, I would—I've been with the planning since it first started, the first meeting. And my main concern was water, the water issue in La Cienega.

And I stayed with it. Sure, there's a lot of things that I don't—there's some things that I don't like about this plan but we managed to work together and I think we came to a consensus in a lot of things.

I would like to thank your staff, Estevan Lopez, Doug Sayre, for meeting with us on the water issues. I think we're going to be working together. With your consent, we're going to be able to get a study on the water situation and what's happening to the springs in La Cienega. And hopefully—I'm hoping for that. Also, I'd like to thank your staff on the planning for—and Paul and Mary and the other people and Kenny and Robert for listening to us down there and helping us out with the plan. I'd like to thank all of them for putting up with us and keeping things in order. And Mary especially, for keeping us in order down there for us in these meetings.

Even though I don't agree with the plan 100 percent, I think that this plan should go forward. Thank you very much.

CHAIRMAN DURAN: Thank you Mr. Romero. Next speaker please.

GRAY HOWELL: My name is Gray Howell and thank you, Chairman and Commissioners for letting us speak. I urge you to please accept this document as is. I think it's a good document. It's taken an enormous amount of hours to produce this on all our—I think it's a positive thing for the community and for the area's different needs. Especially with the changes hitting us so hard and frequently as they are these days.

I also believe this is a working document and will require fine-tuning through time. I do think it's essential that we have this tool to use and improve on it over time. It will just take time to fine-tune it. But thank you very much.

CHAIRMAN DURAN: Thank you. Next speaker please.

DANIEL C DE BACA: I'm Daniel C de Baca. I'm a resident of La Cienega. I oppose this plan on account of the water and I would think the County, they've got too many restrictions that would cost each household \$6,000.00 or better to go hook up

the water and then want the residents to give up the water rights from their wells. And the County doesn't that much water. I don't know where they're going to get the water. That's all I have to say. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

MS. CIMINO: My name is Elaine Cimino. I live in La Cieneguilla. I came to the La Cienega Group meetings to try to work on this community plan and I know that there are a lot of people that worked long hard hours on this. I was one in a frame of time to do that with them. It was frustrating, at times, to have a lot of the work and stuff and what you thought what you came to agreement on stuff was then left out.

I think that some of the plan is a good plan. That to throw all of it out is not a real viable option for our community.

However, I do feel that Upper La Cienega and Cieneguilla should be created as districts, all these three districts, and they can take out of the whole picture what they want out of it and add to their own plan and come in, like Gloria Mendoza said, what the agreement was in the beginning as to a vision of how this community plan should have been followed with the wishes of the people in the community and not the agenda of the Land Use Department.

And there were people in our planning area, the horse park is one, Richard Cook is another, who was asked to be left out of the planning area. And they were granted that. And now that La Cieneguilla and Upper La Cienega have come forward and said, "Look, we have a problem with the way this has been drafted and we want to put in our own amendments to this and make this our own," I think we ought to be granted that opportunity to.

And I hope that you would consider this and postpone approval of this plan until the people here can own this plan and feel good about it. Thank you.

CHAIRMAN DURAN: Next speaker please.

YVONNE ANGELL: Hello, my name is Yvonne Angell and I'm neighbors' with this development. The fence is right between us.

CHAIRMAN DURAN: What development? Oh, the community plan?

MS. ANGELL: Yes. With the Santa Fe Downs, everything that's happening there, what I'm concerned about is -

CHAIRMAN DURAN: We're only talking about the community plan.

MS. ANGELL: Oh, okay. Then I'll wait for that. I have some information.

CHAIRMAN DURAN: Oh, okay. Next speaker please.

ROBERT ROMERO: Mr. Chairman, Commissioners, my name is Robert Romero. I reside in Lower La Cienega. I am president of the La Cienega Valley Association. I understand there is some disagreement amongst the community residents on this plan and there are a number in favor and a number against. I'd like to point out here, on this handout that was given to you regarding amendments that may address some of these issues that were brought up. And I think that it accommodates some of these



concerns that are being brought up by those that are somewhat opposed to the nature of the plan.

I'd like to direct your attention to Attachment II, Item 4, and it says, "Area Specific Planning. La Cienega and La Cieneguilla Plan support the creation of area-specific sub-plans within the planning area. The plan requires that such efforts be conducted requesting an amendment to the plan as through the process described above and the amendments to this plan. And there's a process also described on how that would occur.

I believe, as you well know, many long hours have been spent in formulating this community plan before you. Not only by members throughout La Cienega and La Cieneguilla, but by Santa Fe County Land Use staff as well, not to mention the legal staff and the water people as well.

I would like to actually take this time that I have here to recognize two extremely ordinary members of our community who have also spent countless hours on our community plan, Jerry Montoya and Candelario C de Baca, both long time residents of Upper La Cienega and very close friends of mine, have passed away in recent years. What made these two men extraordinary was not so much their years of experience or their vast knowledge of our community, but their ability to continue to work so actively towards the completion of a plan for the betterment and wellbeing of our community. Even in the knowledge, they were suffering from a terminal illness.

I would like to take this time to thank these particular two individuals for the time they spent and the time that I spent with them. Because I think without them behind me, I don't think I would have been able to carry on through this effort because I think they offered me a lot of guidance and support.

I'd also like to thank everyone else who's been involved in the planning process. Whether they're opposed to it or not I think they took the time to make their points of view heard. But I'd also like to state that this plan is a foundation for our future. And I think planning never ends. If you don't approve this plan tonight I think it may go the way Cañada de los Alamos did. And they split this community and divided it to the point we can no longer work together any more.

I really think it's time for a change. And those of us who choose not to participate need to get on board and participate. And by the adoption of this plan does not draw the line and say you cannot have input into this plan even if it is adopted tonight.

I would like to also offer a point of thanks to my beautiful wife, Patricia, for her support through my absence from my family with this committee and the meetings that I held as president of the Valley Association and not to mention the other meetings I held on the other County committees. But without her support, I don't think I would be able to be standing up here in front of you today asking you to support such a community plan to help preserve the future of our community for my children and all of those who reside there. I ask that you approve this plan today so that we can move forward into the future. Thank you. I would stand for any specific questions or—

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CHAIRMAN DURAN: We don't have any. Thank you.

ROBERT ROMERO: Thank you. Thank you for your patience also.

CHAIRMAN DURAN: Next speaker please.

ANGELA MARTINEZ: Hi, my name is Angela Martinez. And I just want to point out one thing that Commissioner Trujillo said, is when there's been other community plans, there's been a majority of the community behind the plan. And this hearing doesn't speak as that. I don't think there's a majority and I think that needs to be considered on your part. And that's all I need to say.

CHAIRMAN DURAN: Thank you. Next speaker please.

DELFINA ULIBARRI: I'm Delfina Ulibarri. I think you can hear me. Can you? Thank you. I agree with Angela, Gloria and them. So there's no sense with me going on, on that. But at the time that I attended meetings, there were only about nine people and nobody from Upper La Cienega except for us. And I found out in October, in late October, and I attended about four or five meetings myself. And at that time that's all there was and if you want to I can name them. I crossed them out on the thing there. If you want me to name the people that were there when I was there. Never was there anybody from Upper La Cienega. That's it.

CHAIRMAN DURAN: Next speaker please. Is there another speaker?

CHARLIE C DE BACA: My name is Charlie C de Baca. I'm a life-long resident of Lower La Cienega. I've heard a lot of comments here tonight. I met with a lot of different people at different times, a lot of meetings. We did start this plan in 1997. But we started a Valley Association in 1994 to get our community together. I saw a lot of people walk into our meetings. I saw a lot of people walk out frustrated making innuendoes to fight whatever came in front of this Commission or whatever a few of the residents would want to present.

It's sad to see our community divided by Upper La Cienega, Lower La Cienega and La Cieneguilla. I am the mayordomo of one of the ditches, Guicú Ditch. We've been in court for 30 years. We finally settled because of development. But we got accused of selling out the community. Well, I'd like to tell the community, where were they when we needed our water? Where are they when they're depleting our irrigation water? No comment is ever made about that. I feel strongly about that. If that's an agricultural community, take the water away. That's what wells do. We can blame any developer that they have taken our water.

I would like to see this community plan move forward. We tried to work with a lot of the people and there's been a lot of frustration. But you just heard a neighbor saying here that our plan might be too restrictive. Or it's following the County Code, my question to them is, "What do they want?"

If they don't want to follow the present County Code, what do they want? Do they want to expand the development or do they want to illegally build studios, or guesthouses? I don't know. I see that happening in our community. I can see it down through Lower La Cienega, Upper La Cienega, where people come in here, apply for a permit for a

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garage or a workshop. Two or three years down the line it's turned into an apartment. That's what this community plan does.

My personal feelings, it doesn't do nothing. There's not control, there's nothing. All we're doing right now, I think, is bring out the issues, bringing out what you can do with your property. You can divide a  $\frac{3}{4}$  acre. You can divide a 2- $\frac{1}{2}$  acre. You can do 10 acres. There have been a lot of different people at those meetings. And we do not want to be restrictive. Only if there were only eight people at that, we were not trying to restrict any member of that community.

Like I said, I grew up in that community. I saw the racetrack come in. I've seen Sunrise Springs come in. I've seen Las Golondrinas, everybody coming in to our community. I think there has to be some control. And if we have to bite the bullet, let's bite it. But this plan is a start. This plan will never end because of the changes, the different type of developments; people want to develop their own property. I own 6  $\frac{1}{2}$  acres. I want my kids to be able to develop it down the line. I really don't want to restrict it. I don't know if it's going to happen.

But all I can tell the neighbors that are against this plan, "Why did you wait until the last minute here even though we discussed it?" If they wanted their own plan they should have come forward with it. They should have had it here today. They should have had it here. They don't agree with this plan. Some of them have said some of it's good; some of it's not. Well, what do they want? I'd like to know. What do they want?

MS. GARCIA: The same amount of time you had, on our own plan.

CHARLIE C DE BACA: Well, I think that we've given them all the time and I thank you, Commissioners, to make the right decision here. I'd like to see it go forward and keep working on this plan and maybe we can get together. And thank you for your time.

CHAIRMAN DURAN: Thank you. Next speaker please.

TOM L. DIXON: I have a resident for 30 years and I've been working on the plan for four years. It seems longer than all of those together. I think that the plan, the plan in process is fairly well documented that it was an effort by different members of the community to involve their neighbors. And the geographic areas of the La Cienega, Lower La Cienega, Upper La Cienega, we could go further.

We could talk about the El Guicú Ditch versus the La Cienega Ditch. I mean there are all kinds of ways of looking at it but I'm here to ask you to look at it for yourselves to look at the plan, to read it carefully. I think a lot of the dissent and the very current crowd that is objecting to it have not read it carefully. And I believe, that if you do, you will be able to see that it has good points. It allows for growth, change and gives us a voice in our future. Thank you.

EMILY PACHECO: Hi. My name is Emily Pacheco. And I've lived in the community for 13 years. I've heard a lot of these comments here and I just wanted to make a comment. I lived in Lower La Cienega and now I live in Upper La Cienega. And I agree with some of these comments that they are different. And I just hope that you

don't pass this plan. I hope you give them a chance to see if maybe there needs to be an amended plan or a new plan or maybe redistricting. Because I do feel it is different and a lot of the people moving in are new and I think you have to look at the new people coming in that want to make comments, want to contribute to the community.

So that's all I have to say, thank you.

CHAIRMAN DURAN: Thank you. Next speaker please. How many more are there of you out there that would like to speak to this issue? Is that one hand? Okay. I would appreciate it if you could—we've been on this issue for over an hour now.

And if you have some new testimony, please feel free to come forward. If you don't, if you would try to make it brief when you come up, that would be appreciated.

J.J. GONZALES: Thank you, Mr. Chairman, Commissioners. My name is J.J. Gonzales. I was a member of the La Cienega Valley Association, a member of the planning committee. I'm a property owner in Lower La Cienega and also property owner in Upper La Cienega. And the process, I think, was fair was open to anybody that wanted to attend meetings was able to go. It was properly noticed, advertised. And we met for four years. We all, I think, had our say. We had lots of periods of disagreements. But I think, overall, we came up with a plan that I think is suitable for our area. And I urge the Commission to move forward with this plan and adopt it tonight. Thank you.

COMMISSIONER GONZALES: Mr. Chairman, can I just ask Mr. Gonzales a quick question?

CHAIRMAN DURAN: Sure.

COMMISSIONER GONZALES: And it's pertinent. Mr. Gonzales, I know that your family has kept large tracts of land undeveloped. I know that the family owns still some large parcels. And if this plan is being touted as being restrictive, are you concerned that the fact that your family has held out from developing your land and all of a sudden this plan come into play and that may prevent your family from recognizing or having the ability to do with your lands what other people have been able to do? Is that a concern of yours that this plan might be too restrictive for what your family might want to do with these large tracts of land that you have available?

J.J. GONZALES: I do not think the plan is restrictive on our piece of property. You know, we all have to go, if we plan to develop something, we all have to go through the process and it starts with the La Cienega Valley Review Committee. It ultimately comes to the County Commissioners and we have to go by the general plan, by the code, and I don't think, you know, we would look favorably to have a local review to have more than at the County level or at the County Commissioner level.

COMMISSIONER GONZALES: Thank you.

J.J. GONZALES: Thank you.

CHRISTINE SANCHEZ: My name is Christine Sanchez. I own land in La Cienega and I live in Santa Fe. I would like you to put it aside and let the people get together and understand and to put it in their two bits. Because when I went to the meetings, the mediator that was there to take down our suggestions had to tell the people,

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the originals, not to be raising their voices because we had something to say.

Now that happened to me at a couple of the meetings. My daughter went to another meeting, it happened to her. So we're not speaking just because we want to be heard, you know, just to get up here and have you just listen to us few. When they say the La Cienega Association, have you ever questioned how many are in the association? I think the last count that I heard was 21 and it might have gone down to 18. I don't know.

But the petitions that we've produced to you are more than that. So if you could just listen to the people I would appreciate it. Thank you.

CHAIRMAN DURAN: Next speaker please.

PAUL SCHUMAN: Thank you. My name is Paul Schuman. I'm a resident of La Cieneguilla. My wife and I have lived there now for about seven years. We've been members of the La Cienega Valley Association since it began. And we were involved in the initial process of developing the community plan when the first steps were being taken several years ago.

We were there when the County Planning folks were initially involved in the development of the plan. And I want to really commend those who were involved in the plan all the way through and Mr. Kolkmeier and his staff for all the work that they did to help the community develop a process that would be fair and open to everybody.

I believe very strongly that although there has never been huge numbers of individuals represented in the planning process throughout the whole process, I don't think that's unusual for anything that you'll find in northern New Mexico. And nor do I think it's unusual for anything you'll find frankly in the United States. It's very difficult for many individuals to find the time and I salute the few who were dedicated and stayed with the process in La Cienega throughout the entire period. It's a very difficult thing to do.

What I do know and what I do believe is that the process that they conducted and I'd like to really second the comments that J.J. made a few moments ago, was a fair one, it was an open one. I can tell you from the meetings that we were involved in at the beginning of the process and I believe that this was true throughout the process, that the attempts that were made were significant. That the members of the committee that were involved in the planning process made every effort to bend over backwards to make sure that it was a fair and open process and that every opportunity was there for the voices of individuals to be heard.

I'm disappointed to see that there is so much dissention at the 11<sup>th</sup> hour in a plan like this. I think it's much more important for La Cienega, to have a plan then not to have a plan. I think it's fundamental and vital to the survival of our community in Upper and Lower La Cienega and Cieneguilla to have this plan and for it to be passed. I think the way that it's written right now affords every opportunity for the opinions and beliefs and desires of the folks who don't feel that they are fully represented to be represented as that plan evolves.

I think Mr. Romero and I really salute him, said that very well. I think the plan, as it's written, is a good plan; it may not meet everyone's needs 100 percent with every single

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word. But the important thing is the platform that's there is sound, it's more than sufficient to do the job, it's what the community needs right now to protect itself, to provide a platform for the future, to provide some tools whereby development can be appropriately managed and that the community can protect itself, protect its values and its heritage from untoward and inappropriate developmental advances that will impact and damage that future.

And I think any process that does not pass the plan now and causes there to be a going back to the drawing board kind of an approach, would be really a damaging and impactful delay that would really cause some very negative consequences to the communities that are involved there.

I'm asking that you please proceed to pass the plan as it's written, provide a process if you think it's appropriate for other voices to be heard in amendments and changes to that plan and I think there is a path for it to do that. But the right way to do that, in my belief, is to pass the plan and I urge you to do so. Thank you.

CHAIRMAN DURAN: Next speaker please.

JACOB BARBA: Commissioners and members of the body, my name is Jacob Barba. I live in County Road 52.

CHAIRMAN DURAN: Jacob, could you please speak into the microphone for us?

MR. BARBA: Okay.

CHAIRMAN DURAN: Thank you.

MR. BARBA: My concern is addressing water. On this plan, they talk about cluster housing and assigning ¼ acre-feet of water per home or for a new home. My concern is how many acre-feet of water is that going to make available for future development in a large scale in this area?

By assigning people ¼ acre foot on their own land for future development of a second home or a family transfer, they're giving up water rights for existing wells that could be used or sold for farming or conversion. And I fully believe that they are some flaws in this plan and I feel that the cluster housing part of it is not economical, also with the fact that they want to have open space to run utilities farther down the road to pass an open space costs a lot more money than if you were to develop one area and leave that area intact.

Now one thing I did want to ask is, how many members of this assembly here tonight would like to have a moratorium for one year, if you'll please stand up? Thank you, that's it.

CHAIRMAN DURAN: Thank you. Next speaker please.

LUCILLE ROMERO: My name is Lucille Romero. And I grew up in this community from Day five of my birth. And I'm really disappointed to hear that we have separation in the community. Upper La Cienega, Lower La Cienega, La Cieneguilla, when I was growing up, it was La Cienega. Now we have people that—I mean we need to come together as a community and approve this because all in all it's going to affect us all

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and people have really worked hard in putting this together. I've seen a lot of these people at the meetings. We've all had opportunities to express ourselves on the plan.

And I don't agree with all of it but I think it's a good idea. And like I said, I've been there in the community almost 40 years of my life. And we need to get going on change and accepting the change and hopefully protesting against change that we don't want as a community. I suggest that you do approve it. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please. Okay that concludes the public comment. I just have a question for Katherine Yuhás. And this is relative to the water. It's my understanding that if you restrict a piece of property to ¼ acre-foot and that water that they are deriving the water from a well, that you can't transfer the rights to a domestic well to another piece of property? Is that correct?

MS. YUHAS: Mr. Chairman, that is correct.

CHAIRMAN DURAN: Okay, thank you. The other thing I would like to make one comment on, I really think that these community plans are "a work in progress" and the rights and the ability of any one out there in the community to bring forward amendments to any of the plans that we've adopted is there for them and I think that four years on the community plan is a long time. I think the fact that it can be amended if what we have adopted, presuming that we adopt it, isn't right for the community or for a specific area within that community, it can be changed.

And my thought is that if those of you that are opposed to the plan have a better idea, well, bring it forward, let's discuss it and let's change it if it needs to be changed. Any comments from the Commission?

COMMISSIONER TRUJILLO: I have a comment. Pojoaque Valley is going through a community planning process now. And within the Valley we've got El Rancho, Jacona, Jacanita, Pojoaque, Nambe, and Cuyamungue. And I would surely hate to see a different plan for each one of those communities. That would be totally against the harmony and the appropriate blueprint of community development in the Pojoaque Valley. I can see that each one of those communities would have amendments to the overall blueprint of a plan but it would not make sense to have an individual plan for seven communities in the same Valley.

And I think that this process has gone on for four years. I heard from the community. I believe that everybody was given the opportunity to participate in the process and provide comments and input. So I stand in support of the plan.

COMMISSIONER GONZALES: Mr. Chairman?

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: Just a couple of comments I want to point to the actual community plan and point to the Commissioners that in these community plans there are goals for each of these areas that the community has wanted to address. For water quality, they talk about ensuring an adequate quantity of surface and groundwater is available for domestic and agricultural use. They talk about the decrease of the aquifer depletion in the planning area and the need to restore that. They talk about

periodic monitoring of water use to limit ground water depletion.

In the area of wastewater, they talk about ensuring adequate quality of water available for domestic and agricultural use. They ensure the legal to safe recycling of wastewater amongst other things. They address open space insuring that they protect and maintain all open space areas in an integral part of the community. And the fact that the community's efforts have saved hundreds, if not thousands of acres around the community from development by getting them involved with the COLTPAC process.

In terms of agriculture, this community talks about part of its goals to protect all agricultural lands in the planning area to maintain and enhance active agricultural production in the planning areas.

In terms of transportation and roads, they talk about the need to ensure that there is adequate infrastructure and safe infrastructure to assure that as the community grows, that people are not faced with danger when it comes to traffic. They talk about fire safety and goals to address fire safety. Community facilities, they talk about assuring that there is adequate recreation, which I am assuming includes parks, civic and educational facilities to meet the community's needs.

In the growth management area, they talk about the need to have land uses that protect the natural resources, the historical resources, and the rural character of the communities in the La Cienega Valley. They talk about increasing the awareness and the importance of maintaining rural and agricultural character of the community. They talk about including the protection and the maintenance of clean air and water as community priorities in the planning area.

So, my feeling is that over these last three to four years that there has been a process by the community that has developed goals that are reasonable, that certainly can be a foundation for how that community moves forward. And I would urge the Commissioners to support this. There are some changes that I would like the Commissioners to consider. I've got concerns about the family transfer provision in this that I would like the Commission to consider.

And I want to point to an issue of an individual of this community and I hope I don't embarrass her too much. But she spoke tonight. Her name is Angela Martinez. And Angela is fully opposed to this coming forward at this time and has stated it. But I did what anyone else did and we asked many of the other community members are, tell us where you want changes. And as of this morning up until the last hour, she was sitting in my office proposing changes that would protect her family who has held land in this area for a long period of time.

So I think that it shows, her demonstration to me showed that even while she disagrees with this going forward, she wasn't willing to just come up here and just say, "I disagree." She's saying, "I disagree, but if you're going to do this, here's some changes that I think are important." So I think there is a commitment. Even by people that are opposed to this plan to come forward and make some changes. I think this plan allows for a community planning group to be put together that is representative of the three areas to



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continue to work on amendments that would be more representative of the Upper La Cienega and the La Cieneguilla areas if they feel that they're not being properly represented in this plan.

But if you look through this plan, as you look at their goals, these are goals that are common sense goals that any community would need to achieve to assure that they have proper and adequate growth. And while I have my own concerns about the plan, I do think that it's a foundation. And Mr. Chairman, in an effort to try and bring my changes forward, I'd like to move for adoption of this plan for discussion and then ask for some amendments to be considered?

COMMISSIONER TRUJILLO: Second.

COMMISSIONER GONZALES: Mr. Chairman, I'd like to move to that and I'd be interested in the other Commissioners' comments on this but specifically I've got concerns on Page 16 where we talk about the need to – the requirement for the new land divisions to connect to the County water system, or community water system where the system reaches within 200 feet of the property. Well, I think that's an important component. It should be in place.

I think that the traditional community that is a community that was basically seized, you know, overcome with development around it to not have to follow that same requirement. And so I would ask that there be an exemption given to traditional communities to hook up to the County water line and that it would be on a volunteer basis.

And a case in point is we're currently working in the La Cienega area now, on Paseo C de Baca to extend water lines along that area. That has been initiated by the community out there on a voluntary basis. And I fear that if we begin to mandate the people in traditional communities who have preserved their lands and who primarily are going to use their lands for family transfers are required to hook up and to through the costs of spending money to hook up to the County water system that that would be a detriment to their families. And that's an area that I would ask for consideration in terms of exempting traditional communities from this.

The other area that—first I'll ask, Mr. Chairman, if I could put that in a form of a motion, that traditional communities would be exempted from having to hook up to County water when it's within 200 feet and that it be on voluntary basis and community-driven as opposed to it being mandated by the County.

CHAIRMAN DURAN: Well, you have a motion on the floor right now.

COMMISSIONER GONZALES: But I'm wanting to amend it.

CHAIRMAN DURAN: So you have other amendments?

COMMISSIONER GONZALES: I have other amendments.

CHAIRMAN DURAN: You want us to vote on your amendments, each amendment?

COMMISSIONER GONZALES: However you'd want to? I think so because there might be some differences that some of the Commissioners have with the other proposals or this one.

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MS. GARCIA: Would that apply to all developments or just to people that have owned land there for a very long time or everyone else new coming in the area?

COMMISSIONER GONZALES: It would be lands inside the traditional community, that exist today, and subdivisions within traditional communities, which primarily are going to be, I believe, family transfers. Because I don't think that there's a lot of land that's available in the traditional communities that are going to be used for development. I think that the traditional communities should not be penalized for basically some of the development that has occurred in that area.

And I would fear to mandate, I think it's unfair for the County to mandate that the traditional communities have to hook up to the County water system. I think that it should be voluntarily driven and not mandated by the County. I think the rest of the planning area, outside of the traditional community, as is in accordance with the La Cienega Watershed and all the things that we want to do should have to hook up to county water.

I'm supportive of that when it's close to the 200 feet and with all the language that you put into place. But I believe that it's an unfair burden on traditional families who are going to be the ones that are going to have to absorb the costs of these water systems to have to pay to import water into their areas. So I think they should be exempt and that that should be voluntarily driven.

CHAIRMAN DURAN: The only flaw in that is that I could go buy five acres in the traditional community and subdivide it into  $\frac{3}{4}$ -acre lots without any regard to water and have the right to drill a well on each one of those lots. And if the County water goes by the property and these are newly created lots, these aren't lots that—

COMMISSIONER GONZALES: Yeas, my focus is on family transfers. So I would be willing to, if this is not too cumbersome, limit it only to families and family transfers that would be impacted. But I can see your concern on new lots, just because they bought in a traditional community would be exempted. I'm concerned about people who lived in these communities for years having to basically pay this price to hook up into imported water because a development has occurred around them. So, maybe the staff has some ideas in how we can get that addressed.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER GONZALES: Well, maybe we should find out if there's even a second in that area or not.

CHAIRMAN DURAN: Well, I would second it if you limited it to family transfers. But to just leave the door open for development when we've made a commitment to try to prevent the depletion of that aquifer.

COMMISSIONER GONZALES: I understand that. I agree. That was a very good point.

CHAIRMAN DURAN: Okay.

COMMISSIONER GONZALES: My focus was on the families that think in this traditional community are going to be the majority of the ones that subdivisions are going to be occurring are going to be for family transfers.

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CHAIRMAN DURAN: Okay so I would second that.

COMMISSIONER GONZALES: But it seems like it's going to be complicated.

CHAIRMAN DURAN: Paul, did you have a comment on that?

MR. OLAFSON: Yes, Mr. Chairman. Just to address it, I think for a point of clarification I think Commissioner Gonzales, you're referring to the traditional community zoning district, which is the  $\frac{3}{4}$  acre. Just to make that clear.

COMMISSIONER GONZALES: Right.

MR. OLAFSON: Secondly, as I understand it that this would apply when there's a family transfer it wouldn't require a hook up and all other land divisions within the traditional communities are.

COMMISSIONER GONZALES: Right.

MR. OLAFSON: And all other land divisions within the -- would?

COMMISSIONER GONZALES: That makes sense, yes, right.

MR. OLAFSON: Just to clarify. Again, as staff, I don't know if Legal would have an opinion on that. My question would be, does that then create greater incentive to develop or divide land through a family transfer? And secondly, is it then being applied equally across the board?

COMMISSIONER GONZALES: Well, I don't know if we can determine whether it creates incentive or not. I do know that if we create barriers to family transfers this plan isn't doing what it's supposed to do. And if you're going to require everyone who transfers land to their kids, to have to hook up to the community water system when the reason that they're needing to do that is because the development occurred outside of the traditional community, I think that that's an unfair burden.

CHAIRMAN DURAN: Especially if it costs them \$6,000.00 per hook-up.

COMMISSIONER GONZALES: So are there technical issues to that or legal issues?

CHAIRMAN DURAN: We're in the middle of a motion sir. I'll allow you a few minutes to make a comment if you'd like. But we are in the middle of a motion. This is not procedurally correct.

GARY ROYBAL: Mr. Chairman, I understand that you guys are going to vote on some water issues. I'm going to say that that's going to create some diversity in Santa Fe County. If you're going to pass this, pass throughout the county, not just in La Cieneguilla, La Cienega and Upper La Cienega. Do it across the board.

CHAIRMAN DURAN: Thank you sir.

COMMISSIONER GONZALES: Mr. Chairman, for the record in all water areas sir.

CHAIRMAN DURAN: Thank you.

COMMISSIONER GONZALES: All the water areas require, I believe, for people to hook up when they're within the 200 feet of the—the County already requires right? It's not just in La Cienega?

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MR. OLAFSON: Within the La Cienega Watershed.

COMMISSIONER GONZALES: What about outside of La Cienega in the water service districts?

MR. OLAFSON: I'm not sure. I think it does.

COMMISSIONER GONZALES: It does require it, right. Roman just confirm that it does require it. So any legal matters before we—

MR. GRAESER: Mr. Chair, Commissioner Gonzales, to clarify this is to exempt family transfers within the traditional communities from the requirement to hook up to County water?

COMMISSIONER GONZALES: Yes.

MR. GRAESER: I don't believe that's a problem, no.

COMMISSIONER GONZALES: Okay.

CHAIRMAN DURAN: You know, I think we need to vote on the plan first whether we're going to adopt it and then start working on your amendments. Because I think it gets cumbersome to vote on each amendment but we haven't even adopted the plan yet.

COMMISSIONER GONZALES: But if we go through the amendments and we know what the plan at the end looks like, then we can say whether we like it or not. Because maybe after the amendments are adopted the Commission may decide with these amendments had been adopted we don't like the plan so we're going to vote "no" or with the amendments we like the plan so we're going to vote "yes."

CHAIRMAN DURAN: Okay. So for the amendment...

COMMISSIONER GONZALES: So for the amendment is to exclude family transfers from the provision of having to hook up to County water in traditional communities.

COMMISSIONER SULLIVAN: Mr. Chair?

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Paul could you either outline on the map or give me a feel for numbers of persons that are included in the traditional? Are we talking about the traditional La Cienega Community designation? Is that different from the ¾-acre lot zoning designation?

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, just to quickly address that. The area outlined here in blue.

COMMISSIONER SULLIVAN: Okay.

MR. OLAFSON: Yeah. Only... Okay, the area outlined here in blue is the traditional community zoning district. But the traditional historic community is the whole planning area, the minus this chunk here.

COMMISSIONER SULLIVAN: Okay, give me the area in blue again. That went fast.

MR. OLAFSON: This is the traditional community zoning district. This is the ¾-acre district.

COMMISSIONER SULLIVAN: Okay and that includes Upper and Lower La Cienega and La Cieneguilla too?

MR. OLAFSON: L Cieneguilla is up in this area.

COMMISSIONER SULLIVAN: Is that included in the traditional—

CHAIRMAN DURAN: No.

MR. OLAFSON: No, it is not.

CHAIRMAN DURAN: Not in the traditional zoning district but it is in the traditional and historic community boundary.

MR. OLAFSON: Correct.

COMMISSIONER SULLIVAN: Okay, so Commissioner Gonzales' amendment to his own motion would only include Upper and Lower La Cienega then?

COMMISSIONER GONZALES: That's correct.

COMMISSIONER SULLIVAN: Is that correct?

MR. OLAFSON: That is my understanding as well. I think Lower La Cienega is also a broader and Upper La Cienega is also a broader— This area as outlined the traditional community zoning district. This is the zoning designation from the 1980 general plan. But Upper Cieneguilla incorporates a larger area than is represented just with this blue area.

Then the blue line, basically, it depicts where was zoning density or where was housing density, settlement densities at that time in 1980 when that plan was adopted.

COMMISSIONER SULLIVAN: And roughly what's the population of that area?

MR. OLAFSON: In this area here?

COMMISSIONER SULLIVAN: Yes.

MR. OLAFSON: You know, I would be hard pressed because of the way the census divides it, it doesn't go along this boundary. I can tell you there are approximately 300 parcels in that area.

COMMISSIONER SULLIVAN: Represent, perhaps, a ¼ of the planning district? A half?

MR. OLAFSON: It's also pretty dense. I would say maybe a 1/3.

COMMISSIONER SULLIVAN: Not a 1/4?

MR. OLAFSON: Someone is saying from the back.

COMMISSIONER SULLIVAN: A quarter or a third, something of that nature?

MR. OLAFSON: Of the population. Cause you've got to remember this is just the developed areas here.

COMMISSIONER SULLIVAN: Thank you.

COMMISSIONER CAMPOS: Mr. Chair?

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I would like to suggest that this motion be withdrawn. And if it's going to be considered, that it be considered at a different scale,

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countywide. I think it's going to take too much time. This is an important issue. And I think there's an issue of whether you can logically differentiate on a legal basis how you treat someone who is doing a family transfer and anybody else living in a traditional community. I think it does cause legal problems. And I think it's going to cause some confusion tonight. We have a long night. We have another case we have to hear after this that's going to be very contentious. I think this could be dealt with on a—I mean if you want to amend the Land Development Code propose it on a larger scale.

COMMISSIONER GONZALES: Thank you, Mr. Chairman, I appreciate that Commissioner Duran, I would just point out that this is a plan and purely offers guidance to the ordinances that are going to be written. I'm assuming when the ordinance is written to support this. That the legal aspects of it would be fleshed out at that point.

So maybe we can have language that says, "where appropriate or where legally it can be allowed family transfers would be exempt from this requirement." Well my point to provide some guidance to the staff that we give a lot of deference to these traditional families because they are the ones that in the end have been the most severely impacted by the growth that's occurred in these communities. And I'd hate for them to have to pay that price of covering the costs of development.

So however we get to that point that's fine, again, this is just a planning document. Nothing really happens until it comes back in the form of an ordinance.

COMMISSIONER CAMPOS: Just another comment. The more concentration you have in the traditional district and the less hook-ups you're going to have contamination, you're going to have these people with wells, with water they cannot drink. I mean that is a possibility on the road as you have more people dividing up these small pieces of properties into even smaller pieces of property. I think we're creating a problem like we have in Northern Santa Fe County or Chimayo. I think we've got to be careful.

CHAIRMAN DURAN: Okay. Well, I don't think we are dealing at all with the ability for these property owners to subdivide their property in  $\frac{3}{4}$ -acre lots. They have that right. And this plan doesn't change that right.

COMMISSIONER GONZALES: The issue is how those new properties are going to be supported. What method of infrastructure?

CHAIRMAN DURAN: Well my extensive legal background tells me that there's not a problem with what you're—

COMMISSIONER GONZALES: So maybe we can vote on it and move on.

CHAIRMAN DURAN: So let's vote on the amendment. Those in favor of the amendment signify by saying "aye." [Commissioners Gonzales, Trujillo, Sullivan and Duran voted with the motion.] Opposed? [Commissioner Campos voted nay.]

CHAIRMAN DURAN: The amendment carries.

MR. OLAFSON: Mr. Chairman, on Page 21, I just want to do a clarification.

COMMISSIONER CAMPOS: Excuse me, Mr. Chairman, what does this mean. Is this just a suggestion to staff to consider it for the ordinance, is that all it is?

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CHAIRMAN GONZALES: It's giving direction. It's been adopted as part of the plan but this language actually my last line was a suggestion that the staff look for the legal ways to see how family transfers can be exempted from this. If in the development of the ordinance, Commissioner Campos, legal staff comes back and says exactly what you've said, "you can't differentiate," then obviously that wouldn't be a part of it, the plan. But it's asking them to seek legal guidance and if it's allowed, to exempt them.

On Page 21, the ordinance action D, I just want to make sure that we have some clarification on this. It talks about, "when the property and the planning area is divided, subject to a family transfer or rezoned, the landowner must furnish complete and accurate documentation to the County which demonstrates that all facilities on site" and I would insert the word "have, all necessary permits are in compliance with all New Mexico Environment Department regulations" and put, "basically have all necessary permits for any and all septic and waste disposal facilities on the property." Under existing State, I would add, "under existing state and County regulations any non-permanent septic systems under must be brought up to New Mexico Environment Department standards."

What this is basically saying is if someone comes in, in the La Cienega planning area, and they want to subdivide land or add a new unit, then if they have unpermitted sewer or water facilities that they would be required to get the permits at today's standards.

CHAIRMAN DURAN: Is that a motion?

CHAIRMAN CAMPOS: That's a motion.

CHAIRMAN DURAN: I'll second it. Any discussion?

COMMISSIONER SULLIVAN: Mr. Chair?

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Clarification? Are you saying that if the individual has a permit for the system then regardless of when that permit was issued then there was no further action required?

COMMISSIONER GONZALES: Correct. This is in cases where there are unpermitted systems in the planning area that are discovered or determined during the process of trying to subdivide the land or add more units.

COMMISSIONER SULLIVAN: And what was the objection with the phrase, "And are in compliance with all New Mexico Environment Department regulations?"

COMMISSIONER GONZALES: Well, I thought the way that it was written, Commissioner Sullivan, that it didn't expressly state that this section was solely focused on the unpermitted systems. It seemed to me that the way it was written would apply to all systems. And so I was just asking the staff to come up with language to clarify that this section only related to unpermitted systems in the La Cienega planning area.

COMMISSIONER CAMPOS: Mr. Chair?

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Can we have comment from Mr. Olafson?

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I'm not sure I understand what the objective of the amendment is but it's a little confusing to me.

MR. OLAFSON: Mr. Chairman, Commissioner Campos, as I'm understanding Commissioner Gonzales, and I think what he's trying to say is that, and I think the intent of this ordinance, as well, as we're developing; this was to say that, make sure that people have proper septic and if they've illegally hooked up or there's improper hook-ups to septic, that that gets justified or rectified when they do division, transfer or rezoning.

And so it's kind of a mechanism to catch the systems that are not on record and that are not installed properly at the period when they were installed.

COMMISSIONER GONZALES: I was just going to say, but my concern, Commissioner Campos, is that if you leave the way the language is written that if you have an individual who does have a permitted system and it's really out of date, as a lot of these houses out here are, especially for a lot of these traditional families, that when they want to pass land onto their kids or a family transfer, that the County's going to go in and say, "Well, in addition to the family transfer and you going through this process and your children having to get updated systems that are in compliance with the state, you also have to do your own."

And I was concerned that the way this was written would require some of these families who were permitted in the past to maybe have systems that aren't necessarily current, that they would be forced to doing that when they wanted to transfer lots to their family and I thought that that would be a barrier or a concern. So I wanted to explicitly state in here that all facilities on site have all necessary permits for any and all septic and waste disposal facilities on the property and that any non-permitted septic systems under must be brought up to the New Mexico Environment Department standards.

That was my concern, Commissioner Campos, is that for people who wanted to go through a land transfer, who maybe didn't have an up to date system, would be penalized.

COMMISSIONER SULLIVAN: Mr. Chair?

CHAIRMAN DURAN: Commissioner?

COMMISSIONER SULLIVAN: Commissioner Gonzales, but if they had a system that had been permitted many years ago and wasn't up to date and for example, let's say that additional connections had been put onto the septic tank without any modifications to the drain field or whatever the situation might have been, then wouldn't we want to have that system brought into compliance as a part of a family transfer, regardless of the fact that the individual may have years ago gotten a permit, but if the staff were to report to us that now we have three or four trailers hooked onto that septic tank which only has 50 feet of drain field on it or something of that sort, it would seem to me that we'd want to require that the septic system be brought into compliance even though they do have a permit?

CHAIRMAN DURAN: Isn't that what you just said?

COMMISSIONER GONZALES: No. Well, I mean in a case like that I



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mean I could see your point. But my point is that you have a single house that's had a septic system for a long period of time, there hasn't been any development and they come in and these are families that necessarily couldn't afford to upgrade their system but want to pass lands on and the County's going to say, "You can't do that because you have to upgrade that system prior to doing it." I'm concerned about that. Tell me how we do things. Would that be a case?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I don't think that that would happen if they have a permit with the Environment Department then they're set.

COMMISSIONER GONZLAES: Okay, that's all I wanted to make sure.

MS. YUHAS: I had thought when this was being done that it was for systems that could not get a permit because their lot was too small.

COMMISSIONER GONZALES: Right, any unpermitted lot. All I'm wanting to clarify is this just belongs to permitted—any unpermitted lots. Permitted lots we were going to leave alone. That was my intent.

MS. YUHAS: Okay.

COMMISSIONER GONZALES: You don't agree?

COMMISSIONER CAMPOS: I'm confused.

COMMISSIONER GONZLAES: Mr. Chair? Are there could be other systems in the La Cienega area that are unpermitted right now?

COMMISSIONER TRUJILLO: I'm sure there are.

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I certainly think that there probably are.

COMMISSIONER GONZALES: So the point is when that when they come in to subdivide their lands and do a family transfer the County's going to make sure that they systems, when we do a review, an application review, are permitted and brought up to the standards that need to be for the development to take place.

MS. YUHAS: That's correct.

COMMISSIONER GONZALES: Okay. That was intent of this section here.

MR. GRAESER: Mr. Chairman?

CHAIRMAN DURAN: Chris.

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, perhaps I can suggest a little lawyerly language of using the words "legally non-conforming." I believe that's what you're getting at.

COMMISSIONER GONZALES: Yes.

MR. GRAESER: To convey that any system that the state permitted back in the days wouldn't be able to be permitted now but that permit then hasn't changed, wouldn't have to be updated.

COMMISSIONER GONZALES: I'll tell you what's easier to do in this process so we don't have to work through that, if we could provide guidance if this is passed tonight to the staff to make sure that that occurrence doesn't take place when they

draft the ordinances. That might be easier.

My concern is that you'll have permitted systems that maybe aren't to compliance. They're older systems, I guess. I don't know. I'm thinking of a traditional family that's been there for a long time. And they want to pass on lands to their family. I fear that they will be penalized or that their families will be penalized because they haven't been able to bring their systems up to date or—and that may not be the case. I mean they may have—I don't know. I don't want to create more barriers for family transfers to take place and I think that this was an issue that I saw as that.

But we can just provide general direction and not take any more time.

COMMISSIONER TRUJILLO: Just one clarification, Commissioner Gonzales, in this case it's only when someone's coming forth to request a family transfer?

COMMISSIONER GONZALES: Or any subdivision of land or rezoning.

COMMISSIONER TRUJILLO: Any subdivision existing usage of non-permitted septic tanks.

COMMISSIONER GONZALES: Would have to be permitted.

COMMISSIONER TRUJILLO: Continue, it's legal, non-conforming.

COMMISSIONER GONZALES: No, actually what I'm saying in that case if they did that it would have to be permitted.

COMMISSIONER TRUJILLO: So you'd go back into the community and identify all septic tanks that were not permitted and have them permitted?

COMMISSIONER GONZALES: No, no. No, at the time that those properties come in that have unpermitted systems, for rezoning or further subdivision, then they would have to get them permitted. The properties that are already permitted that come in for rezoning or for subdivision regardless of whatever the situation is that they wouldn't be messed with. I'll withdraw my motion so we—let's just get—

CHAIRMAN DURAN: Okay, so this is not an amendment. You have another one?

COMMISSIONER GONZALES: Yes. This is on Page 28, Ordinance Action; it talks about the construction, the widening and the upgrading of access roads into the planning area. There was some concern that this could include access roads on private property and so we wanted to state that the access roads are identified. This is a form of a motion, Mr. Chair, the access roads are identified as County Road 56, County Road 54, Los Pinos, County Road 50-F, Entrada, La Cienega, the Interstate 25 Rest Frontage Road, the Waldo exit off of I-25 and any additional access roads which could be proposed. This is not—actually I want to pull that one out, "And any additional access roads which may be proposed."

The concern again, is that people who own large tracts of land who may be doing some subdivisions on that land for family transfers be required to go through this extensive upgrading or widening of roads when that may not be in conformance.

So I wanted to, on this, all it's doing is stating exactly what the access roads are in the community planning area.

COMMISSIONER CAMPOS: Mr. Chair?

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Just a question. You're talking about Page 28?

COMMISSIONER GONZALES: Page 28, Ordinance Action A is what staff gave us. And this is all just new language that we would propose. And it's just identifying for clarity sake what the access roads are.

CHAIRMAN DURAN: Could you read it once more.

COMMISSIONER GONZALES: That access roads are identified as County Road 56, County Road 54, County Road 50-F, the Interstate-25 West Frontage Road, the Waldo exit off of I-25." All it's doing is explicitly stating what the access roads are and making sure that this isn't applicable on private property.

COMMISSIONER CAMPOS: Mr. Chair?

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Point of clarification. Access road and County road, is there a difference?

COMMISSIONER GONZALES: I don't think so.

MR. OLAFSON: Mr. Chairman, Commissioner Campos, if I might address that. I think the intent of this was to say that, roads leading into the community and it was to say, let's keep them at the scale and the design that is appropriate for the rural residential community. So I think what Commissioner Gonzales is proposing does match with the intent of the language and it's clarifying what an access road, what those are.

COMMISSIONER GONZALES: So there's no question what roads we're talking about?

MR. OLAFSON: I think that's—

COMMISSIONER GONZALES: That's the point. There's no question as to what the access roads are that are stated in the plan.

CHAIRMAN DURAN: Okay. Is there a second?

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: Any further discussion on this amendment?

COMMISSIONER SULLIVAN: Mr. Chair?

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: If there were any, Commissioner Gonzales, new access roads, would it be easier just simply to say all construction widening and/or upgrading of public roads into the planning area?

COMMISSIONER GONZALES: That would be great. I would absolutely accept that.

COMMISSIONER SULLIVAN: There may be some new ones.

COMMISSIONER GONZALES: Right.

COMMISSIONER SULLIVAN: And you want them to comply too.

COMMISSIONER GONZALES: Again, right. That's correct. Thank you Commissioner Sullivan.

COMMISSIONER SULILVAN: So just a suggestion. I'm fine with what you said but just a suggestion to make it simpler to change the word "access roads" to "public roads."

COMMISSIONER GONZALES: I'm fine with that too. Whatever makes it easier; I think that that's appropriate, as well. Public roads can mean the whole gamut of things and it wouldn't impact the private property owners.

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER GONZALES: So I guess the motion would just be to change access roads to public roads. Are you guys okay with that? I think it's okay.

MR. OLAFSON: I believe it covers that same intent.

COMMISSIONER GONZALES: All right.

MR. OLAFSON: And again, I'm understanding is there's direction to staff to bring this forward at the ordinance phase?

COMMISSIONER GONZALES: No, I'm changing it in the plan.

MR. OLAFSON: Okay, I just wanted to clarify that.

CHAIRMAN DURAN: Right, this change to the plan.

MR. OLAFSON: I understand.

COMMISSIONER GONZALES: Well, if we adopt it. We haven't adopted it yet.

MR. OLAFSON: Exactly.

CHAIRMAN DURAN: Okay, any other discussion? Okay, those in favor of the motion signify by saying "aye." [Unanimous] Opposed?

COMMISSIONER GONZALES: Mr. Chairman, this is the last one as it relates to family transfers. And it goes to the point of the five-year ownership of the lots and I would just ask the Commission to visualize issues that could happen. You could have an individual who passes land to their daughter or son and then that daughter and son would have to wait five years to pass on to their kids.

Well there could be a case where their children may be ready for home-ownership within that five years or sooner. Their children may need to opt to college; there may be a medical emergency, something that would require the need to accelerate this requirement.

And so this is what I'm proposing as—

CHAIRMAN DURAN: What page?

COMMISSIONER GONZALES: This is Page 44 as it relates to family transfers, Item C. It states that, "any applicant for a family transfer must demonstrate a minimum of five years direct ownership of the lot or lots since the last land division, or sale or transfer the property before any disposition can be taken on the family transfer request."

So basically it's stating that once you transfer it, the individual you transfer it to has to hold onto it for five years before they can do anything with it after that. And what I'm

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stating here is that I'm asking for additional language that would say, "an exemption to the five-year holding period maybe be applied for and must clearly state how the additional family transfer lot division is necessary due to personal or family hardship and that the request is a minimum easing of the ordinance requirements making possible the reasonable use of the land and that it will have no adverse impacts to neighboring properties, the community or the environment, and that such requests for the exemption would be heard before the La Cienega and La Cieneguilla Development Review Committee."

So to recap, if an individual needed to come in within that five-year period, it wouldn't be called a variance, it would just be called an exemption to this provision and at that point they would have to directly go to Las Cienega Development Review Committee to state why they need this exemption and at that point the La Cienega community can either say "No," and if they say "No," they could appeal it up to the Commission or they could say, "Yes," and then they could go on.

So this is a way to make sure that families through unforeseen circumstances can't utilize their lands for the benefit of their children. And I believe this still meets the intent of what the community wanted in terms of trying to assure that serial subdivisions don't take place. The concern is that there would be some abuse with the family transfer position that people within the five years would continue to sell it or subdivide it and then their kids would sell it and they would get some economic benefit and the community hurt for it.

This would require the families to actually go before the Community Development Review Committee and state why the exemption was needed. State the purpose and then the committee could decide whether they supported that or not. So I would ask for that in the form of a motion.

CHAIRMAN DURAN: I think it's too much to ask. I think we need to discuss it and review it a little bit more. I don't know how we dealt with it in the other communities, traditional communities, but I think it should be similar to all the family transfers. I say they should be similar in every traditional community. And if that is what we did for the Tesuque Village and what we're planning to do for the Pojoaque Valley, I think that that would be appropriate. But rather than try and come up with something tonight without much input from staff and discussion amongst the Commissioners, I'd like to analyze it a little bit more.

COMMISSIONER GONZALES: But I think this is a little bit more restrictive though, than other traditional communities.

MR. OLAFSON: Mr. Chairman and Commissioner Gonzales, if I might add into this. I think the intent of this was to help have some oversight. In my reading of or my understanding of Commissioner Gonzales' amendment does fit in with that and it provides for local oversight of that process which is also called for within the plan.

COMMISSIONER TRUJILLO: Paul, excuse me, Mr. Chair, aren't there already checks and balances in the existing code that support families or family transfers so that if you make a transfer on a family transfer, the offspring can turn around and make a

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family transfer rather than selling it for profit. That can already happen. The family transfer process in its true context is already protected. Unless you're going to get a family transfer and turn around and sell it. But if you're going to get a piece of land in a family transfer and give it to another offspring or another family member, you can do that.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Trujillo, this actually restricts that from happening. This makes it more restrictive for families to be able to pass on that land to their offspring. Consider this, you have a grandmother, a mom, and a granddaughter. The grandmother passes to the mom the mom has to wait five years before the granddaughter gets access to that land through the family transfer division. If that daughter is already of the age where she can build, she still can't do it under the way this plan is written. She'd have to wait five years.

So what I'm saying is there should be an exemption that she'd be able to come before the La Cienega Development Review Committee, for consideration to say okay, here's an individual who's ready to live, they need home ownership, they should have an exemption from this. And the La Cienega committee already, through this process, monitoring all the family transfers that are taking place to assure that there are serial subdivisions that are happening. Every family transfer is going to be reported to the La Cienega Development Review Committee. There are already safeguards in place to make sure that serial subdivisions don't take place.

The safeguards that don't exist are the safeguards that protect families that want to do the right thing and pass on lands to their kids so that they can use these lands to live. And instead you have to wait five years. And then, after five years, the daughter has to wait five more years. What happens if there's a medical emergency? What happens if the child needs to go to college or some unforeseen circumstance exists? Why shouldn't they have the opportunity, if they have enough land, to meet the requirements of the Code, to come in and get an exemption? And that's all I'm asking is that there be an exemption given to the families of La Cienega who are willing to live by the rules and play by the rules, that if they have to come in and subdivide their land within five years they can do it and they can go through the channels. They have to still go before their peers and state why they need it. And for goodness sakes, let them use the land where it was intended for, to give to their kids.

It's just an exemption. Gentlemen, it's not doing anything other than allowing for a venue for families who are wanting to transfer their land within the five years to go before the board. If La Cienega Development Review Committee says, no you can't do it. Then they appeal to us. If we say no they can't do it, then they can't do it. It's not giving them the automatic right. It's just saying you have a chance to come forward and state your case. Why wouldn't we allow that to happen? And this is more restrictive. Don't kid yourself. This is more restrictive than any other traditional community in this county has to go through for a family transfer.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

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COMMISSIONER CAMPOS: Why don't we just let this go forward as a suggestion for consideration and maybe vote at a later stage. I think it's a little complex. We have to consider it.

COMMISSIONER GONZALES: Mr. Chairman, I'm opposed to it being a suggestion. I think this needs to be a finite part of the plan. If the plan is set up to protect families in these traditional communities, it should state how it's going to do that. And this exemption offers that. This isn't something I think—this is an important part. This is why people live in traditional communities, for the preservation of their family. And if we have barriers that prevent that from taking place, what's the alternative if this is acted on and this actually goes into an ordinance? If you have to get access to housing within the five years that it was passed onto your mom or your father, you have to go buy land somewhere else to get access to your housing. You have to live there illegally, or you have to leave your community, because our Code prevents you, because with this five-year restriction, from going in and getting another family transfer to take place.

And I think it's unfair. I think it's wrong and there's nothing that's muddy about this. It's just saying if you're going to live by the rules and you have to transfer your land within the five-year period, there's a venue for you to go before the La Cienega Development Review Committee and then the County Commission. It really isn't trying to create any more loopholes. It's just for the people who live and play by the rules, assuring them that they're not going to be penalized for what's happened in their community over the last 30 years.

COMMISSIONER TRUJILLO: I think Commissioner Gonzales has made his point pretty clear. The way that it's written, this stipulation will have a disparate impact on families and on family transfers. Based on that, I would second his motion to include all the language that he suggested.

CHAIRMAN DURAN: Well, conceptually, I would agree with you, but reserve the right to change it when it comes back if it's not appropriate.

COMMISSIONER GONZALES: Great. I appreciate that.

COMMISSIONER SULLIVAN: Let me just clarify with legal. As Commissioner Trujillo has said, that's an accurate representation on that five-year state statute, pertains to sale outside of family.

MR. GRAESER: Mr. Chairman, that's what we were just discussing here.

COMMISSIONER SULLIVAN: I was just concerned that this conflicts with the state statute.

MR. GRAESER: Mr. Chairman, I don't have the state statute in front of me so I can't tell you for sure but—

COMMISSIONER SULLIVAN: I'll get my legal opinion from the chairman then.

CHAIRMAN DURAN: I don't know.

MR. GRAESER: This just kind of clarifies a kind of lingering issue in our

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current language about the applicant owning the parcel for five years, not just someone in the family owning it for five years.

COMMISSIONER SULLIVAN: I didn't understand that. Try that again.

MR. GRAESER: There's a little ambiguity in current language.

COMMISSIONER SULLIVAN: In the state statute?

MR. GRAESER: In the County ordinance.

COMMISSIONER SULLIVAN: In the County ordinance.

MR. GRAESER: With regard to who has to own the property, whether it has to be in the family or whether the particular applicant has to own it. This clarifies that. As I said, I don't have state statute language in front of me, but when the Code was first done, it did track state statute language.

COMMISSIONER SULLIVAN: But my question is, in the state statute, my understanding is he's not trying to set up a situation where the applicant can have a family transfer and then the person who acquires the land can then immediately go and sell it. That's contrary to state statute. Is that correct?

MR. GRAESER: Mr. Chairman, Commissioner Sullivan, maybe I could put it this way. State statute allow us to enact a code that is more restrictive than state statute certainly.

COMMISSIONER SULLIVAN: Well, tell me what the state statute permits.

MR. GRAESER: As I said, Mr. Chairman, Commissioner Sullivan, I'd have to go take a look at it. I don't have it here in front of me.

COMMISSIONER SULLIVAN: I'm just a little—I agree with the general intent of what Commissioner Gonzales is saying but I'm a little concerned that we're at odds, a. with our own Code and b. with the state statute. Can you give me any comfort? No. I'm seeing no here.

MR. GRAESER: Mr. Chairman, Commissioner Sullivan, I could go look at the state statute. I just don't know if off the top of my head. I'm sorry.

CHAIRMAN DURAN: Aw, take a guess.

COMMISSIONER GONZALES: Again, Mr. Chairman, Commissioners, this is a conceptual plan that's going forward. If through the legal process we can't do it, then we can't do it, but I think we need to, if we're going to pass this tonight, and I hope we do, we need to send out the statements that families are not going to be penalized for living and complying with the Code.

CHAIRMAN DURAN: Okay, to the motion. Those in favor signify by saying "aye." [Commissioners Gonzales, Trujillo, Sullivan and Duran voted aye.] Opposed? [Commissioner Campos voted nay.] Motion carries.

COMMISSIONER GONZALES: Thank you. That's all of my amendments.

CHAIRMAN DURAN: Okay, to the motion to approve the plan as amended. Those in favor—



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COMMISSIONER CAMPOS: Mr. Chairman, any other amendments?

COMMISSIONER SULLIVAN: I've got a question on the main motion.

CHAIRMAN DURAN: Excuse me. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I marked it and now I lost it. But I can remember what it was about. With regard to cell towers. Here it is on page 44, same page. The requirement, Paul, is that they shall not exceed 24 feet in height. It goes on to say this policy shall be replaced by any and all county-wide ordinances for cell towers and antenna that may be adopted in the future. Now, we just adopted a cell tower ordinance two months ago, so I don't anticipate that we're going to adopt any more in the future, so perhaps the wording on this is not quite what we want to say here.

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, I think you're absolutely correct. This was written before that ordinance was promulgated and brought before you all. I think the intent was that when that ordinance that not, because of the time frames initially would have come before that but since things have changed now it's behind that. So the intent was that the ordinance that was passed would then replaced this.

COMMISSIONER SULLIVAN: And my recollection, and we've got the cell tower expert here so I'm sure he can correct me if I'm wrong. That there is a 24-foot height limitation in traditional communities. Is that correct?

MR. GRAESER: Mr. Chairman, Commissioner Sullivan, that's absolutely true. We wrote the ordinance with this plan language in mind.

COMMISSIONER SULLIVAN: But that means, that's within traditional communities. That wouldn't be within this whole community area boundary, planning district boundary, would it?

MR. GRAESER: Mr. Chairman, Commissioner Sullivan, no it would not. That's true.

COMMISSIONER SULLIVAN: Okay, so I think perhaps what we need to just simply say there is cell towers and antennas shall meet all County Code requirements. Period.

COMMISSIONER CAMPOS: Second. Is that a motion.

COMMISSIONER SULLIVAN: I'd move that amendment.

COMMISSIONER CAMPOS: I'll second it.

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

Wait. That wasn't the plan; that was only the amendment.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos. We're almost there.

COMMISSIONER CAMPOS: Mr. Olafson, was there much discussion about assessment districts or any funding mechanisms for the wastewater system or anything like that?

MR. OLAFSON: Mr. Chairman, Commissioner Campos, yes. There is discussed, and under the wastewater section there is under programming. It's not an

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ordinance action; it's a program action. It says explore potential needs, look at that potential need for community septic as well as funding mechanisms such as a special assessment district.

COMMISSIONER CAMPOS: Okay. Now, Paige Grant also suggested some changes as regards riparian development. Do you have any comments? That would be on page 2, last paragraph of her letter. [Exhibit 4]

MR. OLAFSON: I'd like to read the paragraph above if I may, Mr. Chairman. It says, We would like to offer the following language for consideration either as alternative ordinance language or as guidance for review of riparian restoration projects within the La Cienega area. Again, we had discussed this ordinance quite at length and I think, also she mentions in this letter that she did meet with Mr. Varela-Lopez who also helped write some of this language and he was also in the planning process and discussed what was the intent.

And I think the intent of this ordinance was to provide that riparian restoration projects would be allowed and permitted and should be encouraged even, because I think they're good ideas, but they should also be done at a scale that's appropriate for the water resources available and are not impacting neighboring water resources. So I would recommend using this language as maybe a framework or guidance for future review of projects and stick with the language that's proposed within the plan as is.

COMMISSIONER CAMPOS: Okay. Any objection to considering this language as a suggestion for future guidance without changing the plan?

CHAIRMAN DURAN: Not from me.

COMMISSIONER CAMPOS: Thank you, Mr. Olafson.

CHAIRMAN DURAN: Okay. Those in favor of the motion, and this is the motion to approve the plan as amended, which is Resolution 2001-117, as amended. Those in favor, signify by saying "aye." [Unanimous] Opposed? Motion carries.

Again, I would just like to remind those that are opposed to the plan or certain portions of it that this is a work in progress and we welcome your comments and amendments as we move forward on it.

COMMISSIONER GONZALES: And with that, Mr. Chairman, I'd like to send some direction to the staff for the working groups or the individuals in Upper La Cienega, La Cieneguilla, or even for that matter, Lower La Cienega, who want to begin the process of further amending the plan and offering suggestions, I want to direct Mr. Kolkmeier to make sure that his staff is available for any working groups that begin that process and that if we see that this process is taking place that we make sure that we allow it to take place until people have a proper time to discuss it, talk about it and make recommendations back up for the amendment of it. Does that make sense?

MR. KOLKMEYER: Mr. Chairman, Commissioner Gonzales, yes. And we'd only ask that in fairness to the people who have already worked on it that if additional area plans are brought forward they would also comply and follow the Community Planning Ordinance as it is laid out.

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COMMISSIONER GONZALES: I'm assuming that whatever's worked on by these, if there are working groups that are established to amend it, that it would actually, through the plan come to the nine-member board that's going to consist of three people from the community of La Cieneguilla, three people from Upper La Cienega, and three people from—and then the other thing that I would do is I would actually direct or put out some invitation by the Commission to let the communities from within those respective areas start nominating their individuals to this board so that it's driven by the community and not by the Board of Commissioners.

MR. KOLKMEYER: We will be happy to do that.

MR. OLAFSON: Mr. Chairman, if I might just interject one moment. I'd just like to thank this Commission for their patience and for their listening to this proposal and I'd also like to thank all the community members, both who have supported the plan and who have not supported the plan, but who have provided input and who have helped guide it and given good ideas and good direction on how we can go. And I understand that not everyone is going to agree and I think that's part and parcel of the process.

But I'd really like to thank the people who have put in a lot of time and it's been a four-year process and there's been some yelling and shouting and a lot of passion gone into it and I think that's a good thing and that that shows that the issues are being addressed and that they are cutting to the heart and the core. And I think this plan is a good framework and a good foundation for helping this community as a whole to continue and work forward on their planning.

I'd also like to thank the other members of the staff in Land Use, our County Hydrologist, our Legal Department, and other departments within the County who have supported us through this process and given us guidance as well. It's a lot of work to do these things and it's sometimes kind of challenging and I'd like to thank everyone for sticking with it, good, bad and ugly, and congratulate everyone. I think this is a solid plan that will serve the community in the future. Thank you.

CHAIRMAN DURAN: Thank you, Paul.

[The Commission recessed from 8:45 to 9:03.]

CHAIRMAN DURAN: Is it possible to table any of the land use cases?

MR. GRAESER: Mr. Chairman, it depends on what kind of case. Appeals have a right to be heard within 60 days. We don't have a requirement on applications. It becomes kind of a reasonable speed issue.

CHAIRMAN DURAN: What's an appeal? Are there any appeals here tonight?

COMMISSIONER CAMPOS: That are in jeopardy?

COMMISSIONER GONZALES: Mr. Chairman, while they do that can I just take a point of personal privilege and wave good night to my daughter? Can you tell her to go to sleep? Go to sleep, Cameron. Right now.

MR. GRAESER: Mr. Chairman, number six is an appeal. We've been told by the applicant that she was going to withdraw it but we haven't heard anything official so

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maybe we could bring that up to the front and get it out of the way, one way or another, and then the rest should be okay to not be heard tonight.

COMMISSIONER TRUJILLO: But Mr. Chairman, this is the second time that these will be postponed and we've got some people here that have been here since the beginning of the meeting, 4:00. We should give them the opportunity to be heard. I mean, even if we stay here until 12:00. It doesn't matter.

MR. GRAESER: Mr. Chairman, Commissioner Trujillo, I'm simply giving you a legal opinion. As to the fairness, that's certainly up to the Commission.

COMMISSIONER TRUJILLO: I think we should continue.

COMMISSIONER GONZALES: I agree. I think if we have individuals here that have already waited through a past meeting and this is the second one, I think it's unfair to continuously push them off. I guess I want to ask the chair a question on this particular issue. Are you going to ask for the public hearing, since this is the second continuation, are you going to all for all the public debate, or is it going to be new issues or how do you envision this issue of the Downs going forward?

CHAIRMAN DURAN: How many people out there are planning to speak for or against this? How many for?

BEVERLY GARCIA: [Away from microphone] It might help if I explain something. We wanted to present a portfolio of photos to you and [inaudible] and that will probably be the longest presentation. Three minutes each, we're going to try for three minutes. And then three other people decided not to speak and have given their time to us. And then we have nine other people who want to make various comments. We want to get two things in the record. [inaudible]

CHAIRMAN DURAN: That sounds like you've given it some thought. The question I have is are we going to stay here until we hear all of them? Are we staying here to 12:00 or are we going to leave earlier?

COMMISSIONER TRUJILLO: Let's stay here until we finish.

CHAIRMAN DURAN: Okay, we're going to stay until the agenda has been heard, so if I could just remind all of you to try to be brief and to the point. I want you to make sure that you make your point but try not to belabor it.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: Are we ready to move forward on this? Because I have some questions that I just wanted to ask the staff, since the last public hearing.

MS. BUSTAMANTE: Mr. Chairman, the record—are you going to postpone IX. B? Because that was the next thing on the agenda and we have an amended agenda and we accepted the agenda at the beginning.

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**IX. B. Ordinance No. 2001-\_\_ . An ordinance amending the Santa Fe County Land Development Code, Ordinance 1996-10, to add Section 13 to Articles I entitled "Procedures for Ordinance Amendments"**

CHAIRMAN DURAN: Chris, can you give us the two-minute drill on what that is about?

MR. GRAESER: Mr. Chairman, I can do it quicker than that. This is an ordinance to comply with state statute that sets out the manner in which we amend the Land Development Code by ordinance. So simply, any member of the Commission can introduce and amendment. That amendment in most cases has to go to the County or a local development review committee for approval. It has to be published and noticed properly and then come to this Board for adoption.

CHAIRMAN DURAN: How about if we put it first on the agenda at our administrative meeting? Is that acceptable?

COMMISSIONER TRUJILLO: That's fine.

CHAIRMAN DURAN: So we can get moving on and let these people get home earlier. So I'll entertain a motion to amend the agenda, moving item IX. B. to the next Board of County Commission meeting, regularly scheduled meeting.

COMMISSIONER CAMPOS: Is that tomorrow?

CHAIRMAN DURAN: Regularly scheduled.

COMMISSIONER CAMPOS: The 20<sup>th</sup>.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

COMMISSIONER GONZALES: Second.

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

**IX. C. Land Use Items**

- 1. 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 at Santa Fe on 321 acres to be developed in 2 phases. The property is located southwest of the intersection of I-25 and SR 599, within Sections 26 and 27, Township 16 North, Range 8 East**

COMMISSIONER GONZALES: Mr. Chairman, in the interests of time, are you wanting her to read this all again for the record, or just to summarize what's happened since the first hearing?

CHAIRMAN DURAN: Just summarize what's happened since the first meeting.

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PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, Commissioners, this case was tabled at the May 8, 2001 BCC meeting. The applicant has addressed several issues raised at that meeting. The letter is attached as Exhibit M in your packet. The first issue is regarding the manure. The applicant states that the contract with WAPACA has been rescinded and that they are now monitoring the hot spots in the manure pile and are discussing options for manure removal. They do not have a removal plan at this time.

Mud bogs and motor events. The applicant agrees to remove mud bogs or other motor events that create substantial noise from the use list. However, car shows will still be proposed within the use list. Lighting: The applicant states that they will prepare a lighting analysis for each outdoor event and will take measures to minimize the impact of lighting on adjoining properties. And flea markets, the applicant states that flea markets will be limited to one weekend per month.

We then can get to the recommendation. The decision of the LCDRC was to recommend master plan zoning approval subject to the 24 conditions listed. If I could enter those into the record and then also staff recommends some conditions be amended as follows. That's in accordance with the applicant's letter that's in your Exhibit M.

[The conditions are as follows:]

1. All redline comments will be addressed, original redlines will be returned.
2. The applicant shall submit a drainage and grading plan including storm water calculations with the development plan for each phase.
3. The applicant shall submit a detailed landscaping plan to include buffering from adjoining residential uses. Additional landscaping and berming may be required.
4. The applicant shall submit details ~~and the contract~~ for the removal of new and old manure; including the trash within the manure piles with the preliminary development plan or within six months. New manure shall be removed on a weekly basis. All manure and trash on the site including the area adjacent to the Por Su Gracia Subdivision must be removed within five years of master plan approval and prior to Phase 2 Development Plan submittal. Any extension of this time frame shall be approved by the BCC. The applicant shall submit a cost estimate and a financial guarantee to be approved by the County Land Use Department for removal of all manure and unpermitted trash prior to this facility reopening.
5. The applicant shall submit a noise study with the development plan for each phase. If noise levels cannot be mitigated to meet code requirements certain uses may not be allowed.
6. The applicant may request special-use permits for events at the Downs prior to final approval of this project, provided that a complete development plan for Phase 1 is submitted within four months of the master plan approval. A noise study will be required prior to issuance of any special-use permit for an event with a reasonable expectation of high noise levels; noise mitigation measures may be required.
7. The golf driving range will not be allowed if netting is required.
8. The flea market use ~~cannot take place more than 20 times per year;~~ will be limited to no more than one weekend per month. Permanent structures will not be allowed.

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9. The applicant shall be responsible for all costs related to traffic control during major events. The Fire Marshall, Sheriff's Department, State Highway Department, and the State Police shall be notified by the applicant one month prior to major events.
10. The applicant shall submit a revised Traffic Impact Analysis with the Development Plan; local use figures shall be used for all proposed major uses and the Frontage Road and intersections with SR 599 and the La Cienega interchange shall be analyzed.
11. The applicant shall submit a hydrology report proving adequate long-term water availability, water quality data, a water budget for full project build-out, and water conservation measures with the Development Plan for each phase. The well shall be metered; an annual water meter reading shall be sent to the County Hydrologist. The applicant shall connect to the County water system when it's within 200 feet of the property, provided that the development plan is in accordance with the County line extension and allocation policies.
12. The well shall be registered as a Public Water Supply, to be submitted with the Development Plan.
13. The applicant shall submit permits for food preparation, septic, and discharge, and a design of the wastewater treatment facility with the Development Plan for Phase 1.
14. The master plan shall be recorded with the County Clerks Office.
15. The applicant shall submit a driveway permit from the State Highway Department prior to final Development Plan approval of Phase 1.
16. All existing and new lighting shall be shielded; details shall be submitted with the Development Plan. A lighting analysis for permanent fixtures shall be required for each phase. A lighting analysis shall be submitted for all outdoor events. Measures shall be taken to minimize the impact from lighting on adjoining properties.
17. The applicant shall identify fire access lanes and Knox lock, and submit an emergency access plan.
18. The water storage system shall incorporate the use of a tank water level monitoring system; minimum water required for fire protection must be maintained at all times. Final placement of all fire hydrants shall be coordinated with the County Fire Marshal prior to installation. All hydrants shall flow at 1000 gallons per minute with a 20-psi residual pressure.
19. The existing structure must meet current code requirements and may require a sprinkler system; building designs shall be submitted to the Fire Marshall with the Development Plan for Phase 1.
20. The applicant shall identify an emergency access road from CR 54; a plan shall be submitted with the Development Plan for Phase 1.
21. Compliance with the applicable review comments from the following:
  - a. State Engineer's Office
  - b. State Environment Department
  - c. State Highway Department

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d. County Fire Marshal

22. The applicant shall employ security during all major events to ensure the event-goers do not trespass or park on adjacent residential properties or adjacent roads.
23. The applicant shall grant an access easement to the effluent water line to the the ditch association.
24. All activities shall cease by midnight.
25. All signage shall meet Code requirements.

And, Mr. Chairman, Commissioners, I've handed out one additional letter of support and also comments from the applicants regarding these conditions. [Exhibit 6] Thank you.

CHAIRMAN DURAN: Penny, is there—it's five years to remove the manure piles. Is there a certain amount of progress they need to make on a yearly basis?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, we haven't determined that. At the moment, we're requesting that a plan be submitted within six months and that should show the phasing and how quickly they can remove manure and how much per year.

CHAIRMAN DURAN: Would that plan—would the approval of the development plan be contingent upon them providing an adequate manure removal plan?

MS. ELLIS-GREEN: Mr. Chairman, that plan would be submitted with the development plan and that would be part of our review and part of the public hearing process as well.

CHAIRMAN DURAN: So prior to final approval, they would have to submit an acceptable plan to remove that manure.

MS. ELLIS-GREEN: That's correct.

CHAIRMAN DURAN: Okay. Any questions of Penny?

COMMISSIONER GONZALES: I have some questions. Penny, let me just—and Katherine, you're probably going to have to be involved in this as well, because it goes to the issue of what people continuously have brought up and I've been invited by neighborhoods around there and by the Downs and I haven't gone with either one of them but I have had the opportunity to actually go to the site on two different occasions on my own and noticed that there clearly is, can be, on either the hot day that I was there or on a windy day, a stench, a smell.

And there are two questions that I have concerning that. One is, is there a nuisance ordinance in place that addresses smell and how they need to be addressed? How do we deal with those issues? Or maybe—is Roman here? Is that a Code enforcement issue? How do we deal with the days that—let's just put this master plan zone to the side and just look at what exists out there on the property today and how it affects the surrounding communities. What's in place to address that?

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, as you know, we've looked at this issue extensively and there are concerns out there. I agree. I've been



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out there too and there are smells. There are health and safety concerns. Unfortunately, the condition with the large manure and dump pile pre-dates County ordinances and especially any County solid waste ordinance, anti-litter ordinance, that sort of thing.

So we've looked at it extensively and haven't been able to come up with anything the County can use to require a clean-up currently, before we'd look at this master plan.

COMMISSIONER GONZALES: So there's not a nuisance law that the County has right now that would address this issue.

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, no there is not.

COMMISSIONER GONZALES: Okay. And the next question that I have: If there's been, and this goes to the point of the concern over groundwater contamination and environmental impacts. I know that for some time we have continuously told the community that there are wells up there that are monitoring, that are gauging the types of pollutants that could potentially take place and thus far they basically have shown that there hasn't been any type of contamination to the aquifers. Is that correct?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, yes. The monitoring data that I've reviewed has showed that groundwater has not been contaminated above the state standard of ten milligrams per liter.

COMMISSIONER GONZALES: Okay, let me ask you this question. Where are the current monitoring wells, because I couldn't really determine that. And how are they in proximity to the actual manure pile that exists?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, the monitoring well that is associated with the discharge permit is located near the ponds, where they receive the effluent water from the City of Santa Fe, and it is designed to monitor that pond, not the manure piles. There are also two monitoring wells associated with the solid waste landfill, which if you were out there, is that area that's covered with gravel, and is kind of in the center of the manure. There are two monitor wells there. I believe the Environment Department has also done some testing of the drinking water wells that serve the Por Su Gracia Subdivision, but there are no specific monitor wells located for instance at the toe of the manure pile or something like that.

COMMISSIONER GONZALES: And should there be? And I'm asking this because I don't know how groundwater can be contaminated. If in this property, I think there's about 300 acres on this property, if there's a monitoring well within those 300 acres, will it detect contamination that's taking place in other parts of the property?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, ideally, you would locate a monitor well immediately down-gradient of the source that you were hoping to monitor. The monitor well that is associated with the discharge permit is not designed to do that. It will eventually pick up contamination from the manure pile, but its location right now, I think would be more likely to monitor a tear in the liner of that pond or something like that.

COMMISSIONER GONZALES: So in the staff's opinion, knowing what we know about what exists out there, which is a combination of manure and garbage, is it

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your, I mean are you capable or prepared to offer some type of recommendation as to whether what exists out there, the manure pile, could lead to groundwater contamination?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, the Environment Department has included the manure piles as part of their discharge permit, which means they view them as a potential source of groundwater contamination, which I think is absolutely true. As to whether or not they will contaminate groundwater is something that needs to be shown.

COMMISSIONER GONZALES: Okay, I apologize. Help me understand what the Environment Department is requiring of them again. You're saying that there's a discharge permit? Has that already been required or is that subject to approval?

MS. YUHAS: No, the discharge permit is already in place and it exists for the entire Downs facility.

COMMISSIONER GONZALES: So that discharge permit requires for monitoring wells to go—

MS. YUHAS: It does not actually require the installation of any new monitoring wells, I don't think, and I don't have it in front of me, so I'm—

COMMISSIONER GONZALES: How does that discharge permit, and this might be for the applicants, how does that discharge permit relate to the manure pile? Everything in the last two months and my discussions with both Pojoaque and the neighborhood community, it is all about this manure pile. The manure pile, it seems to me that it's a make or break on both sides.

MS. YUHAS: Yes.

COMMISSIONER GONZALES: The community says clean it out and we'll accept or we'll work on whatever the uses are. And it sounds like Pojoaque is saying either we're allowed to do it in some type of framework that lets us move it in a timeline that we can deal with it or else we do nothing. So what I'm trying to understand is, specific to this manure pile, how do we know what health issues may potentially exist or environmental issues may exist? How do we get to that point? How do we understand it? Because this is unusual. I don't recall this being the case in any other business development or commercial development we've had in this county where we're trying to address a commercial rezoning and this issue existing. I think both sides have offered advice that conflicts. So given that, how do you make your way through to assure that you treat both sides fairly, given some type of technical data that we can look at or some issue that may be out there to give us some reliance?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, the regulation of a discharge to groundwater, that would cause groundwater contamination, would be handled by the Groundwater Bureau at the Environment Department. For that to happen, what would have to happen is that enough water would have to saturate those manure piles that it would make it down through the manure piles and into groundwater. Or runoff would have to happen from the piles that could then saturate the ground surface and move down into groundwater.

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Because the Environment Department has not said they have to be on a lined pad or something like that, I can only conclude that they do not consider them a huge threat to groundwater.

COMMISSIONER GONZALES: So let me ask this question. This manure pile has been in place for how many years?

MS. YUHAS: Is it correct to say 20? Approximately 20.

MS. ELLIS-GREEN: Twenty, thirty years.

MS. YUHAS: Twenty to thirty.

COMMISSIONER GONZALES: Twenty to thirty years that we've had this large of a manure pile. And thus far, all the data you're saying has been provided to you, whether it's monitoring wells onsite, or wells that are within the proximity to the neighborhood are not showing any evidence that the groundwater is contaminated.

MS. YUHAS: That is correct.

COMMISSIONER GONZALES: So the staff is making a recommendation that there be a five-year requirement to move out this manure and that there be a bond in place. Is there anything in your analysis to suggest that at any given point, on any given day, we will see, or can potentially see contamination take place, or that if we haven't seen it in 30 years, the chances are we won't see it in the next five?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I'd first like to say that I think, because it exists as a potential source, it is probably prudent to move it. Because of the fire danger and all of those things. If I were still at the Environment Department, I'd couch it that way, and I were working on it and I saw that in 30 years it hadn't caused groundwater contamination, I might think that in the next five it would not either.

COMMISSIONER GONZALES: It would not either.

MS. YUHAS: Does that—

COMMISSIONER GONZALES: It would not either?

MS. YUHAS: Correct.

COMMISSIONER GONZALES: So let's just assume that for whatever reason, because we have to ask all these questions, because I think that this is at the forefront of the community's minds, that there is some type of groundwater contamination that would take place. What's the exposure to the community and what's the costs, and what would be the recourse to address that contamination?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, nitrate contamination would be the main concern from a manure pile. Nitrate contamination is extremely costly to treat. If you had nitrate contamination in the groundwater, you'd be looking for another groundwater source. You'd be drilling deeper wells, you'd be trying to hook people up to a community water system.

COMMISSIONER GONZALES: So that's the potential that could exist within the La Cienega community if this water is contaminated?

MS. YUHAS: Absolutely.

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COMMISSIONER GONZALES: Has there been, or is there a venue where issues like this within the state law allow for, or within the County regulations, allow for some type of an environmental assessment? How do we find true data? How do we know as a governing board, as a community, as an applicant, as a property owner, what really exists there and what needs to be done to correct not only the property owner but the community as well? How do you get to that point? Is there an environmental assessment that can be done? Are there some actual tests that can take place that will really tell us the story of what can happen or what potentially could or could not happen?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I believe quite a bit of work of that sort was done as part of the application for the discharge permit and rather than address it myself, if the folks that did that work are here, I'd let them answer what the results were and stuff like that.

COMMISSIONER GONZALES: I think the hydrologist is here from Pojoaque, right? Is that Mr. Lazarus? Can you address that? As to what work the applicant did? What Pojoaque did to make you feel comfortable that you weren't dealing with any type of dangerous situation on the property?

[Duly sworn, Jay Lazarus testified as follows:]

JAY LAZARUS: Jay Lazarus. Glorieta GeoScience, 1723 Second Street, Santa Fe. Mr. Chairman, Commissioner Gonzales, as part of the approval process for the groundwater discharge permit that currently is in place at the facility—

COMMISSIONER GONZALES: Mr. Lazarus, can you just do something basic for me? Can you tell me what a discharge permit is and why you needed it?

MR. LAZARUS: A groundwater discharge permit is required—and this is for non-domestic type of discharge. It's not for septic but other than a septic type or domestic type discharge, a groundwater discharge permit is required of any entity that is going to discharge regulated pollutants onto or below the surface of the ground. The groundwater discharge permit procedure is laid out, generally in section 3100 of the New Mexico Water Quality Control Commission Regulations.

COMMISSIONER GONZALES: So that would be the discharge that goes into the ponds that are in the back, where the wastewater would be treated?

MR. LAZARUS: The existing groundwater discharge permit is for up to 50,000 gallons a day of waste from the grandstand and 1.2 million gallons per day of treated effluent from the City of Santa Fe sewage treatment plant.

COMMISSIONER GONZALES: So you needed to get a discharge permit from the Environment Department to allow these things to take place?

MR. LAZARUS: Yes, and we've had a discharge permit in place from the Environment Department since sometime in the 1980s and we've been working—

COMMISSIONER GONZALES: When was the last time it was updated?

MR. LAZARUS: The last discharge permit approval was granted in December 2000.

COMMISSIONER GONZALES: Okay. Could you tell me what you had to

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do to get that discharge permit? What the Environment Department reviewed? Was this manure pile an issue that was addressed in that discharge permit?

MR. LAZARUS: Yes it was. It was combination of evaluation of the groundwater quality in the monitoring well that Ms. Yuhas described before by the pond, and we performed an onsite investigation looking at the depth of the manure, the interface between the natural soil and the manure that is stacked on top of it, and the soil beneath that. We took very small core samples and analyzed that for a variety of different constituents based on the workplan that we agreed on with the Groundwater Bureau of the Environment Department.

COMMISSIONER GONZALES: So that was required by the Environment Department to submit the data concerning those samples that you took or is that just something you did on your own to see what the issue was?

MR. LAZARUS: That was one of the conditions that we agreed on with the Environment Department, that we would perform these analyses as part of the field investigations to support the discharge plan renewal.

COMMISSIONER GONZALES: So you took samples from the actual manure pile, basically? Is that what you're saying?

MR. LAZARUS: There's samples, some from the manure pile, some at the interface, and some from native soil.

COMMISSIONER GONZALES: And what is it that you were looking at from those examples or what would those examples identify?

MR. LAZARUS: We're looking for nitrogen concentration, dissolved solids and chlorides.

COMMISSIONER GONZALES: So then, based on what you've found, you submitted that to the Environment Department for their review and either concurrence or non-concurrence, I'm assuming. What happens if—I don't understand the process? What happens at the point it goes to the Environment Department and after you've done that do you say, Okay, you've—do they simply say, Okay, you've met the checklist and you've done it, or do they actually do an analysis like we would do a traffic study impact and see if it would have some type of detrimental impact or not and render an opinion as to the information that was given?

MR. LAZARUS: The Groundwater Bureau at the Environment Department does not have a checklist. They treat, fortunately, from a scientific perspective, Commissioner, the Groundwater Bureau treats each discharge site on a site-specific basis and looks at the geologic and hydrologic characteristics of that individual site. So we turn in the results of our field investigation and the Groundwater Bureau was onsite and I don't remember how much you were onsite, Katherine. Some. Both County staff and state staff were on site during the actual field investigations and we turned in the results of our laboratory analyses of the core samples that we took, and based on the Groundwater Bureau's review of those core samples, they concurred with us that the manure piles do not present a threat to groundwater use in the reasonable foreseeable future.

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COMMISSIONER GONZALES: Let me ask you this question, Katherine, working at th Environment Department, or Mr. Lazarus could comment on this as well, is there any other type of environmental assessment that can be done that can offer data as to the potential hazardous impacts of that or is this, in your opinion sufficient enough to determine the threat of the manure pile?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, that is, to my mind, the correct way to investigate whether or not that's a threat to groundwater. It's also the standard way in which manure has been evaluated by the Environment Department in other situations, for instance at some of the large dairies and things like that.

MR. LAZARUS: I agree with Ms. Yuhas.

COMMISSIONER TRUJILLO: Thank you. Any other questions? I have a question. Is there a decay factor involved in the manure that over time dilutes the volatility of the manure? You're saying that it's been there for 20 to 30 years. Is there a decay factor involved that would make that happen?

MR. LAZARUS: The amonia and organic nitrogen are the primary nitrogen constituents in fresh manure. And we have a term called total Kjeldahl nitrogen, which takes in the organic fraction in amonia. That, when it becomes oxidized, converts to nitrate and also some nitrous oxide or nitrogen dioxide, I forget which one right now, will go off as a gas. Given that the piles have been sitting there for 20-some odd years and the ability of a manure to shed water when it rains—in our lingo it's called hydrophobic. Rain hits it, creates a crust, a lot of the water runs off of it rather than infiltrates and moves its way down.

So the decay factor, and I don't know exactly, Commissioner what the decay factor, the type of decay you're looking for but there is a change in the nitrogen species from the organic to the nitrate. But in terms of does that go away, the amount of nitrogen in the pile right now has probably been pretty constant for quite some time.

COMMISSIONER TRUJILLO: So it doesn't go away.

MR. LAZARUS: Correct.

COMMISSIONER TRUJILLO: Thank you. Any other questions?

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER TRUJILLO: Commissioner Sullivan.

COMMISSIONER SULLIVAN: This approval from the state, I didn't see that in the packet. It seems to be a pretty important document and obviously in support of your position representing the applicant. Where is that approval?

MR. LAZARUS: I know that it has been submitted to the County back in December of last year as part of this master plan process, Commissioner. I can go back to my file here and I can get a copy of the approval if you want to see it.

COMMISSIONER SULLIVAN: I would like to see it. Unless it's in the packet and I'm not seeing it, Penny.

COMMISSIONER GONZALES: Can I ask a question while we're doing that, Commissioner Sullivan? Because it goes directly to that point of the discharge

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permit.

COMMISSIONER SULLIVAN: Sure.

COMMISSIONER GONZALES: For properties like the horse park and some of the horse farms that are around Santa Fe County, I know that there's some in Nambe. Are they required—how do we monitor the manure and what it's doing to the property and the impacts?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, manure is not generally regulated by the Environment Department.

COMMISSIONER GONZALES: Is there a reason? Is it because they don't think that it presents a health issue?

MS. YUHAS: In general, it does not. When it is regulated, is for instance a dairy waste where the manure is mixed with a lot of water and you have it in a pond and that creates enough head to move the water that has the manure in it down into groundwater. Just a big pile of manure, in general, is not saturated with enough water to sink down into groundwater.

COMMISSIONER GONZALES: I have one more question on that. I understand that point, but the horse park or some of the other horse farms don't necessarily have the same manure pile that exists at the Downs, meaning there's a mixture of, from what I understand, solid waste and manure. Does the threat lie in the solid waste that's in there or when you talked about there being a potential threat for nitrate, is the nitrate origin going to be from the solid waste that's mixed in with the manure or from the manure?

MS. YUHAS: The source from the nitrate would be from the manure itself. As to whether it would be regulated by the Solid Waste Bureau of the Environment Department. I think they are—

COMMISSIONER GONZALES: You know what I'm saying about there being solid waste inside the manure pile?

MS. YUHAS: I understand exactly what you're saying and the source of the contamination that I've been discussing and that Mr. Lazarus has been discussing was the manure itself.

COMMISSIONER GONZALES: So are we concerned that we're not looking at whatever contamination that the solid waste could be taking place, or no? Or would that have been identified in the discharge permit?

MR. LAZARUS: The property owned by the Pueblo encircles an approximate five-acre—not by the Pueblo but by Pojoaque Pueblo Development Corporation—encircles approximately a three to five-acre former solid waste landfill—

COMMISSIONER GONZALES: Mr. Lazarus, that's not the site I was talking about and I need to defer back to Commissioner Sullivan, which I apologize for, but the point was the actual manure pile that sits there, from what I understand, the actual site of the manure pile has some garbage, some solid waste that is in the same area. Is that true?

MR. LAZARUS: In some places, there is some mixed in it, but it's not the



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dominant characteristic of the pile.

COMMISSIONER GONZALES: Would your discharge permit have identified whether that would be the cause of any contamination issues?

MR. LAZARUS: No, it's not required by the state and nothing we felt was significant enough to address, Commissioner.

COMMISSIONER GONZALES: I'm sorry, Commissioner Sullivan.

Thank you.

COMMISSIONER TRUJILLO: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay, getting back to the letter—

MR. LAZARUS: May I approach?

COMMISSIONER SULLIVAN: I see a letter dated January 24 from the Environment Department which doesn't seem to be the one that would address what you're talking about. This is a long letter and obviously I can't take the Commission's or the public's time to look at it right here now, but this is the letter for your discharge plan renewal. [Exhibit 7]

MR. LAZARUS: That is the letter that authorizes the discharge permit renewal from the Groundwater Bureau with the conditions of approval. That is the approval document, Commissioner.

COMMISSIONER SULLIVAN: Okay. Right. And what they were—correct me if I'm wrong—what they were approving is the use of treated effluent, which you get from the City for use on the lawns, for irrigating the lawn areas, correct?

MR. LAZARUS: That, and the combination of any waste from the grandstands, liquid waste from the grandstands. What we generate onsite and what we have under contract from the City. But the manure, if I may, Commissioner—

COMMISSIONER SULLIVAN: Sure. Go ahead.

MR. LAZARUS: The manure onsite is an unregulated agricultural waste that is not regulated under the New Mexico Solid Waste Act, and it is not regulated under the New Mexico Water Quality Act. The manure itself at this facility is not regulated under any of the enabling legislation for the Solid Waste or Groundwater bureaus.

COMMISSIONER SULLIVAN: Okay. I understood your testimony to be that you took samples in the piles and in the ground and so forth and analyzed those samples for nitrates and chlorides and so forth. Took those to the Environment Department and the Environment Department gave you a letter or approval that they had no concerns about the contamination potential of that pile. Now is this discharge permit that letter that you're referring to?

MR. LAZARUS: Commissioner, I don't know that there's a specific letter saying we're not worried about the contamination potential from the pile, but the granting of this discharge permit such that the Environment Department looks at the plan of operations and what the operator is going to do, and based on all the information submitted, it's their professional opinion that there will not be groundwater contamination resulting from the operations at the property or the manure piles as they exist. And as I

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said before, these are not regulated under any state law. They're an agricultural waste.

COMMISSIONER SULLIVAN: Did they specifically—I don't see just looking through here very quickly and perhaps you can point it out to me and we'll save time for the Commission here. I don't see where they address specifically the manure piles in this discharge permit approval, #DP 265. Is there a sentence in there, Katherine, that I should be looking at? You were shaking your head.

MS. YUHAS: Mr. Chairman, and Jay feel free to jump in. Mr. Chairman, Commissioner Sullivan, the investigation of the manure piles was required as part of the renewal of this permit. If the Environment Department had felt from the soil sampling that was done that something needed to happen with the manure piles to prevent groundwater contamination, then it would be addressed in this permit. Because it's not addressed is the evidence that they don't think it's a problem. Does that clarify?

COMMISSIONER SULLIVAN: But why would they address it at all if, as Mr. Lazarus has indicated, they don't regulate it?

MS. YUHAS: The Environment Department does have the ability to regulate things that are contaminating groundwater. So if you had a manure pile that was causing groundwater contamination, and many people in the community have brought forward their concerns that that may have been occurring, it is the responsibility of the Environment Department to address those concerns. And so that is how they brought this into the renewal of the discharge permit.

COMMISSIONER SULLIVAN: So silence is consent, in other words?

MS. YUHAS: Yes. You can assume that.

COMMISSIONER SULLIVAN: And assuming that to be the case, is there any requirement in here for monitoring of the type that Commissioner Gonzales was alluding to of the manure piles?

MS. YUHAS: I'm going to let Jay address that.

MR. LAZARUS: The monitoring requirements for the discharge permit, Commissioner, are limited to monitoring the monitoring well by the pond. Based on the results of our investigation, based on all of the three onsite monitoring wells, two for the solid waste landfill, this other one for the holding pond, no one sample has ever come up with a nitrogen concentration in excess of Water Quality Control Commission standards. The results of our soils investigation supported that the manure is in fact not a source of contamination to groundwater that the Environment Department is concerned about, and the monitoring program is designed specifically to protect groundwater from the pond area. The Environment Department did not see any evidence of contamination from the manure piles and did not require any monitoring of anything else related to the manure piles.

COMMISSIONER SULLIVAN: Okay, I do see in here, as item 4, and again, I apologize to the Commission because you don't have this document in front of you as a part of the packet, but it says that PPDC shall submit a report to the Groundwater Quality Bureau and it says this report shall be submitted in 30 days of this discharge plan renewal and shall include an estimate of the total acreage of manure stockpile areas on the

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property, a physical and chemical characterization of the stockpile material, analytical results for soil samples obtained during the site investigation, and a site map illustrating sampling locations. And the reason for this condition is to determine whether vertical migration of nitrogen through the soil profile has occurred and to comply with Sections 3.109.c and 4103 of the Water Quality Commission Regulations.

So, and you have a note here that you submitted that on 12/19/00, which is the exact same date of this letter. So when you submitted that, did the Environment Department respond to those results saying that they looked okay to them?

MR. LAZARUS: I don't know the exact sequence of events, but the short answer is yes.

COMMISSIONER SULLIVAN: So is there some additional letter? Because what we've been saying here is by the issuance of this permit, everything is okay with the manure piles, but I see in this permit, which I'm only reading for the first time now, that they required you to submit a report within 30 days of this discharge, which would have been within 30 days of December 19, 2000. So apparently at this discharge plan approval stage, they were requiring additional information on the stockpiles.

MR. LAZARUS: And we submitted it on that date. We worked with the— whenever we perform, whenever we do a groundwater discharge permit, we work with the Environment Department on a regular basis and by the time this discharge plan approval letter gets signed by the Bureau Chief, we've already known what the staff conditions are going to be, the conditions of approval and trying to work all that trough and get that done, just like we would do in this kind of process where we know what the staff recommendations for approval are, prior to a Board such as this making a decision.

COMMISSIONER SULLIVAN: So is that submittal, your submittal of December 19<sup>th</sup>, the contemporaneous time with the same date, is that included in our packet? Do you know? No? Okay. And you're not aware that they ever replied to that report.

MR. LAZARUS: I know that based on my staff's conversations with them, we are in compliance with the discharge permit. We have submitted this information and it has been reviewed by the Environment Department.

COMMISSIONER SULLIVAN: So your assumption would be that if they had any problem with it, they would get back to you.

MR. LAZARUS: That is correct.

COMMISSIONER SULLIVAN: But let's—I just want to establish, Mr. Chairman, that as far as I can tell here, this discharge plan renewal, dated December 19<sup>th</sup> is not a clean bill of health for the manure piles. An additional report was required, but we don't seem to have that information.

MS. YUHAS: Mr. Chairman, Commissioner Sullivan, I've been in touch with the project manager for this at the Groundwater Bureau and they have submitted the report and it was in conformance with what they wanted and they are not concerned that this is a threat to groundwater. The fact that they don't have the letter-

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COMMISSIONER SULLIVAN: Any letter or anything, but on your further investigation of this, at least verbally, they're okay with it.

MS. YUHAS: That is correct.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN DURAN: I have a question. Jay, I heard that it's going to cost \$10 million to remove all that manure if you were required to move it immediately.

MR. LAZARUS: Ten million is high, but it could push seven figures, maybe easily.

CHAIRMAN DURAN: A million?

COMMISSIONER TRUJILLO: I heard two million.

MR. LAZARUS: I wouldn't—a million to two.

CHAIRMAN DURAN: What is the water table in that area?

MR. LAZARUS: Between 45 and 60 feet.

CHAIRMAN DURAN: How much would a well cost? If we required you as a condition of approval to drill a well and then do some testing on that, do a test well, close to the manure pile to insure to this Commission and to the community that—we're willing to step beyond what the state is requiring. We're getting proactive about it and we want the Pueblo to prove to us that there is no groundwater contamination. A well shouldn't cost more than \$5,000.

MR. LAZARUS: With professional services that's correct, but with all due respect, Mr. Chairman, Commissioner Duran, we don't see any evidence of groundwater contamination at the site.

CHAIRMAN DURAN: But that's neither here nor there. We're trying to prove to the community and to ourselves that there is no contamination and I think that requiring you to spend \$5,000 or \$6,000 to prove that to us is a very minimal expense on your part. And I would like for the Commission to consider that. We've been talking about manure for 45 minutes. Why don't we start talking about the project and make that a condition of approval. The bottom line is we're concerned whether or not, if that manure is contaminating the water table. I think that we should find out. I think that should be your obligation to prove to us in the community that you're not contaminating it. I think \$5,000 is peanuts. Commissioner Gonzales, was there something you wanted to say?

COMMISSIONER GONZALES: Just the point is to the follow-up on the report that Katherine is saying, are you saying that they only give verbal remarks or comments on the reports that the Pueblo submitted? They didn't put anything in writing?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I'm not saying that. All I was saying is I had spoken with them and I knew that at this point they were fine with what had been submitted and their concerns had been addressed. And I did not get anything in writing. I'm not saying they didn't give something to the Pueblo to that effect.

COMMISSIONER GONZALES: I would say Mr. Chairman, and I

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appreciate the fact that you want to move us along over this hump, but I think it's important that we establish for the record and for the community at least what the applicant is asserting and what the staff is asserting as it relates to the actual manure pile and its potential for creating some type of groundwater contamination or some type of air quality problem. I'm satisfied, not so much that everything has been done that could be done but I'm satisfied that you at least have answered my questions up to this point. So I'm ready to move on. If you are.

CHAIRMAN DURAN: Actually, is the applicant here? Would you like to say something?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer. What I'd like to do is very quickly clarify what the position is on the part of the Pojoaque Pueblo Development Corporation. And there's two letters that I believe are in your packet, one dated May 8<sup>th</sup> and it's on the Downs letterhead, and then another one that's dated August 10<sup>th</sup> that's on the Pueblo of Pojoaque Legal Department letterhead written by Frank Demolli. [Exhibit 8]

To go to the conditions, just to clarify so we're all on the same page here, I'm going to go through these very quickly. Number one, the applicant agrees with that condition. Number two is regarding the grading and drainage plan, that will be submitted at development plan stage. The applicant agrees to that. Number three deals with landscaping and buffering, and then I have to refer back to the report of the letter of May 8<sup>th</sup> and the PPDC agrees with the staff condition that was imposed prior to the La Cienega Local Development Review Committee action.

Number four has actually been superceded by a new condition that's been imposed by staff and that involves the manure pile and the time for the removal of the manure pile and the need for a financial guarantee. And the PPDC's position on that is they do not have a time frame that they can remove the pile. They do not agree to a financial guarantee. What they have done is they have hired or they have purchased equipment, a front-end loader and a watering truck to make sure that those hot spots that occur on the site, that they deal with those.

I did talk with the Fire Marshal's office to see if they had—because they used to come out on a regular basis to put out fires. According to the Fire Marshal's office they only came out at the very beginning of the year before the equipment was purchased and they have not been out since. So the action that the Pueblo has taken seemed to be effective in terms of controlling some of the hot spots.

On number five, regards to a noise study be submitted per the final plan, they agree to that. Number six, that there be a certain number of special use permits associated with the Downs for particular events. They agree with that. Number seven, that the fence, 24 feet tall, no higher than 24 feet tall be permitted for the driving range. They agree with that.

Number eight, the flea market cannot—and that was superceded by another

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condition that the staff had imposed that actually was from a previous letter that I had written that they be only 20 weekends per year. They do not agree to limiting the number of days of the flea market.

Number nine, on the responsibility for cost for traffic control, they agree to that. Number ten, that a revised traffic plan be submitted with actual data from other localized events. They agree to that. Number eleven, in terms of the hydrology report, the PPDC agrees to continue to work with the County on the extension and discussions regarding the extension of County water to the site.

Number twelve, the well would be registered as a public water supply. They agree with that. Number thirteen, the applicant shall submit a food preparation permit, septic permit, discharge permit. They agree with all that. Number fourteen, the master plan shall be recorded with the County Clerk's office; they agree to that condition.

Number fifteen, the applicant shall submit a driveway permit from the Highway Department prior to final plan approval. They agree with that. Number 16, all existing new lighting shall be shielded and there shall be a lighting analysis for each event. They agree with that.

Number 17, the applicant shall identify fire access lanes, Knox locks and emergency access. They agree with that. Number 18, in terms of the water storage and the monitoring, the fire hydrants having minimum fire flows; they agree with that. Number 19, the structure shall meet current codes and may require a sprinkler system. They agree with that condition.

Twenty, the applicant shall dedicate on lane of main access off County Road 54. They agree with that. Number 21 is compliance with the various state and County review agencies. They agree to that. Number 22, the applicant shall employ security during major events. They agree with that.

Number 23, the applicant shall grant an access easement to the effluent water line to the ditch association. They do not agree to that but they certainly agree to continue to work with the ditch association regarding that matter.

Number four, all activities shall cease by midnight. In addition, mud bog events shall cease by seven. They agree to eliminating mud bogs as an event. In terms of ceasing outdoor activities at midnight or indoor activities, they do not agree to that particular condition.

And Frank Demolli is here, who is the legal representation for the Pojoaque Pueblo Development Corporation and can speak to specifics on the conditions.

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER TRUJILLO: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Question for Jim before Mr. Demolli comes up. We talked about the potential for groundwater contamination. The other issue and Commissioner Gonzales has been out to the site. Commissioner Campos and I have also been out to the site and investigated it, along with Jimmy Rivera, the manager of the Caja del Rio landfill to see what assistance he might be able to give them in dealing with

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this issue.

The other issue is the smell. You've said we're going to put out hot spots, but the adjacent residents say yes, it's been burning and that smells but when the wind comes in a particular direction, that smells too. So that's another environmental issue. Do you have any suggestions, or does the applicant propose anything, or do you have any ideas of what might be reasonable to address the smell issue?

MR. SIEBERT: Just the sheer volume is creating the hot spots and the smell and you'd have to do something about the volume of that mass to deal with the odor problem.

COMMISSIONER SULLIVAN: Would just dealing with the hot spots take care of the odor problem? Or is the sheer volume of the mass still an issue?

MR. SIEBERT: I'm in over my head at that point. I really couldn't tell you that.

COMMISSIONER TRUJILLO: Any other questions of Jim?

COMMISSIONER CAMPOS: I have a quick question.

COMMISSIONER TRUJILLO: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Siebert, would the Pueblo be willing to consider a limitation on the number of people at any time on the site, because of traffic, noise, etc.

MR. SIEBERT: I'd really have to defer that to Mr. Demolli.

COMMISSIONER TRUJILLO: Mr. Demolli, do you have a prepared statement that you want to make?

[Duly sworn, Frank Demolli testified as follows:]

FRANK DEMOLLI: Frank Demolli, general counsel, Pueblo of Pojoaque, 76-C Cities of Gold Road. I have a very short statement from the Governor and Lieutenant Governor, is that the only thing the Pueblo is asking tonight is for a decision, either approve, reject the master plan, or approve it with the conditions that you feel comfortable approving it with. But we would like a decision made. I know how hard it is to sit in these cases, being a judge for the last six years and a judge pro-tem, and that's what we're asking is for a judgement tonight.

We've made everything very clear. We looked at the 30 recommendations and amendments to recommendations by the staff. There is only five that we disagree on at this point and I'll be happy to address any of those five.

CHAIRMAN DURAN: How about a monitoring well?

MR. DEMOLLI: I have no problem whatsoever and neither does the Pueblo, speaking for the Pueblo.

CHAIRMAN DURAN: Great.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Regarding one of the conditions, Mr. Demolli. The five years I find to be too long to find a solution to this and also, I think as

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the chairman brought up earlier, we seem to be missing some mechanism for orderly progress. What would the applicant feel about a shorter time period and that time period indicating progress towards removal of the manure. That is to say, for example, if it were in a two-year period, they would remove 50 percent a year. If they were in a three year period they would remove 1/3 of it each year. Would that work?

MR. DEMOLLI: Mr. Chairman, Commissioner, you have two questions that need to be answered here and I think Commissioner Duran has already answered one of those. As far as the local community, the insinuation that the Pueblo would ever try to hurt the community through pollution is totally incorrect. As a matter of fact it would make most of the Pueblo members extremely angry if they even heard that insinuation. And on behalf of the Pueblo members, I'm here to say that that will never happen. I think a monitoring well is the sanest, most logical step toward proving to the community that there is no pollution.

The second question goes into money. The lowest bid that we have had is \$1 million. It's a little bit over a million dollars, to remove that manure. Without any proof that it is harming anyone, the Pueblo cannot say it is going to spend that money for something that is not harming the community and that has been there for 20, 25 years, and which many people have moved into that community knowing that that was there. So with that, no, we cannot commit to a shorter period of time at this time.

COMMISSIONER SULLIVAN: And you're not in agreement, as I understand it with the five years either.

MR. DEMOLLI: No, we're not. We are also looking for solutions. We thought that WAPACA was the solution and it wasn't. Maybe if the County would allow us to put the manure in the landfill, that is perhaps an accommodation that could be looked at. That's the problem. Where do you put the manure? That is the problem and the money problem.

CHAIRMAN DURAN: And we don't allow manure at the landfill? Is that correct?

COMMISSIONER SULLIVAN: No, I don't think that's correct. We discussed this with Mr. Rivera before. It's not classified as a hazardous material and it is allowed in the landfill.

CHAIRMAN DURAN: Oh, but you wanted it for free.

MR. DEMOLLI: If we can place it there, yes.

COMMISSIONER SULLIVAN: There would be a charge, just like there is to anyone using the landfill.

MR. DEMOLLI: And that's what the problem is on both sides. There's going to be a charge. If we can work out an accommodation, perhaps that's a way to solve both our our problems.

COMMISSIONER SULLIVAN: Well, the landfill is run of course by a joint board of the City and County, so the County can't commit the landfill to not charging someone, just as they would charge anyone for occupying the space in the landfill.



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MR. DEMOLLI: Just as the Pueblo cannot commit to making a million or two million dollar accommodation.

CHAIRMAN DURAN: Well, so if you don't agree to five years, what is it that you do agree to?

MR. DEMOLLI: We don't know. We're trying to come up with a plan. We had hoped that WAPACA would settle this.

CHAIRMAN DURAN: But don't the conditions that have been set out by staff give you a five-year period? Didn't I read that somewhere? Penny?

COMMISSIONER SULLIVAN: That's correct, Mr. Chairman, but in their letter, on the front page of the letter, they disagree with that.

CHAIRMAN DURAN: So if we approved it with this, you'd take it to district court? Is that basically what you would do?

MR. DEMOLLI: Mr. Duran, we've never even thought of that.

CHAIRMAN DURAN: Okay, you're just objecting to it.

MR. DEMOLLI: Yes, we're just objecting. We're not trying to be in an antagonistic position. The Pueblo feels that it's acted in good faith and we want to continue acting in good faith. But we don't know what else to do.

COMMISSIONER GONZALES: Could I ask a few questions?

CHAIRMAN DURAN: Are we ready for public testimony?

COMMISSIONER GONZALES: If I can ask a few questions then I think we're in that area. Let me just ask you a question in terms of the County's request. The applicant shall submit a cost estimate and a financial guarantee. Are you opposed to that as well, or are you in favor of that?

MR. DEMOLLI: We cannot post a financial guarantee at this time.

COMMISSIONER GONZALES: So what's the Pueblo's position if it is determined that the manure pile would cause some type of hazardous or detrimental impact to the community? How would you proposed to address that situation if in that event it occurred? In the event that there is a hazard to the community?

COMMISSIONER GONZALES: Based on the manure pile that's in place on your property.

MR. DEMOLLI: Speculative question. We've been on top of it. We've been doing those monitorings. We haven't found that yet.

COMMISSIONER GONZALES: But if in the event you do find it, how would the Pueblo—surely you've talked about it amongst yourselves in terms of how you would address some type of contamination issue if it had occurred, right?

MR. DEMOLLI: I'll defer.

CHAIRMAN DURAN: I have an idea. Before you answer that, let me just say, what if we required them to have a monitoring well and that's the only way we're going to determine whether or not there's any contamination of the groundwater and if it's determined at some point in time through testing that there is contamination, that we would pull the permit and they would have to shut down until they removed the contamination.

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COMMISSIONER GONZALES: I guess the only—the smell. The stench. Let me just ask a question of Mr. Demolli on that. What happens if the Commission tonight? What's the Pueblo going to do if the Commission tonight either approves with conditions that you don't agree to or denies the request? What's the Pueblo's intention to do with the property?

MR. DEMOLLI: We do not know.

COMMISSIONER GONZALES: But in the event, without an approval, it's basically going to stay the same.

MR. DEMOLLI: Basically, yes.

CHAIRMAN DURAN: Okay. Did you have something to say, Jay?

MR. LAZARUS: Mr. Chairman, Commissioners, I'm tired now, like you guys are and I forgot who asked the question, but if a monitoring well showed contamination on the property from the manure piles, which we doubt would happen, we would be under the state and the Water Quality Control Commission Regulations to perform a hydrogeologic investigation as part of the conditions of approval of the groundwater discharge permit. And perform that investigation and if that investigation showed that there was a potential threat, we'd have to do some type of remediation. So that's what we would be required to do under state law and our groundwater discharge permit.

CHAIRMAN DURAN: The state would require you to cure that problem immediately, correct?

MR. LAZARUS: I'd like to make it clear for the record, this is all hypothetical. That if there were a problem on the site, we would enter into an agreement with the state on how to proceed to characterize the problem and ameliorate the problem.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Lazarus, let me ask one additional what-if? In the discharge plan, it indicates that approval of the discharge plan doesn't relieve you—you being the Pueblo Development Corporation—of the responsibility to comply with any conditions or requirements of the previous discharge plan, other applicable federal, state and/or local laws and regulations, such as zoning requirements and nuisance ordinances. Commissioner Gonzales brought up previously did we have any way to address the smell issues under nuisances ordinances and the response, I believe, the response from the staff was that we don't have a nuisance ordinance.

Suppose the Commission were to adopt a nuisance ordinance that applied not just of course to the Downs of Santa Fe but applied to any facility, the horse park or any other facility. You would then be required to come within the requirements of that nuisance ordinance and if smell was a part of that, would there be any way that you would be able to mitigate that problem, that you can think of? Keeping everything on the property. I understand the position of the Pueblo that they don't want to spend a million dollars to

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move the materials.

MR. LAZARUS: Well, understanding that the Pueblo doesn't want to spend a million dollars to address a problem that isn't there.

COMMISSIONER SULLIVAN: Do you not agree that there is a smell problem there?

MR. LAZARUS: I've been working at that track for 12 years. I don't live there. I work at—I was out there two Fridays ago getting compost for my garden, okay? I didn't smell anything that day. I don't think there's a smell problem based on my experience out there and my experience in other locations. Hey, we're going to be quiet when you people speak and you're going to be quiet when we speak.

CHAIRMAN DURAN: It's okay. Come on, Jay. Address us. You don't live in a barn, either, do you?

MR. LAZARUS: No, I don't but I represent probably on the order of 300,000 milking dairy cows and I'm around a lot of manure, Commissioner.

COMMISSIONER SULLIVAN: So would there be—I'm getting at if there were some way—for example, would watering down work? Would covering work? Would placing another layer of soil, say on top of it?

MR. LAZARUS: Commissioner, the best thing that can be done with this is to recycle it as a resource and the Pueblo is making every attempt they can in a sound economic business framework to try and recycle this resource. It shouldn't be considered a waste to be gotten rid of.

COMMISSIONER SULLIVAN: Because one option that Mr. Rivera from the Caja del Rio landfill brought forward at our meeting out there was dealing with it in place, in situ. And either segregating it and covering it permanently, or other mechanisms. And that might work if we were convinced through monitoring wells that we're not involved in a groundwater contamination, by some covering mechanism, then we've perhaps addressed the smell issue and we can move forward. That's why I was just looking at any possible things that might be less expensive than totally removal of the stockpiles.

MR. LAZARUS: I think capping the piles would be pretty expensive too, Commissioner.

COMMISSIONER SULLIVAN: You think that that would be equally as expensive or very expensive?

MR. LAZARUS: It would be very expensive.

COMMISSIONER SULLIVAN: Okay. So basically, we don't have a solution to the smell problem, if in fact there is a smell problem. In your judgement there's not but in others' there obviously is. Thank you.

CHAIRMAN DURAN: Thank you, Jay. Okay, we're going to go into the public hearing, those who would like to speak in favor of the project please come forward.

[Those wishing to speak on the issue were administered the oath by the County Clerk.]

CHAIRMAN DURAN: And I must insist, this is the second hearing, we've

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generation. There are small kids. Because you know what? We don't having nothing for the kids around here. We don't have nothing for the students around here. In the county, in the city, we don't have nothing for our kids.

So let me let you, at least you're trying to build up something for our young generation to get involved. They don't want to see no graffitti on the street, all over the buildings, in the county or in the city. They're trying to get the kids to go out tehre and do something so they could do something for themselves. They're trying to help them to make a paycheck for themselves, to learn out there to do something. They didn't come over here to argue about the reopening of the track. They just came to tell you in a nice way, could we please reopen? I hope you vote for it tonight.

And these people right away, they have a temper that they want to close everything right away. They want to close the property, they want to close the track. You want to do this. You want to do that. Well, give them a chance. Give those people a chance to see what they can do for the young generation out there to reopen the track. They're trying to make money either way they can, to help anybody. And they're trying to help your own family, trying to develop so they can make a track, a restaurant, a liquor license or whatever they're going to have out there.

And I would like to see the development of the racetrack open because we need something here in Santa Fe. We need something here in the county for the young. What do we do on Sundays and Saturdays? We don't have nothing for nobody. And we would like to see horseracing. We would like to see people from Albuquerque come over here. We'd like to see people from all over the places coming to see your young generation and there are also too that have [inaudible]. They have everything that they're trying to do, at least trying to tell you to reopen, give them a license to reopen the track so they could do good for the young, for the people, so they can help them out. At least with jobs. They will have a lot of jobs out there to help out for the kids that need the help.

There's people that have to work one, two or three jobs to support the families. So I'm here tonight to ask you people, all of you Commissioners that are sitting right there, please give them a chance and give them a reopening of the racetrack to come back. Because I'm not putting nobody down. I'm not putting nobody up in this and that. I'm just trying to help you to say that they want to reopen the track for the people out there, for the County, for the racetrack, so we could see racing at least. Please. There's a lot of people that in the county, in the city, like horseracing.

So I hope that you do approve the note and the letter for reopening. What is the manure going to help you if it smells or whatever? They were already closed. The state has to have a law. Close it right away if it smells real bad. You have to have a law in the books that says if you don't close it and I already told you that you close it, then you're in trouble. But at least, they came in a nice way. They've been sitting over there since 4:00. I seen them. I know some of those people. Please give them a chance to reopen the track so we can have jobs for themselves. They can have jobs for a lot of people that need help. And hope that each and every one of you appreciates what they're going to do, because

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that's going to bring in a lot of money for horseracing. That's going to bring in a lot of money for the young generation and that's going to bring a lot of things in this county and city. So we can all get together and work like a team and help each other. Not be against each other.

Hey. I'm not going to be against Gloria if I said something about her. I'm not going to be against nobody else, but don't argue. Try to get like a team and help each other. That's what we need in the county. That's what we need in the city. We need to help each other and to see what's going on out there. If we're not going to get together and help each other then we're not going to have a good city and we're not going to have a good county. But these people are asking you to please, in a nice way reopen the track.

CHAIRMAN DURAN: Thank you very much.

MR. GRIEGO: Thank you.

CHAIRMAN DURAN: Is there anyone else out there that wants to speak for the proposal?

[Previously sworn, Edward Rivera testified as follows:]

EDWARD RIVERA: My name is Edward Rivera. And I agree with everything this man said. I think he had a lot of good points. I'm really surprised that the manure is such a big deal because these people knew it was there. It's been there for 20, 30 years. The idea of manure police really scares me. I think it's crazy. I think it's my understanding that Pojoaque will get rid of all the new manure. Isn't that right? So they're going to get rid of all the new manure. I don't really see a problem with it.

Lots of cities have racetracks right in the middle of town, and they worked it out. They can do it. They get the tax revenue. And I don't see why Santa Fe can't do that. There's I think four tracks in L.A. New York City, Phoenix. So I think we could work it out. I think it's a real big asset for the County of Santa Fe. Thank you.

CHAIRMAN DURAN: Thank you, sir. Could I have a show of hands again of those that want to speak against the project. Leave your hands up please. About 15 of you.

MS. BUSTAMANTE: There are more individuals that want to speak in favor.

CHAIRMAN DURAN: Well, why don't you come up while I do some basic math here.

[Previously sworn, Gary Roybal testified as follows:]

GARY ROYBAL: Mr. Chairman, Commissioners, my name is Gary Roybal. I live in La Cienega. I've lived there for quite some time. There's a big issue here that you guys are going to really have to look at. There's economic development issues. There's an issue if you guys can't put together a deal, then that manure stays. I don't want my neighbors to have manure piles to look at or to smell. I urge you guys to somehow get together, work this issue out. It's not that big of a deal.

You know the City and the County incorporate every day to accommodate what ever problems surface. I really think that this issue is not that big a deal. I think that you

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guys should really work it out. I have concerns that if you guys don't put it together, the Pueblo is going to go somewhere else. They might sell the water rights to somebody else. Heaven knows what could happen. But I think we're sitting on something that is pretty much a doable deal. Thanks.

CHAIRMAN DURAN: Are you for? Come forward please.

[Previously sworn, Joe Buffalino testified as follows:]

JOE BUFFALINO: My name is Joe Buffalino. I'm from Albuquerque, New Mexico. For the last 25 years, we've been in the entertainment business doing concerts and special events and we've been working with the Santa Fe Downs. We started working with them by organizing a meeting of the New Mexico State Police, Santa Fe County Fire Department operations and EMS, Santa Fe Police, County Sheriff and the Highway Department.

We spoke about a number of things, park 'n' rides and emergency ingress and egress, internal and external security, safety, noise studies and so on. We made a lot of progress in that meeting. Everybody left there enthusiastic about reopening the Downs and working together. By doing these events, this means a lot of jobs, hundreds of dollars for a lot of people in the area and on a seasonal or year-round basis from the standpoint of the economy, this would boost the Santa Fe economy.

To improve the existing structure or infrastructure, this can also have a positive impact on the entire community from a standpoint of the fire insurance rates. Also the Downs has leant itself well to work with a number of different charities. The For the Kids Foundation is being allowed to work with the horses. This is a project for children that are at risk, to learn a trade and it's sponsored by the New Mexico State Police.

In the past, entertainment venues around the country have leant themselves well to have internships and scholarships for the students of that state or that area. The University of New Mexico, New Mexico State and Highlands University have all in the past agreed to house intern credits and degrees seeking hospitality programs. This provides real experience for kids that want to get into the entertainment business and it provides something more than that to the community to where you take the kids from that community and you give them something that they want to do.

We are of the opinion that opening the Downs again would be a positive move for the Santa Fe area and we are looking forward to working with the community for a successful Santa Fe Downs.

CHAIRMAN DURAN: Thank you. For those of you that are going to speak against it, I'm not going to make the people behind you for the other land use cases wait until 12:00. You'll have three minutes and at the end of three minutes, you'll be asked to sit down. Next speaker please.

[Previously sworn, Beverly Garcia testified as follows:]

MS. GARCIA: [Away from microphone] Could we just draw you a map to show you what we're talking about?

CHAIRMAN DURAN: Sure. Why don't you begin while she's drawing.

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MS. GARCIA: There are three sites of contamination there. This is the 1.1-acre permitted solid waste area that was approved by the Environment Department and it has a monitoring well out there. It's the area that has the gravel out there, if you've gone out there. Here is the second, a three to ten-acre site right here that Mr. Lazarus was talking about. These are manure piles. Our main concern, what we're going to be addressing tonight is this 40 to 45-acre site that is not manure but is a garbage dump site. All night long, you've been talking about manure. We're not talking about manure. We're talking about a landfill.

CHAIRMAN DURAN: Is that landfill and dumpsite that you are referencing part of this project?

MS. GARCIA: It's part of the tract, the 300 and some acres that is owned by the same corporation, but which they've never addressed in their development plan.

CHAIRMAN DURAN: The area that you're talking about is owned by Pojoaque Pueblo?

MS. GARCIA: Yes it is. It is part of the same tract. It's part of the 352 acres, or 325 acres. But this is a 45-acre dump site that stands 30 to 40 feet high, has a gravel pit [inaudible] This is where the major hot spots area nd we don't thing that when Mr. Lazarus was talking about the discharge permit, that they were taking soil samples from this 45-acre site. They were taking them from a ten-acre site, according to their own testimony. But when we're talking about our coments to you, we're really talking about this 45-acre site.

CHAIRMAN DURAN: Okay, before you move forward on that, we need some clarification.

COMMISSIONER GONZALES: I'd just like to clarify what Beverly is indicating. Is that 45 acres—because I know she brought this up in the previous public hearing and I know that there's a parcel out there that's maintained and has stayed in the hands of the previous owners. Is that true, Jim or staff?

MR. SIEBERT: Mr. Chairman, Commissioners, that's correct. There's a, I believe it's an approximate seven-acre site, which is not under the ownership of the Pojoaque Pueblo Development Corporation.

COMMISSIONER GONZALES: What's that 45 acres that Ms. Garcia's referencing?

MS. GARCIA: It's actually five acres, four and a half acres, 1.1 acre of it is the solid waste site disposal. This is not owned by the Downs. This is.

COMMISSIONER GONZALES: And that's one that you're referencing that's not owned by the Downs that has monitoring wells on it. Is that right?

MS. GARCIA: This one does.

COMMISSIONER GONZALES: Right. That's the one that's not owned by the Downs.

MS. GARCIA: And then what we're talking about is off over here, and it has a monitoring well. That's what we're talking about, not [inaudible]

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COMMISSIONER GONZALES: So is that 45 acres included?

CHAIRMAN DURAN: Beverly, can you look at this map here in front? So what you're saying is that area right there is where the contamination is, or is it this area here?

MS. GARCIA: It is this area right here.

CHAIRMAN DURAN: Is where you claim there is additional—Jim, what do you say about that claim?

Mr. Chairman, Commissioners, in terms of the content of what's in the manure, we've always stated there's some portion of that is waste material. To what degree, we have no idea.

CHAIRMAN DURAN: So that area right there is the one that's in red on your map, right?

MR. SIEBERT: The area in red on our map is the area that's not under the ownership of the Pojoaque Pueblo Development Corporation.

CHAIRMAN DURAN: Which is that piece there.

MS. GARCIA: This is manure.

CHAIRMAN DURAN: That's manure.

COMMISSIONER GONZALES: Where is that located on the site? On this plan?

CHAIRMAN DURAN: Where is that?

MS. GARCIA: There's part of an arroyo right here. Right in here. There's a line that's around the existing dump fill site. This is the approximate location of the [inaudible] This is the approximate location of the manure.

CHAIRMAN DURAN: Of the manure?

MR. SIEBERT: Yes.

MS. GARCIA: And we're concerned about everything from over here on this way.

MR. SIEBERT: I think this is, correct me if I'm wrong, Beverly, this is the line that is contiguous with Por Su Gracia Subdivision. Maybe that will help.

COMMISSIONER GONZALES: Ms. Garcia is indicating that between that line and the red property that there is a dump right there. Is there concurrence by the staff on that? Just so we make sure that everyone's on the same page?

COMMISSIONER SULLIVAN: Mr. Chairman, Commissioner Gonzales, I think that from looking at it myself out there that there are three distinct areas and the one is the one we're talking about, the five-acre area that's—well I think I can, hopefully I can explain it, that includes the permitted landfill which is not a part of Pojoaque Development Corporation. There's a second large pile, and that pile is primarily manure that they've processed, and they've taken that out of the big pile. And I don't know how many acres it is, whether it's 40 acres or whatever it is. There's one whole area and they've started processing. So they have a second pile, which is more concentrated and is what they have been sifting and transporting to Albuquerque. So that pile, you could call that a manure



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pile if you wanted.

And that's been sifted and is a combination—

COMMISSIONER GONZALES: There's no burning—

COMMISSIONER SULLIVAN: There's no burning that's going on there. That's been composted and processed. Then there's the big surprise pile. And that's what concerns, of course, the residents—

CHAIRMAN DURAN: Where's that located?

COMMISSIONER SULLIVAN: That's the one that Ms. Garcia was pointing to as the big oval adjacent to it.

CHAIRMAN DURAN: Which is right over here? I don't know where that is.

COMMISSIONER SULLIVAN: It's right where she's pointing, to the left of the red. That's right. It's right up against the property line. That pile abuts the property owners, the fence of the residents to the west of the site. And that pile is where there have been fires and there's smouldering and where there's unknown elements below that. But that's the pile that they've been eating away at, so to speak to create the manure pile, the sifted pile. So that's the pile that's the problem of course.

CHAIRMAN DURAN: Which is the biggest pile?

COMMISSIONER SULLIVAN: That is the biggest pile, the problem pile. By way far. By ten times, in comparison.

COMMISSIONER TRUJILLO: Mr. Chairman, I'd like to understand, we're talking about manure, we're talking about solid waste. We're talking about contaminated areas and spontaneous combustion and all of that stuff in that area on each of these maps. Things that the Pojoaque Pueblo did not cause. They did not cause the manure. They did not cause the solid waste. They did not cause any of those things that the community is talking about. The Pojoaque Pueblo today would say, Okay, we don't want to develop this land. We're going to step back. That manure pile stays there. That solid waste stays there. They've come into this process with a perspective of making it a win-win situation. Eventually, that manure pile is going to go away. Eventually, hopefully, that other contamination will be addressed.

What does the community want, if Pojoaque Pueblo steps out?

MS. GARCIA: We'll address that in our presentation, Commissioner. We're prepared to address that.

[Previously sworn, Yvonne Angell testified as follows:]

YVONNE ANGELL: My name is Yvonne Angell and I live at 07 Scarlett Lane. I'm neighbors with this pile. And it does burn and it does smell and when I purchased, and we were building, I purchased all of our permits. None of this was ever disclosed to me. Everyone that I've spoken with, it had never been disclosed to them either. And I have proof here that there is contamination to my well. It is increasing.

The first one is from the Environment Department came out May of 2000 and that reading was a 4.67, nitrate level. Now April of 2001, it was higher at a 5.6. The standard

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for New Mexico is a 10.0 but that also is for a healthy 25 to 30-year old male. Now I have children and I know what these lower levels can do to them and I do not allow them to drink the water. So there is contamination out there and I just wanted to give this to you for a record. And that's a paper to show that there has been contamination. Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman, could I just ask a brief question of the speaker?

COMMISSIONER TRUJILLO: Yes.

COMMISSIONER SULLIVAN: Do you have a septic tank?

MS. ANGELL: Yes, I do and it's below my well.

COMMISSIONER SULLIVAN: Okay. So this indicates you have a contamination level of 4.67 milligrams per liter and the maximum is 10 milligrams per liter that's allowed by the state. But it doesn't indicate, most often, as is in the case up in the Chimayo area, that contamination comes from septic tanks being in close proximity to the well or being overloaded or something. So do we have anything that—this could well have come from your septic tank.

MS. ANGELL: Well, we put it lower than our well, where we were supposed to put it. I purchased a larger septic tank, which was a cemented one, which holds 15,000 gallons or something like this. I took all the precautions for the safety of my children. I didn't want to contaminate. I didn't want to contaminate any more groundwater for Lower La Cienega. I knew that was a big deal with them when we started developing out where we were, and I was just—it's been about two years since I've been out there.

COMMISSIONER SULLIVAN: This is a shared well and there's another residence on this well, right? And does each residence have a septic tank?

MS. ANGELL: Yes.

COMMISSIONER SULLIVAN: And do you know how close are they to the well?

MS. ANGELL: I believe hers is a lot lower than ours also. Our well is right between both of our properties, 2.5-acre sites.

COMMISSIONER SULLIVAN: So this is an indicator that there could be a groundwater problem coming in that area. We don't know that that's in fact a result of the piles on the applicant's property.

MS. ANGELL: Yes. It is a new well. It's a brand new well. It's two years old.

COMMISSIONER SULLIVAN: But the septic tank has been there for quite a while.

MS. ANGELL: No. Also two years.

COMMISSIONER SULLIVAN: It's two years. So you've got contamination in the well from somewhere, but we're not sure whether it's your septic tank or whether it's from the piles on the property.

MS. ANGELL: Yes.

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COMMISSIONER TRUJILLO: Next speaker please.

[Previously sworn, Elaine Cimino testified as follows:]

MS. CIMINO: Good evening. I wanted to first give you a review that a geo-hydrologist Zane Spiegel did of a limited environmental assessment report on the lot that Yvonne and Melissa bought into in the Por Su Gracia that abuts the effluent pond and the manure pile. This was done by Horizon Environmental Southwest in May 7, 1996 and Zane reviewed this report and has a summary and comments that I would like to enter into the record so that you can give this further consideration about how some of the environmental assessments had been done in the past, and what he felt was overlooked, what were the strong points in that assessment and what some of his recommendations are.

I'm not going to go into that because it's late but I want to submit this for the record. It's also on our website on [www.environmentalsafeguards.com](http://www.environmentalsafeguards.com) and so is the history of this problem. So I would like to submit that for the record.

I would also like to submit to you this evening a problem that has arisen over the last couple of months that was just brought to our attention. We have two eye-witness accounts that the effluent is being transported off of the Pojoaque Pueblo Santa Fe Downs property. This is a violation of the NPDS permit and this effluent is not to be transported or sold. We have residents who have seen these trucks in the early morning hours go into the Santa Fe Downs and leave, heading towards the Cerrillos area. We feel as though there's been a violation of this NPDS permit. We have filed a complaint with the New Mexico Environment Department, Groundwater Division, saying that there is a problem.

The trucks were Associated Materials and Asphalt Company. He was taking the water out. Now, this was brought to my attention in the last couple of days. I have called Costy, and I don't know Costy's last name because it's a long name, but I know him as Costy and he runs the wastewater treatment plant for the City of Santa Fe. And I filed a complaint with Costy and he is now informing the Pojoaque Pueblo that they will be losing their effluent contract with the City for illegally allowing the effluent to be transported off of their property. Now, this is a very serious violation of the NPDS permit. I do not know what the Environment Department is going to do about this, but it's serious to transport this.

One of the questions that came up earlier was that why can't we dump this in the landfill? Well, even the City of Santa Fe will dump their sludge into the landfill as long as they can get approval by the Environment Department to do so on an NPDS permit. So that is a possibility that the County should look into, to work with the City and the State Environment Department to see how that NPDS permit is going to be evaluated, especially after this complaint. I think this throws another light on what is really being allowed out there. Who did not know that a large 40,000-gallon tanker would pull in there and pull out with non-potable water and where is it going.

COMMISSIONER TRUJILLO: I think that I can shed some light on that, if it's going anywhere, and I don't know if it's going anywhere, because these are allegations, but if it would be going anywhere, Pojoaque Pueblo has a certified registered

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liquid waste disposal next to the Jacona transfer station. So if it's going anywhere, it would go to this registered, qualified containment for liquid waste. Again, these are allegations.

MS. CIMINO: That's right. Is this well water? Is this effluent? It says non-potable water on the side of the truck. The problem is I asked Costy and I asked Mary Heather Noble this question today, and they said they do not have a permit to remove any water or anything from the Santa Fe Downs property, period. And that if the Pojoaque Pueblo entered into an agreement to sell the water, that too is an illegal operation and the only way that you can get effluent is to go the City, to their effluent distribution line and get the water there. That is the only thing at this point that is legal, and that is what Costy had told me. That is what Mary Heather Noble told me, and I think it's important that you realize that these operations are going on and I needed to bring this to your attention. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Previously sworn, Beverly Garcia testified as follows:]

MS. GARCIA: I know you've limited us to three minutes. I'm going to read half of it, Cindy's going to read half of it so we can try and meet the three minute thing. I had another presentation to make and this woman back here has given me her three minutes, if that's all right with you.

CHAIRMAN DURAN: So how many minutes do you have?

MS. GARCIA: Six, but maybe less. I'm going to try and read fast. I think this will answer a lot of the questions that you've asked tonight. We have here a series of photographs and we'd like to take you through what they mean quickly. Photograph number one is at the west end of the dump site, that area I identified for you a while ago. Photo one depicts one dump hill only that was opened up by a WAPACA operator last September. The black charred area in the center was the result of a fire that happened after the hill was opened and exposed to air. The WAPACA operator thought he was helping out until Fire Department personnel told him how dangerous it was to leave it exposed.

When you go to photo two, it's another view of the same opened dump area. The hill you're looking at is at least 30 feet high. We don't know how far down it extends but some highway aerial photos indicated that deep gravel pits existed here at one time.

You go to photo three, it's another view of the same open hill. This photo is intended to show the limitations that our Fire Department encounters when there's a fire in one of these hills. The pathway that you see in the center is as far in as the fire trucks can navigate without getting into unstable ground and running the risk of losing a fire truck. The fires have to be doused from a distance because the fire trucks can't enter beyond the point shown in this photo.

Photograph four is further west from the series of photos that you've just seen. The grey area that is within the circle is smoke that is emanating from the underground fires that are constantly burning throughout this 40-acre dump site. These kind of puffs of smoke come out from there all the time.

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Photograph five is another photo of smoke puffs rising from the ground. It's that grey area that you see all across that photo.

Photo six is another photo of the smoke puffs but from another angle that is intended to show how high this pile rises. At this location it exceeds 40 feet in height.

Photo seven is another location where there's a deep enough crevice to get a photo of garbage fragments. All the white spots that you see in this photo represent debris in various stages of disintegration. It is intended to show that this is not a case of an occasional sack of garbage being thrown over the fence as some have claimed, but layers and layers and layers of garbage that has been dumped there for a very long time.

Photo eight is a closer and much better look at the garbage fragments and debris within the dump site. If you've ever been to a landfill you will recognize this as one. This is to emphasize that we're not dealing with a case of manure that can be composted. This is serious stuff that should never be composted and transported on to a homesite without first determining its contents. The reason people don't see this when they go to the racetrack is because the owners keep covering it with dirt and throwing grass seed on top of it. It's only when the fire occurs and the dump trucks have to get in there that you'll see what's on the inside of these piles.

Photo nine is more garbage in a crevice that extends deep into the ground. The soils are unstable and if someone walks over this area they could fall deep within. Up to now, surrounding neighbors and the racetrack property owner have been very lucky that no child has wandered into this area and been burned or fallen into one of these deep crevices.

Photo ten is the only remaining evidence that trees and juniper once grew here. Something in this pile is deadly enough to kill off vegetation. As you can see, this juniper is dying and in its last days.

We've show you some other photos in a while but we'll show you that there's no more juniper in this whole area.

Photo eleven is at the extreme western edge of the racetrack property. Here you can see garbage that has worked its way up to the surface again. You can see tires, cans, and other miscellaneous garbage strewn throughout. Each time too much evidence of garbage rises to the surface, racetrack personnel are instructed to cover it with more dirt.

Photo twelve is another view of the western-most of the property. Here you can see the remains of a metal culvert and other miscellaneous debris. This hill extends at least 40 feet high and extends into the adjoining property that is depicted in the next photo.

Photo 13 shows the fence line between the racetrack and the home of an adjoining resident. As you can see, the landfill extends into this resident's property. With the help of an infrared hot spot detector, we learned that the underground fires extend into the area shown in this photo. One hot spot is within 20 feet of the propane tank you see in this photo. We have provided the County and state with this information over and over again, but still this danger persists.

Photo 14 shows the fence line between the racetrack and the adjoining resident's property. You can see some of the garbage on the ground, but the most remarkable thing

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about this photo is that a little boy happened to be playing there the day this photo was taken. Yes, he's playing right in the landfill that extends into his backyard.

Photos 15 and 16—it's your turn; my three minutes are up.

[Previously sworn, Cindy Mursky testified as follows:]

CINDY MURSKY: Photos 15 and 16 is the southside property owner, the Page Family is on the southside of the racetrack. The blue truck in the top of the photo and the camper in the bottom photo on the Page property, and as you can see, the dumping extending into their property. This is something they didn't discover until after they had bought.

Photos 17, 18 and 19, also of the Page Family's property. It's their vegetable garden so you can see just how far the dump site extends. Every place in these photos where you see no evidence of juniper or other native bushes, it is an indicator that the land has been disturbed. The juniper has either died from contaminations in the landfill or has been crushed.

Photo 19 especially shows how vast the landfill is. The reason photo 19 doesn't reveal a lot of surface debris is because the developer of the adjoining subdivision was required to clean this area out before he was given a final plat approval, but the clean out was only topical and if you go down a few feet you will encounter the same degree of garbage as you've seen elsewhere in the dump site.

Photos 20 and 21 show the fence line between the racetrack and other property owners, the barbed wire fence and the No Trespassing signs don't do a lot for esthetics nor does it do much for the property values of the subdivision owners.

And 22 and 23, fence line of the racetrack property and how the landfill extends into the adjoining property owners' lands. You're looking at the land of two different homeowners.

And then photos 24 through 33, those were of, show part of what was dumped on the racetrack property, was in an arroyo and it's trying to re-establish itself in these photos.

This is causing major drainage and erosion problems for the adjoining property owners because the runoff from the racetrack dump site is flowing into the arroyos on adjoining properties.

This series of photos attempt to follow that arroyo away to show you that the contamination is flowing into the La Cienega arroyos that carry water downstream and replenish our underground domestic wells. Cindy Mursky, number 25 Las Estrellas.

MS. GARCIA: If I could just add on that last series of photos, that drainage is from their contaminated area that's coming over into some of the property on the Las Estrellas side, on the south side, and it's also flowing into Por Su Gracia. I already have about a foot deep trench on my property, where this runoff has just really cut deep down into the ground because it's flowing so heavily right now.

COMMISSIONER GONZALES: Mr. Chairman, I was just going to ask real quick if Ms. Garcia could just maybe finish her point on, you said that you had some recommendations on what could happen in light of the fact that if Pojoaque is denied here

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tonight, what options are there available for the community to see some type of relief come from this. Because it's my understanding from the track that they would basically step back and just reassess their situation and determine when they felt it would be appropriate to come back in so at that time—I can't help but think that if we did this five—if they came in five years ago when a lot of this was discovered and people started bringing this issue forward that we'd be five years down the road and ideally, this would be out because that would have been part of the condition of approval.

In your discussion with your neighbors, has it come to, have you created any suggestions in your mind as to what could be done on this to address this immediate issue that is facing the community?

MS. GARCIA: You know, can I still have my three minutes though if I answer that question. We're not here trying to assess blame on Pojoaque for something that may have been done before they owned it. What I know is is that they've owned it approximately five years. But in those five years, I'm told by Fire Department personnel that the fires have been burning for 15 or 17 years. So that tells me Pojoaque Pueblo has owned it for 1/3 of that time. And has done nothing to try and put out the fires in that five-year period.

So I guess considering that Pojoaque Pueblo has environmental scientists in its employ, considering that it has lawyers, considering that it has Mr. Lazarus and Mr. Siebert, and all these experts, I'm finding it kind of hard to believe that Pojoaque Pueblo purchased this land without doing some form of inspection. The hearing that we had in May, we presented to you an indemnification agreement that exists between Pojoaque Pueblo and the previous owner, Santa Fe Racing, Inc.

COMMISSIONER GONZALES: Beverly, can I just ask real quick—

MS. GARCIA: I was just trying to say that they knew something was wrong with the property and just before you—I was trying to answer both your questions, yours and Commissioner Trujillo's, and it just seems to me that they knew that it was contaminated so you don't have a completely innocent party here, yet they didn't do all of what's there.

With regard to your question and to try and answer it more directly, what we want to know is, what are we breathing. Environment Department personnel have told me that sometimes you can and sometimes you cannot smell methane gases, depending on the level and how it's been contained. The level of it and how it's been contained. And they gave me various descriptions that I won't bore you with. So I'm not only concerned with what we're smelling, I'm concerned with what we're not smelling within the air. What is in that air pollution?

COMMISSIONER GONZALES: So my point to that, and I understand where you're going but what I want you to tell me is, I think you believe that the County has some jurisdiction to be able to address—

MS. GARCIA: Oh, yes.

COMMISSIONER GONZALES: --to be able to—

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MS. GARCIA: I think that the County government or City government, first and foremost has basic police protection powers and I think that those police protection powers can be invoked to protect public health and safety, first and foremost. Before all our zoning laws and everything else, we have government to protect property and to protect health and safety. It's our primary purpose as a government. I can't see how if you don't have a specific regulation, how there isn't a heck of a lot of case law where this County could get its legal hook into that case law to give you the basis and the foundation that you need to have this site cleaned up, because it's detrimental to your community. And I just think that you have that basic authority.

I don't know if you're wanting—if I'm answering your question.

COMMISSIONER GONZALES: That answered the question, is that you believe that minus Pojoaque receiving this, that you believe that the County has the authority to go in—

MS. GARCIA: Yes, sir, I really sincerely believe that. In addition to that, there are additional levels of authority, statutory authority and case law authority, that is vested in the State Environment Department and where you get to the scope of what your local authority, you can ask for their help. I have been in frequent communication with the Environment Department since the last meeting in May. Peter Maggiore, the Secretary of the Health Department, told me, after meeting with various people there, that the ball had been dropped on this case. That a lot of people had done a lot of work, and there's one woman now, her name is Diana Naranjo, who's a planner there, who's working directly for the Secretary's office right now, who has authority to bring all of these reports together from Air Quality, from Solid Waste and from Groundwater. They haven't brought it together and they haven't done a composite assessment of this site.

To talk about the wastewater permit is an isolated thing without considering it in conjunction with all these other concerns we're talking about, to me isn't addressing the problem in a comprehensive way. She gave each one of them an August 1 deadline to submit all their reports, a comprehensive summary of how they viewed it. From there, they're going to contact County staff and I understand from Penny Ellis that they've already initiated that contact with her, for the County and them together to go out there to this site and do a field assessment.

From that field assessment, then they're going to try and put together a report to determine how an environmental assessment can be made of this site, for air, so we know what we're breathing, for what's really down in those piles, and for what the level of contamination is in those things and what the real drainage problems are, especially on the side coming into our property that the Environment Department didn't even know about.

In a nutshell, that's where I think this County out to be going is first knowing what the true facts are before you make a decision either way. I guess my position is, I don't believe that the County ought to say, Yes, we're going to approve it under these conditions when you don't even understand yet—and I don't know either—what the extent of the contamination is there. To me, the significance of what Yvonne Angell presented to you



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here a few minutes ago is whole number, one whole level of nitrate increase has occurred in her well. No one can prove where that comes from. But that is a significant increase within a one year's period of time in anyone's well.

And to me, it's the only first little scientific evidence that we have. Everybody's asking for this, yet we all know how slowly contamination occurs in a groundwater system. A plume of contamination can take a good 20 years, I understand to travel like ten feet, I've heard testified to in the past. I'm talking about mining waste now, and I've heard these in hearings at the Environment Department. So those plumes of contamination when they start are very slow, but once they get in there they can't be removed as far as I know.

COMMISSIONER TRUJILLO: Beverly, Mr. Chairman. I'm perplexed. You're talking about this ubiquitous bureaucratic process of working with EID and all these agencies to find out what the contamination is all about. That's going to take not five years, not ten years, but twenty years. In the meantime—

MS. GARCIA: I think this could be done in three months.

COMMISSIONER TRUJILLO: In the meantime, the contamination continues. Pojoaque Pueblo has agreed to clean it up in five years.

MS. GARCIA: No, they haven't. They said they wouldn't do it in five years.

COMMISSIONER TRUJILLO: In three months—we've been talking about this for the last two years. You guys have brought it up to this Commission, to EID, to every other agency in the state, and nothing has even started.

MS. GARCIA: That's right and that's what we're concerned about is that another five years will go by, and still nothing will happen. And we're still breathing that same stuff. And it's not going to happen unless somebody takes some kind of assertive action to make it be done. It's not going to happen on its own, but as far as I know, no one is leading that parade and we're looking to you as our local government to say, Wait a minute. If Pojoaque Pueblo bought a pig in a poke, and maybe they did, then I don't see how it is this Commission's job to turn into that white elephant into a cash cow.

I don't get that thinking and I don't think that economic development comes before our health.

COMMISSIONER TRUJILLO: I think that's a total fallacy—

MS. GARCIA: Fallacy?

COMMISSIONER TRUJILLO: And that's why I agree with that gentleman that says we need to make this a win-win situation. We have the opportunity tonight—

MS. GARCIA: If they clean up that land—

COMMISSIONER TRUJILLO: --to address the land, to address the contamination, to clean it up for the benefit of the community. We have that opportunity. If Pojoaque Pueblo steps back, who knows how long that pile of manure and solid waste will stay there.

MS. GARCIA: I think that the County should invoke its authority and make

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them clean it up.

COMMISSIONER TRUJILLO: You can talk about I believe and I believe and I believe, but who's going to come up with the \$2 million to clean that area?

MS. GARCIA: It should be them and the people that signed the indemnification agreement with them in my opinion, if you're asking me.

COMMISSIONER TRUJILLO: What if they step back? Who's going to come up with the \$2 million to clean up that area?

MS. GARCIA: I think that there are environmental laws and there are certain laws that you as a County can invoke if you really want to do it, to make them do it.

COMMISSIONER TRUJILLO: Chris, tell me about those environmental laws and everything that we can use to mandate the clean-up. What can we do?

MR. GRAESER: Mr. Chairman, Commissioner Trujillo, as we discussed before, we've investigated this pretty thoroughly. I personally investigated it. I have not found any County ordinances or state laws that I can employ to require a clean-up. I am open to being told but I have not been able to find any.

COMMISSIONER TRUJILLO: There you go.

MS. GARCIA: You know, I just have to say that I—there are levels of legal research. That's all I can tell you and I've done legal research for at least 20 years of my life and I can tell you that there is case law out there. I mean, I guess my feeling was that your people would do that kind of research. I respect that you're representing your constituency, Commissioner Trujillo, I do respect that. But I have to protect my home too, and I think that, I guess I feel that this Commission has a duty first to the people that live in this community and not to the economic development of a gambling establishment in our community. And I've gone far beyond and I didn't even address what I was going to say again. If I could just touch on two or three points.

CHAIRMAN DURAN: You've been there for 20 minutes.

COMMISSIONER TRUJILLO: This is beyond constituency. This is about what's fair and what's right for the community, regardless of constituency.

MS. GARCIA: I can't agree with you, Commissioner. I'm sorry.

CHAIRMAN DURAN: Next speaker please.

[Previously sworn, Angela Martinez testified as follows:]

MS. MARTINEZ: Hi, my name is Angela Martinez. There's one thing that we're talking about, agreements and agreements, what Pojoaque is agreeing to do after it gets approved. There's one thing that they've agreed to do with the state, and they haven't done it in over five years and that's paying taxes off of their casinos. If they can't even do that, make that agreement, how are they going to go through with these agreements that are a lot smaller agreements, agreeing to take all the waste out and stuff. They haven't paid these taxes and it's millions and millions of dollars. They're one of the only casinos that have not agreed, I believe, to do this. And I think it's pretty said.

This is a state—they agreed with the state to do this and they haven't even done

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that. And here they're agreeing to do minor things compared to that and are they going to go through with these agreements? And I just wanted to make that point.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Previously sworn, Gina Torrecelli testified as follows:]

GINA TORRECELLI: Good evening. My name is Gina Torrecelli and I would like to ask you this evening to not approve this—it's very late—not to approve this evening. Not to be pushed against the wall by Pojoaque Pueblo. What we have here at the very least is a potential serious health risk to this community and I think that this needs to be addressed and needs to be addressed before this approval is granted.

I also think that we're sorely in need of a nuisance ordinance in this county and that should be addressed right away. It's not just manure piles but it's any kind of fumes and this is pretty basic ordinance. And I think that we need a nuisance ordinance and we need to have it enforced, and I think that once you do that, you'll find that the fines can take care of removal of lots of this type of thing.

Also, and not to be redundant, because I'm sure the health and safety issues of this will be further discussed, but at the last hearing I had asked that circuses be removed from the potential use of the Santa Fe Downs and in the event that this evening you decide to approve this with conditions or in any way, I would like please to, at the present time, remove circuses as a potential use, especially since the City of Santa Fe is in the process of trying to define a more humane circuses for the animal rights community and also because there are serious safety issues and I'm afraid that if you leave circuses in there, that if you do grant this to Pojoaque Pueblo that these fly-by-night circuses, instead of going to Santa Fe will be out at the Downs. And that would be a really sad thing for the exotic animals and the kids who have to look at these abused beings.

So please, again, tonight, don't be hasty. Let's look into all these things that have been discussed and let's postpone decision on this approval. Thank you.

CHAIRMAN DURAN: Next speaker.

[Previously sworn, Henry Pacheco testified as follows:]

HENRY PACHECO: Henry Pacheco. I live at 77-A Las Estrellas. Good evening, Commissioners, Mr. Chairman. I attended the last meeting that was here and one of the things I kind of misunderstood Mr. Siebert and what he was saying is that they were planning on removing the compost piles. The compost piles are near the stalls. And that's a very far distance away from the residents' homes and that area. The problem is is that the fires that are igniting, that I have reported so many times are about 400 to 500 feet around neighboring residents. That's where the problem is.

So I don't know exactly what Mr. Siebert is saying in terms of what he's planning to remove. Is it just those piles, or is it the real threat to neighboring residents. I've been reporting fires for years. My neighbors have been reporting fires for years. They're not just little hot spots, gentlemen. They're fires and fires are unpredictable. There was one time that I got off of work. It was about 12:00 midnight because I worked the 3:00 to 11:00 shift one time. And I called the Fire Department, the La Cienega Fire Department

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to report the fire and what they told me was that that fire was already reported from the tower at the airport. They had reported that fire before I did.

Those fires have been springing up there, and where's the ordinance for that? Why isn't anybody enforcing it? Why hasn't anybody enforced the fire situation? We've talked about compost piles and the smell of it, but nobody has addressed the safety issue of fires to the neighboring residents. And that is my problem with this institution, is that they don't care. They don't care. And if you don't help us out, who will.

CHAIRMAN DURAN: You have one minute, sir.

MR. PACHECO: That's all I have. Thank you.

CHAIRMAN DURAN: Thank you.

[Previously sworn, Gloria Mendoza testified as follows:]

MS. MENDOZA: One of the problems I have about them checking this, the Environment Department, what they've said about this area, is that I don't really trust the Environment Department. And I'll tell you why. For decades, they did not force the City of Santa Fe to come into compliance with the effluent that they were throwing out. And at that time, even Santa Fe Downs was using it. They were watering everything over there. And they were not in compliance with EPA standards and I think there were three to four wells, right along the river, that were totally contaminated.

So I think the Environment Department has not really paid out to the people of New Mexico because I don't think they've really done their job in really making these non-compliant issues going around. They haven't really done anything about it. So what the City of Santa Fe did, and I think it was a good idea, was to put a well, a test well. However, I think that an independent company should monitor that well and it should not be monitored by the Pueblo or by the County or EID. I think it should be independently monitored and then whatever comes of that, be sent to EID.

And the last thing I want to say is todo se viene pa' atrás. And so here goes. I would ask that if—and I don't know that there is—if there is any Commissioner here who has received campaign donations from Pojoaque Pueblo, that you recuse yourself from voting on this issue. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Previously sworn, Delfinia Ulibarri testified as follows:]

DELFINIA ULIBARRI: I'm Delfinia Ulibarri and I live in La Cienega. Mr. Chairman and all Commissioners, I am asking you to please, and I mean it, not to pass this development at this time. They should clean—until they clean up the mess that's there now. What guarantee do we have that they will clean up once you pass it? Remember, this Pueblo is one that has not paid up their taxes to the state of New Mexico. And it's not only manure in those piles. Who knows what's in there? We want it removed now. Not covered up like they have been doing. I thank you. That's it.

CHAIRMAN DURAN: Thank you. Next speaker please. Remember, sir that you have three minutes.

[Previously sworn, Leif Johnson testified as follows:]

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LEIF JOHNSON: Hello, my name is Leif Johnson. I live in La Cieneguilla. First off, I want to say I'm kind of disappointed to see the mud bog go because I kind of like the image of them taking our precious water and spraying it down on the ground in order to make a place the pull the tractors around in. I think it really symbolizes the sort of contempt the the Pojoaque business people have for the community of La Cienega. And I'm going to let you know that the bad faith under which they have organized this program, there's going to be a lot of complaints.

The manure thing is the tip of the iceberg. There's also the noise, the stench, the gambling, the crowds, and my personal favorite which is the alcohol. They've got rock concerts, they've got truck pulls, they've got gambling. This is in a residential community with kids all over the place. It's going to be drunk driving headquarters.

So there's a lot of issues on the table here and my opinion is that you don't need to tarnish your reputations by further humoring Pojoaque's, in my opinion, repellant plan. Tonight, their lawyer asked you very specifically and in very black and white terms, he said what he wanted from you tonight was for you to accept or reject their plan. No in between. Accept or reject. My opinion is that gives you an easy way out. Okay? Reject the plan. Something better will come along. You may not know exactly what it is now, but there will be other buyers for this property. Okay? Thank you.

CHAIRMAN DURAN: Next speaker please.

[Previously sworn, Mike Mulligan testified as follows:]

MIKE MULLIGAN: Mr. Chairman, members of the Commission. My name is Mike Mulligan. I live on Las Estrellas. I'd like to first thank you for taking the time to study this issue and for the Commissioners who have gone out there to actually visit the site. My biggest concern is the fumes that we're breathing every night. We've got people that live in the community that can't even open their windows because—and I don't know if you've been to a dump.

In the old days, they used to have just open dumps, and they burned continuously. And when I go home at night, the first time I smelled this smell, I knew exactly what it was because I had been to these open dumps when I was a kid. And I thought somebody was burning trash in their backyard. It turns out in fact that it's these underground fires that are burning. And I think it's much more than manure that's burning. And I think it's a serious health threat and we're appealing to you to take whatever steps we can to address and remedy this situation because frankly, we don't know what's under there and we don't know what's burning.

The horseracing, I think would be a great thing for the track, speaking personally. I don't think we need another casino in the area. I don't think we need a constant circus presence out there with the traffic and the noise and the things going until midnight with no limits on the number of events that could be held. But thank you for your attention in this matter and we hope that we can come to some resolution on this. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Previously sworn, Lisa Barela Baca testified as follows:]

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LISA BARELA BACA: Hi, my name is Lisa Barela Baca and I live at 65-A2 Las Estrellas. An overarching issue here is the chief responsibility, the sworn duty of the Commission is to respond to the needs, health, safety and well-being of its constituents, first and foremost, before it even begins to consider even the most noble economic development schemes.

The racetrack area is a long way from being ready to start any development of any kind. You cannot approve development in a setting that does not have an adequate and ongoing supply of water. The Commission should not proceed even one inch down what could prove to be a very slippery slope until there is an absolute assurance of an adequate supply of water. Hasn't the County already promised its limited water supply to Rancho Viejo? Where is still more water going to come from for such an amount of development as the Pueblo now proposes?

And for sure, the current and future requirements of present residents must be given first consideration. Because of the overwhelming presence of animal waste and other garbage, the Commission should not even be thinking about developing unless and until it is all cleaned up. The Commission should have attended to this matter a long time ago and not let clean-up be contingent upon the adoption of a development plan. The Pueblo owns that property and is responsible for its clean-up, even without approval of further development. If the Commission wants to really rise to the occasion, it should stop everything now using its own police powers as well as enlisting every possible state and federal resource to get that place cleaned up. Enough is enough.

And any responsible governing body should clearly see that duty. No talk of development until the site meets acceptable standards. The Commission should have on its agenda the clean-up now, development plans later, much later. Would anyone believe that the Pueblo is ever going to address this urgent issue after its expansion plans are approved?

Come on. The Pueblo is already in violation of the law with regard to compliance with the compact it signed to pay a portion of its gambling revenue to the state. And now the Attorney General must bring in court to force that compliance. The didn't honor a compact they signed. What makes anyone believe they would honor any pledge they make to this County. They have already shown their colors.

It may seem a noble undertaking of the Santa Fe County Commission to approve a development plan to boost the fortunes of a fellow governmental entity that is situated within its borders. However, if such approval is against the interests of already incumbent residents, then it must be denied. The Pueblo's so-called sovereignty is effective only within its own borders. Outside the boundaries, the Pueblo enjoys no higher standing than any other entity seeking Commission action and most certainly the interests of those already residing in the vicinity of this proposed development must come first. I'm almost done.

Even if the racetrack area was cleaned up of all mountains of manure and other waste, it should not be considered as a site for the huge circus it portrays as economic development. Can't the Commission visualize the enormous impact of an operation

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requiring thousands of additional parking spaces? I'm sure the Commission can see that there are not enough roads to provide adequate ingress and egress to an amphitheater holding 12,000 people. What about the attendant bright lights, noise or air pollution? How can this Commission even think about such drastic diminishment of lifestyle of the folk already living here? Thank you.

CHAIRMAN DURAN: Thank you. Are there any other speakers.

MR. GRIEGO: Hey, Paul. Can I say something?

CHAIRMAN DURAN: Sure.

MR. GRIEGO: Thank you. I just want to say something to the people out here too that were speaking, that are speaking against it. You know, it's not the racehorse commission that it was her fault that they're trying to reopen the track. And it's not their fault that it happened with the manure. They should have checked it a long time ago. They had complaints. Whoever moved in to the property out there. They should have checked it a long, long time ago.

It's not the people that's reopening the track, the manager that wants to reopen. It's not his fault. So I see it tonight, Paul, in a nice way, for you and Javier and Mark and all of you tonight, think about it. Because you know what? That man that spoke with me. I don't even know the guy but he knows me, about it's going to bring things for the young generation. It's going to bring a volunteer to help raise money for the kids that don't have scholarships. It's going to bring a lot of stuff for the county. It's going to bring jobs. It's going to bring this and that.

These people that are complaining about it, that they want it to reopen. Well, I could take you over there and show you the track when it reopened in the 1970s and I have a bunch of photos, and next time that we have a hearing on this I'll bring you a bunch of pictures that I brought that I took of horseracing, I took of the young kids—

CHAIRMAN DURAN: You need to wrap it up, Charlie.

MR. GRIEGO: Okay. Having a good time out there. But I hope that you people realize that the racetrack, reopening the racetrack is going to help a lot of young generation out there and help the people and I hope that you reopen the track for the public out there and for a lot of people who like horseracing. Thank you.

CHAIRMAN DURAN: Thank you, Charlie. For discussion, I'd like to make a motion.

COMMISSIONER GONZALES: Are you done with the public hearing?

CHAIRMAN DURAN: The public hearing's over.

COMMISSIONER GONZALES: I think these two gentleman want to speak.

CHAIRMAN DURAN: Oh, excuse me. I apologize.

[Previously sworn, Ernest Holmes testified as follows:]

ERNEST HOLMES: My name is Ernest Holmes and I was already sworn in. Mr. Chairman, Commissioners, I don't think any of us wants to be here tonight. If it wasn't an important issue that we're concerned with, we wouldn't be here. But as earlier

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in the day, this evening, there was a lot of people that were going to speak against the opening of the racetrack as it I proposed now. There are a lot things—our main thing is—let me ask you this question. Put yourself in our shoes.

We're not talking about things that are not important to us. We're talking about our health. We're talking about life. We're talking about—I'm very concerned about the health of my wife, my children, my neighbors, and that's exactly what they're concerned with too. They're concerned about their own children, their health.

The smell that we're getting from there is something that happens every day. In the daytime they cover it so it doesn't smell in the daytime. But you go there in the evenings and there's nobody at the racetrack in the evenings to cover it up. I think it was Commissioner Sullivan asked a question, how can we rectify this situation of the smell, the stench. Well, they do a good job in the daytime when they cover it but not in the evenings and that's when we get most of the smell. It's in the evenings.

But that's only a tape on the cancer. It doesn't solve the problem that's really there. But I hope that you won't consider the statement that the gentleman, the attorney for the Pueblo gave you an ultimatum, either you approve it or disapprove it. It to me it sounded like, Hey, you do it now. It sounded kind of like a threat to me. And I think another question was asked, What would happen if we don't approve it?

Well, believe me, we're going to try everything in every way that we can to rectify the situation whether we have to go through legal maneuvering. We're trying to go, first of all through our elected representatives. You, the Commission that represents the community, to help us in this situation. But I don't know to what extent this young attorney, as far as not finding any laws, because there are a lot of laws, but you have to do a lot of research. Sometimes research is not just on the surface. If you only looked at the County situation, I think you're not going to find it there, or state, but for a lot of research. You can do a lot, and I can speak by experience because I was in law enforcement for 25 years.

CHAIRMAN DURAN: You have 15 seconds sir.

MR. HOLMES: Thank you very much. But what I'm asking you is don't put money over health and life please. Don't consider economics more important than the life and health of the community. Thank you very much.

CHAIRMAN DURAN: Next speaker please.

[Previously sworn, Louie Martinez testified as follows:]

LOUIE MARTINEZ: My name is Louie Martinez and I live at 04 South Paseo de Angel. I believe we have talked about clean-up, noise, traffic, and the smell. I think the biggest issue is everybody's pointing the finger at everybody and nobody wants to take responsibility for this. Charlie just stated that this thing started in the 1970s when they opened the racetrack. Okay, where were the Commissioners in 1970, the state, the Environmental and so forth like this? How come they didn't follow procedures? That's where it all started at. But nobody cared.

Nobody lived out there then. But now that they've sold these properties and they



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told us that it was okay. When I bought that property over there, nobody told me there was a fire going on. Nobody ever told me that there was manure, there was smell or anything like that. I haven't been finding out about this until here lately and so forth after I moved and bought out there. But the problem is, gentlemen, the Tesuque [sic] Pueblo they say, Okay. Commissioner Trujillo had a great point there. It's not the Pueblo's problem. They bought it the way it is.

Great. It's not the Pueblo's problem. Whose problem was it to begin with? The state? Environmental? Or the Commissioners at that time? Somebody would have to be paying for it because somebody didn't follow up on it. But we're faced with a problem now. Who's going to take care of it? Just because Tesuque [sic] doesn't want to clean it up, are we supposed to live with a health hazard out there? Somebody somewhere along the line, gentlemen, has got to pick up the ball from here.

We can't blame you because you were not Commissioners at that time. We cannot blame a lot of the people at Environmental or the state or so forth like this because probably there not around any more. But from here on out, it don't make a darn if it's Tesuque [sic] Pueblo, the County, the state, or something. We've got to do something to clean up that mess. And it's not going to be done by pointing fingers at one another and start with this arguing and bickering about all of that stuff and so forth like this. The place has got to be safe so that everybody can live out there. Thank you very much.

CHAIRMAN DURAN: Thank you, sir. Is there any other speakers? Well, I would like to make a motion so that we can have some discussion and put this thing to rest. I would like to make a couple, I would like to add a condition to the approval, and that is that the Pueblo drills a test well at a site to be determined by staff and it will be used to monitor the aquifer to ensure that there's no contamination. I would like for this Commission to try to work through our Solid Waste with the City to work out some kind of program that would allow the Pueblo to bring that manure out to the site, hopefully at no cost, let's start with that. And then I would like to make a motion to approve with my amendments, with one other condition, and that is that within two years the manure is removed and within one year, half of it is gone, and this approval will be for a two-year period. If it's not removed in two years, this is a temporary approval of the use. If they don't remove the manure in that two year period then they lose their approval and the property goes back to what it is right now.

COMMISSIONER TRUJILLO: Mr. Chairman, I think we need to understand what the extent of the effort is to remove the manure. It's not realistic to even remove it in two years. I would amend that to remove it as soon as possible, based on a reasonable plan that the Pueblo provides to Santa Fe County. Because to say two years we might be telling them it's disapproved because it's not reasonable.

I would like to see a reasonable time period in there.

CHAIRMAN DURAN: I think two years is reasonable. My motion stands as I stated it. If there's not a second then it will die.

COMMISSIONER SULLIVAN: Mr. Chairman, I'll second it for

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discussion.

COMMISSIONER GONZALES: Discussion.

CHAIRMAN DURAN: For discussion, Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think whether it's two or five years, if it is two years, there is a provision, and I assume your motion is to include staff conditions.

CHAIRMAN DURAN: Yes.

COMMISSIONER SULLIVAN: Okay. Just for clarification. There is a provision in the staff recommended condition four which does permit the extension of this time frame by the BCC. So if there plan was unacceptable and their progress was unacceptable, I'm just addressing Commissioner Trujillo's concerns, I think the Commission has the flexibility to revisit that. So I would be in support of that particular clause. I would add one—well, I wrote down some language about the monitoring well. Let me just read it and see if it meets with what you had in mind.

I was suggesting as a condition 26. An appropriately located manure/trash piles monitoring well, approved by the County Hydrologist, shall be installed by the applicant within 90 days of master plan approval with quarterly reports to be submitted to the County Hydrologist. Is that—

CHAIRMAN DURAN: That's fine with me.

COMMISSIONER SULLIVAN: Does that sound reasonable? The only other issue I would—

CHAIRMAN DURAN: What happens if the test though proves that there is contamination taking place?

COMMISSIONER SULLIVAN: Well, I guess we address that at the development plan review.

CHAIRMAN DURAN: We would actually turn that information over to the state, or let the state deal with it. Is that correct?

COMMISSIONER SULLIVAN: It would be a part of the discharge permit.

MS. YUHAS: I'm sorry I missed that because Tom was saying something. Could you repeat it.

COMMISSIONER SULLIVAN: What did you miss? You can't tell us what you missed, right? Because you missed it.

MS. YUHAS: Exactly. I think I missed just the very last part of what would happen if contamination was in the monitoring well.

CHAIRMAN DURAN: We would send that information to the state and let them follow through with any remedial requirements that they might have.

MS. YUHAS: Mr. Chairman, Commissioner Sullivan, that's just how I had proposed that it be addressed in the additional conditions that I had written to go with the monitoring well. If it would be okay, there are a couple more that I'd like to add in to go with the monitoring well. When you're done with it.

CHAIRMAN DURAN: Is that all you had?

COMMISSIONER SULLIVAN: That's all I had about the monitoring well.

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CHAIRMAN DURAN: Okay. Let's let her pipe in on the monitoring well.

MS. YUHAS: Just quickly, I'd like to add what is going to be monitored from the monitoring well—nitrate as nitrogen, total Kjeldahl nitrogen, chloride, and total dissolved solids. I had monitoring results being reported to me quarterly. The County Hydrologist shall be notified five days prior to each groundwater sampling event so that the County can participate in the sampling if they so choose. Your condition about if the monitoring well showed that there was contamination, that we would contact the Environment Department for enforcement. And finally, that groundwater monitoring would continue for two years after removal of all manure from the site.

CHAIRMAN DURAN: Okay. So Commissioner Sullivan, my understanding is that what we're going to do is change number 4 to say two years rather than five, and if at the time two years is up, they haven't removed it, they would have to come to this Commission to show just cause why they haven't.

COMMISSIONER SULLIVAN: Well, it's your motion, Mr. Chairman, but that would be the easy way to do it. Now, you had added a provision that they be 50 percent completed within a year. I don't know if you're still proposing that as well.

CHAIRMAN DURAN: Well, at this point I would like to stay with that, unless someone has a different idea or can convince me of something otherwise.

COMMISSIONER SULLIVAN: The only other conditions that I would throw out for consideration are that the preliminary and final development plan submittals be returned to the BCC for approval. I think generally they wouldn't. And to staff condition 24, which states all activities shall cease by midnight, I would say all outside activities and events shall cease by midnight.

CHAIRMAN DURAN: I'll accept those as friendly amendments.

COMMISSIONER TRUJILLO: I'd just like to say something regarding the conditions. I was talking to Commissioner Gonzales and he was telling me that the community is representing some solid positions and he likes that the community has their own direction. My concern is that if we start including, incorporating all these conditions, it would seem that we are castigating Pojoaque Pueblo for something that was beyond their control and at that point, we would be alienating the Pueblo and nothing would be done in the community and both sides would lose. The community would lose because the manure would continue to be there. The solid waste would stay and in the next twenty years you'd continue to be breathing the methane or whatever you're breathing and nobody would win in that situation.

COMMISSIONER GONZALES: Mr. Chairman, I just have a question and I apologize, I'm wondering why the Fire Marshal is not here to answer this especially—is the Fire Marshal here to answer questions concerning this? I'm looking at his report and Mr. Pacheco stated tonight, and I know for a fact because I have talked to him in the past plenty of times as to these fires that keep breaking out. It seems to me that's a safety issue that would compel the County to require Pojoaque to act and address the combustion and the fires. Has that happened or has that taken place?

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MS. ELLIS-GREEN: xm, Commissioner Gonzales, the Fire Marshal has stated he believes it's a public safety issue.

COMMISSIONER GONZALES: But I'm looking at his report here and his report basically states that he's supporting the master plan with the conditions that he attached.

MS. ELLIS-GREEN: Commissioner Gonzales, he does also state that all existing fire hazard materials, including the landfill and the manure need to be removed.

COMMISSIONER GONZALES: Okay, tell me where that is. Is that under hazardous materials?

MS. ELLIS-GREEN: Yes.

COMMISSIONER GONZALES: So if this is adopted here tonight with this report, then what does his requirement do to Commissioner Duran's motion, which says they've got two years to do this. He's saying all existing fire and hazardous material must be rectified prior to final approval. Can you rectify the fire issue out there prior to preliminary approval? Or could they?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Gonzales, by removing the manure prior to getting a final approval and prior to opening the Downs.

COMMISSIONER GONZALES: Okay, so there's conflicts here between a report that would be adopted and the motion that was made. Is that right?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Gonzales, this is the reviewing agency report. I did speak to the Fire Marshal this afternoon and he said he would be in agreement with a condition as staff has presented with a five-year time frame.

COMMISSIONER GONZALES: So what's he going to do in the meantime when fires break out? Just stay responding?

MS. ELLIS-GREEN: That's correct.

COMMISSIONER GONZALES: Do you know what the average response time is for the La Cienega Fire Department to the fires there?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Gonzales, I'm not sure of that but Hank did state that they have not had to go out to a fire recently out on the property. I guess the Pueblo has stated that they are dealing with the hot spots and Hank would agree that has been happening.

COMMISSIONER GONZALES: So the Fire Marshal has stated to you that there's work being done between him and the Pueblos to address the hot spots?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Gonzales, he's actually stated that the Fire Department has not been called out within the last few months.

COMMISSIONER GONZALES: So has there been a plan that's been submitted to him to address the hot spots?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Gonzales, no, no plan has been submitted. The applicant has stated tonight and has stated to me that they have some equipment out there that they are dealing with the hot spots.

COMMISSIONER GONZALES: It seems to me, Mr. Chairman, that when

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this first issue started that there'd be an opportunity to achieve the objective that Commissioner Trujillo talked about where we could find that win-win situation because I understand the Pueblo's concerns but on the other hand, this community has been talking about this for the last six years if not longer. And I believe what the Pueblo says in that they want to be a good neighbor. But I think in being a good neighbor it seems to me that there should be something more concrete or something more in place than just we'll do it when we can or as soon as we find a solution to address clearly what has been identified as the number one issue in this community.

I think this community has clearly rallied around the issue of the concern of this manure/garbage pile. And so I think the Commission is put in a difficult position. We want to see progress on that facility because we don't want it to become worn down and dilapidated. It doesn't appear that our Legal Department is giving us, based on your research, any type of hook to pursue this on behalf of the community minus some type of agreement that Pojoaque agrees to. Is that correct?

MR. GRAESER: Mr. Chairman, Commissioner Gonzales, my recommendation is that through the permit approval process, making this a condition by the Commission finding that these would be threats to health and safety of any users of the facility if it were to open, this is the best way to address this problem and very possibly the only way.

COMMISSIONER GONZALES: So if in the event that this testing water well that Pojoaque's agreed to shows again, let me just ask this question, shows that there is nitrate problems, what does the state law require them to do to provide remedy to that situation both the site and to the community that would be affected with these nitrates? Does it extend that far?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, at that time the Pueblo would probably be required to submit what's called an abatement plan to the Environment Department, which is plan to remove the source of the contamination and remedy the problem for the community.

COMMISSIONER GONZALES: Which would go into those millions of dollars which you said it would take to remedy a nitrate problem in the La Cienega community.

MS. YUHAS: It's a very expensive remedy.

COMMISSIONER GONZALES: And that cost, you're saying, under state law would be borne on the property owner that's caused it.

MS. YUHAS: It would be on the property owner who owns the property at that time. That's the way it works.

COMMISSIONER GONZALES: Oh. So my point is, Mr. Chairman, that I think this is a difficult situation. I think in many respects that the community, certainly in La Cienega feels that this is a health issue that should be addressed prior to development plan approval but we're hearing from our staff that the only way we're going to be able to address that health issue is through some agreement through the development approval. So

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I'm a little confused.

CHAIRMAN DURAN: Do you want to table it?

COMMISSIONER GONZALES: No, I think we should make a decision because I think the community is concerned about this. I think they need to know one way or another whether this is going to be approved or not. And if it is—

CHAIRMAN DURAN: I don't mind withdrawing my motion and letting you table it.

COMMISSIONER GONZALES: Well, I'm not proposing to table it. I'm just throwing that out for discussion.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I have a question for legal. Mr. Graeser, isn't there a common law right to a nuisance action that the County could utilize to abate the nuisance?

MR. GRAESER: Mr. Chairman, Commissioner Campos, there is. It could be a public nuisance. The problem is that it's been there an awfully long time. It's been there before almost all of the immediate subdivisions that were done around there and most neighbors moved in, which really shuts us down on it being any kind of public nuisance.

CHAIRMAN DURAN: Beverly, please, you don't have the floor.

MS. GARCIA: I know but—

CHAIRMAN DURAN: You are out of order.

COMMISSIONER CAMPOS: Even though this situation has lasted for a long time, if it's emitting gases that are toxic, I mean that's a serious public issue that even if it's been there for 20 or 30—we're not strictly talking zoning conditions, but a separate action, independent of zoning, not conditioning.

MR. GRAESER: Mr. Chairman, Commissioner Campos, I agree. I couldn't say definitely what a court would say if we brought that action. It's just we've looked at and discussed it in my department and we do not feel it's a strong case at all.

COMMISSIONER CAMPOS: What about air monitoring? Have we done that to actually evaluate what is coming from those gases and that smoke in those piles?

MS. YUHAS: Mr. Chairman, Commissioner Campos, air monitoring has not been done on that property. I've spoken with the Air Quality Bureau. They went out and visited the site about two years ago and they felt that burning manure did not pose a significant health threat. That was their assessment. As I think Beverly explained, the Environment Department is pulling together a team of various bureaus to look at this site in a comprehensive way. Maybe at that point they would do some air monitoring and we'd have a different picture.

COMMISSIONER CAMPOS: Could we as the County do that to establish whether there is in fact a nuisance?

MS. YUHAS: Mr. Chairman, Commissioner Campos, I suppose we could. We'd have to hire somebody to do it. I don't think I know how to do it.

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COMMISSIONER CAMPOS: No, I think we could hire somebody to do it. I'd just like to make some general comments. I'd love to work with the Pueblo. I think they'd like to move forward quickly but my feeling is that this project is just too big. There's too much traffic, too much noise. It's too big for that area. It's turned residential. I would hope that the Pueblo could come back with something smaller, something more reasonable. At the same time, we have to deal, I think we can negotiate. We can talk to the people at the landfill and the City to see if we could make some accommodation to help remove some of this manure at a reduced cost to the Pueblo if that would help.

But I think we need to start working on the problem and perhaps start talking to each other as to how we can solve these problems on a friendly basis. And I would think it's appropriate to table this for 30, 60 days until we can get some more facts on the table and decide what the County wants to do. And maybe the County can get more information about what the air quality is and then I would certainly ask this plan be scaled down.

CHAIRMAN DURAN: I don't understand why you want to have an air quality test. It really doesn't make a difference. The fact of the matter is what we want to do is get this stuff out of there. And you want to have an air quality test and then try and take the Pueblo to court to prove that they have a nuisance out there. Well, that's going to take two years. Within that two-year period of time, under my motion, they're out of there. I think my motion represents a win-win for everybody. It takes care of the environmental issues that the community is concerned about, the groundwater contamination, and it gets the manure out of there and we don't have to worry about air quality. Commissioner Gonzales.

COMMISSIONER GONZALES: Thanks, Mr. Chairman. I concur with Commissioner Campos in that this problem needs to be addressed up front and there's nothing to say that we couldn't, I guess in rethinking this issue, table it and ask the County and Pojoaque and a member from the community surrounding this to develop some kind of solution that is acceptable. If it's not acceptable then we know—I think we need to put a solution before the approval. There needs to be something that tells the community that something is going to happen, hopefully sooner than later, and right now, as much as I want to support the Pueblo and have in the past when I first began talking to them, stated my preliminary support for this, believe that there's a need to try and find that solution first.

And regardless of the lack of legal hooks that we may or may not have, everyone wants to contribute to solving this problem. I don't think anyone's sitting here saying we want to deny it and everyone go away and we'll feel okay. Everyone who's come up has said let's find a way to solve the problems. And maybe we go back and we find out what it will cost to get it into our landfill. Maybe the County goes in and sees what it will cost for us to help participate in trucking things out of there. Pojoaque helps to put stuff on our rigs. There may be an opportunity to do that.

One thing I've heard tonight, moreso than anything else is let's just get it cleaned up. If we get it cleaned up, then we can really talk about the issues of whether it should be

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light, heavy, hours of operation. I've heard Pojoaque tell me they want to clean it up. Everyone up here says they want to clean it up. The problem is, no one seems to find the agreement as to what's the proper time to get it cleaned up. I think everyone believes sooner than later. So why don't we just roll up our sleeves, go to work, figure out the solution and then present that as part of the approval process that can be acceptable to the community, acceptable to Pojoaque.

Rather than trying to figure out what Pojoaque wants, what the community wants, let's go figure out a solution about how to get it cleaned up, what it's going to cost, who's going to contribute what and get it down. It's in the benefit of the entire community that we do it. And then if we table it for a 30, 60-day period, we come back with that solution and we have a solution that makes sense. If it's five years after the community has sat down and looked at, then so be it. If it's one year after we've been able to come up with maybe some resources that will help do, then that may be it as well, but I don't think that that discussion has taken place between Pojoaque and the staff and I think their neighbors, members of the community who are going to be living with the activity on this tract, to sit down and say how are we going to as a community clean this up. There's nothing wrong with that. Maybe we should do it.

My point in this is it can't be something that we just push to the side either and Commissioner Trujillo is right. Pojoaque is not compelled to do anything here unless they feel that it's in the best interest of their Pueblo to move forward. They're going to move forward in a plan that they feel they can recognize some economic activity for their community. And so I think that they're willing to sit down, hopefully, at the table to see how that can take place. They're not going to do it and absorb all the costs; they've already told us that. And minus any legal hooks, there's nothing that the County is going to be able to do to make them do that.

So we need to figure out, we need to all the willingness to solve this problem, put it into a room and get it solved and then come back and move forward.

CHAIRMAN DURAN: I think that my motion represents a solution. I think that this proposal that's before us represents big bucks and I think that delaying it is not a solution to the problem. The solution is we want to get the manure out of there. That's what the problem is. And I think that requiring them to do that in a two-year period and making that decision tonight rather than wait 60 days to make that decision, it doesn't make any sense to me. We're here tonight. We've been here talking about it for an hour and a half. Why do we have to table it to make the same decision? I guess what I'm trying to find out is, if we table it tonight, what other decision do you hope to come up with?

COMMISSIONER GONZALES: Mr. Chairman, I would hope that there would be a decision that would come up that would in, a definitive manner, deliver a solution to this problem. Meaning—

CHAIRMAN DURAN: You don't think two years is a solution to the problem?



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COMMISSIONER GONZALES: It's only stating to Pojoaque you only have two years to move this. It's not stating that we're going to participate by reducing fees. It's not stating that the County could possibly participate in trying to access grant money from the state or the feds to get this thing up. Those are a lot of things that maybe possibly could be occurring through some type of agreement that would raise some assurances from the community that something is going to happen definitively in this area as opposed to saying You've got two years; if you don't do it in two years it's still the same thing without any type of legal recourse.

CHAIRMAN DURAN: I call for the question.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just wanted to speak in favor of the motion on the floor in that I think that with the 50 percent completion in one year, we're saying immediately to the Pueblo this is a must-do condition. So you need to come up with a plan that will come back to the Commission. We have a time period that I think's reasonable to allow them to begin that work and physically, something needs to get done and the Pueblo will need to make a decision fairly quickly whether they're going to do something or whether they're going to do nothing.

I think at the last hearing we told the staff to initiate this process of trying to work out a method of dealing with it first and what we got in response was the letter that we received from the Pueblo saying that's all they could do. I think this puts the onus on them to begin remediation work if they want to move their proposal forward. It gives both a carrot and a stick. If we just use the stick part of the issue and say deal with the waste piles first, there's still no guarantee or even anticipation on the part of the Pueblo that some development will be approved. So I think that this gives them a very tightly restricted approval, so they have that at least, which gives them some financial incentive, hopefully, to remediate the problem. So I think we need to have both the carrot and the stick I guess is what I'm saying.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Your motion, I don't think deals with the size effectively. The size of this. I think it's too big for this site. I think the traffic and the noise are too much for this site and your motion doesn't address that.

CHAIRMAN DURAN: I disagree with that.

COMMISSIONER CAMPOS: I would move for a tabling.

CHAIRMAN DURAN: There's a motion on the table. Those in favor of the motion--

COMMISSIONER GONZALES: Wait wait wait. I thought the motion before us was your motion.

CHAIRMAN DURAN: That's the motion.

COMMISSIONER GONZALES: What is your motion?

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COMMISSIONER TRUJILLO: He wants to table.

COMMISSIONER GONZALES: So which motion are you asking us to vote on right now?

CHAIRMAN DURAN: My motion wasn't to table. My motion was to approve it. And we need to get through this motion before we can entertain another motion.

COMMISSIONER GONZALES: Okay. So the motion before us is your motion.

CHAIRMAN DURAN: Right.

COMMISSIONER CAMPOS: Doesn't a motion to table supercede any motion?

CHAIRMAN DURAN: There's a motion on the floor.

COMMISSIONER TRUJILLO: I think that we're mandating conditions. We haven't heard from the Pueblo. Does the Pueblo agree with the conditions? Are they going to accept the conditions? Because if they don't accept the conditions, those piles of manure stay there.

COMMISSIONER CAMPOS: They stated they don't agree with four or five of those conditions.

COMMISSIONER TRUJILLO: Then that pile of manure stays there and the community suffers.

COMMISSIONER CAMPOS: I disagree. I think we can work something out if we sit down and really talk.

COMMISSIONER GONZALES: I think regardless of what happens here tonight, we need to go out there and try and solve the problem with out City/County joint board and whatever other ways we can expedite this. It shouldn't just be—whatever happens tonight solely on the applicant, because clearly they're going to do what's in their best interest. We need to do it on the issue of being able to solve this problem sooner than later.

CHAIRMAN DURAN: Point of order. There's a motion on the table.

MR. GRAESER: Mr. Chairman, there's a motion on the table and a second. Commissioner Campos made a motion to table which would take precedence. I don't believe I heard a second on that motion.

CHAIRMAN DURAN: Even though we haven't voted on my motion, a motion to table takes precedence?

MR. GRAESER: Yes, sir, I believe it does.

CHAIRMAN DURAN: Okay.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: Those in favor of the motion—sir, you are out of order. Those in favor signify by saying "aye." [Commissioners Campos and Gonzales voted aye.] Opposed? [Commissioners Duran, Sullivan and Truillo voted nay.]

COMMISSIONER SULLIVAN: The motion was to table? There were

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three noes?

CHAIRMAN DURAN: Three.

COMMISSIONER SULLIVAN: So now we're back to the original motion, Mr. Chairman?

CHAIRMAN DURAN: Okay. So, remember when we vote on this, on my motion, it has a two-year requirement but if they come forward with reasonable cause for not having done in those two years, the Commission can make a decision at that time to grant them additional time. But my motion still encompasses your—it requires them to take half of it in a year.

COMMISSIONER SULLIVAN: That's what you said.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: That's what I seconded.

CHAIRMAN DURAN: Okay. So those in favor signify by saying "aye."  
[Commissioners Duran, Sullivan and Truillo voted aye.] Opposed? [Commissioners Campos and Gonzales voted nay.] Motion carries.

- IX. C. 2. LCDRC Case #MIS 01-5011. Downs Liquor License. Pojoaque Pueblo Development Corporation, applicant, Jim Siebert, agent, requests approval to allow for a transfer of ownership of Liquor License No. 366 from PTE, Inc. to the Pojoaque Pueblo Development Corporation. The 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 SR 599, within Sections 26 and 27, Township 16 North, Range 8 East**

MS. ELLIS-GREEN: Thank you, Mr. Chairman, Commissioners. The applicant's request for zoning approval has been heard and approved by the Board tonight. The Liquor License No. 366 is currently owned by PTE, Inc., a predecessor corporation of Pojoaque Pueblo Development Corporation. In March, 2000, PTE merged with Pojoaque Pueblo Development Corporation, who is now requesting that the liquor license be transferred into its name. The Pueblo of Pojoaque is the sole shareholder of Pojoaque Pueblo Development Corporation.

Recommendation: As the Board has acted upon the zoning, staff recommends that a transfer of ownership of Liquor License 366 be granted to Pojoaque Pueblo Development Corporation. Thank you.

CHAIRMAN DURAN: Any questions of Penny? Is the applicant here? Is there anyone out there that wants to speak for or against this transfer? Do you have anything to add, Jim, as the agent for the applicant?

MR. SIEBERT: No, we just ask for your approval.

CHAIRMAN DURAN: Let the record show that there was no one out there

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either for or against the transfer. What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: I second it. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

**IX. C. 4. TDRC CASE # V 01-5210 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**

FRANK WHITE (Review Specialist): Article XIV, Section 3.8.2d1 of Ordinance No. 2000-13 states that only one-story buildings are allowed on ridgetops and the height of any structure located on a ridgetop shall not exceed fourteen feet. That's Exhibit E of your packets.

The applicant states that the roof area of the stairwell enclosure is 225 square feet, which is 2.6 percent of the roof area of the house. The stairwell will rise 23 feet above the level of the driveway. The applicant states that the full height of the stairwell will be visible only from the residential driveway turnaround. The roofline of the proposed stairwell enclosure appears to be harmonious with the parapet heights of the main house along the ridge.

Recommendation: Staff recommends that this request for a variance be denied, based on Article XIV, Section 3.8.2d1 of the County Code, which requires dwellings located on ridgetops to be one story and not to exceed 14 feet in height. The decision of the TDRC was to recommend approval of the variance of Article XIV, Section 3.8.2d1, Heights on Slopes and Ridgetops of Ordinance No. 2000-13, to allow for a 225 square foot residential stairwell to be 23 feet in height with the following conditions:

1. Applicant will comply with all building permit submittals including the construction of retention ponding and payment of impact fees.
2. The residential stairwell parapet shall be dropped a minimum of eight inches below the parapet level of the main residence.
3. The applicant shall plant two 12-foot pinon trees at the western face of stairwell.

CHAIRMAN DURAN: Any questions of Frank? Is the applicant here? Would you please step forward and state your name for the record.

[Duly sworn, Steve Robinson testified as follows:]

STEVE ROBINSON: My name is Steve Robinson, 322 Reed Street.

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CHAIRMAN DURAN: Would you like to say anything about the application?

MR. ROBINSON: Yes, I would. First, I'd like to bring up that architectural model so you can see it. Thank you. First, I would like to state that my client has agreed to the conditions which are stipulated by the Tesuque Development Review Committee and very briefly, I would like to show you a vicinity map. This is the site of the house this property of 51 acres. The roadway goes in back from Bishops Lodge Road. There's approximately a quarter of a mile of public road and then about a quarter-mile of private driveway through the property up to the site.

The request for your approval of this variance is based on a belief that there is a very modification of the ordinance being requested and that the impact of that variance request is significant. I would just like to point out to you on the model the area of the stairway. What we're requesting is to allow this stairway to be enclosed. I also would like to point out that the deliberations of the Tesuque Development Review Committee were extensive and their decision to support this variance was unanimous. Thank you.

CHAIRMAN DURAN: Are there any questions of the applicant?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Robinson, if the stairwell were not enclosed, would it not then be required to have a variance?

MR. ROBINSON: No, it's a question of the height of the wall from the area at the driveway turnaround.

COMMISSIONER SULLIVAN: The requirement's 14 feet and you're asking for 23 as I recall. Is that right?

MR. ROBINSON: Well, it's actually 21-foot 8 inches because the Tesuque Development Review Committee asked us if we—when we presented it to them it was, I think it was eight inches higher than this parapet, this wall, and they requested that we lower it 8 inches and we've actually lowered it 16 inches. The issue is that once you drive in here and you come into this garage, from the grade where you get out of your car to the top of this wall is 21 feet, 8 inches. And this is obviously the only place from which that height, which exceeds the allowable, is visible.

COMMISSIONER SULLIVAN: And what's the height from the ground elevation adjacent to the stairwell?

MR. ROBINSON: Here? The natural grade rises around here so that at this point it's about, it goes from 21' 8" to about 18' to about 14' here.

COMMISSIONER SULLIVAN: And 14 feet is the Code requirement, right?

MR. ROBINSON: That's right. So that these walls, all of the rest of the walls around the building are 14 feet or less.

COMMISSIONER SULLIVAN: Thank you.

COMMISSIONER TRUJILLO: Steve, don't mind me asking, but where

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MR. WHITE: We're still following the old ordinance.

COMMISSIONER SULLIVAN: But none the less, this particular drawing and project would comply with both ordinances.

MR. WHITE: Right. Mr. Chairman, Commissioner Sullivan, that is correct.

COMMISSIONER SULLIVAN: With the exception of this 14 feet.

MR. WHITE: That's correct, and for clarification, the residence has been permitted with an open stairwell at this point.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: It was permitted with an open stairwell.

MR. WHITE: Right, Mr. Chairman.

CHAIRMAN DURAN: And it's because they want to enclose it that the variance is being requested?

MR. WHITE: That's correct.

CHAIRMAN DURAN: So they don't get wet.

MR. WHITE: Apparently.

CHAIRMAN DURAN: Okay. Is there anyone out there that would like to address this issue, either for or against?

[Duly sworn, Laban Wingert testified as follows:]

LABAN WINGERT: Laban Wingert, 219 Showbi. If I may—this map represents a diagram that was prepared for the previous owner, Gerald Peters. It represents an outline of the residential compound, the buildable area for the residential compound. It's about five acres, somewhere close to five acres, out of the 51 acres. So there were options this diagram represents there were options for placing the house that would avoid requiring variances.

The site from any of these areas within the prescribed outlines are incredible views to everywhere so it seems like it would have been possible to site the house without seeking a variance.

If you would allow me, I'd like to read also from the declaration of restrictive covenants that go along with the property. It says, the property shall be used for family residential purposes only. The property shall not be subdivided, rather Peters, for themselves and their successors and assigns, agrees to carefully create a one-family compound in keeping with the natural surroundings in which the property is located. The property may include at least a main residence, not to exceed three guesthouse and amenities suitable to a pleasant and varied setting, which may include a horse facility, swimming pool, tennis court and the like.

Expanding on the issue a little bit, it seems like given the request for a variance, it seems like it would have been wise to consider the other elements that might get built on the property over time for how it impacts the views, how it impacts looking at the roofs of the other structures and so on. It just seems like many, many more options than what has been proposed and for that reason, I request that the request be denied. Thank you.

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CHAIRMAN DURAN: Laban, I just have a question. Do you see on the model where the proposed addition is? No. Can you point to where it's going to be? It's that, and north is to your right.

MR. WINGERT: The permit has been granted for an open stairwell?

CHAIRMAN DURAN: An open stairwell and the request is to enclose it, which requires them to ask for a variance, and if you look at the model, it's evn lower than the rest of the building which is in compliance with the ordinance. So I'm not sure what the objection is, if you could help me understand.

MR. WINGERT: I think it's more a precedent. Given, again, if you look at the map, there are a number of options where you could site this building to avoid variances, which given 51 acres of land, it seems like one should be able to do. So it's more a precedent that I'm objecting to. If you were given a one-acre site maybe with difficult topography, etc. maybe there you might have to go this route. But given it's 51 acres and five acres of ridgetop land on which to build just does not seem necessary to go for a variance. There's another way of siting the building. Thanks.

CHAIRMAN DURAN: Next speaker please.

[Duly sworn, Eugene Thaw testified as follows:]

EUGENE THAW: My name is Eugene Thaw and I live at 13 Eddy Road, which is a road off Bishops Lodge Road, directly opposite the driveway to this property. My property, my house, which now looks over the state land and the Sangre de Cristo Mountains, will see this tower, this 23-foot stairway tower, where it now sees nothing. And several other property owners, in fact many other property owners who view this pristine land will now see something directly against the state land that's higher than it should be, which is what the ordinance was originally created to prevent.

Laban Wingert has pointed out that there's no hardship here. There's any amount of juxtapositions and combinations that could be done and Mr. Chairman, the reason you don't see a tower is because it isn't on the model. But if it's over on the corner and it's 23 feet it will rise above the rest of the building. And that's what we will see. We will not see the 14-foot part. We will see the 23-foot part. And I respectfully ask that you deny this request because it really isn't necessary. This house is built on the highest part of the land that the property owner owns and it's directly against the part of the property that adjoins the state land. I think it would be a shame to start putting up towers along that view. A lot of people will see it. Thank you very much.

CHAIRMAN DURAN: Thank you. Is there anyone else out there that wants to speak for or against this proposal?

[Duly sworn, Katherine Walker testified as follows:]

KATHERINE WALKER: Mr. Chairman, Commissioners, my name is Katherine Walker and I own the property directly across the arroyo from Dr. Stertzler's property and construction site. I live at 22-B White Boulder Road. And I'm the only resident, I think of Tesuque whose view and privacy is directly affected by what he's building there. But I think that other people will be equally affected because his house, as

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Mr. Thaw said, is sited at the highest point of his 50 acres and it will sit squarely in what was a previously open vista that opened onto the national forest.

Dr. Stertzler is also clearing and fencing in the arroyo beneath his house in order to build a wranglers house and a barn and a riding ring in what is actually a rather dangerous spot for horses because the arroyo is much given to erosion, as I know from my own house, because I've had to support the hill behind my house with gavions because it's subject to constant erosion. I suppose the point is in what was probably an ancient easement into the trails of the mountain, Dr. Stertzler has now put in very extensive barbed wire fencing to prevent people from coming through that arroyo.

He's also, as I said before, building at the highest point on his land. He has come into a community from another place and made a kind of aggressive and restricting gesture, which given the fact that the rest of us have been there for a long time and treasured what we have there, does not make us favorable or amenable to the idea of him having any further variances whatsoever. If there is going to be a tower, if there is going to be a second floor, it will further ruin our view. We used to look at the national forest and now we look at Dr. Stertzler's house and compound.

We look at the suburbs, essentially, and it would be a sad thing if the beautiful wild places of Tesuque begin to take on the aspect of the overcrowded suburbs of Scottsdale and Phoenix, and that's a lot what this property is looking like at that moment from my point of view, which is directly opposite him. So I would respectfully ask you to decline his variance on those grounds. Thanks.

CHAIRMAN DURAN: Thank you. Anyone else? Please come forward.

[Duly sworn, Gail Factor testified as follows:]

GAIL FACTOR: Gail Factor. I live across on the other side of Bishops Lodge Road and again look at the property and someone's made a very elaborate model here and my question is, is something missing? I guess Steve could address that. I came here with the impression there was going to be some sort of a tower and that was what the variance was about and I don't see one there. Is there something not on it?

CHAIRMAN DURAN: Could you get up and explain to Ms. Factor where the tower is and it's relationship to the rest of the house?

MR. ROBINSON: I don't know where the word tower is coming from. We have a stairwell. And I can take away the stairwell. That's the stairwell and this is 21-foot 8 inches from the bottom of it to the top of it, but because it starts at a lower place, it can have a roof that is harmonious and in fact even lower than the roof of the rest of the house, all of which has a parapet height of 14 feet or less. So it was 23 feet when we went to the Tesuque Development Review Committee and the TDRC, as one of their conditions asked us to lower it below this parapet, which we can do. They also asked us, as a condition of their approval, that we plant two 12-foot trees to the west of the enclosed stairway. There just isn't any tower. And the model is accurate to within a sixteenth of an inch.

MS. FACTOR: Okay. Thank you.



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MR. ROBINSON: You're welcome.

CHAIRMAN DURAN: Is there anyone else that would like to speak against this proposal. Do you have any closing statements you would like to make, the applicant?

MR. ROBINSON: Yes, thank you. I think it's instructive that the people who spoke against granting the variance have had so much trouble finding the element for which we are requesting a variance, because I think that it is a harmonious architectural solution to be as respectful of the ridgetop as we can on this site.

The second thing I want to mention is that the buildable area was established by the prior owner with the Board of County Commissioners at the time and it's standard County practice, as I understand it, to establish buildable areas on relatively flat parts of the site. So this happens to be at or near the highest point of the site as it is adjacent to the national forest, but it also happens to be one of the few flat areas that the County agreed to assign as a buildable area. Thank you.

CHAIRMAN DURAN: Okay, is there anyone else out there. What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one comment. I think we're here to approve a variance. I don't think we're here to approve the design of the house. And my understanding is if the variance is not approved, the applicant can still proceed forward and construct the stairwell, it just won't be enclosed and that could be a hazard of course in the winter, with ice and snow and so forth, particularly north-facing. But one individual commented about the horseback riding trail and I don't know if—that person, just for their information, I was reading the TDRC minutes. I don't know if that individual was at the TDRC meeting when this was considered but the minutes say, "Mr. McDowell stated he received a phone call from Pat Beasley expressing concern about a fence in an arroyo historically used as a horseback riding trail. Mr. Stertzer said the fence was up well before he purchased the property and he supports leaving the fence open."

So perhaps that will mitigate the concern, but again, this is not what the Commission is deciding on here I just wanted to be sure that you had that information from the TDRC minutes.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Move for approval of TDRC Case V 01-5210.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: There's a motion, there's a second. Any further discussion? Those in favor signify by saying "aye." [Commissioners Trujillo and Sullivan voted with the motion.] Opposed? [Chairman Duran voted against.] Motion carries. [Commissioners Gonzales and Campos were not present for this action.]

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MR. WHITE: Mr. Chairman, does that include staff's conditions?

COMMISSIONER TRUJILLO: Staff's conditions.

MR. WHITE: Staff conditions.

COMMISSIONER SULLIVAN: Staff conditions are the TDRC conditions or are there more than that?

MR WHITE: It would be the TDRC conditions, recommended conditions.

COMMISSIONER SULLIVAN: The two TDRC conditions?

MR. WHITE: Right. Well, there's three. Three TDRC conditions. I could read them real quickly if you like.

CHAIRMAN DURAN: We'll just enter them into the record. You're aware of what those conditions are, sir?

MR. ROBINSON: Yes.

CHAIRMAN DURAN: If you're not, get with Frank and he'll give them to you.

**IX. C. 5. CDRC CASE # A/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 one acre. The property is located at #6 Tranquil Way within Section 34, Township 16 North, Range 8 East.**

WAYNE DALTON (Review Specialist): There are currently three homes, and three 1000-gallon septic systems on the property. The property is served by an offsite well, which serves the existing homes. The applicant states that the three mobile homes were in existence when he purchased the property. The applicant has been able to prove grandfather status for two of the three existing mobile homes.

Recommendation: Staff recommends that the request for a variance be denied. The intent of the code is to set minimum lot size in this area at 10 acres per dwelling unit. Staff also recommends that one of the three mobile homes be removed.

The decision of the CDRC was to recommend approval of a variance to allow three existing mobile homes on one acre, subject to the following conditions. Mr. Chairman, may I enter those conditions into the record?

1. Water use shall be restricted to a 0.25 acre-foot per dwelling. The applicant shall install water meters for all homes. Annual water meter readings shall be submitted to the county Hydrologist by March 31<sup>st</sup> of each year.
2. No additional dwellings to be placed on the property.
3. The existing driveway will serve all homes.
4. The applicant must follow all other building permit regulations including construction of a retention/detention pond.
5. Failure to comply with all conditions shall result in administrative revocation of the

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variance.

CHAIRMAN DURAN: Any questions of Wayne? Is the applicant here? Are you in agreement with staff's recommendations?

[Duly sworn, Al Quintana testified as follows:]

AL QUINTANA: Mr. Chairman, members of the Commission, my name is Al Quintana, and in the absence of the applicant, I wish to represent him as his agent.

CHAIRMAN DURAN: Do you have anything to add?

MR. QUINTANA: Just to reiterate what staff has stated. Mr. Kennedy bought the property in the year 2000 and he bought it as it is, as it stands today, with three residential units. He lives on the adjacent property in the residence that he bought as well.

He bought it as a retirement income and based on that he's got three mobile homes and he figures he'd have income from those three mobile homes. Also at stake is the effect it would have not only on the livelihood of Mr. Kennedy through loss of rental but there's families in those three mobile homes as well.

CHAIRMAN DURAN: And how long have they lived there?

MR. QUINTANA: I have no idea. They were there when Mr. Kennedy bought the property.

CHAIRMAN DURAN: And when did he buy it?

MR. QUINTANA: In the year 2000.

CHAIRMAN DURAN: Okay, any questions of Mr. Quintana? So CDRC was to recommend approval of it, is that correct, Wayne?

MR. DALTON: Yes. Mr. Chairman, that is correct.

CHAIRMAN DURAN: It's a public hearing. Is there anyone out there for or against this proposal? If not, what's the pleasure of the Board?

COMMISSIONER GONZALES: Move for approval of the case as presented.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that one of the reasons for the CDRC approval was that the applicant could establish that two of the homes were prior to Code, grandfathered. They didn't have an aerial photograph of the third one but the applicant supplied a letter from the gas company indicated that those homes had received gas service in years which would also indicate that they're grandfathered.

CHAIRMAN DURAN: Oh, good. I've run across that before too. They use eclectic meters.

COMMISSIONER SULLIVAN: So that I think is what the applicant is submitting as proof that actually all three units are grandfathered as pre-Code.

COMMISSIONER CAMPOS: I have a question for Mr. Dalton. Do you

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agree to that assertion that Commissioner Sullivan just made about the grandfathering of the three?

MR. DALTON: Mr. Chairman, Commissioner Campos, there is an actual aerial from 1981 that shows two mobile homes on the property.

CHAIRMAN DURAN: What about the gas issue?

MR. DALTON: The gas, I haven't received anything stating that gas has been hooked up to those three mobile homes.

CHAIRMAN DURAN: Oh, where did you get that, Commissioner Sullivan?

COMMISSIONER SULLIVAN: Maybe I'm getting ahead of myself. Maybe that was on a following case.

CHAIRMAN DURAN: Wrong case?

COMMISSIONER SULLIVAN: Was that a different case? I apologize if I got ahead of myself. That was the wrong case.

CHAIRMAN DURAN: Okay, if there's no other discussion, there's a motion and a second. Those in favor signify by saying "aye." [Commissioners Gonzales, Trujillo, Duran and Sullivan voted with the motion.] Opposed? [Commissioner Campos voted against.] Motion carries.

**IX. C. 6. CDRC CASE #A/V 01-5025 Anna Hickey Appeal/Variance.**

**Anna Hickey, applicant, is appealing the CDRC's to uphold the Land Use Administrator's decision to deny a family transfer land division of 4.16 acres into two lots: each lot consisting of 2.08 acres. The property is located at 15 Wild Turkey Way, within Section 27, Township 16 North, Range 10 East**

MR. DALTON: Mr. Chairman, the applicant is not present tonight. She has indicated that she wants to be withdrawn from the agenda. So therefore I'd recommend this case be tabled until next month.

CHAIRMAN DURAN: Move for table.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: Those in favor? [Unanimous] Opposed? How about we table the rest of them?

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- IX. C. 7. AFDRC CASE #V 01-5150. Padilla Variance. Phillip and Mary Padilla, applicants, request a variance of Article III, Section 4.1 and 4.2 (types and locations of commercial districts) of the Land Development Code to allow commercial zoning outside of a potential commercial district on 0.78 acres. 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**

MR. WHITE: Thank you, Mr. Chairman, Commissioners. Article III, Section 4.1 of the County code states, commercial and industrial non-residential uses are permitted only in zoned districts of various sizes and locations. There are several reasons why commercial districts are established. The primary reason is to permit intensive development of selected land uses at designated locations within the County. This is Exhibit E of your packets. The subject project is not within a potential commercial district. Commercial district are only allowed at road intersections. The closest qualifying intersection is at the intersection of Agua Fria and Lopez Lane. The size of this district would be approximately 1,000 feet in radius from the center of the intersections. The property is approximately 1000 feet east and outside of the potential district. The applicants state that Paul's Towing, Import Auto Salvage and Rocky Mountain Cable have operated from this location the past, but supporting documentation was not available. The applicant states that there are several properties in the area that are commercial. These properties include Cassidy's Landscaping and several automotive shops. The applicant believes the proposal is compatible with the existing land use pattern for the area.

The applicants propose to utilize an existing 1,600-square-foot building for a towing business and construct a 2,000-square-foot auto repair which includes an office and restroom facilities, etc.

If this variance is granted, the applicant must submit an application for master plan and development plan approval from the AFDRC and the BCC

Recommendation: Staff's position is that this application is not in accordance with Article III, Section 4.1 of the Land Development Code and in granting this variance, the purpose of locating commercial and non-residential businesses within the potential nodes would be violated. Therefore staff recommends denial of the requested variance.

The decision of the AFDRC was to recommend approval 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 0.78 acres.

COMMISSIONER GONZALES: Can I ask a question, Frank?

MR. WHITE: Sure.

COMMISSIONER GONZALES: Taking a look at some of the businesses that surrounding this area—first of all, what's the applicant asking for? What type of commercial use?

MR. WHITE: Mr. Chairman, Commissioner Gonzales, it would be for a towing business and an automechanics garage.

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COMMISSIONER GONZALES: So, have you done a site visit?

MR. WHITE: Yes, we have.

COMMISSIONER GONZALES: Have you determined that there are similar commercial businesses within this area?

MR. WHITE: There are similar commercial businesses in this area. Some are legal, of course and some are legal non-conforming.

COMMISSIONER GONZALES: Some are legal that are auto shops?

MR. WHITE: Correct. That's correct. And these are mostly grandfather status.

COMMISSIONER GONZALES: What's currently happening on the property?

MR. WHITE: Currently the property is vacant in terms of use. There's an existing 1600 square foot building.

COMMISSIONER GONZALES: Is there a contiguous commercial property to this area, or is it all residential around it?

MR. WHITE: No, there's Cassidy's Landscaping.

COMMISSIONER GONZALES: Is contiguous to this?

MR. WHITE: I believe it's continuous. I'm trying to think if there's a property. It's adjacent.

COMMISSIONER GONZALES: It is adjacent?

MR. WHITE: Maybe it shares a same property boundary from my recollection.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Gonzales, there's a dwelling and the adjoining property and then Cassidy's is right next to that.

COMMISSIONER GONZALES: I'm sorry. A dwelling?

MR. DOMINGUEZ: There's the vacant property, a dwelling right adjacent to this piece and—

COMMISSIONER GONZALES: So there's not a contiguency. I guess my point in the immediate area though is, are there like businesses, like across the street, next to it, or is this just in the Agua Fria area in general that there are automobile businesses?

MR. WHITE: There are automobile businesses within the general vicinity, Commissioner. I don't know the names of the businesses. Tom is correct when he mentioned that there is a residential parcel that separate this proposal and Cassidy's Landscape. That parcel is only .2 acre.

COMMISSIONER GONZALES: The commercial designation if it was approved now, what are the uses? I don't see where the uses they're asking for in addition. Or would it just be strictly limited to the auto repair?

MR. WHITE: Mr. Chairman, Commissioner Gonzales, at this point, the applicant is only interested in a towing business and an auto mechanics garage. He has no intention to utilize it for anything other than that.

COMMISSIONER GONZALES: Thank you.

COMMISSIONER TRUJILLO: Okay. We can go ahead with the applicant now. Are there any other questions of Frank?

[Duly sworn, Phillip Padilla testified as follows:]

PHILLIP PADILLA: My name is Phillip Daniel Padilla. I'm a resident of Santa Fe and a native of Santa Fe. I've lived in Santa Fe County all my life. To the question of this property, yes it is adjacent to commercial other land, which is Cassidy Landscape. My intent of this land, in which I had purchased about a year ago is to create a business, a towing business, which I currently own. I'm a business owner of Quality Towing.

I've been in business for fifteen years and I sought a piece of property for the financial security of my family. I got involved with this land through a realtor that had presented it to me as commercial/industrial land. I am a native from the Agua Fria community and I, through the years of growing up, I have seen these type of businesses going through that property and that's what really gained my interest on it.

I am here to try to do the auto mechanics shop. Also to try to utilize the front portion of that land. It's got a little existing building right now at this point, which I figured would be good utilization for any type of clean, small business, probably such as like a sales area or any other type of business like that.

I'd like to commit myself to the County and also to the residents around the community there that I will try to do some improvements on this land and take care of any concerns or issues that the County or the residents may have. Once again, I'm here for the business issue of this land and I'd like to take care of any issues that do come about.

COMMISSIONER GONZALES: Mr. Chairman, Mr. Padilla, you're stating before the Commission tonight that when you bought that property, you thought it was commercial?

MR. PADILLA: Sir, it was presented to me as a commercial piece of land.

COMMISSIONER GONZALES: So is there nothing that people go through when you go through the closing to determine whether it does have that proper zoning or not, whether it states it on the plat. Does it identifies its use on the plat when you went through that process?

MR. PADILLA: Well, in doing some history on the plat itself, it has shown a potential use of possibly a salvage yard or something that was involved in this property.

COMMISSIONER GONZALES: So the plat, you're saying stated that there would be a potential use of salvage yard?

MR. PADILLA: Yes, sir. It did.

CHAIRMAN DURAN: Did you even discuss this issue with your realtor?

MR. PADILLA: No, I haven't. Matter of fact, I bought this property a year ago and with the intent that I was going to be able to at least store some vehicles on there. I see some great potential for the back portion of this property, because it was—

CHAIRMAN DURAN: Maybe your realtor wrote that on there.

MR. PADILLA: Well, sir, it's possible.

COMMISSIONER GONZALES: What does it state?

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MR. PADILLA: It says here that there was a note when this plat was issued of storage of all inoperable vehicles shall be limited on tract 2, including those belonging to the owner of tract one. Can I present this?

CHAIRMAN DURAN: Yes. And it's signed Tom Dominguez, right?

MR. DOMINGUEZ: Mr. Chairman, it's dated '84. That was pre-Tom Dominguez.

CHAIRMAN DURAN: So this used to be a car impound lot. What's it been since then?

MR. PADILLA: There were two businesses that were involved with this tract which were Rocky Mountain Cable and—

CHAIRMAN DURAN: What did they do? Store cable?

MR. PADILLA: No, they ran trenchers, trenching machines out of there. And I think there was a wrecking yard before that, which was Paul's Towing. The former owner of that property was Paul Baca.

CHAIRMAN DURAN: Mr. Padilla, I think you towed my car once.

COMMISSIONER GONZALES: Can I ask you some questions in terms of, are you seeking this variance because you need to leave your current—you need to vacate your current piece of business or why are you wanting to—

MR. PADILLA: No, sir. Can I answer the question real quick? When I made the purchase of this property, I saw potential for it and this is the reason why I made the purchase on this land. It was mainly more for my family's security.

COMMISSIONER GONZALES: So you'd like to get this zoned so you can sell it, basically? Which is okay. There's no problem with that.

MR. PADILLA: No, I am self-employed here in Santa Fe and the reason why I'm really seeking this is for a future source of income actually as being able to either lease the place out or just create a new asset in a sense.

COMMISSIONER GONZALES: Does there have to be, Mr. Padilla, and I agree. I think that whatever you can do to provide financial security for your family, I'm 100 percent for that. Does it have to be such a heavy use like automobiles and—if you create a storage yard, that has an impact on property values around. If you use it as a garage. I mean, you can imagine if you were living next—not that there's anything wrong with that, but there are residences that are around this area. Have you considered any lighter type of use that would still bring value to your property, that people could use and you could generate an income for?

MR. PADILLA: Well, as far as a towing facility, I can understand concerns of the people and the community. As my main goal in making the purchase of this land is an automechanics shop, to upgrade the land, in a sense. At this point, the land has been not utilized for a whole year, because I haven't been able to do anything with it. It's been vandalized and it's also been broken into. There's already concerns with the neighbors due to the vandalism of what's going to occur there.

COMMISSIONER GONZALES: And I see your need to do something with



the property but my question more though is, I know your intent was to do some kind of storage or automotive body shop or whatever. But have you considered anything else that would be compatible and not affect property values, that you would still be able to recognize some type of economic benefit for? Like, if there's a landscaping yard next to it, maybe having a use for some landscaping or it might be another light commercial that might be available.

You know what I'm saying? Because I'm wanting to see you succeed, but I also want to make sure that your neighbors don't necessarily suffer at that.

MR. PADILLA: Sir, yes, I can understand what you're trying to tell me, but the fact remains is I know no other type of means of being able to seek income because I have done nothing but automotive all my life, in a sense. And I would be afraid to be a failure in something else at this point.

COMMISSIONER GONZALES: Would you consider, if the Commission granted zoning for your commercial to get this commercial for some light use and giving it a shot, seeing if you could lease the property and if you couldn't, coming back and asking for an amendment. I understand your concern. I feel the same way in my own business. You feel comfortable in it. You know it. You know people who need it. But I think that being that you're from the area would want to make sure that people who had to live around your business felt comfortable also.

I guess that's what I'm trying to see, because I've had to deal with this farther up in Agua Fria where they were proposing some body shops and there were residences around it and I wanted to see that individual grown from a business perspective but the residences were feeling, from some of the fumigation of the body shop and everything else, they were—it was impacting them, and I just don't want us to get to that point, where there's conflict that exists between what you want to do and the people that live around there. I still would like to see the Commission support your efforts in trying to create this property so you could generate some income, but what I'm trying to figure out is could there be a medium between possibly what you need to recognize income from it and what the neighbors might want to have in terms of recognize some type of peace.

MR. PADILLA: Yes, sir. I mean, I'm sure I can probably compromise on another issue as far as that goes.

COMMISSIONER GONZALES: Because commercial designation brings you a lot of value to your property.

MR. PADILLA: Right. I haven't thought of anything else that I would be able to actually develop there at this point, but yes, I'm sure I'd be able to—

COMMISSIONER GONZALES: Can I ask a question of staff? If the Commission were to grant this variance and allow for the zoning, would they still have to come back for preliminary and final?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Gonzales, he's actually asking for a variance to location criteria. He would still have to come back for master plan. And that's where you would designate uses.

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COMMISSIONER GONZALES: So if we gave him a designation now for a variance to the location, it doesn't mean his uses would be automotive and—that wouldn't happen until he came back for master plan.

MR. DOMINGUEZ: Correct.

COMMISSIONER GONZALES: Okay. Did you understand that part, Mr. Padilla? I didn't understand it.

MR. PADILLA: I'm sorry. I didn't.

COMMISSIONER GONZALES: Basically, what you're saying is your request here today is just to make your property eligible to come forward for some type of master plan that would identify its use. So at that time, rather than tonight, if the Commission were to grant this, would you be taking on the issue of what would be the best use and what would be supported by your community?

MR. PADILLA: Yes, sir. I understand that.

COMMISSIONER GONZALES: I didn't.

CHAIRMAN DURAN: Okay. Are there any other questions of the applicant? It's a public hearing. Is there anyone out there that wants to speak for or against this issue? Please come forward and state your name for the record.

[Duly sworn, Francisco Tercero testified as follows:]

FRANCISCO TERCERO: My name is Francisco Tercero. I own property at 2001 Paseo de Tercero, immediately across from the applicant on Agua Fria Road. I'm here to speak against this variance request with no malice intended to my neighbor. They're friends of ours so we find ourselves kind of at a strange situation here. I'm concerned that if this request is approved to commercialize this property, once Mr. Padilla decides in the future to sell it, once it's commercialized, whatever concessions he would make to myself and our property owners, my brothers and my sisters that own property adjacent to this, the next owner doesn't have to abide by those conditions.

We talked to him earlier tonight. This is the first time we've had a chance to talk, and as we spoke, he indicated that he might be willing to do some changing. We were very concerned about a towing, storage of automobiles. We've had that for all our lives on that property, when Mr. Ray Baca used to own the property. It was a salvage yard. We called it a junkyard and I guess nobody appreciates that, but it came with a dog and everything, a junkyard dog.

CHAIRMAN DURAN: Sounds like a song.

MR. TERCERO: We could write one. We had problems, from the time probably in the early 1960s when Mr. Baca bought it and turned it into an auto salvage yard, all the way to 1989 when they finally started closing it down and getting rid of the automobiles. They finally pretty much cleaned it and we were very happy about that because the number of snakes and number of mice and stuff like that went down when their hiding places were removed.

I would like to request that the Commission accept the staff's recommendation to deny this request. I oppose the regrettable recommendation made by the AFDRC without

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taking into consideration the adjacent owners and landowners desires. We were never contacted. We were not aware that the AFDRC was acting on this. It didn't come to our knowledge until after and we do keep contact with the Agua Fria Village Association, and they were never approached. They were never addressed. Just so that the Commission is aware, the AFDRC does not seem to represent the people of the community. They seem to be more representing themselves. It's an inbred group and they don't keep in contact with the rest of us.

CHAIRMAN DURAN: So the Agua Fria Village Association was never contacted?

MR. TERCERO: They were never contacted. Mr. Padilla was never informed that he should have contacted them. They are the grass roots organization, of which I am a member, that keeps in contact with things like this and meets with different people. They were never addressed by Mr. Padilla, nor did the AFDRC ever contact them to let them know that something was happening or being planned.

Over the years, we've requested, like I said, that all these old automobiles that were there be removed and finally, in 1993, the last of them was removed. And since then, we understand that the grandfather clause that covered that junkyard there finally fell apart and no longer had that validity. They were no longer able to continue disassembling cars there.

Again, in closing, I would like to request that you support the staff's recommendation to deny approval for this commercial thing. We're not opposed to the commercialization so much as we would be that if he does sell, the next person can do whatever they want with that property. If there were ways to place conditions, if there were ways that you can place a condition on, say, we grant you the commercial thing, but you can only do certain things, quiet and clean businesses, we'd be interested in looking at that. But my concern would be that after Mr. Padilla decides to leave the business and sell, the next person can do whatever they want, once the thing has been zoned commercial. Thank you very much for your time.

[Previously sworn, Arlene Tercero testified as follows:]

ARLENE TERCERO: I'm Arlene Tercero and I own the property also on 2001 Paseo de Tercero, which was formerly Route 6, Box 91-B, which is directly across from what was called the Baca's Auto Salvage or whatever and now has been purchased by this gentleman. When I received the certified letter about this hearing, I immediately got on the phone to speak to a County official and they told me that I would be speaking with Frank White, because he was the one that was in charge of this case.

And when I called, I left a message for him and I told him if this, by any chance, has anything to do with an auto towing—and I had no idea what this case was all about. But I told him if this has anything to do with auto towing or auto salvage or anything with autos, I am opposed to it. And for the same reasons as Frank Tercero mentioned, because of the fact that it's an unsightly scene. It's a residential area. It's not conducive to residential living. And the fact that we were not, that it was not brought to the Agua Fria

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Village Association. We contacted them and we asked them if this was brought before them and they said, not to their knowledge, that no, it hadn't been brought before them.

And the fact that we were not approached, being the landowners that would be probably more—well, not exactly directly affected by them, but right across from them, and since we are on a hill, we see the lower property, which is their property, right across the street, so we see everything. So for those reasons, I asked the property owner earlier, I said would you be willing if the Commissioners tabled this, would you be willing to talk about a different use, like Commissioner Gonzales said, a lighter use instead of automechanics. And he said he probably would sell because he needs to do something with this property.

His intent is auto towing and auto mechanics and I would just ask that this Commission would please put yourself in a resident's place that would live next to something like this and ask yourselves if this is the type of business that you would live next to, or if you had rental property, which I do, if you would be, find it easy to rent your property with something that's adjacent to you that is, that deals with automobiles.

So I'm just asking that you please take this into consideration and that you would please look at it from—I know you have to look at it from his point of view but also to take into consideration what we would feel like, or what you would feel like living next to it. And I also request that you deny the proposal.

CHAIRMAN DURAN: Thank you. Is there anyone else out there?

COMMISSIONER GONZALES: Mr. Chairman, can I just again for clarification from the staff, this does not constitute a rezoning of the property? Does this merely give the applicant the ability to come forward and request a rezoning of the property?

MR. WHITE: Mr. Chairman, Commissioner Gonzales, that is correct. This is only a request for a variance of the locational criteria of the Code.

COMMISSIONER GONZALES: So if he comes, if this variance is granted, and he goes through the process of requesting master plan approval, could the Commission still deny it at that point if they felt, based on community input and what was being proposed wasn't in the best interest of the neighborhood?

MR. WHITE: Definitely, Mr. Chairman, Commissioner Gonzales. It can definitely be denied based on any criteria the BCC sets forth or maybe at that time a master plan, a use can be established that can be compatible with the community as well as recommended by the BCC and compatible with the applicant.

COMMISSIONER GONZALES: Mr. Chairman, it seems to me that in listening to the applicant and the Terceros that clearly, there's still some discussion that needs to take place, but I think that by granting the variance and allowing the applicant to go forward, he would be able to visit with the Agua Fria Village Association, get their feedback, and try and identify some uses. I've got to say though, Mr. Padilla, if this is approved, which I don't know if it will be, I'd have some grave concerns about the issue of some type of heavy industry, of automobiles and towing. Not that that's—I think that's a great business to be in.

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But I also know that it can have a detrimental impact to the surrounding area.

So I would encourage you, if this does pass, to really try and find a use that's compatible with the community, where you can accomplish your objective and gain some economic security from it and the community could feel comfortable that this would be a clean type industry. So Mr. Chairman, I'd like to move for approval of the variance and direct the applicant to go to the Agua Fria Village Association to present any plans prior to going to the Agua Fria Development Review Committee. And then we'll see how it goes from there.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Question for Mr. White. The neighbors have testified that they received no notice. What kind of notice or posting requirements were required in this case?

MR. WHITE: Mr. Chairman, Commissioner Campos, based on a letter sent by I believe it was Arlene Tercero, informing her that she did not receive a notice in proper timing, this case was tabled last month by the BCC because of inappropriate noticing. And the applicant has of course complied with all regulations regarding noticing through the County.

COMMISSIONER CAMPOS: So he has to post a sign?

MR. WHITE: He has to post a sign and notify neighbors within 100 feet excluding easements.

COMMISSIONER CAMPOS: Do you think there was an issue of notice before this matter went before the Agua Fria Development Review Committee?

MR. WHITE: Mr. Chairman, Commissioner Campos, I will take a look in the file and see if there is of course an issue of noticing, if you like.

COMMISSIONER CAMPOS: They have the same requirement, right?

MR. WHITE: It's the same requirements, that's correct, and I have looked through the file a little bit and I'm trying to find the certified mail receipts. I know I received them and if you give me a couple of minutes I can pull them out.

COMMISSIONER CAMPOS: You do remember receiving them?

MR. WHITE: I do remember receiving the receipts.

COMMISSIONER CAMPOS: But the Terceros don't remember seeing, I guess, any posting?

MR. WHITE: I believe that they did receive a posting, but I believe it may not have been in the time frame required.

COMMISSIONER CAMPOS: Okay. Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Frank, what would be the alternate use of the property to the applicant, in the event that the commercial zoning is not approved?

MR. WHITE: Mr. Chairman, Commissioner Sullivan, it would revert to

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residential.

COMMISSIONER SULLIVAN: And it currently has a building on it. Is it a metal building?

MR. WHITE: It's an existing 1600 square feet. I can't remember if it was metal or stucco. Maybe the applicant can address that.

MR. PADILLA : It's a wood building, sir. A wood type garage is what it is.

COMMISSIONER SULLIVAN: A wood garage. Okay. Stick-built garage. Okay. So in order to use it as residential, I assume you'd have to demolish that building.

MR. WHITE: Demolish it or modify it.

COMMISSIONER SULLIVAN: Or modify it. So are there any other uses—we're 1000 feet outside the outer limits of the node. Are there any other uses that would be permissible there, other than residential?

MR. WHITE: We have a section in our Code that's called other development and that would apply to certain bed and breakfasts, smaller businesses, that type of business, but the applicant has stated that he is in the towing business. He doesn't want to venture into anything other than towing.

COMMISSIONER SULLIVAN: But that's an issue that we would address at a later state when uses are being considered.

MR. WHITE: Right.

COMMISSIONER SULLIVAN: I'm just trying to think at this point in time whether there's any other uses. You're saying "Other Businesses" would be a use that doesn't require commercial zoning.

MR. WHITE: That's correct.

COMMISSIONER SULLIVAN: Any other businesses—

MR. WHITE: For example, a bed and breakfast, a Montessori school, falls under "Other development." Various others, just off the top of my head.

COMMISSIONER SULLIVAN: Anything that you could use a 1600 square foot building for, of they type that's there?

MR. WHITE: Typically, we see a lot of Montessori schools come in but that's about it. Nothing commercial.

COMMISSIONER SULLIVAN: Okay. So other uses, that doesn't require Commission action. That alternative is available to the applicant—

MR. WHITE: Mr. Chairman, Commissioner Sullivan, it definitely still needs to go through zoning, but it doesn't need a variance of the locational criteria of the Code. So in other words, it doesn't need to be located within a node.

COMMISSIONER SULLIVAN: I see. If the applicant, if he was interested in a "other business" he would still have to come through the process which went to the local development review committee and went to the Commission, but he wouldn't be requesting commercial zoning.

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

COMMISSIONER SULLIVAN: So there is some alternative to the

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applicant.

MR. WHITE: Sure. There's always some alternative.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: I think we should table this until the applicant and his neighbors can come forward with some reasonable use. I think if we give him an approval tonight for a commercial use based on his desire to do some kind of wrecking yard or car storage, isn't taking the neighborhood's concerns into consideration. So I'd like to move to table, and look for a second.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: So there's a motion and a second. Those in favor signify by saying "aye." [Commissioners Duran, Campos and Sullivan voted aye.] Opposed? [Commissioners Gonzales and Trujillo voted nay.] Motion carries.

COMMISSIONER GONZALES: Mr. Chairman, is there some direction you're going to provide to the applicant with that?

CHAIRMAN DURAN: Well, yes. I think that Mr. Padilla, if you get with Frank and your neighbors and come up with something reasonable that doesn't include car storage and all of that, that you come up with some reasonable commercial use. Maybe a plumbing yard. And that would be tabled to the next meeting, the next land use meeting. And we'll hear you, put you first on the agenda.

COMMISSIONER SULLIVAN: Don't guarantee that.

CHAIRMAN DURAN: Well, I take that back. We'll put you somewhere on the agenda. Hopefully before 1:30 at night though.

- IX. C. 8. 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: 0.35-acre and on 0.22-acre lot. The property is located off County Road 101E with the traditional community of Pojoaque, within Section 11, Township 19 North, Range 8 East**

COMMISSIONER SULLIVAN: This is the gas letter.

MR. WHITE: Correct.

COMMISSIONER SULLIVAN: I was just three cases off.

CHAIRMAN DURAN: That's not too bad.

MR. WHITE: Thank you, Mr. Chairman, Commissioners. There are currently two residences, a garage, two septic systems and a shed on the property. On offsite well serves the property. The applicant states that he wishes to transfer .22 acres to his son. The applicant states that there are no plans to change the current land use situation. The applicant states that there will be no additional wells or septic systems required and there will be no plans for construction and/or additions to either of the

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dwellings on the property. The sole purpose of the family transfer is to help their son.

The applicant states that the dwellings were placed on the property prior to the effective date of the Code. The mobile home has been on the property since 1979 and was replaced in 1995 with another mobile home. The applicant has provided an aerial photograph dated 1982 indicating two dwellings were on the property, and this is Exhibit D of your packet. Since the applicant was unable to obtain a photograph prior to the effective date of the Code, the applicant provided a letter from the Public Service Company of New Mexico confirming the date of gas installation for each of the dwellings on the property. This is Exhibit E.

Recommendation: Staff recommends that this variance be denied based on Article III, Section 10 of the Land Development Code which requires .75 acres per dwelling within the traditional communities. The decision of the CDRC was to recommend approval of the variance subject to the following conditions. And if I may enter them into the record, Mr. Chairman.

CHAIRMAN DURAN: We'll enter them into the record.

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-foot per year per lot. A water meter shall be installed for both lots. This shall be noted on the plat. Annual water meter readings shall be submitted to the County Hydrologist by March 31<sup>st</sup> of each year. Water restrictions shall be recorded within the County Clerk's office. [Removed at time of motion.]
2. No further division of this land shall be permitted. This shall be noted on the plat.
3. A plat of survey meeting all other County Code requirements shall be submitted to the Land Use Department for review and approval.
4. The applicant shall register the liquid waste systems with the Environment Department for both homes indicating lot sizes. . [Removed at time of motion.]

CHAIRMAN DURAN: Any questions of Frank? Is the applicant here? Is there anyone out there that wishes to speak for or against this application? Sir are you in agreement with the recommendations of staff?

[Duly sworn, Rosendo Lujan testified as follows:]

ROSENDO LUJAN: No, sir.

CHAIRMAN DURAN: You are not?

MR. LUJAN: No, I'm not, Mr. Chairman.

CHAIRMAN DURAN: I mean the conditions of the CDRC, I should say?

MR. LUJAN: Yes, sir.

CHAIRMAN DURAN: You're in agreement with the recommendations handed down by CDRC?

MR. LUJAN: No, sir.

CHAIRMAN DURAN: You are not. Okay. You have the floor.

MR. LUJAN: I'm half asleep.



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CHAIRMAN DURAN: That makes two of us.

COMMISSIONER TRUJILLO: I think, Mr. Lujan, when I talked to you, you said you were not in agreement of condition 4, where you're required to register the liquid waste system with the Environmental Department for both homes, indicating on the lot sizes, since the septic system has been in place since 1979 and you've had two mobile homes on the property since then.

MR. LUJAN: One of the them in 1969, the other one in 1979.

COMMISSIONER TRUJILLO: And essentially, the usage of the septic tank on the property remains the same. It's status quo. It doesn't change.

MR. LUJAN: Yes sir.

COMMISSIONER TRUJILLO: So that condition you would like to rescind, to purge.

MR. LUJAN: I would.

CHAIRMAN DURAN: Other than number 4, you're in agreement with all the other recommendations of the CDRC?

MR. LUJAN: I would like for you to also consider the metering of it, since the well is outside. It's about 150 feet from where I live and I think that thing was built in 1970, or dug in 1970, so I would ask for your consideration on that sir.

CHAIRMAN DURAN: How else would we—this use is already in existence, right?

MR. LUJAN: Yes, sir. One in '69 and one in '79.

CHAIRMAN DURAN: And the Code was '81.

MR. LUJAN: 1981.

CHAIRMAN DURAN: And you're the one that brought the gas meters that proved that they were pre-existing. The predated Code. Any questions of the applicant?

MR. LUJAN: I would just like to add that that's all the land that I own and I sure would like to have my son keep that there with a mobile home. We don't plan to do anything else to it, just the way it is, so I would surely appreciate your consideration for that.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Lujan, where exactly is your property?

MR. LUJAN: It's actually in Jaconita. That's actually County Road 101E and Avenida de Luis is the physical address.

COMMISSIONER CAMPOS: If I were driving north to Pojoaque, how would I get to your place?

MR. LUJAN: You would take the road towards Los Alamos. Go about two miles. There's the new high school to your left, you can see the big gym. You make a right about a quarter of a mile before the high school, come down about a quarter of a mile and that's my property to the right.

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COMMISSIONER CAMPOS: Okay. Have there been any water studies in your area showing there's a lot of pollution, nitrates, in the water?

MR. LUJAN: Not that I'm aware of, sir.

COMMISSIONER CAMPOS: For Mr. White, I would ask the same question about water qualities in that area. We've heard a lot about the water pollution problems in northern Santa Fe County, Pojoaque, etc. and how serious they are. Is this property in that area?

MR. WHITE: Mr. Chairman, Commissioner Campos, it is approximately in that area. I have heard those concerns that you bring up now. I don't know to what extent the contamination is. I wish the County Hydrologist could be present for this.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Campos, I don't believe that County staff has any hard document stating that, in our possession anyways.

COMMISSIONER CAMPOS: Not having any documentation stating that this property is within the problem zone?

MR. DOMINGUEZ: Correct.

COMMISSIONER CAMPOS: So how would we obtain such information?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Campos, I guess we could request the applicant to do it or we could have the County Hydrologist look it up. Either way.

COMMISSIONER CAMPOS: It seems to me every time, when we have small lot splits in areas where there could be water pollution issues, I think we need to look at every case very carefully. We're just adding to the problem with all these variances, with all these family transfers. It's just a big problem and we're making it worse. On one hand we say we want to make it better and on the other we're making it worse by our variances and our actions.

COMMISSIONER TRUJILLO: Mr. Chairman, I'm part of the liquid waste steering committee for the Española-Pojoaque Valley. That issue is being addressed as we speak, for a region-wide liquid waste system. Again, this septic tank has been in place since 1979, has been used since 1979, for two dwellings. The intensity doesn't change by granting this lot split. It remains status quo. It remains the same. There's no augmentation in intensity. And the liquid waste issue will be addressed from a holistic standpoint, from a regional standpoint. And that is being done as we speak.

COMMISSIONER CAMPOS: If this is non-conforming, eventually it could go away, it could be one lot. And as far as the solution, it's going to cost maybe millions, maybe hundreds of millions of dollars for this liquid waste system. And we continue to do what we're doing, every meeting. And we're creating a problem. And now we're wanting the federal government to give us \$300 million to fix it.

COMMISSIONER TRUJILLO: By denying this application, we will not rectify the situation. This application remains status quo. The same intensity. It's already being—the house is already there. There's two houses on the property, one septic tank, We will not be changing the intensity or usage of the property. It remains the same. It's

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status quo.

COMMISSIONER CAMPOS: Mr. White, you're recommending denial, even though there's grandfathering, a grandfathering situation?

MR. WHITE: Mr. Chairman, Commissioner Campos, keep in mind this is for a small lot family transfer. Small lot family transfers are not allowed within the traditional community.

COMMISSIONER CAMPOS: Period.

MR. WHITE: Period.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two questions. One, why aren't they allowed in traditional communities?

MR. WHITE: Mr. Chairman, Commissioner Sullivan, basically, the traditional community lots are very small already. They're  $\frac{3}{4}$  acre or smaller. So that would be half the minimum, which is  $\frac{3}{4}$  acre, that's too small. Now a different option is if there was a community well and community sewer then the density could change to a third of an acre, but in this case, that's not even possible.

COMMISSIONER SULLIVAN: The second question was is there a problem when it says register the approved Environment Department liquid waste permits. That means register them with the County. In other words, they need to go out and get the septic tanks permitted. Would that constitute a problem? Is .22 acres adequate acreage to get Environment Department approval of the septic?

MR. WHITE: Mr. Chairman, Commissioner Sullivan, first of all the registration would take place at the Environment Department and I believe there will be a problem with finding a registration. A registration is different than obtaining a permit for a liquid waste system. According to the Environment Department, they'll register any system that was 1973 or prior. Anything after that they will not register unless the lot meets density. If that makes any sense to you.

COMMISSIONER SULLIVAN: Okay. So these were not prior to 1973?

MR. WHITE: One, I believe the main residence was in '69. That can obtain a registration, and the second residence, which was in '79 may have a problem

COMMISSIONER SULLIVAN: Because of the size of the lot.

MR. WHITE: Of the lot, as well as the time frame.

COMMISSIONER SULLIVAN: Okay, so by including that condition, we're basically saying you can't do it because you can only get one of the two registered.

MR. WHITE: Mr. Chairman, Commissioner Sullivan, I wouldn't like to say that he can't do it. There may be some different alternatives that the applicant can explore. There's alternative systems which are very costly. And he can give it a shot at the Environment Department and see what they do. That's of course if that condition remains.

COMMISSIONER CAMPOS: Question.

CHAIRMAN DURAN: Commissioner.

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COMMISSIONER CAMPOS: Mr. White, if Mr. Lujan came in and said I want to take these two mobile homes out and build two stick-built homes here could he do that, under the Code?

MR. WHITE: Mr. Chairman, Commissioner Campos, yes he can do that.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: Well, I can appreciate again

Commissioner Campos' concern about the issue of variances and how it contributes to the problem. However, again, this is an issue that we need to try and address when it comes to family transfers because the family transfer provision, the variance provision is the only provision that really exists and intends to assist families like the Lujans who want to pass on a limited piece of land to their son, and I think that recognizing that there are issues that are taking place in the Pojoaque Valley and we're trying to do something to address those issues regionally, I still feel that this Commission should stand on the side of the families that need our help.

So, Mr. Chairman, I'd like to, in the effort of moving on, move for approval of this and exclude conditions one and four, in that approval.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Let the record show that there was no one out there that wanted to speak for or against this. Any further discussion on the motion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I don't think condition one is onerous, the requirement of the acre-footage and metering. I think that that will be a cost, certainly, but I think it's important that we maintain those controls as we've done on all other approvals. So I would support the motion but only with the elimination of condition 4.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Sullivan, the reason why I'm supporting removing item one is that this is not a new subdivision that's taking place or new lot that's being created. This is a well that has been in existence prior to any Code that has been presented and I'm not sure what we're really going to accomplish by all of a sudden limiting the Lujan's access to that well and so I would just ask the Commission to consider keeping that out.

COMMISSIONER TRUJILLO: The second agrees.

CHAIRMAN DURAN: Those in favor signify by saying "aye." [ccers Gonzales, Trujillo and Duran voted with the motion.] Opposed? [Commissioners Campos and Sullivan voted against.] Motion carries.

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**IX. C. 9. CDRC CASE #V 01-5200 Copar Pumice Company Variance. Copar Pumice Co. (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, which would result in The property is located east of US 285, 2 miles south of Cuyamungue, within Sections 27 and 28, Township 19 North, Range 9 East**

MS. ELLIS-GREEN: Thank you, Mr. Chairman, Commissioners. The applicant is requesting a variance of the lot size requirements of the Code in order to allow two lots to be created on 2.01 acres. The property is located within the Basin Hydrologic Zone. Minimum lot size in this area is 10 acres per dwelling unit. Lot size may be reduced to 2.5 acres if applicant can demonstrate adequate water.

The applicant states that they are requesting this density variance to match the character of the area, as there are one-acre lots to the south and west of this property. Staff has researched deeds on the adjacent one-acre lots and found that they were created prior to the County Code being in effect.

Recommendation: Staff recommends that the request for a variance be denied. The decision of the CDRC was to recommend approval of the variance request subject to the following five conditions. And Mr. Chairman, if I could enter those into the record.

[The conditions are as follows:]

1. The applicant shall install an engineer-designed crossing to provide access to the two lots to be approved by staff.
2. The applicant shall remove the concrete slabs and structures, the gas tank and storage sheds prior to plat approval.
3. Water use shall be restricted to 0.25 acre feet per lot per year. Water restriction covenants shall be recorded with the plat. The applicant shall install a water meter on both lots.
4. No further division of this land shall be permitted. This shall be noted on the plat.
5. A plat of survey meeting all other Code requirements shall be submitted to the Land Use Department for review and approval.

CHAIRMAN DURAN: Any questions of Penny? Is the applicant here? Could you please state your name for the record and do you have any testimony you'd like to add?

[Duly sworn, Rick Chatroop testified as follows:]

RICK CHATROOP: Rick Chatroop, 110 Wagon Trail Road, Cerrillos.

CHAIRMAN DURAN: Mr. Chatroop, is your client in agreement with the recommendations of CDRC?

MR. CHATROOP: Yes, they are.

CHAIRMAN DURAN: Any questions of Mr. Chatroop? Is there anyone

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out there in the public that would like to speak for or against this issue? If not, what's the pleasure of the Board?

COMMISSIONER GONZALES: Move for approval.

CHAIRMAN DURAN: There's a motion to approve. I'll second it. Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: The materials in the packet indicate that the applicant states that they're requesting the density variance to match the character of the area. I'm not seeing any hardship situations here. I'm seeing a desire to divide the lot in order to, for economic gain, I assume to sell the other lot. Is there something else that the applicant wants to add about the reasons for dividing the lot?

MR. CHATROOP: There is an arroyo crossing they're going to have to install on the south end of the lot, put a driveway access, secondary access, through an arroyo, which will create some additional expense and to keep the lots in line, like I said with the character of the neighborhood and also to keep the expense down for each lot.

COMMISSIONER SULLIVAN: But the purpose, Copar Pumice is on one of the two lots at this point in time?

MR. CHATROOP: There's nothing out there. They're basically vacant right now.

COMMISSIONER SULLIVAN: Okay, they're vacant. I saw some buildings on the map.

MR. CHATROOP: There's no buildings. There's some old concrete slabs.

COMMISSIONER SULLIVAN: So Copar Pumice is requesting subdivision just in order to have two lots, which would be more marketable and profitable than one lot.

MR. CHATROOP: Marketable. And I also have the xerox of the County zoning maps, which shows that you passed through 21 one-acre lots on the way to this lot, if you're interested in looking at that.

CHAIRMAN DURAN: We did what?

MR. CHATROOP: You passed through 21 one-acre lots on the road into this lot.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: That's all the questions I had, Mr. Chairman.

CHAIRMAN DURAN: Okay, there's a motion and a second. Is there anyone out there that wants to speak for or against this? Those in favor signify by saying "aye." [Commissioners Gonzales and Duran voted aye.] Opposed? [Commissioners Sullivan and Campos voted nay.] [Commissioner Trujillo was not present for this action.]

I don't know what happens. I guess you have to bring it back when there's another Commissioner up here. Is that correct?

MR. GRAESER: Mr. Chairman, that's true.

CHAIRMAN DURAN: So it's not a denial and it's not an approval. So

you need to bring it back at the next meeting. Penny will tell you what to do and then hopefully five of us will be here and then you get a decision. You waited all night for that, for no decision.

**IX. C. 10. CDRC Case #Z 01-5250. Genuity Building. Genuity, applicant, Hoch Associates, agent, request master plan with preliminary and final development plan approval for a 400 square foot fiber optics facility within a 9,380 square foot leased area on 1.93 acres. The property is located off State Road 553 on El Capitan Lane, within the traditional community of Lamy, within Section 33, Township 15 North, Range 10 East**

MR. WHITE: Thank you, Mr. Chairman, Commissioners. The applicant states that the facility will act as an infrastructure component of a ring of similar facilities that will house electrical equipment broadband giving the fiber optics lines a regeneration or power boost. The facility consists of a pre-cast hut and a 12' X 15' slab for the placement of a back-up generator and propane tank.

Recommendation: Staff's position is that this application is in accordance with Article V, Section 5.2 (master plan requirements) and Article III, Section 4.4 (development plan requirements) of the Land Development Code. The decision of the CDRC was to recommend master plan approval with preliminary and final development plan subject to the following conditions. If I may enter them into the record, Mr. Chairman.

[The conditions are as follows:]

1. All staff relines will be addressed. Original redlines will be returned with final plans.
2. The master plan/development plan will be recorded with the County Clerk's office.
3. All trees will be six feet high with a 2" caliper at time of planting. Any dead or diseased trees will be replaced for the entire length of the project.
4. The applicant shall install a Knox lock entry system as required by the Fire Marshal.
5. Natural slopes of 30 percent or greater shall not be disturbed.
6. The building shall be earthtone in color and the roof shall be a non-reflective material. The applicant shall provide color samples to staff prior to permit issuance.
7. The applicant shall address all redline comments from the Development Review Division Director.
8. The applicant shall provide a letter of consent from the railroad to utilize the railroad easement to access the site and to place utilities underground across the railroad tracks to connect to the Qwest fiber optics facility.
9. All proposed lighting shall be shielded or 50 watts or less. Applicant shall provide cut-outs sheets for all lighting.
10. All new utilities shall be placed underground.
11. Outdoor storage is not permitted.

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CHAIRMAN DURAN: Any questions of Frank? I have one, Frank. Is this property right there in the village? Right there by the train depot?

MR. WHITE: Mr. Chairman, it is located to the east of the train depot. It's approximately, I would say 300 yards east of the train depot. It's located off the railroad right-of-way, next to that existing Qwest fiber optics building.

COMMISSIONER SULLIVAN: Is it near the water tank?

MR. WHITE: I believe it is. It's down below the water tank. That's correct.

CHAIRMAN DURAN: Any questions of Frank.

COMMISSIONER CAMPOS: Question for Mr. White. Are there any negative impacts caused by the generator, as far as noise or anything like that?

MR. WHITE: Mr. Chairman, Commissioner Campos, there's generators operating near the site now and the Qwest building. There doesn't seem to be any impacts regarding the generator. They run relatively quiet.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Is the applicant here? Please step forward and state your name for the record.

[Duly sworn, Edward Lusinsky testified as follows:]

EDWARD LUSINSKY: My name is Edward Lusinsky. I own JAL and Associates, representing Hoch Associates. Our principle place of business is 6605 Harper Drive Northeast, Albuquerque, New Mexico.

CHAIRMAN DURAN: Sir, are you in agreement with the recommendations of CDRC?

MR LUSINSKY: I am.

CHAIRMAN DURAN: Okay. Any questions of the applicant?

COMMISSIONER GONZALES: Move for approval.

CHAIRMAN DURAN: Let the record note that there is no one out in the audience that wishes to speak for or against it.

COMMISSIONER CAMPOS: 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 Trujillo was not present for this action.]

MR. LUSINSKY: Gentleman, I would like to add, I promoted you staying late this evening and at this point I don't know whether to compliment you on your integrity or damn you for your stupidity, but thank you for sticking with it.

CHAIRMAN DURAN: Well, you know, we don't even know what you said. We don't know what that means, luckily, I guess.



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- IX. C. 11. EZ Case #S 00-4560. Tesoro Enclaves. Las Campanas Limited Partnership (Michael Baird, Vice President), applicant requests a final plat/development plan approval for a subdivision phase consisting of 140 residential lots on 440 acres in accordance with the approved master plan, and a variance of the minimum road standards to permit finished road grades exceeding three percent for 100 feet from the intersection. The property is located off Camino la Tierra/Las Campanas Drive within Sections 2, 3, and 10, Township 17 North, Range 8 East.**

MR. CATANACH: Thank you, Chairman Duran, Commissioners. The EZC has recommended approval for this subdivision phase and my staff report outlines the subdivision that have been granted final approval by the BCC. This proposed phase, the lots range in size from 1.5 acre to 7.5 acres. There's three sub-phases, Unit I, 30 lots, Unit II, 66 lots, Unit III, 44 lots. The applicant is also requesting an extension of time to record the three sub-phases. The regulations require that the subdivision would have to be recorded within 18 months from date of approval by BCC. This applicant is asking that that be extended to 2-½ years. The staff report has addressed roads and access, water, wastewater, terrain, landscaping, open space, archeology, homeowners association, and the requested variance.

The EZC recommended approval. Staff is recommending approval with conditions as agreed to by the applicant.

CHAIRMAN DURAN: Okay, we'll enter those into the record.

[The conditions are as follows:]

1. Prohibit direct driveway access to Las Campanas Drive and Camino la Tierra/Buckman.
2. Provide minimum recreational facilities (tables, benches, etc.) and address landscaping for a passive park area.
3. Include the following in the development plan submittals:
  - a. Traffic sign plan
  - b. Detail for hammer head cul-de-sac
4. Prohibit gate features along Las Campanas Drive because they conflict with the master plan development agreement.
5. Submit solid waste fee in accordance with subdivision regulations.
6. Submit engineer's cost estimate and acceptable financial surety for completion of required improvements as approved by staff. Upon completion, submit certification by registered engineer that improvements have been completed in conformance with approved development plans.

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

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN DURAN: Commissioner.

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COMMISSIONER CAMPOS: I understand that the State Land Office owns the mineral rights under this property. Is that true?

MR. CATANACH: I believe that is true, Commissioner Campos.

COMMISSIONER CAMPOS: How would that affect the quality of life in the subdivision if they decided to extract minerals from this area? Do you have any idea?

MR. CATANACH: That's an interesting question. I think the majority of the land that we present for zoning or subdivision development, the mineral rights are probably owned by BLM or a government entity. I don't know how to answer the question.

CHAIRMAN DURAN: Then don't try.

COMMISSIONER CAMPOS: Another question. There's a document that states, Read this property report before signing anything. Then I go to page 26. Do you have that?

MR. CATANACH: Yes.

COMMISSIONER CAMPOS: Kind of the third paragraph down. We have provided Santa Fe County with financial security in the amount of \$6,500,000 to ensure completion of a replacement delivery system in the event such a system is needed at some point in the future. The financial security is in the form of surety bonds, etc. Do you have any problem with this statement?

MR. CATANACH: We have had discussion about that disclosure with the EZC and the discussion we had with the EZC, whether that was an adequate disclosure regarding the homeowners—if that was an adequate disclosure regarding a buyer-beware, in that the homeowners, if the homeowners would have thought of any expectations that they may have to pay additional money into a water replacement system in the future, if in fact that that seven million dollars cannot cover the cost.

COMMISSIONER CAMPOS: It seems to me kind of misleading because as I understand it, it's going to cost ten, eleven, twelve million dollars minimum to divert the water and the County, is it committed to building this replacement delivery system? There is a bond, but as I understand it from Mickey Baird's testimony in the hearing in the last few months, the County has no obligation to do this. So it seems that this may be inaccurate information.

MR. CATANACH: Mr. Chairman, Commissioner Campos, the figures of ten, twelve million dollars and possibly Clif may know more, or Roman. I believe that would be a system that would serve County, City and Las Campanas. I'm not positive about that. But the seven million figure would be just a figure for capacity and design, just to serve Las Campanas development, not additional capacity.

COMMISSIONER CAMPOS: I'm under the understanding that it would be much higher at this point. Another, page 36, fire protection, that paragraph. It says the station is staffed by approximately 12 volunteers and 28 staff members. Is that accurate?

MR. CATANACH: That disclosure is regarding the entire County Fire Department.

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COMMISSIONER CAMPOS: Oh, the entire County Fire Department. It seems to refer to station one at 200 Murales Road.

MR. CATANACH: It certainly does try to roll in the Fire Department's responsibilities for that station when in fact the response time and any staff at that station, to my understanding does not exist, but I see what you're saying. It seems to roll in the County's responsibilities for that station as if there were actual County staff there.

COMMISSIONER CAMPOS: Yes. A lot of them.

MR. CATANACH: I agree. That may not be an accurate disclosure.

COMMISSIONER CAMPOS: And I'm concerned about this other disclosure concerning the replacement of the water system.

MR. CATANACH: I'm sorry, Commissioner. The disclosure concerning fire protection does state at the end that in addition, a voluntary fire station has been constructed on Camino La Tierra. So it's not referring to the fire station building that's there at Las Campanas. It's referring to the County's department staff.

COMMISSIONER CAMPOS: We don't have 12 volunteers and 28 paid staffers there full time, either, right?

MR. CATANACH: Regarding the County Fire Department staffing?

COMMISSIONER CAMPOS: Yes.

MR. CATANACH: I'm not sure what the County Fire Department staffing is, but I guess I'm just trying to clarify it's not trying to state that the Fire Station building that's out by Las Campanas is actually including staff and staff fire fighters.

COMMISSIONER CAMPOS: It could be misleading.

MR. CATANACH: 200 Murales Road, I think that's—

COMMISSIONER CAMPOS: Is that City?

MR. CATANACH: That might be the City station. Yes.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: Is the applicant here? Mr. Walbridge, are you and your client in agreement with all of the recommendations of CDRC?

[Duly sworn, Clif Walbridge testified as follows:]

CLIF WALBRIDGE: Yes.

CHAIRMAN DURAN: You are.

: Yes, we are.

CHAIRMAN DURAN: Do you have anything to add?

MR. WALBRIDGE: Mickey Baird had indicated to me regarding Commissioner Campos' question about the cost of the water system, and Mickey told me that the position of Las Campanas is that they will pay the full price of the pipeline and the water intake for both potable and golf course water for Las Campanas. So their position is that if it's more than that bond, they will pay for it.

CHAIRMAN DURAN: They'll pay for it.

COMMISSIONER CAMPOS: The problem is, this gives the impression that the County somehow is responsible for it.

1966071

CHAIRMAN DURAN: Why don't we check into that tomorrow.  
COMMISSIONER CAMPOS: I think we should check into that.  
CHAIRMAN DURAN: Why don't you report back to us at the next

meeting.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On page 28 of the HUD report, talking about the water system, Clif, it says, We do not own or operate the central water system for—and it lists all the various estates, III, IV, V, Units, I, II, and III, etc. It also lists Tesoro Enclaves, Units I, II, III. That's this development, right?

MR. WALBRIDGE: That's correct. Right.

COMMISSIONER SULLIVAN: So you're disclosing in bold type that you don't own or operate the central water system for this—the County doesn't own and operate it. Who owns and operates it?

MR. WALBRIDGE: It's owned and operated by the Water Cooperative.

COMMISSIONER SULLIVAN: The Las Campanas—

MR. WALBRIDGE: There's a separate entity called the Las Campanas Water Cooperative.

COMMISSIONER SULLIVAN: Okay. Then you go on to say, therefore, we cannot assure its continued availability for your use. So the cooperative, you're saying the cooperative could make its own decisions that might impact the homeowner.

MR. WALBRIDGE : I'm not familiar with that section but I do know that there is a separate entity.

COMMISSIONER SULLIVAN: What is the need for the—I read a little bit about the need for the two and a half year extension? Something about recording all of the phases at once?

MR. WALBRIDGE: There's three phases. And usually, when they do three phases, there'll be one phase per year, so two and a half years, it would save us the need to come back in 18 months to request a one-year extension of the recording of the third phase.

COMMISSIONER SULLIVAN: So Phase III you don't plan to be developing for another year or so.

MR. WALBRIDGE Yes, typically they'll record the first one right away, and once you get through the construction season, record the second one, and then record the third one before we get past the two and half years.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Any other questions of the applicant?

COMMISSIONER CAMPOS: Mr. Walbridge, could you just address the issue of mineral rights being owned by someone else and developing a subdivision?

MR. WALBRIDGE: I think you were saying, Commissioner Campos, that

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BLM owns the mineral rights?

COMMISSIONER CAMPOS: The State Land Office, I believe owns them.

MR. WALBRIDGE: The State Land Office. I haven't run across that before. I suspect Joe's probably correct.

COMMISSIONER SULLIVAN: Is that disclosed in the HUD report?

COMMISSIONER CAMPOS: I'm not sure.

CHAIRMAN DURAN: Almost all the property in Santa Fe County is sold without the mineral rights. Someone else owns it—BLM, the state, the United States government.

COMMISSIONER CAMPOS: Is there disclosure?

CHAIRMAN DURAN: There's disclosure in the title commitment. It makes exception to mineral rights.

COMMISSIONER SULLIVAN: You might talk to them about disclosing that in the HUD document.

MR. CATANACH: Mr. Chairman, I believe there is disclosure in that. I'd have to find it, but I believe there is disclosure on that.

CHAIRMAN DURAN: Is there anyone out there that would like to speak for or against this proposal.

COMMISSIONER GONZALES: Move for approval.

CHAIRMAN DURAN: There's a motion to approve.

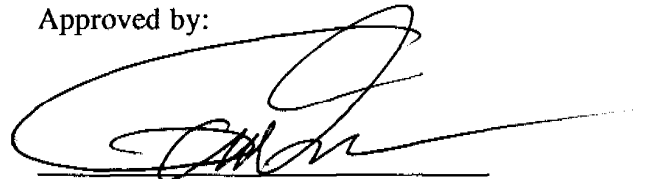
COMMISSIONER SULLIVAN: Second.

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

### ADJOURNMENT

Chairman Duran declared this meeting adjourned at approximately 2:00 a.m.

Approved by:



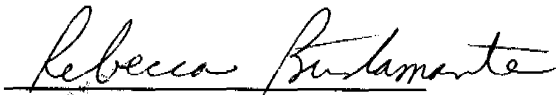
Board of County Commissioners  
Paul Duran, Chairman

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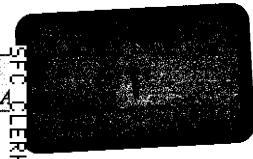
Respectfully submitted:

  
Karen Farrell, Commission Reporter

ATTEST TO:

  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK





REC'D CLERK RECORDING 08/16/2004

1966074

**PART 13: PLAN IMPLEMENTATION RESOURCES**

This attachment provides a listing of community planning contacts for residents, business owners and property owners in La Cienega and La Cieneguilla. It is designed as a guide to help in researching and implementing the programmatic aspects of the La Cienega and La Cieneguilla Community Plan as well as to help individuals who want to learn more about these issues.

The best resource for beginning to investigate aspects of the La Cienega and La Cieneguilla Community Plan and the programmatic aspects of the plan is the Santa Fe County Planning Division. Staff members worked to help develop the plan and have background information on the ideas and policies presented in the plan. For additional information on specific subjects, you may contact the following agencies and organizations.

• **Community Planning, Land Use and Enforcement**

**Santa Fe County Planning Division**

You may contact the Planning Division to ask for a staff planner to help with questions regarding the La Cienega and La Cieneguilla Community Plan and the community planning process in Santa Fe County. The Planning Division is the lead county agency responsible for helping to implement the various aspects of the community plan as well as directing community planning efforts.

*Planning Division - Santa Fe County Land Use Dept.*

PO Box 276

Santa Fe, NM 87504-0276

Phone: (505) 986-6225

**Santa Fe County Development Review Division**

The Development Review Division is responsible for reviewing development plans and applications and may help answer questions regarding a specific project as well as how both County and La Cienega and La Cieneguilla Community Plan ordinances effect proposed projects.

*Development Review Division - Santa Fe County Land Use Dept.*

PO Box 276

Santa Fe, NM 87504-0276

Phone: (505) 986-6225

**Santa Fe County Permits and Inspection Division**

You may contact the Permits and Inspection Division for specific questions regarding building permits and the regulatory process as they pertain to both Santa Fe County and specifically to La Cienega and La Cieneguilla. The Permits and Inspections Division will also be able to respond to your questions regarding existing buildings and possible violations to the County Land Development Code.

*Permits and Inspection Division - Santa Fe County Land Use Dept.*

PO Box 276

Santa Fe, NM 87504-0276

Phone: (505) 986-6225

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• Fire Protection

*Santa Fe County Fire Marshal*

The Santa Fe County Fire Marshal is responsible for fire protection related activities in the County. You may contact the Fire Marshal's office for information regarding specific fire protection requirements as well as for educational materials and help in designing community-wide fire protection efforts.

*Fire Marshal*

Santa Fe County Fire Marshal

Number 14 Fire Place

Santa Fe, NM 87505

Phone: (505) 992-3070

• Community Services

*Santa Fe County Open Space Program*

The County Open Lands, Trails, and Parks Advisory Committee (COLTPAC) is coordinated through the Open Space Program of the County Planning Division. The Open Space Program has already acquired open space property in La Cienega and La Cieneguilla and will be responsible for coordinating future management and planning activities regarding open space in the Planning Area.

*Open Space Program*

*Planning Division - Santa Fe County Land Use Dept.*

PO Box 276

Santa Fe, NM 87504-0276

Phone:(505) 986-6225

*Santa Fe County Community, Health and Economic Development Department*

County community services are managed through the Community, Health and Economic Development Department. The Department may help identify both programming sources and funding sources for community-wide projects such as a community center.

*Community, Health and Economic Development Department*

52 Camino de Jacobo

Santa Fe, NM 87505

Phone:(505) 992-3060

*University of New Mexico School of Architecture and Planning*

The School of Architecture and Planning at the University of New Mexico can provide assistance in community planning, architectural and landscape architectural design through both graduate school studio classes and the Design and Planning Assistance Center (DPAC). Classes from the Community and Regional Planning Program have completed studies in La Cienega and La Cieneguilla regarding land assessment techniques and transfer of development rights (TDRs).

*School of Architecture and Planning*

University of New Mexico

2414 Central Avenue SE

Albuquerque, NM 87131

Phone:(505) 277-3654



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- **Water Systems, Water Quality and Water Conservation**

**Santa Fe County Hydrologist**

The County Hydrologist may be of assistance in answering questions about water availability and requirements for water availability as they pertain to the La Cienega and La Cieneguilla Community Plan and the County Land Use Code. The Hydrologist may also assist in examining watershed, recharge and storm water management programs for the Planning Area.

**Santa Fe County Hydrologist**

Santa Fe County Land Use Dept.  
PO Box 276  
Santa Fe, NM 87504-0276

Phone: (505) 986-6225

**Santa Fe County Utilities Division**

The County Utilities Division may help with planning for water services and water systems in La Cienega and La Cieneguilla. The Division may help answer questions regarding development or expansion of community water systems and in wastewater systems for the community.

**Santa Fe County Utilities Division**

605 Letrado  
Santa Fe, NM 87505

Phone: (505) 986-6210

**New Mexico Environment Department (NMED)**

The New Mexico Environment Department is responsible for monitoring various aspects of both groundwater and surface water management and protection. The NMED Program Manager for the Santa Fe Field Office may answer questions regarding private (less than 2,000 gallons per day) wastewater and septic systems. The Program Manager for the NMED Groundwater Quality Bureau, Pollution Prevention Section may address questions regarding small-scale community wastewater systems (systems using more than 2,000 gallons per day). The NMED Drinking Water Bureau may answer questions regarding water quality and community education programs regarding drinking water for both private wells and community water systems. The NMED Surface Water Bureau may help answer questions regarding watershed, recharge, and storm water management and protection programs.

**New Mexico Environment Dept.**

Groundwater Quality Bureau, Pollution Prevention Section - (505) 827-2900  
Program Manager, Santa Fe Field Office - (505) 827-1840  
Drinking Water Bureau - 1(877) 654-8720  
Surface Water Bureau - 1(800) 879-3421  
NMED Information Line - 1(800) 879-3421

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**New Mexico State Engineer's Office (SEO)**

The State Engineer's Office may answer questions regarding water rights and development of new wells. The SEO Water Rights Division may address questions regarding what rights may be available for wells and water use. The Technical Division may help answer questions regarding construction and hydrology including watershed areas, aquifer recharge and watershed protection. The Water Conservation Program may help answer questions regarding water conservation efforts for both individuals and communities.

*State Engineer's Office, Water Rights Division - (505) 827-6120*

*Technical Division - (505) 827-6140*

*Water Conservation Program - (1800) 928-3766*

• **Roads**

**Santa Fe County Public Works Department**

The County Public Works Department maintains County roads. Additionally, the County has a maintenance request line at 992-3010 that residents can call to notify the County of road maintenance needs. Also, there is a Citizens Road Advisory Committee which meets the second Wednesday of every month at 7:00 p.m. at the County Administrative Building in the Legal Conference Room to help plan road improvements throughout the County.

*Santa Fe County Public Works*

*2600 Galisteo Road*

*Santa Fe, NM 87504*

*Phone: (505) 992-3010*

**New Mexico State Highway Department, District 5 Office**

The New Mexico State Highway Department's District 5 Office maintains Highway 599 and may be reached for questions and comments regarding the highway and all related road issues.

*District 5 Office*

*New Mexico State Highway Dept.*

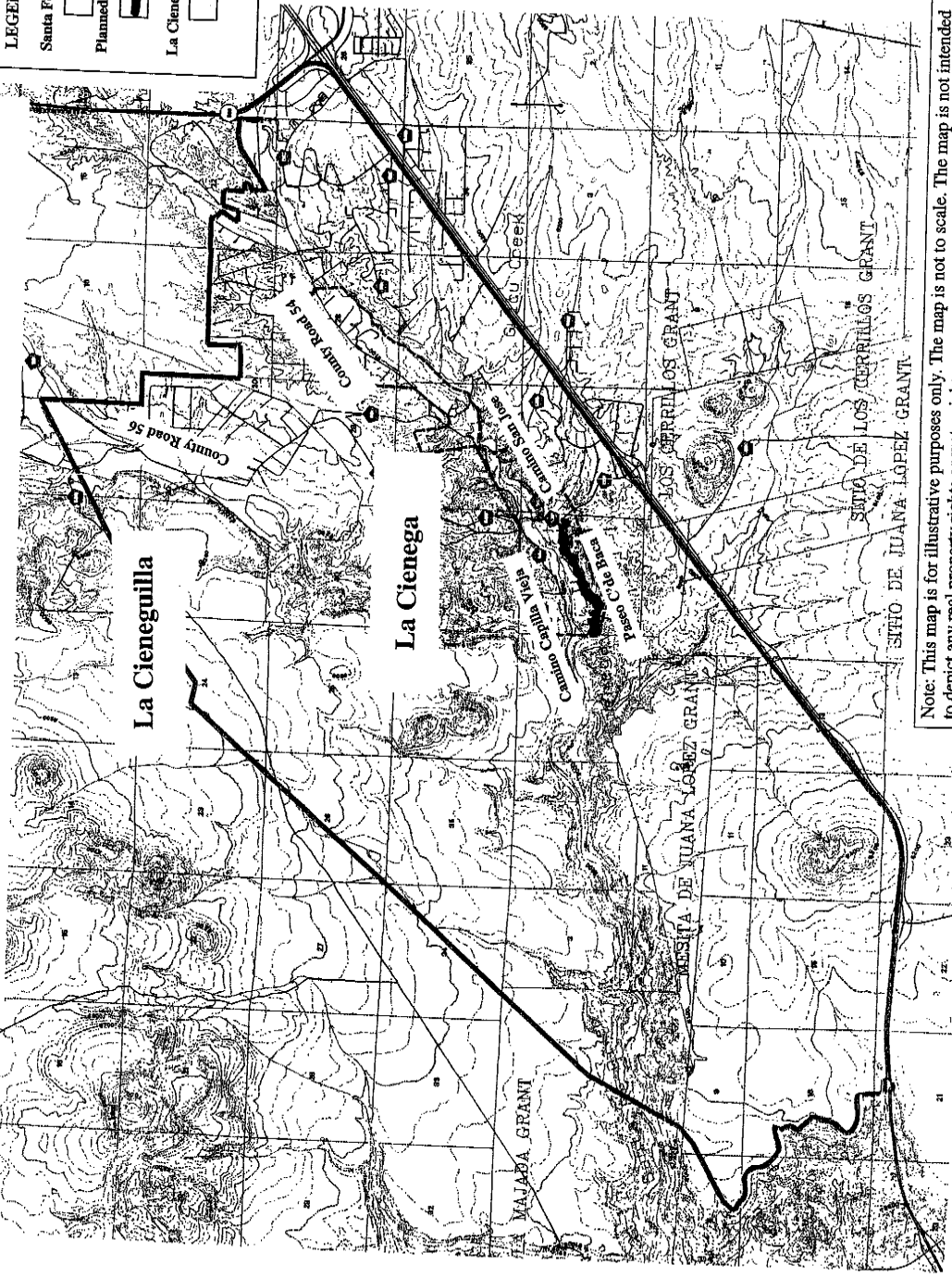
*Box 4127 Coronado Station*

*Santa Fe, NM 87502-4127*

*Phone: (505) 827-9500*

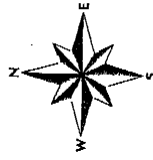
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**Water System Service Areas  
 in La Cienega and La Cieneguilla**

1966080



**LEGEND**

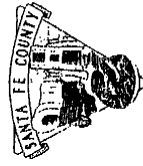
- Santa Fe County Water System
- Planned Extension of Santa Fe County Water System
- La Cienega Mutual Domestic Water Association System



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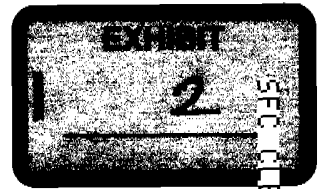


This information is for reference only. It is not intended to be used as a legal document. The user assumes all liability for errors and omissions. The user assumes all liability for any and all consequences arising from the use of this information. It is recommended that a professional survey be conducted if necessary.



Note: This map is for illustrative purposes only. The map is not to scale. The map is not intended to depict any real property rights or water rights.

June 27, 2000



### Petition to Demonstrate Support for the Proposed La Cienega and La Cieneguilla Community Plan

SEC. CLERK RECORDING 08/16/2004

I, the undersigned, am a resident and/or property owner and/or business owner in the La Cienega and La Cieneguilla Community Planning Area as of July 1, 2001. I would like to inform the Santa Fe County Board of County Commissioners that I support the vision, goals and policies contained in the proposed La Cienega and La Cieneguilla Community Plan scheduled to be reviewed by the Board on August 14<sup>th</sup>, 2001. The Community Plan has been developed over the past four years with continual support, direction and participation of residents, property owners and business owners in La Cieneguilla, Upper La Cienega and Lower La Cienega. I strongly encourage the Board of Commissioners to vote to approve the Plan at the public hearing on August 14<sup>th</sup>, 2001.

Print Name:	Address:	Signature:
1. Grey Howell	440 Los Pinos Rd, SF 87505	<i>Grey Howell</i>
2. Tamara Montoya	02 Camino Capilla Vieja SF 87505	<i>Tamara Montoya</i>
3. Christopher Montoya	" "	<i>Christopher Montoya</i>
4. Billy Lucasella	#8 PASEO Los Pinos SF 87505	<i>Billy Lucasella</i>
5. Pete C. Montoya	112 Entrada La Cienega	<i>Pete C. Montoya</i>
6. Pete C. Montoya	115 Entrada	<i>Pete C. Montoya</i>
7. J. J. Gonzales	54 Entrada La Cienega	<i>J. J. Gonzales</i>
8. Ben Montalbano	442 Los Pinos Rd. La Cienega	<i>Ben Montalbano</i>
9. Kathy Montalbano	442 Los Pinos Rd. La Cienega	<i>Kathy Montalbano</i>
10. Ed Gonzales	74 Entrada La Cienega	<i>Ed Gonzales</i>
11. Diane Gonzales	74 Entrada La Cienega	<i>Diane Gonzales</i>
12. Judy Howalski	8 Calle Corta, La Cieneguilla	<i>Judy Howalski</i>
13. Paul Schumann	8 Calle Corta, La Cieneguilla	<i>Paul Schumann</i>
14. ELAN VORSHAY	65 CAMINO TOROPEO LOOP	<i>Elan Vorshay</i>
15. Mary Beth Bliss	420 Los Pinos Road	<i>Mary Beth Bliss</i>
16. Dick W. Vander	420 LOS PINOS ROAD	<i>Dick W. Vander</i>
17. Janet Jara	66 Camino Capilla Vieja	<i>Janet Jara</i>
18. Nancy Hockstad	440 Los Pinos Rd.	<i>Nancy Hockstad</i>
19. _____	_____	_____
20. _____	_____	_____
21. _____	_____	_____

### Petition to Demonstrate Support for the Proposed La Cienega and La Cieneguilla Community Plan

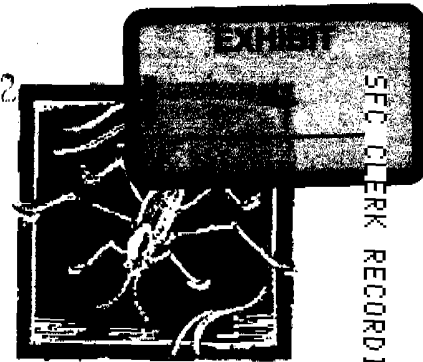
I, the undersigned, am a resident and/or property owner and/or business owner in the La Cienega and La Cieneguilla Community Planning Area as of July 1, 2001. I would like to inform the Santa Fe County Board of County Commissioners that I support the vision, goals and policies contained in the proposed La Cienega and La Cieneguilla Community Plan scheduled to be reviewed by the Board on August 14<sup>th</sup>, 2001. The Community Plan has been developed over the past four years with continual support, direction and participation of residents, property owners and business owners in La Cieneguilla, Upper La Cienega and Lower La Cienega. I strongly encourage the Board of Commissioners to vote to approve the Plan at the public hearing on August 14<sup>th</sup>, 2001.

Print Name:	Address:	Signature:
43. CRAIG ANDERSON	173 LAS ESTRELLAS	Craig Anderson
44. Catherine Kirkwood	" " "	Catherine Kirkwood
45. <del>XXXXXXXXXX</del>	<del>XXXXXXXXXX</del>	<del>XXXXXXXXXX</del>
46. JULIE B. Weinberg	72 Camino Torcido Loop	J. B. Weinberg
47. RICHARD WEINBERG	72 CAMINO TORCIDO LOOP	Richard Weinberg
48. Rachel Dixon	48A Paseo C de Baca	Rachel Dixon
49. Mary G. Dixon	48A Paseo C de Baca	Mary G. Dixon
50. Tom Dixon	48A Paseo C de Baca	Tom Dixon
51. Becky Dickens	13A Paseo C de Baca	Becky Dickens
52. C. Levi Webb	47 Paseo C de Baca	C. Levi Webb
53. C. SERRANO	" " " "	C. Serrano
54.		
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# Santa Fe Watershed Association

PO Box 31160  
Santa Fe, NM 87594-1160  
(505) 820-1696/930-2325  
[sfwatershed@earthlink.net](mailto:sfwatershed@earthlink.net)

1966082



August 14, 2001

Comments on the proposed ordinance related to the La Cienega Land Use Plan, regulating riparian restoration projects:

We concur that riparian restoration projects should be developed with an opportunity for local input and with consideration of upstream and downstream hydrologic effects of the project. Thanks to a discussion with Mr. Jose Varela-Lopez, we understand that this draft ordinance considers water rights to be just one way that a riparian restoration project could demonstrate that it would not have negative downstream effects. As an example, Mr. Varela suggested that an owner of a pond formerly maintained for agricultural purposes could choose to convert the purpose of use of the pond to a wetland to provide wildlife habitat. This would be acceptable to downstream users because it would simply represent the same amount of consumptive use upstream of them, turned to a different purpose.

The current draft ordinance language also allows for "other sources" than water rights to support a riparian project: for instance, the project designers could demonstrate that, by slowing up the flow of storm water, they could cause recharge to shallow groundwater. The shallow groundwater would support vegetation, which would in turn help to slow and sustain flows in that reach.

We are grateful that Mr. Varela (and we presume others involved in the La Cienega planning process) appreciates that a well-designed riparian restoration project can actually generate more water than it consumes. However, we are still concerned that the emphasis in the proposed ordinance language is on the consumption of water by vegetation introduced in a riparian restoration project, rather than on the multiple benefits of erosion control, avoidance of downcutting and bank cutting, water quality improvements through shading the water surface and reducing temperature and evaporation losses, to say nothing of developing wildlife habitat and recreational resources for local residents. We also believe that requiring a review of such projects by the State Engineer would not have the desired effect. The State Engineer would of course have a role in reviewing projects involving a transfer or a change in purpose of a water right; but they do not routinely offer opinions on the merits of projects involving water management. Depending on the nature of the project, it may require review by the US Army Corps of Engineers and the New Mexico Environment Department Surface Water Quality Bureau. But the best way to achieve the kind of review

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that would be meaningful to local people concerned about local water effects would be to have it performed by the County Hydrologist.

We would like to offer the following language for consideration, either as alternative ordinance language or as guidance for the review of riparian restoration projects proposed within the La Cienega area:

Prior to development of riparian and wetland restoration projects in the Planning Area, applicants shall submit for review by the County Hydrologist a hydrologic report analyzing the effects of the project in terms of increased evapotranspiration versus increased infiltration and recharge. No project shall be permitted that in the professional opinion of the County Hydrologist would negatively impact existing permitted beneficial uses of water. A riparian/wetland restoration project may be granted a provisional permit pending the results of ten years monitoring of the hydrologic impact of the project; if the data show a trend indicating net consumption of water resources by the riparian/wetland project after a decade, the project shall be terminated. All such projects shall also comply with all County Code requirements including, without limitation, terrain management. Additionally, a public process for community input shall be required for any such projects proposed in the Planning Area.

Thank you for the opportunity to comment.

Sincerely,

Paige Grant  
Executive Director

SFC CLERK RECORDING 08/16/2004

UPPER LA CIENEGA AND LA CIENEGUILLA RESIDENTS

We SUPPORT a one-year extension to formulate a comprehensive community plan that includes ideas, v participation from Upper La Cienega and La Cieneguilla Residents. If the extension is not granted, we formally request that the boundaries that encompass Upper La Cienega and La Cieneguilla be geographi- cally EXCLUDED from the scope of this plan. Our only opportunity for input thus far has been controlled and one of "reacting" to a document that is already molded in concept and philosophy—and with which we do not necessarily agree. Tinkering by isolated amendment will not produce a meaningful plan for our us.



SEC. CLERK RECORDING 08/16/2004

Name	Address	City	Zip Code	Telephone
Beverly A. Garcia	POB 2206	Santa Fe	87504	424-2200 670-7022
Louis J. Martin	04 SOUTH CALLE DE ANGELES	Santa Fe	87507	473-4574
Bill Spens	49 CAMINO BOCIDO 600P	Santa Fe	87507	438-6080
Keviniall Hagan	518 Joe Rines Rd	Santa Fe	87507	471-3592
M. MULLIGAN	93 Las Estrellas	Santa Fe	"	827-3657
HENRY PACHECO	77A Las Estrellas SEN. M. 87505	Santa Fe	87505	471-8504
EMILY PRATER	77A Las Estrellas	Santa Fe	87505	
Gloria Mendoza	112 Pueblo Sacawi	Santa Fe	87505	473-7866
Marianne De Bruy	26 Rito Guico	Santa Fe	87507	424-0687
Walt Fitzgerald	25 Rito Guico	Santa Fe	87507	473-1606
Richard P. Pineda	55 Truce Hermanas	Santa Fe	87507	473-7787
Cherie C. Sanchez	218 Los Pinos Rd	Santa Fe	87507	471-8213
Indelle Martinez	PO BOX 5836	Santa Fe	87502	474-0405
C. C. M...	5830 Zafarano Rd 44-172	Santa Fe	87507	474-3436
Patricia...	208 Los Pinos	Santa Fe	87507	471-4231
John Simons	286 Los Pinos	Santa Fe	87507	424-4824
Olivera Manera	65A2 Las Estr	Santa Fe	87505	670-0313
TOM SIMONS	286 LOS PINOS	Santa Fe	87507	424-4824
...	11 Starbuck Rd	Santa Fe	87505	471-3489
Melissa Garcia	77 Camino Torcido Loop	Santa Fe	87507	471-3719
Patricia...	85D Las Estrellas	Santa Fe	87507	438-4655
Manuel Martinez	85D Las Estrellas	Santa Fe	87507	438-4655
Carlos Rector	15 LUCERITO C	Santa Fe	87507	
Mary O'Brien	15 LUCERITO C	Santa Fe	87507	438-7220
...	43 CAMINO MONT...	Santa Fe	87505	438-9837
Wendy Anderson	85C LAS ESTRELLAS	Santa Fe	87507	471-4502
Mary Pook	77 Las Estrellas	Santa Fe	87507	474-5425
...	46 C Camino...	Santa Fe	"	473-9334
Waldo Sandoz	" "	Santa Fe	"	438-3365
Kucille Ramey	" "	Santa Fe	"	471-6934

M4  
3422





UPPER LA CIENEGA AND LA CIENEGUILLA RESIDENTS

1966086

We SUPPORT a one-year extension to formulate a comprehensive community plan that includes ideas, vision and participation from Upper La Cienega and La Cieneguilla Residents. If the extension is not granted, we formally request that the boundaries that encompass Upper La Cienega and La Cieneguilla be geographically EXCLUDED from the scope of this plan. Our only opportunity for input thus far has been controlled and one of "reacting" to a document that is already molded in concept and philosophy—and with which we do not necessarily agree. Tinkering by isolated amendment will not produce a meaningful plan for our us.

Name	Address	City	Zip Code	Telephone
<del>Edna Sargent</del>	283 Los Pinos	Santa Fe	87507	471-4461
Larry H. Vigil	1226 Lucero Ln	Santa Fe	87507	474-7466
Eric Parusa	35 Camino Del Arroyo	Santa Fe	87507	438-8362
June Parusa	"	Santa Fe	"	"
Yvonne Angel	7 Scarlett Ln	Santa Fe	87507	4384941
Adrian Baca	605 Las Estrellas	Santa Fe	87507	670-0313
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1966087

SEALERK RECORDING 08/16/2004

August 9, 2001

Mr. Marcos Trujillo  
County Commissioner  
Santa Fe New Mexico

Dear Mr. Trujillo:

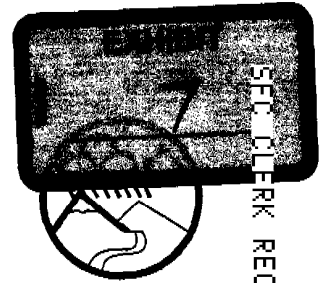
I hope that you will support the Downs at Santa Fe project. I am sure you are familiar with the history of the property. It is a beautiful facility and a wonderful asset to Santa Fe County. The New Mexico Racing Commission has delayed and rejected proposals for other tracks to open in the state because they and the horseman would like to see this track open again. The positive economic impact for Santa Fe County would be driven by the trainers and employees temporarily locating here, patrons of the planned concerts, and employment opportunities for the local people. Horseracing is an established and thriving business in New Mexico. Currently, northern New Mexico trainers and racehorse owners have to travel to Albuquerque, Sunland Park, or Farmington to work or see their horses race. It is truly a shame that this facility is not in use.

I understand about the old manure pile, but I have driven by and I do not see any environmental problem. It is my understanding, with time, that the pile will be removed. The pile never should have been allowed to accumulate. As long as, in the future, the new manure will be trucked off, I totally support the Downs at Santa Fe. The limited and state regulated slot machines are required by law to benefit the horseracing industry. The neighbors and the Downs can coexist. The past relationship, and the current relationships between horseracing tracks and their neighbors prove this. There are racetracks in the middle of Phoenix, Santa Anita, and Albuquerque. Please support the Downs at Santa Fe proposal. It could be the premier horse racing facilities in New Mexico.

Sincerely,

Edward A. Rivera  
Resident and board member WSFA

1966088



SEC CLERK RECORDING 08/16/2004

State of New Mexico  
**ENVIRONMENT DEPARTMENT**

*Ground Water Quality Bureau*  
*Harold Runnels Building*  
*1190 St. Francis Drive, P.O. Box 26110*  
*Santa Fe, New Mexico 87502*  
*(505) 827-2918 phone*  
*(505) 827-2965 fax*

**received**  
12/27/00

**PETER MAGGIORE**  
*Secretary*  
**PAUL R. RITZMA**  
*Deputy Secretary*



**GARY E. JOHNSON**  
*GOVERNOR*

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

December 19, 2000

George Rivera, President  
Pojoaque Pueblo Development Corp.  
Route 11, Box 21B  
Santa Fe, NM 87501

**RE: Discharge Plan Renewal, DP-265, The Downs at Santa Fe**

Dear Mr. Rivera:

Pursuant to Water Quality Control Commission (WQCC) Regulation 3109, the application for discharge plan renewal for DP-265, submitted by Glorieta Geoscience, Inc. (GGI) for the discharge of 1.2 million gallons per day of treated and disinfected effluent from the City of Santa Fe wastewater treatment plant at The Downs at Santa Fe (The Downs) is hereby approved, subject to the conditions listed below. The facility is located approximately 11 miles south of Santa Fe in Section 27, T16N, R8E, Santa Fe County. In approving this discharge plan, the New Mexico Environment Department (NMED) Ground Water Quality Bureau (GWQB) has determined that the requirements of WQCC Regulation 3109.C have been met.

The approved discharge for The Downs is briefly described as follows:

Treated and disinfected effluent from the City of Santa Fe municipal wastewater treatment plant will be held in a synthetically-lined pond at The Downs prior to land application onto 135 acres of turf grass, trees, and native vegetation, and distribution to two lined ornamental ponds inside the racetrack infield. Ground water below the site is at a depth of approximately 40 to 80 feet and has a total dissolved solids concentration of approximately 400 milligrams per liter.

The approved discharge plan renewal consists of the materials submitted by GGI dated November 15, 1999, January 1, 2000; and the letters submitted by GGI dated June 27, 2000, July 18, 2000, and July 31, 2000. In addition, the discharge plan includes information and materials submitted as part of the original discharge plan approved on May 20, 1983 and the materials for renewal and modification dated May 18, 1988, April 3, 1991, and September 25, 1993. The discharge shall be

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George Rivera, DP-265  
December 19, 2000  
Page 2

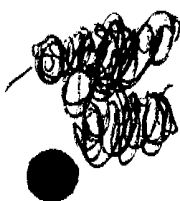
managed in accordance with the approved plan and is subject to the conditions listed below.

However, approval of this discharge plan does not relieve you of your responsibility to comply with any conditions or requirements of the previous discharge plan, DP-265, the New Mexico Water Quality Act, WQCC Regulations, any other applicable federal, state and/or local laws and regulations, such as zoning requirements and nuisance ordinances.

**CONDITIONS FOR APPROVAL**

This discharge plan approval is subject to the following conditions for the following reasons:

1. Pojoaque Pueblo Development Corporation (PPDC) shall not discharge wastewater to the two existing wastewater treatment lagoons located northwest of the grandstands without prior approval from the GWQB. PPDC shall maintain a chain-link fence around the impoundments to prevent public access. Should PPDC wish to discharge wastewater to the on-site lagoon system, PPDC shall submit an application for modification of this discharge permit to allow for the additional flow.



The reason for this condition is to comply with Section 3107.C of the WQCC Regulations.

2. PPDC shall replace the synthetic liner of the effluent holding pond prior to any discharge of treated effluent into the impoundment. The new synthetic liner shall be installed in accordance with the NMED Guidelines for Liner Material and Site Preparation for Synthetically-Lined Lagoons (copy enclosed).

The reason for this condition is to comply with Section 3109.C of the WQCC Regulations.

3. PPDC shall submit a plan and schedule for removal of the manure stockpile material accumulated in the western portion of The Downs property. The plan and schedule shall be submitted to the GWQB for review within 60 days of this discharge plan renewal, and shall be implemented immediately upon GWQB approval. The plan must include but is not limited to the following:

- a) an estimate of the total volume of material to be removed;
- b) a description of the removal process (e.g., volume of material to be removed per month, which stockpile will be addressed first, etc.);
- c) the name, address, phone number, and a contact person for the disposal/composting facility that will receive the manure; and

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George Rivera, DP-265  
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Page 3

d) an approximate time for project completion.

The reason for this condition is to establish source control measures to ensure that the existing manure stockpile areas on The Downs property will not result in ground water pollutant concentrations in excess of the WQCC Regulation 3103 standards, in accordance with Sections 3109.C and 4103 of the WQCC Regulations.

*Submitted 12/19/00*  
✓

4. PPDC shall submit a report to the GWQB, presenting the results of the current site investigation underway in the western portion of The Downs property (per item #4 of the GWQB's May 15, 2000 Request for Additional Information). The report shall be submitted to the GWQB within 30 days of this discharge plan renewal, and shall include an estimate of the total acreage of manure stockpile areas on the property, a physical and chemical characterization of the stockpile material, analytical results for soil samples obtained during the site investigation, and a site map illustrating sampling locations.

The reason for this condition is to determine whether vertical migration of nitrogen through the soil profile has occurred, and to comply with Sections 3109.C and 4103 of the WQCC Regulations.

5. PPDC shall submit a potentiometric surface map for The Downs property (generated from water level measurements from monitoring wells #1 and #2 by the landfill, and monitoring well #3 by the effluent holding pond) to verify the ground water flow direction under the facility. The map shall be submitted to the GWQB within 30 days of this discharge plan renewal.

The reason for this condition is to comply with Section 3107.A of the WQCC Regulations.

6. If, based on the results of the site investigation and the potentiometric surface map (generated per Conditions #4 and #5, respectively), the GWQB determines that: 1) nitrogen concentrations in the vadose zone are capable of contaminating ground water in excess of WQCC Regulation 3103 standards; and/or 2) the existing monitoring wells are not properly located to monitor the quality of ground water most likely to be impacted by the effluent holding pond and manure stockpile areas, PPDC shall submit a corrective action plan for installation of additional monitoring wells and/or abatement of the vadose zone to prevent ground water contamination in the future. The corrective action plan shall be submitted to the GWQB within 30 days of notification, and shall be implemented immediately upon approval. Any corrective actions taken must be consistent with Sections 4101, 4103, 4106.E, 4107, and 4112 of the WQCC Regulations.

The reason for this condition is to comply with Sections 3107.A.2, 3109.C, and 4103 of the WQCC Regulations.

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George Rivera, DP-265  
December 19, 2000  
Page 4

- 7. PPDC shall land apply treated and disinfected effluent in a manner in which the total nitrogen in the effluent shall not exceed the maximum amount of total nitrogen reasonably expected to be taken up by the vegetation by more than 25%.

The reason for this condition is to comply with Section 3109.C of the WQCC Regulations.

- 8. Upon a spill or failure of the effluent holding pond or wastewater distribution system, PPDC shall initiate the notifications and corrective actions as required in WQCC Regulation 1203. Within 24 hours of the incident, PPDC shall verbally notify the GWQB and provide the information outlined in WQCC Regulation 1203.A.1. Within 7 days of discovering the incident, a written report shall be submitted verifying the oral notification and providing any additional pertinent information or changes. Within 15 days of the incident, PPDC shall submit a corrective action plan describing actions taken and/or to be taken to remedy the impact of the spill.

*Handwritten notes:*  
 (DP) 750 6- - - 500  
 An arrow points from the circled "500" to the word "remedy" in the text above.

The reason for this condition is to comply with Sections 1203 and 3107.A.10 of the WQCC Regulations.

- 9. In the event of ground water contamination above WQCC Regulation 3103 ground water standards, PPDC shall perform a confirmation sampling and analysis within 15 days of receiving the original results. If this analysis confirms ground water contamination, PPDC shall submit a corrective action plan for GWQB approval within 30 days of receiving the confirmation results.

The corrective action plan must include a site investigation and a schedule for implementing corrective measures, which may include but are not limited to the installation of source control measures (e.g., new liners for impoundments), expanding the existing land application area, or seeking alternative land application areas. The site investigation and any corrective actions taken must be consistent with Sections 4101, 4103, 4106.E, 4107, and 4112 of the WQCC Regulations.

The reason for this condition is to comply with Section 3107.A.10 of the WQCC Regulations.

- 10. If results of any post-closure monitoring (performed per Specific Requirement #10 of this discharge plan renewal) indicate that ground water contaminants are in excess of the WQCC Regulation 3103 standards, PPDC shall implement the contingency plan described in Condition #9 above

The reason for this condition is to comply with Section 3107.A.11 of the WQCC Regulations.

George Rivera, DP-265  
December 19, 2000  
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### SPECIFIC REQUIREMENTS

The terms and conditions of this approval contain specific requirements which are summarized below.

#### Operational Plan

1. PPDC will monitor the available freeboard and ensure that a minimum of two feet of freeboard is maintained in the effluent holding pond at all times. In the event that a minimum of two feet of freeboard cannot be maintained at all times, PPDC will submit a corrective action plan to increase storage capacity.
2. PPDC will land apply treated and disinfected effluent in a manner that is consistent with the NMEID Policy for the Use of Domestic Wastewater Effluent for Irrigation (enclosed). Land-applied effluent must be evenly distributed throughout the land application area to avoid ponding, and must not exceed 100 fecal coliform bacteria per 100 ml of disinfected effluent.
3. If PPDC wishes to resume horse racing at The Downs facility, PPDC will submit a manure management plan to the GWQB for review and approval prior to operating the horse stables and/or racetrack.

#### Monitoring Plan

4. PPDC will measure and record the volume of effluent discharged to the main effluent holding pond from the City of Santa Fe WWTP and the volume of effluent discharged to the land application areas. Discharge volumes will be submitted to the GWQB in a quarterly monitoring report, due by January 31, April 30, July 31, and October 31 of each year.
5. PPDC will perform quarterly monitoring of effluent in the main holding pond for nitrate (NO<sub>3</sub>-N), total Kjeldahl nitrogen (TKN), total dissolved solids (TDS), chloride (Cl), and fecal coliform bacteria. Analytical results shall be submitted in a quarterly monitoring report, due by January 31, April 30, July 31, and October 31 of each year.
6. PPDC will submit completed Land Application Data Sheets (LADS) to the GWQB on a quarterly basis. Total nitrogen values used for the LADS will be determined by the NO<sub>3</sub>-N and TKN concentrations in the effluent from the main effluent holding pond that were reported for the previous sampling period. Completed LADS will be submitted in a quarterly monitoring report, due by January 31, April 30, July 31, and October 31 of each year.



MW3

7. PPDC will perform quarterly ground water monitoring, which shall include:
- a) measuring and recording the depth to ground water to the nearest 100<sup>th</sup> foot prior to purging for a sample,
  - b) purging three (3) well volumes before collecting a ground water sample, and
  - c) analyzing ground water samples for NO3-N, TKN, TDS, and Cl.

Depth-to-water measurements and analytical results will be submitted in a quarterly monitoring report, due by January 31, April 30, July 31, and October 31 of each year.

Contingency Plan

8. If quarterly effluent monitoring shows that fecal coliform bacteria levels exceed 100 organisms per 100 ml of disinfected effluent, PPDC will collect a confirmation sample for analysis within 7 days of receiving the initial results. If the second analysis confirms fecal coliform bacteria levels in excess of 100 organisms per 100 ml of disinfected effluent, PPDC will:
- a) cease land application of effluent from the holding pond, and notify the GWQB of the failure to meet the 100 organisms per 100 ml effluent fecal coliform bacteria limit,
  - b) add chlorine to the effluent holding pond and contact the operators at the City of Santa Fe WWTP to review analytical results for effluent discharged from the municipal facility, and
  - c) if after 30 days, the concentration of fecal coliform bacteria in disinfected effluent still exceeds 100 organisms per 100 ml, PPDC will submit a corrective action plan to address changes in operation and/or equipment to achieve adequate disinfection of effluent. The corrective action plan must be submitted to the GWQB within 60 days of originally exceeding the effluent limitation.
9. If the nitrogen loading calculations on the quarterly LADS show that the total nitrogen in the land-applied effluent exceeds the maximum amount of nitrogen reasonably expected to be taken up by the vegetation by more than 25% for two consecutive quarters, PPDC will submit a corrective action plan to reduce the nitrogen loading rates in the land application areas. The corrective action plan will be submitted to the GWQB within 30 days of exceeding nitrogen loading rates for the second quarter, and may include but is not limited to expanding the land application area.

Closure Plan

10. Should PPDC cease to utilize treated municipal wastewater from the City of Santa Fe WWTP for irrigation of The Downs property, PPDC will:
  - a) notify the GWQB that The Downs will no longer receive effluent from the City of Santa Fe WWTP,
  - b) remove or permanently plug the effluent distribution line from the WWTP to The Downs property,
  - c) allow the effluent in the holding pond to evaporate and accumulated sludge material to dry prior to removal and disposal in accordance with all local, state, and federal regulations,
  - d) remove all surface structures, liner material, and other equipment for off-site use or disposal,
  - e) backfill all impoundments with clean fill and grading former impoundment areas to minimize infiltration, and
  - f) perform post-closure monitoring of the site. Quarterly ground water monitoring for NO<sub>3</sub>-N, TKN, TDS, and Cl as described in Specific Requirement #7 of this discharge plan renewal shall continue until analytical results demonstrate that ground water has met the WQCC Regulations 3103 standards for at least four quarterly sampling periods.
11. Once the GWQB has determined that all post-closure monitoring requirements have been met, PPDC will plug and abandon the monitoring wells according to the NMED Monitoring Well Construction and Abandonment Guidelines (copy enclosed). PPDC may then request termination of the discharge permit.

**GENERAL DISCHARGE PLAN REQUIREMENTS**

In addition to any other requirements provided by law, approval of discharge plan, DP-265, is subject to the following general requirements:

**Monitoring and Reporting**

Monitoring and reporting shall be as specified in the discharge plan and supplements thereto. These

George Rivera, DP-265  
December 19, 2000  
Page 8

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requirements are summarized on the attached sheet(s). Any inadvertent omissions from this summary of a discharge plan monitoring or reporting requirement shall not relieve you of responsibility for compliance with that requirement.

### **Record Keeping**

1. The discharger shall maintain at the facility, a written record of ground water and wastewater quality analyses.

The following information shall be recorded and shall be made available to the NMED upon request.

- a. The dates, exact place and times of sampling or field measurements.
- b. The name and job title of the individuals who performed the sampling or measurements.
- c. The dates the analyses were performed.
- d. The name and job title of the individuals who performed the analyses.
- e. The analytical techniques or methods used.
- f. The results of such analyses, and
- g. The results of any split sampling, spikes or repeat sampling.

2. The discharger shall maintain a written record of any spills, seeps, and/or leaks of effluent, leachate and/or process fluids not authorized by this discharge plan.

3. The discharger shall maintain a written record of the operation, maintenance and repair of facilities/equipment used to treat, store and/or dispose of wastewater; to measure flow rates; and/or to monitor water quality. This will include repairs, replacement or calibration of any monitoring equipment and repairs or replacement of any equipment used in The Downs waste or wastewater storage and irrigation system.

### **Inspection and Entry**

In accordance with § 74-6-9.B & E NMSA 1978 and WQCC Regulation 3107.D., the discharger shall allow the Secretary or his authorized representative, upon the presentation of credentials, to:

George Rivera, DP-265  
December 19, 2000  
Page 9

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1. Enter at regular business hours or at other reasonable times upon the discharger's premises or where records must be kept under the conditions of this discharge plan.
2. Inspect and copy, during regular business hours or at other reasonable times, any records required to be kept under the conditions of the discharge plan.
3. Inspect, at regular business hours or at other reasonable times, any facility, equipment (including monitoring and control equipment), practices or operations regulated or required under this discharge plan.
4. Sample or monitor, at reasonable times for the purpose of assuring discharge plan compliance or as otherwise authorized by the New Mexico Water Quality Act, any effluent at any location before or after discharge.

#### **Duty to Provide Information**

In accordance with § 74-6-9.B NMSA 1978 and WQCC Regulation 3107.D., the discharger shall furnish to the NMED, within a reasonable time, any relevant information which it may request to determine whether cause exists for modifying, terminating and/or renewing this discharge plan or to determine compliance with this plan. The discharger shall furnish to the NMED, upon request, copies of records required to be kept by this discharge plan.

#### **Spills, Leaks and Other Unauthorized Discharges**

This approval authorizes only those discharges specified in the discharge plan. Any unauthorized discharges violate WQCC Regulation 3104, and must be reported to the NMED and remediated as required by WQCC Regulation 1203. This requirement applies to all seeps, spills, and/or leaks discovered from The Downs wastewater storage impoundments, distribution lines and irrigation system.

#### **Retention of Records**

The discharger shall retain records of all monitoring information, including all calibration and maintenance records, copies of all reports required by this discharge plan, and records of all data used to complete the application for this discharge plan, for a period of at least five years from the date of the sample collection, measurement, report or application. This period may be extended by request of the Secretary at any time.

#### **Enforcement**

Failure to grant the Secretary or his authorized representative access to the records required to be

George Rivera, DP-265  
December 19, 2000  
Page 10

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kept by this discharge plan or to allow an inspection of the discharge facilities or to the collection of samples is a violation of this discharge plan and the WQCC Regulations. Such violations as well as other violations of the discharge plan, may subject the discharger to a compliance order, a compliance order assessing a civil penalty or an action in district court pursuant to § 74-6-10 NMSA 1978, and/or modification or termination of this discharge plan pursuant to § 74-6-5.L NMSA 1978. Penalties assessed as part of a compliance order shall not exceed \$15,000 per day for violations of the terms of this permit or the requirements of § 74-6-5 NMSA 1978, and shall not exceed \$10,000 per day for violations of other sections of the Water Quality Act.

#### **Modifications and/or Amendments**

The discharger shall notify NMED, pursuant to WQCC Regs. 3107.C, of any modifications or additions to The Down's wastewater disposal system, including any increase in wastewater flow rate or wastewater storage and disposal management changes to the system as approved under this discharge plan. The discharger shall obtain NMED's approval, as a discharge plan modification, prior to any increase in the quantity or concentration of constituents in the leachate above those approved in this plan. Please note that WQCC Regs. 3109.E and F provide for possible future amendment of the plan.

#### **Other Requirements**

Please be advised that the approval of this plan does not relieve George Rivera of liability should your operation result in actual pollution of surface or ground water which may be actionable under other laws and/or regulations.

#### **RIGHT TO APPEAL**

If George Rivera is dissatisfied with this action taken by NMED, George Rivera may file a petition for hearing before the WQCC. This petition shall be in writing to the Water Quality Control Commission within thirty (30) days of the receipt of this letter. Unless a timely request for hearing is made, the decision of the NMED shall be final.

#### **TRANSFER OF DISCHARGE PLAN**

Pursuant to WQCC Regulation 3111, prior to any transfer of ownership, the discharger shall provide the transferee a copy of the discharge plan, including a copy of this approval letter and shall document such to the NMED.

George Rivera, DP-265  
December 19, 2000  
Page 11

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**PERIOD OF APPROVAL**

Pursuant to WQCC Regulation 3109.G.4, this discharge plan approval is for a period of five years. This approval will expire December 19, 2005, and you must submit an application for renewal at least 120 days before that date.

On behalf of the staff of the Ground Water Pollution Prevention Section, I wish to thank you and GGI for your cooperation during the discharge plan review process.

Sincerely,



*for* Marcy Leavitt, Chief  
Ground Water Quality Bureau

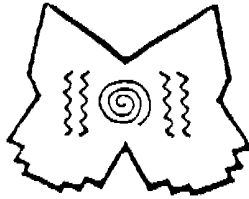
ML:MHN/mhn

Enclosures: Discharge Plan Summary  
NMED Guidelines for Liner Material and Site Preparation for Synthetically Lined Lagoons  
NMEID Policy for the Use of Domestic Wastewater Effluent for Irrigation  
NMED Land Application Data Sheet (LADS)  
NMED Monitoring Well Construction and Abandonment Guidelines

xc: Benito Garcia, Dist. Manager, NMED Dist. II  
Paul Saavedra, Office of the State Engineer  
Gina Wolf, PPDC  
Gary Martinez, City of Santa Fe WWTP  
Cathy Ratcliff, GGI

GOVERNOR  
Jacob Viarrial

LIEUTENANT GOVERNOR  
George Rivera



1966099



TREASURER  
Gloria Garcia

RECORDER RECORDING 08/16/2004

## PUEBLO OF POJOAQUE

LEGAL DEPARTMENT  
ROUTE 11, BOX 21-B  
SANTA FE, NEW MEXICO 87501  
(505) 455-3901  
(505) 455-2272

August 10, 2001

Board of County Commissioners  
c/o Penny Ellis-Green, Development Review Specialist III  
102 Grant Avenue  
P.O. Box 176  
Santa Fe, NM 87504-0276

fax (505) 986-6389

IN RE: CDRC CASE # Z 01-5010 The Downs at Santa Fe Master Plan

Dear Ms. Green:

Thank you for memorandum of August 14, 2001 outlining LCDRC recommendations concerning our master plan application. We have reviewed the LCDRC recommendations. We have concluded that the recommendations require a financial commitment that we cannot meet at this time. However, with our recommended changes, we believe that we can continue planning for reopening economic activities at the Downs.

### MANURE PILES

Specifically, the recommended amendment to Condition # 4 (manure piles) requires the applicant to submit a cost estimate and financial guarantee to remove the manure piles within a five-year period. In good faith, we have tried to comply with this condition by contracting with Waupaca, Inc., a manure removal specialist, to remove the manure. Unfortunately, we were recently informed by Waupaca that they would have to withdraw from the contract. In light of this recent development, we do not believe that we can guarantee removal of the manure within five years. A financial guarantee for a problem that has not posed environmental dangers to the surrounding community is not acceptable to us.

However, we have recently purchased the necessary equipment to begin removal. We will begin the removal of those areas termed "hot spots." Removal of the manure surrounding the "hot spots" will contain the current problems noted by the neighbors. Also, Mr. James Siebert sent you our August 1, 2001 plan to contain the "hot spot" problem and our plan to remove the manure.

### RECOMMENDATIONS HINDERING ECONOMIC DEVELOPMENT

Recommendation #24 requires the applicant to cease all activities by midnight and to halt mud bog events by 7 p.m. While we are willing to not conduct mud bog events at any time, we feel that we cannot cease certain activities by midnight. We have planned to conduct indoor activities beyond midnight. These activities include operating a bar, restaurant and receptions beyond midnight. Outdoor activities, such as concerts may also continue beyond midnight.

Recommended Amendment #8 requires the applicant to limit the number of flea markets to be held to one flea market per month. This operation of a flea market presents no danger to the health, safety and welfare of the surrounding community. We reject this recommendation.

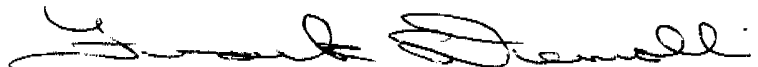
Recommendation #23 requires the applicant to grant an access easement to the Ditch Association. We reject this recommendation. We are more than willing to talk with the Ditch Association about an access easement. However, the County has no legal basis upon which to require a contract between us and the Ditch Association.

Recommended Amendment #11 requires the applicant to connect to the County Water System. We reject this recommendation pending further negotiations between the County and PPDC.

### SUMMARY

PPDC, and its owner, the Pueblo of Pojoaque, feels that it has done everything necessary to conduct a safe, healthy, and responsible economic operation at the Downs at Santa Fe. The economic operation would benefit the community by providing jobs and entertainment. After reviewing the August 14, 2001 recommendations, PPDC and the Pueblo feels that with the above changes, it will be ready to pursue reopening economic activities at the Downs. At this time, if the above changes are not implemented by the County, PPDC and the Pueblo feel that it may not be economically feasible to implement the Master Plan.

Sincerely,



Frank Demolli  
General Counsel



### Petition to Demonstrate Support for the Proposed La Cienega and La Cieneguilla Community Plan

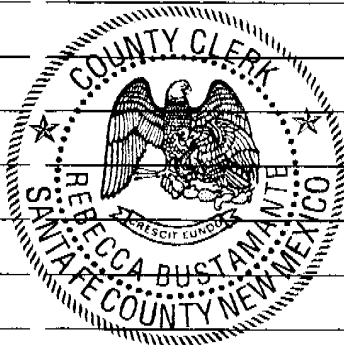
I, the undersigned, am a resident and/or property owner and/or business owner in the La Cienega and La Cieneguilla Community Planning Area as of July 1, 2001. I would like to inform the Santa Fe County Board of County Commissioners that I support the vision, goals and policies contained in the proposed La Cienega and La Cieneguilla Community Plan scheduled to be reviewed by the Board on August 14<sup>th</sup>, 2001. The Community Plan has been developed over the past four years with continual support, direction and participation of residents, property owners and business owners in La Cieneguilla, Upper La Cienega and Lower La Cienega. I strongly encourage the Board of Commissioners to vote to approve the Plan at the public hearing on August 14<sup>th</sup>, 2001.

Print Name:

Address:

Signature:

- 232. MARILYN BALLARD 268 Los Pinos Rd. Upper La Cienega Marilyn Ballard
- 233. BILLY SCHENCK 268 LOS PINOS RD Billy Schenk
- 234. JORGE FICK 270 LOS PINOS ROAD Jorge Fick
- 235. ~~Judy Perlman~~ 270 Los Pinos rd. Judy Perlman
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- 243. \_\_\_\_\_
- 244. \_\_\_\_\_



COUNTY OF SANTA FE  
STATE OF NEW MEXICO 1170 } SS 2488

I hereby certify that this instrument was filed  
for record on the 29 day of August,  
20 01 at 2:08 o'clock P.m  
and was duly recorded in book 1965-1966  
page 900-999 of the records of  
001-101 Santa Fe County  
Witness my Hand and Seal of Office  
Rebecca Bustamante  
County Clerk, Santa Fe County, N.M.  
Cathy Wilson  
Deputy

252.