

2230536

SANTA FE COUNTY

CONTINUATION OF THE SEPTEMBER 10<sup>TH</sup> MEETING

BOARD OF COUNTY COMMISSIONERS

September 18, 2002

Paul Duran, Chairman  
Jack Sullivan, Vice Chairman  
Paul Campos  
Marcos Trujillo  
José Varela Lopez



1227 641  
COUNTY OF SANTA FE  
STATE OF NEW MEXICO } 98  
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED  
FOR RECORD ON THE 9 DAY OF Oct A.D.  
20 02 AT 12:11 O'CLOCK PM  
AND WAS DULY RECORDED IN BOOK 2230  
PAGE 536-582 OF THE RECORDS OF  
SANTA FE COUNTY

WITNESS MY HAND AND SEAL OF OFFICE  
REBECCA BUSTAMANTE  
COUNTY CLERK, SANTA FE COUNTY, N.M.

*Rebecca Bustamante*  
DEPUTY

**SANTA FE BOARD OF COUNTY COMMISSIONERS****COMMISSION CHAMBERS****COUNTY ADMINISTRATION BUILDING**

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(Public Hearing)  
Continuation of September 10, 2002 Meeting  
September 18, 2002 5 PM

## *Agenda*

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Approval of Agenda
  - A. Amendments
  - B. Tabled or Withdrawn Items
- V. Approval of the Minutes
- VI. Matters of Public Concern – Non-Action Items
- VII. Matters from the Commission
- VIII. Consent Calendar
  - A. Request Adoption and Findings of Fact and Conclusions of Law for the Following Land Use Cases:
    - 1. CDRC CASE #V 02-5071 – Richard Cordova Variance (Approved)
    - 2. CDRC CASE #V 02-5130 – Isabel Tafoya Appeal/Variance (Approved)
    - 3. CDRC CASE #DP 01-5131- Village at Eldorado Preliminary Development Plan (Approved)
  - B. Resolution No. 2002 – A Resolution Requesting an Increase to the Capital Fund (301)/Housing Capital Improvement Assistance Program 2000 to Realign the Fiscal Year 2003 Budget With the Fiscal Year 2002 Unexpended Grant Award Available for Expenditure in Fiscal Year 2003 (Community and Health Development Department)
  - C. Resolution No. 2002 – A Resolution Requesting an Increase to the Capital Fund (301)/Housing Capital Improvement Assistance Program 2001 to Realign the Fiscal Year 2003 Budget With the Fiscal Year 2002 Unexpended Grant Award Available for Expenditure in Fiscal Year 2003 (Community and Health Development Department)
  - D. Resolution No. 2002 – A Resolution Requesting an Increase to the EMS Health Care Fund (232)/Health Care Division to Budget Revenue Received From an MOA

With St. Vincent Hospital for Expenditure in Fiscal Year 2003 (Community and Health Development Department)

**IX. Staff and Elected Officials Items**

**A. Land Use Department**

1. Request Direction Regarding a Request by the City of Santa Fe to Utilize the Santa Fe Downs for Santa Fe Children's Football League and the Santa Fe Public Schools Junior High and Freshman Football Games
2. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 2001-9, "An Ordinance Relating to Wireless Communication Antennas, Towers and Other Facilities; Prescribing Regulations for Location, Placement, Appearance and Design," for the Purpose of Clearly Designating Discouraged and Encouraged Locations as Described in Ordinance No. 2001-9. Tom Dominguez

**B. Matters from the County Manager, Estevan López**

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

**1. Executive Session**

- a. Discussion of Pending or Threatened Litigation
  - i. Santa Fe County vs. Town of Edgewood
  - ii. Santa Fe County vs. Las Campanas
- b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

**X. Public Hearings**

**A. Land Use Department**

1. Ordinance No. 2002 – An Ordinance Addressing Water Conservation for all Sources and Uses of Water within Santa Fe County (First Public Hearing). Katherine Yuhas
2. Ordinance No. 2002 – An Ordinance Amending the Santa Fe Community College District Ordinance, Article XV, Section 1, References, Purpose, and Definitions, and Section 6, Design and Development Standards of the Santa Fe County Land Development Code (Ord. No. 1996-10) for the Purpose of Developing a Comprehensive Water Resource Management Plan Requiring Development to Utilize the Santa Fe County Water Utility (First Public Hearing) Roman Abeyta
3. Ordinance No. 2002 – An Ordinance Amending Ordinance No. 1996-13 which Amends Article VII, Section 6.2.2c, and Adding New Sections 6.2.2d and 6.2.2e to the Santa Fe County Land Development Code, Ordinance 1996-10, to Require Proof of a Valid Water Right Permit for Type-I and Type II Subdivisions, and Type III Subdivisions Allocating More Than 0.25 Acre Feet per Year per Lot, and Type III Subdivisions of More Than 12 Lots and Non-Residential Developments Using More Than One Acre-Foot of Water Annually (Second Public Hearing) Katherine Yuhas
4. **CCDRC CASE #01-5570- Thornburg Master Plan.** Thornburg Enterprises Ltd., Applicant, Santa Fe Planning Group, Agent, Requests Master Plan Approval for a Mixed Use Development to Consist of Employment Center, Village Zone and a New Community Center on 224 Acres. The Development Includes Between 1,148,050 Sq. Ft. and 4,015,000 Sq. Ft. of Commercial Uses, Between 294 and 742 Residential

Units, Open Space and Parks. The Property is Located West and East of State Road 14, North of Vista Del Minte, Within Sections 24 and 25, Township 15 North, Range 8 East (Commission District 5). Penny Ellis Green **TABLED FROM AUGUST 26, 2002 MEETING**

**THE FOLLOWING CASES WILL BE HEARD AT THE CONTINUATION OF THE SEPTEMBER 10 MEETING ON SEPTEMBER 18, 2002 AT 5 PM:**

- Approved*
5. **CDRC CASE #MP 02-5070**- Richard Cordova Master Plan. Richard Cordova, Applicant, Jon Paul Romero, Agent, Request Master Plan Approval for a 8,000 Sq. Ft. Building for Office, and Retail Space on 1.35-Acres. The Property is Located Two Miles South of Espanola on the West Side of US 84/285, Within Section 13, Township 20 North, Range 8 East (Commission District 1). Wayne Dalton
- Denial 3-0*
6. **EZ CASE #DL 02-4340** – J. Anthony Peperas Land Division. Leonard Lopez, Agent for J. Anthony Peperas, Requests Plot Approval to Divide 10.40 Acres into Four Lots. The Lots will be Known as Lot 2A-1 (2.563 Acres more or less), Lot 2A-2 (2.563 Acres), Lot 2-A-3 (2.697 Acres), and Lot 2A-4 (2.697 Acres). The Property is Located in the Pinon Hills Subdivision at 85 Calle Francisca, Within Section 25, Township 17 North, Range 8 East (Commission District 2). Vicente Archuleta
- Tabled*
7. **EZ CASE #DL 02-4380** – Tom J. Sedillo and Kathy Sedillo Family Transfer. Alarid and Associates, Agent for Tom J. and Kathy Sedillo Request Plat Approval to Divide 2.64 Acres into Two Tracts for the Purpose of a Family Transfer, The Tracts will be Known as Tract C-1 (1.25 Acres), and Tract C-2 (1.396 Acres). The Property is Located in the Pinon Hills/Alameda Ranchettes Subdivision at the Intersection of Calle Carla and Santa Fe County Road 70A, Within Section 25, Township 16 North, Range 8 East (Commission District2). Vicente Archuleta
- 8/11/02*
8. **CDRC CASE #DP 02-5080** – Gabriel's Art Gallery. Syd Gabriel, Applicant, Southwest Designs, Agent, Request Master Plan Zoning with Preliminary and Final Development Plan for 3,000 Sq. Ft. of Art Gallery Space and 2,0000 Sq. Ft. of Retail Space. The Property is Located on Banana Lane off of US 84/285 in Cuyamungue, Within Section 28, Township 19 North, Range 9 East (Commission District 1). Penny Ellis-Green
- Approved continuation*
9. **EZ CASE #DL 02-4350** – Young Family Transfer. Tom and Connie Young, Applicants, Request Plat Approval to Divide 2.511 Acres into Two Lots. The Lot will be Known as Lot 7A (1.255 Acres) and Lot 7B (1.255 Acres). The Property is Located Within the Tom Young Subdivision, Along Indian Circle, Off Governor Miles Road Within Section 9, Township 16 North, Range 9 East (Commission District 5). Romella Glorioso-Moss
- Tabled*
10. **CDRC CASE #DP 02-5230** – Heart and Soul Animal Hospital. Natalie Owings, Applicant, Linda Tigges, Agent Request Preliminary and Final Development Plan Approval for an Animal Sanctuary With Sheds and Pens for 100 Animals, a Gift Shop, Manager's Quarters, Assistant's Quarters, Staff Cabin, and an Outdoor Classroom on 130-Acres. This Request Also Includes a Variance of Article VII, Section 6.4 (Water

Availability Assessments) of the Land Development Code. The Property is Located off County Road 63A on the North Side of State Road 50 in Glorieta, Within Sections 35 and 36, Township 16 North, Range 11 East (Commission District 4). Wayne Dalton

*Tabled*  
 11. CDRC CASE #DP 02-5310 – Phillip Padilla Development Plan. Phillip Padilla, Applicant, Al Quintana, Agent, Request Preliminary and Final Development Plan Approval for Light Commercial Use (Sales or Business Offices or Non-Industrial Shops) on 0.78-Acres. The Property is Located off Agua Fria Street Within the Historic Community of Agua Fria, Within Section 32, Township 17 North, Range 9 East (Commission District 2). Wayne Dalton

*Approved w/conditions*  
 12. TDR CASE #V 02-5280 – Trujillo Variance. Elvira Trujillo and Lorraine Benavidez, Applicants are Requesting a Variance of Article XIV, Section 3.4 (Tesuque Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 0.395 Acres into Three Lots. The Lots will Consist of 0.157 Acres, 0.0798 Acres and 0.158 Acres in Size. The Property is Located off White Boulder Road, in the Traditional Community of Tesuque, Within Section 31, Township 18 North, Range 10 east (Commission District 1). Penny Ellis-Green

## XI. ADJOURNMENT

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).

2230541

**SANTA FE COUNTY**

**CONTINUATION OF THE SEPTEMBER 10<sup>TH</sup> MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**September 18, 2002**

This continuation of the September 10<sup>th</sup> meeting of the Santa Fe Board of County Commissioners was called to order at approximately 5:10 p.m. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

**Members Present:**

Commissioner Paul Duran, Chairman  
Commissioner Paul Campos  
Commissioner Jack Sullivan  
Commissioner José Varela Lopez

**Members Absent:**

Commissioner Marcos Trujillo

**IV. APPROVAL OF THE AGENDA**

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

CHAIRMAN DURAN: Estevan, are there any amendments?

ESTEVAN LOPEZ (County Manager): Mr. Chairman, this meeting is a continuation of the meeting that began September 10<sup>th</sup> and we are starting under the Public Hearings, X. 5. and going on. We've gotten a couple of table requests, specifically item X. 7, the Tom J. Sedillo and Kathy Sedillo family transfer. We've gotten a request to table that item. Apparently the applicants were unable to be here. [Exhibit 1]

Also item number 10, the Heart and Soul Animal Hospital, they also are requesting tabling because they are unable to be here this evening. [Exhibit 2]

And finally, item 11, the Phillip Padilla development plan, staff is requesting that that item be tabled because we discovered that there's an issue with the way that particular item was noticed. So those three items, we request that those items be tabled.

CHAIRMAN DURAN: Okay. Does the Commission have any changes to the

2230542

agenda?

COMMISSIONER CAMPOS: Mr. Chairman, move to approve the agenda as amended as suggested by the County Manager.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER VARELA: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve the agenda as amended passed by unanimous [4-0] voice vote.

- X. A. 5. **CDRC CASE #MP 02-5070- Richard Cordova Master Plan.**  
**Richard Cordova, applicant, Jon Paul Romero, agent, request master plan approval for a 8,000 Sq. Ft. Building for office, and retail space on 1.35-acres. The property is located two miles south of Española on the west side of US 84/285, within Section 13, Township 20 North, Range 8 East (Commission District 1)**

WAYNE DALTON (Review Specialist): Thank you, Mr. Chairman, Commissioners. On August 13<sup>th</sup>, the Board of County Commissioners approved a variance of Article III, Section 4.1 and 4.2 of the Land Development Code to allow commercial zoning outside a potential commercial district on 1.35 acres. The property currently has two structures that are legal non-conforming commercial businesses and are occupied by the owner of the property. These commercial businesses are Blue Sky Builders and Naranjo Trading. These businesses currently have Business Registrations.

Recommendation: Staff's position is that this application is in accordance with Article V Section 5 of the Land Development Code. Staff recommends approval of the Master Plan to allow an 8,000 square foot building for office, and retail space on 1.35 acres. On May 30, 2002, the CDRC met and acted on this case. The decision of the CDRC was to recommend master plan approval for an 8,000 square foot building for office and retail space on 1.35 acres subject to the following conditions:

1. The master plan will be recorded with the County Clerk's office.
2. All staff redlines will be addressed, original redlines will be returned with final plans.
3. A water budget for the entire property including existing buildings and landscaping, a full geo-hydrological report with pumping test that demonstrates a 100-year water supply for all the uses located on the property shall be submitted at Development Plan.
4. The applicant shall submit an updated liquid waste permit from the Environmental Department with Development Plan.
5. The applicant shall comply with all Fire Marshal requirements. The applicant will

2230543

- request a final fire inspection prior to occupancy of the building.
6. The applicant shall submit a landscaping plan to be approved by Staff.
  7. All outside lighting on the property shall be shielded.
  8. All improvements, including parking areas, fire protection and retention ponding, will be in place prior to occupancy of the building.

CHAIRMAN DURAN: Any questions of Wayne?

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: On one of these plats here I noticed that there's an arroyo and the proposed office space would be built basically where that arroyo is. Is there no drainage easement there, Mr. Dalton? Or is there none required?

MR. DALTON: Mr. Chairman, Commissioner Varela, that was an issue taken care of by the applicant prior to this submittal. I believe there's a pipe that goes underneath the property and drains into the arroyo. I believe the applicant can answer that question. But I do believe the drainage has been taken care of.

CHAIRMAN DURAN: Any other questions?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One comment, Mr. Dalton, was about, from the Environment Department was about standing water in a pond. Could you explain what their concern was there?

CHAIRMAN DURAN: Commissioner Sullivan, that's a letter from who?

COMMISSIONER SULLIVAN: It was from the Environment Department. I'll just read it to you. It says "One issue to be noted is that standing water in the proposed pond may create a mosquito habitat which may have to be addressed through some type of abatement program."

ROMAN ABEYTA (Land Use Administrator): Mr. Chairman, Commissioner Sullivan, this is one of the first times we've received this type of review from the Environment Department. The way we've dealt with this issue in the past is we have allowed the applicant to drain the pond or put some type of pipe in the pond that would allow it to drain, because the intent of the Code is to require that water remain on the property, that it not flow at a faster, larger rate. And so what we can do is we can condition that he addresses the concern raised by the Environment Department and one such way of doing that is like I say, maybe adding a pipe that it can drain.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Does that work for you?

COMMISSIONER SULLIVAN: Well, I don't know because the drawings apparently aren't consistent with the site. They show a big arroyo going through and then they show some other things which I guess are little cross-hatched areas. Are those retaining ponds? I guess the only concern is do those retaining ponds have outlets in them



2230544

as Roman is suggesting?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, I believe the applicant may be able to answer that question.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN DURAN: Okay, any other questions of staff? Is the applicant here. Please step forward and state your name for the record. Let the Clerk swear you in.

[Duly sworn, Jon Paul Romero testified as follows:]

JON PAUL ROMERO: Chairman Duran, Commissioner Sullivan, yes, the intent is to detain the water onsite but we are going to have an 8" culvert pipe, either a PVC or CMP to allow drainage at an adequate pace that we're not discharging more water than currently runs off the property. So there will be drainage from the detention pond.

COMMISSIONER SULLIVAN: And how did you handle that big arroyo that goes through the property?

MR. ROMERO: Prior to the submittal of the master plan, the applicant placed a 48" culvert that ties into the existing culvert that runs under US 84/285 and he got a grading plan and permit from the County and he backfilled that arroyo in accordance with the County requirements. The footprint actually of the building does not go over that drainage easement. Just parking will be over that drainage easement. The building footprint is outside of the parameters of the pipe.

CHAIRMAN DURAN: It shows the proposed office space on my plat.

MR. ROMERO: See, the arroyo was quite wide, but it was backfilled. But over the existing pipe that's in there now, the footprint is not over the pipe. That were the conditions that the County requested the time a grading plan was submitted. So the footprint is where the old arroyo was, but not over the existing drainage pipe.

CHAIRMAN DURAN: And the pipe doesn't go the whole distance of what used to be the arroyo?

MR. ROMERO: Yes it does. It goes almost to the property line.

CHAIRMAN DURAN: Let me ask you something here.

MR. ROMERO: Those are contour lines. These are contour intervals; that's not the arroyo. The arroyo is shown on the existing plat. You can see the top of the banks. Basically the pipe is here and you can see the parking spaces.

CHAIRMAN DURAN: Do you have anything else you want to say or are there any other questions of the applicant?

MR. ROMERO: Not at this time. We will be coming forward with preliminary and final development plan and we will have more detailed engineering plans at that time. So we're just going through the master plan process at this point.

CHAIRMAN DURAN: Okay, this is a public hearing. Is there anyone out there that would like to address the Commission concerning this matter? Seeing as there isn't anyone, what's the pleasure of the Board?

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

Dalton.

2230545

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: This septic system onsite, is this an old septic system?

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

COMMISSIONER CAMPOS: Now, when you have a new development come on, do you have to have that septic system checked out to see if it's working properly?

MR. DALTON: Mr. Chairman, Commissioner Campos, yes. The applicant, at development plan stage, the applicant will have to provide us updated liquid waste permits for this property.

COMMISSIONER CAMPOS: So in order to get a permit, does someone have to go to the site and actually inspect the septic tank?

MR. DALTON: Mr. Chairman, Commissioner Campos, I believe someone from the State will actually go out to the site and inspect the septic system.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: Any other questions?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a clarification. I assume that the applicant understands that a geo-hydro report will be required as a part of the preliminary plan submittal since the project is using more than a quarter acre-foot per year of water. The agent is shaking his head, so I think he—

MR. DALTON: Mr. Chairman, Commissioner Sullivan, the applicant is aware of that condition.

COMMISSIONER SULLIVAN: Okay. Is that a condition? I saw it in Katherine Yuhas' report.

MR. DALTON: That's actually condition number three.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN DURAN: Any other questions? What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Move for approval, Mr. Chairman, with conditions one through eight as recommended by staff.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER VARELA: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve CDRC Case #MP 02-5070 passed by unanimous [4-0] voice vote.

- X. A. 6. EZ CASE #DL 02-4340 – J. Anthony Peperas Land Division. Leonard Lopez, Agent for J. Anthony Peperas, requests plat approval to divide 10.40 acres into four lots. The lots will be known

2230546

**as Lot 2A-1 (2.563 Acres more or less), Lot 2A-2 (2.563 Acres), Lot 2-A-3 (2.697 Acres), and Lot 2A-4 (2.697 Acres). The property is located in the Piñon Hills Subdivision at 85 Calle Francisca, within Section 25, Township 17 North, Range 8 East (Commission District 2)**

VICENTE ARCHULETA (Review Specialist): Thank you, Mr. Chairman. The applicant is requesting plat approval to allow a family transfer land division of 10.4 acres into four lots. The property is located within a subdivision that was approved by the BCC in 1964. This subdivision is legal non-conforming as it does not meet current subdivision standards for fire protection, roads, water and liquid waste. The described property lies with the Basin Hydrologic Zone where the minimum lot size is 2.5 acres with a .25-acre ft. per year water restriction. The application was reviewed for the following: Access, water supply, liquid waste, solid waste, terrain management, fire protection, archeological review, environmental review.

The property is located within a previously approved subdivision, therefore the BCC must approve this division. The Board of County Commissioners must review and consider the findings of the report. Action should be taken to approve, deny, approve with conditions or table this application for further analysis. All existing infrastructure such as fire protection and roads within the Piñon Hills Subdivision have been constructed in accordance with the subdivision standards that were in place in 1964 at the time of approval. Infrastructure requirements in 1964 were not as comprehensive as today's standards, thus the Piñon Hills Subdivision is legal non-conforming.

It is Staff's position that the re-division of lots within the Piñon Hills Subdivision will diminish the performance of existing infrastructure by potentially doubling the density and therefore intensifying the non-conforming status. Prior to allowing the creation of additional lots within Piñon Hills, the subdivision should be upgraded to current Subdivision standards.

With respect to the size and number of lots, an upgrade to Piñon Hills would require among other things, a fire protection plan and existing roads to be substantially improved. Therefore, Staff recommends denial of this request as proposed.

On May 14, 2002, the BCC directed staff to evaluate the Piñon Hills/Alameda Ranchette Subdivision for required improvements and associated costs for the purpose of designating an improvement district. See Exhibit E for staff's evaluation. The decision of the EZC on June 13, 2002 was to grant approval subject to the following conditions:

1. The portion of Calle Francisca that extends through the properties must be developed meeting SFC Common Roadway Standards, prior to recording the plat of survey or the applicant must provide Santa Fe County with a certified engineers' cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing .25-acre ft. per year per tract. Water meters for each subject parcel

2230547

must be installed to monitor water use. Annual water consumption reports must be submitted to the County Hydrologist by the 30<sup>th</sup> of June of each year. These lots must share a well.

3. The following notes shall be placed on the plat:
  - A. Water supply on these lots are governed by the Extraterritorial Zoning Ordinance, Section 10.1.A:
    - 1) Only one well shall be permitted to serve these lots. This well shall be subject to a shared well agreement.
    - 2) Drilling of any new domestic well is prohibited if regional water is available within 200 feet of these lots.
    - 3) If regional water becomes available, domestic well use shall cease within 90 days and these lots shall connect to the regional water system.
    - 4) All wells drilled on these lots post January 1, 2000 must be constructed per EZO standards listed in Section 10.1.A.3. Proof of proper construction must be submitted at the time of development permit request or upon demand by the County Land Use Administrator.
  - B. A shared well agreement must be approved by the county and executed prior to plat recordation. The plat must indicate shared well easements.
  - C. A ten (10) foot wide utility easement along all property lines must be dedicated and shown on the plat for future potential water distribution lines.

CHAIRMAN DURAN: It's Exhibit F I think it says in the packet. Is it part of this packet?

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

COMMISSIONER SULLIVAN: It's F in my packet.

MR. ARCHULETA: Mr. Chairman, it's the last two pages in the packet.

CHAIRMAN DURAN: So your recommendation is to create an improvement district?

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

MR. ABEYTA: Mr. Chairman, that's not our recommendation. The purpose was to just give you information and tell you what it would take to create an assessment district.

CHAIRMAN DURAN: Oh, okay.

MR. ABEYTA: It's actually up to the Board if you'd like to direct us to explore that. We just wanted to give you the information you requested.

CHAIRMAN DURAN: How does the community feel about a special assessment district or an improvement district?

MR. ABEYTA: Mr. Chairman, I've spoken with just a few people but it's my understanding that they are not in favor of that. They don't feel that they should, or some of the people I spoke with stated that they don't feel that they should pay for other people's wanting to divide their property. I believe that some of them are here to speak this evening regarding this case.

2230548

CHAIRMAN DURAN: Okay. Any questions of staff? Is the applicant here? Could you please come forward and state your name for the record and let the Clerk swear you in please.

[Duly sworn, Anthony Peperas testified as follows:]

ANTHONY PEPERAS: My name is Anthony Peperas. Mr. Chairman, Commissioners, on September 9, 1991, the current subdivision regulations were adopted, as you know, by the Santa Fe County Board of Commissioners. All the lot splits or subdivisions that have been granted within Piñon Hills Subdivision were created after the current infrastructure requirements were adopted. All of these subdivisions were approved between 11/30 of '91 and 4/13 of 2002, the majority being created within the last four years.

Subdivisions have been approved which have been as small as 1.34 acres. This is below the minimum allowable and the County has obviously set a precedent by practice allowing these subdivision. The minimum lot size is 2.5 acres in the Basin Hydrologic Zone where my property is located. I'm asking for approval of a lot split which meets these minimum regulations of 2.5 acres. I'm not requesting a variance of any kind to meet these requirements and legally a precedent has been set before me for the last ten years which includes lots much smaller than mine or what I'm requesting.

When I came before the EZC Board they recommended for approval and set these eleven conditions that they would want me to follow on here. I apologize that I don't have all my paperwork because I was supposed to be here four different meetings ago and this is the fourth time it got changed so my attorney stayed with all my paperwork and he had to be out of town on a different case this work and he couldn't be here and he has all the paperwork. But I did submit a plat of the full subdivision to the EZC Board showing every lot split, every subdivision that was granted before me and the ones that were also smaller than me and where my property was located. They stayed with it. They didn't return it to me. However, I did get another one but I don't have it. I apologize.

As far as these conditions, either staff or Mr. Chairman or Commissioners if you could explain to me, number two on the conditions, it says I would be restricted to a quarter acre-foot per year for each tract. Right now it's currently 10.4 acres. I have three acre-feet of water right now. This property was originally my uncle's, Robert Rios. It's been in my family for over 30 years. It was my uncle's intent that the property stay within the family. In 1991, for reasons unknown to me or any of the family, he consolidated it and they took three acre-feet from him at that time. It originally had three acre-feet per five acre parcel.

I don't agree with that condition for several reasons, one being I don't think a quarter acre foot per parcel is sufficient to supply one household of my size per year. I have three children and I'm married and the house I just moved from in the City, I built six years ago, I never had any lawn, any plants, any trees, anything to water. It was just daily use, showers and baths and laundry. And we averaged 10,000 to 12,000 gallons a month. Now a quarter acre-foot per year is approximately 81,000 gallons a year. That will not sufficiently feed my household. If I implement that one per lot, I don't think that's enough to feed the average household.

2230549

And I did some research and I apologize, I don't have that paperwork here but the average home in Santa Fe County or City exceeds 10,000 gallons of use a month and that's well below a quarter acre-foot per year.

CHAIRMAN DURAN: I can answer that for you. It's the Code. There's nothing we can do about it except change the Code. Unless you want to ask us for a variance.

MR. PEPERAS: That's what I'm asking for, Mr. Chairman. I'm asking for my split without reducing the water. And if you can explain to me, does this mean that I need to monitor each parcel that only that much is used? Is the three acre-foot still in effect or is it totally deleted?

CHAIRMAN DURAN: No. If you want to subdivide your ten acres into four lots, you have to agree to restrict your water usage to .25 acre-feet. If you don't want to do that, then you can keep your ten acres as a ten acre-lot.

MR. PEPERAS: Okay. Is there any compensation for taking that water away?

CHAIRMAN DURAN: No.

MR. PEPERAS: It's just taken and you get no compensation.

CHAIRMAN DURAN: That's the ordinance. Am I right, Roman? There's nothing we can do.

MR. ABEYTA: Mr. Chairman, you're correct.

MR. PEPERAS: And I apologize. I'm just asking. I wish my attorney was here but he's not. Because he said there was a rule that if the County took any water they had to compensate you duly for it.

CHAIRMAN DURAN: That's a good attorney.

MR. PEPERAS: Well, unfortunately, he had to be at a case out of state so he couldn't be here but that's one of the issues. The other condition was the one on the road. The road, and if you can explain this to me. Maybe Vicente can. It says the portion of Calle Francisca that extends through the properties. There's no portion of Calle Francisca that extends through the property.

CHAIRMAN DURAN: Which one are you talking about? Excuse me.

MR. PEPERAS: Condition number one, I'm sorry, Mr. Chairman.

CHAIRMAN DURAN: Oh, still on number one? Okay.

MR. PEPERAS: I don't quite understand because there's no portion that goes through the properties. It goes between my property and the north sections of land. Now, that road, that end of the Calle Francisca dead-ends one five-acre lot after mine on the south side. And it services four five-acre parcels on the north side, one of which has already been split up.

CHAIRMAN DURAN: I still don't see that on number one. Do you?

MR. PEPERAS: On the front page of condition of approval it's number one.

CHAIRMAN DURAN: Oh. Okay. I'm sorry. Go ahead.

MR. PEPERAS: Okay. This reads, and this was an issue at the last meeting. The portion of Calle Francisca that extends through the properties must be developed. Now, none of it extends through the property. It extends on the north border line of the property. But it also services four other, well, now six other lots on the north side. It also dead-ends on the

2230550

west end, one five-acre parcel after mine going west. All the roads in the whole subdivision are just like this one is. And the County has already granted lot splits, one being in 2002, the last one being this year. I don't agree that this condition should be set on me to bring that road up to current standards on my one, one being because it's not my road; I don't own it. Another being there's I don't know how many other residents. I know there's about eight other lots that are just on that section of it but it extends all the way east and probably services 30 other lots other than mine.

For me to be asked to bring this road up to standards by myself, I don't agree with and I wouldn't agree to anybody else in this subdivision either. I feel that I didn't do the development of the property. Whoever the developer was it should have been imposed then. There's nothing we can do about it now, but I feel it should be up to the County to do it and assess us for whatever improvements need to be made. As far as the condition of the fire hydrants. I've been to every other County subdivision out there around me and I see no fire system in place in any one of those subdivisions. They're also asking this upon me in this subdivision.

Also as far as the exhibits that were submitted, I'd just like to know, on the last page, it says attachments, exhibits A through E. I submitted other things that were required. I submitted everything that was required on the criteria that Vicente gave me to apply for the lot split. There was an archeological survey, a water availability report. I spoke with the gentleman, the environmentalist at the liquid waste disposal. He told me he had spoke to Vicente about me. They wanted a copy of the liquid waste permit for the septic. There was already one in place and they did not have a copy and he said he wouldn't give me one. I went to apply for one because I didn't need one. I wasn't putting in a septic, so he would not issue me a permit.

But other than that, I met every requirement on the criteria sheet that needed to be submitted. I don't know why it's not listed here in the attachments. I just ask that maybe you can help me on a few of these items.

CHAIRMAN DURAN: Well, we talked about your concern about the wells, the water restrictions. We can't do anything about that. You can—we can't approve anything more than that because that would be a variance to the Code and this wasn't published as a variance. So we couldn't do that tonight anyway. On number one, Roman, we're asking for just that portion of Calle Francisca—it's wrong. It doesn't extend through the property, but it borders it, right?

MR. ABEYTA: Right. And the intent was to have him improve the portion that borders the property, just from one end of the property to the other, not the entire road.

CHAIRMAN DURAN: So what happens with the rest of the road?

MR. ABEYTA: The intent is that as people subdivide and they all get this condition, eventually the road would hopefully be improved. But that's just staff doing what it can to try to get this roadway up to standard.

CHAIRMAN DURAN: So it would be a piecemeal approach to improving that road?

MR. ABEYTA: Right. Because we can't require him to improve the whole

2230551

thing himself so we have everybody do their portion.

MR. PEPERAS: Mr. Chairman, if I may. The road extends, maybe 30 five-acre parcels long, approximately 20,000 lineal feet. Mine is 1000 feet just before it dead-ends. After my property it will feed four other lots. If this road ever gets brought up to standards further on down the line, they'll probably destroy whatever I would do in front of the property to do so at that time. You're talking about bringing a little section of the road up to current standards and the road goes from east to west quite a ways. Also, there's nobody else that it would be imposed on because the people north of me that it would benefit have already been granted their lot splits.

CHAIRMAN DURAN: Okay. Any other questions of the applicant? So my understanding is that you not in agreement with conditions one and two.

MR. PEPERAS: That's correct.

CHAIRMAN DURAN: The rest of them you're okay with.

MR. PEPERAS: Yes. There was one on 3.A, item C. I'm sorry. I can't see which condition it was. If a water system was brought in, I need to—oh, here it is. Condition 3.C. A ten-foot wide utility easement along the property lines must be dedicated and shown on the plat for future potential water distribution line. I agree with that as long as it's noted that it's only for waterlines and no other utility easements.

CHAIRMAN DURAN: Okay. That's what it says.

MR. PEPERAS: It just says utility easement. It doesn't say for which utility easement. It doesn't say for which utilities. I would like it to specifically read "Water utility only."

CHAIRMAN DURAN: It says water distribution lines. It says for potential water distribution lines.

MR. PEPERAS: Right, but on the current plat it just says utility easement and from my understanding in talking with utility companies, anybody can use a utility easement.

CHAIRMAN DURAN: Okay. Thank you. This is a public hearing. Is there anyone out there that would like to address the Commission on this matter. Please step forward and state your name for the record and let the recorder swear you in.

[Duly sworn, Seguna Severson testified as follows:]

SEGUNA SEVERSON: I'm Seguna Severson, the president of West Santa Fe Association. Commissioners, I guess this is the culmination of all these meetings about all these lot splits that got approved even though staff kept saying no and Commissioner Gonzales asked Mr. Abeyta to study the situation and come up with some recommendation. So tonight is the first time that we're all here with his recommendations and I think we have nowhere to go but sort of take up what Mr. Abeyta has written and you have in your packet and try to find some fair way to deal with it. And it's pretty complicated, I agree, and I see what he was asking from Mr. Peperas, like he's—I know that Mr. Abeyta is trying to come up with some fair way so that the roads get improved, the water gets improved, the fire protection gets improved. It's pretty complex.

And just now, what Mr. Peperas said, I want to just answer one thing. That ten-foot



2230552

easement, it's got to be, it has to be for all utilities because we might need a sewer system and we probably will need water distribution. We'll need this fire hydrant system that Mr. Abeyta came up with. Natural gas lines, we don't have in our subdivision, so we need that to be for all utilities because people on the other side of this lot split might want gas and a sewer or it might be necessary to come in.

And also I want to answer another thing that he said, he said about the 1.25 lots that have been created and those were created through family transfer, through the family transfer law. You all know, you've all been at these meetings except Mr. Varela Lopez that this has been a huge problem and Mr. Abeyta is trying to answer it and I think it's very complicated and we're just asking you—there's five Piñon Hills/Alameda Ranchettes pending right now. Five of them that are coming before you in the next couple of months and we're just saying table them all and let's all sit down and study this and how to come up with some equitable distribution because the people who are living on the five and ten-acre lots who bought them back in 1966 or wherever don't really have the money, most of them, to pay a \$30,000 or \$40,000 tax assessment. A lot of retired people from the Highway Department, some of them are here right now. We've brought the board with us of West Santa Fe Association. Most of those people couldn't come up with the assessment.

So we're asking, Hey, if people want to develop and they will follow the County Code about water and all those things and they're going to make a profit, let them pay for the improvements. Because the people are still living on their five and ten-acre lots, or 20, like David, why should they come up with \$30,000 or \$40,000 or who knows how much it's going to come out to be to bring the subdivision up? Mr. Abeyta just started with two things, which is fire protection and the crossing on Sloman Lane, and bringing the roads up. But we'll probably need eventually a sewer system too and the whole question of how do we get water to the tanks of the fire hydrants. It's a huge thing and Mr. Abeyta did a great job in at least getting us this far for this meeting.

But I think if you bring out the engineers it's going to be pretty shocking and the price is going to be enormous. So who pays? Do people splitting the lots and making money pay? Do the retired people pay out there? It's a huge question. I'm asking us, all of us to study it some more and to table all the lot splits in this area until we can come up with something that makes sense to everybody. And we're willing to put it to a vote for the whole community too. It's not just us. But no, this just came out this week. We just got it from Mr. Abeyta. No one's really had time to talk. We haven't had time to have a neighborhood discussion or anything.

CHAIRMAN DURAN: Anyone else out there that would like to address the Commission?

[Duly sworn, Leonard Lopez testified as follows:]

LEONARD LOPEZ: My name is Leonard Lopez. I'm the surveyor. The only thing that concerns me is the number one condition. To construct and engineer that road is going to be a great cost. The other roads that are maintained out there, the County's maintained them and I'm sure they haven't charged the owners of the lots that occupy them and utilize them anything. So that's my only concern is the first condition, really. Like the lady prior to

2230553

me said, bringing in an engineer is going to be expensive. And there are lots out there that are smaller than the lots we're imposing to create now. That's all I have to say, really. And also I feel a fire truck can access that road. If a fire engine had to get in there it could access the road. But for Anthony to engineer and develop the road through his property, he could be looking anywhere from \$20,000 to \$50,000, which I don't think he should have to pay. Like I say, other roads in there are maintained by the County. And why they maintain them and why they paved them is beyond me but like I say, I'm sure those people that utilize them aren't getting assessed for it. And not only that, I seen County roads in Santa Fe County in worse condition than Calle Francisca. And like I say, it's just going to be an expensive cost. That's all I have to say.

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

[Duly sworn, Roy McKeag testified as follows:]

ROY MCKEAG: Mr. Chairman, County Commissioners, my name is Roy McKeag. I'm a resident of Piñon Hills. I'd like to address a few of the points that were talked about. Mr. Peperas said that the EZC recommended approval of this lot split. I was there at the EZC meeting and they recommended approval of the lot split after they'd been told that the County Commission had overruled all the previous denials that they had made that recommended denial of lot splits over the past two years and they were told that the County Commission had overruled all those and granted all the lot splits. So I guess they felt that maybe they didn't need to make another denial and be overruled again. That's why they approved it.

Another point that I'd like to make is that Mr. Peperas doesn't want to limit his water consumption to a quarter acre-foot. In fact what he said is he uses normally about a little over, about .4, a little over .4 acre-foot a year is what his family used here in Santa Fe. And my concern, which I addressed the Commission a couple months ago is that you impose these conditions of a quarter acre-foot a year but you do not monitor those conditions. You don't have a system set up. You don't even know how many of these conditions you have imposed on lot splits throughout the county. Don't have a list, let alone any system to actually follow the requirements that you require people to send in their meter readings once a year. Don't have a system set up to do it.

So what I'm concerned about is that the lots are getting split, maybe requirements are placed on them but there's no way to follow up on that, so the water table is being used up faster than it would be if you didn't allow these lots to be split. And I'm worried about my well. Everybody is this year. It's a dry year. And I don't think it's going to get any better and I'm concerned that you're allowing more and more people to draw more and more water and I'm going to have to pay the price when I have to dig a new well. That's not good. Not good for me anyway.

The last thing I want to talk about is this Exhibit B I think you called it. The memorandum to you from Roman Abeyta. One of the things that bothers me is just on the second page there, it says improvement district. There are two ways to impose an improvement district in Santa Fe County. One is a petition method, 66 2/3 percent or a 2/3 majority of

2230554

residents within a subdivision vote in favor of the district, and that wouldn't bother me at all. But number two really does bother me. Provisional order method. County Commissioners create an improvement district and taxes to pay for it. And it's so irritating because the County Commission is what's causing the problem. You're making them problem worse every time you allow a lot division to take place in this old subdivision. And I wish you'd quit doing it. I wish you would deny the lot split before you tonight and I wish you'd deny any future lot splits and I know there's some coming before you. Thank you.

CHAIRMAN DURAN: Thank you. Anyone else out there like to address the Commission? Please step forward and let the Clerk swear you in.

[Duly sworn, Helga Ancona testified as follows:]

HELGA ANCONA: My name is Helga Ancona. I'm on the board of the West Santa Fe Association. I just wanted to add that we have been coming to these meetings now asking to deny lot splits and every time the people who ask for lot splits say, Why me? Why is it now when I'm coming to ask for a lot split you want to deny it? And I think we have to start at some point. We can't keep on saying yes, yes, yes, sure, another lot split, another lot split, a lot of lot splits. In the meantime, we who have been living there for a long time having five-acre lots are getting more and more concerned about the situation of our water, of our sewage, about our roads that are lousy. They really are, although Mr. Peperas didn't seem to think so. Whatever has been [inaudible] is fine; whatever has not is very bad.

We've had four houses burning down in the neighborhood so our fire situation isn't that great and I think we really have to do the improvements and I think it's not fair that the people who have been living there for a long time have to pay for these improvements. The people who want to do the lot splits, they should pay for it. Thank you.

CHAIRMAN DURAN: Thank you. Anyone else out there?

[Duly sworn, David Gold testified as follows:]

DAVID GOLD: I would just like to add one thing, that what Ms. Ancona is pointing out is that ultimately, by taking this course of action, the Commission is essentially creating a 200-lot subdivision and the subdivision will ultimately be substandard. Eventually, there will be a fairly high cost associated with this because to bring it—right now, we don't have a problem with water contamination. The fire problem is bad but it would certainly be—we only burn one house at a time now because they're not that close together. But if they start getting closer then a real catastrophe would occur. So as these subdivisions—and of course there's increased wear and tear on the roads, so on and so forth.

So as these lot splits take place, any single one isn't a big deal, but the cumulative effect actually is and ultimately, somebody's going to be looking at paying. I believe Mr. Abeyta didn't include the cost of running either water or sewage but it's considerable. It would be millions and I believe that just without even an engineering study, we're probably looking at five, six, seven million dollars to really bring this area up to being at current standards. And who would pay for that, how it would get paid—right now, there's plenty of problems like this up in the northern part of the county. It seems imprudent to introduce them other places. Thank you.

2230555

CHAIRMAN DURAN: Thank you.

COMMISSIONER CAMPOS: Mr. Chairman, I have a question for Mr. Gold. Do you have a solution you want to present to the Board? You don't want a 200-unit subdivision without the improvements. Two, you don't want to pay for the improvements. What solution do you offer?

MR. GOLD: Well, the simplest one would be to stop granting lot splits.

COMMISSIONER CAMPOS: Let me ask you a question. Does the association have any right, any legal authority to stop the splitting of the lots?

MR. GOLD: We're actually looking into changing our covenants at this point.

COMMISSIONER CAMPOS: Can you change them at this point and apply them retrospectively.

MR. GOLD: We can't apply them retrospectively. Well, I don't know. It appears that we could—we couldn't apply them if 50 percent or more of our members approve new covenants, then it's not being applied retrospectively as we understand it. But from that point on we could at least—but that would be a civil suit. And a point of view that the Commission might consider is that there are health and safety issues here that are being created that don't really exist at this point, or not to a point where it really is as great a concern as it will be by continuing this course of action. So there is actually a good reason to stop at this point, or any point.

COMMISSIONER CAMPOS: Mr. Gold, are you actively pursuing some action with an attorney to create new covenants that would restrict the splitting of the lots?

MR. GOLD: Yes, we are.

COMMISSIONER CAMPOS: What's your time table?

MR. GOLD: We've already started. We've had a board meeting. We're in the process right now. We're just in the beginning stages of trying to come up with covenants. We're going to try to talk with the association members. We believe that certainly the majority are opposed to lot splits right now and once that occurs then we will do that. Then, like I say, it creates the need for civil action to stop further lot splits. In other words, just because we have that in our covenants doesn't mean that—the Commission could continue to approve them and then the burden would be on us to keep fighting and go to court and all that kind of stuff. So we prefer the Commission to do it.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: I have a question, David. If the roads are substandard, would your community be opposed to this Commission going to the state and asking for funding to get those roads up to standard?

MR. GOLD: Please. Go ahead.

CHAIRMAN DURAN: I know in other instances—but if we do that and it goes to—if they get to be County standard then the problems with subdividing to 2.5 acres doesn't go away.

MR. GOLD: No, I don't think the problems would go away because to me the greatest problem is the potential for water contamination. As the lots start getting smaller,

2230556

especially the 1.25-acre ones, then we actually eventually will have water contamination problems which definitely we do not have right now.

As far as the roads, they actually—my understanding is that most of the money has come from state money, the pavement that's been done and—the County of course maintains the other roads and I believe the basecourse, I forget where that came from. The roads were basecoursed four or five years ago.

CHAIRMAN DURAN: Does County Road 70-A go all the way through the subdivision?

MR. GOLD: No.

CHAIRMAN DURAN: Is it a dead-end loop in there?

MR. GOLD: It's sort of an odd shape. It would be easier if I drew it. But basically, County Road 78 comes in and in fact dead-ends at my house, but it goes—most of the subdivision that comes off of County Road 70-A and there's like a loop, an internal loop within the subdivision and then it goes back out. I should point out, by the way, that there's no secondary access.

CHAIRMAN DURAN: So it's just 70-A.

MR. GOLD: That's right. So another substandard—the need for an all-weather crossing. But in theory there should be two means of ingress and egress which even with any improvements that could take place, that would never take place. Also, if it's a 200-lot subdivision, if it gets that big it would require an arterial road to exit, so a wider, a 66-foot easement would be necessary rather than the current 50-foot easement. I'm pretty sure that's the case. the 200 families? I think I have this vague recollection.

CHAIRMAN DURAN: Okay. Thank you very much. Mr. Peperas, you have the last word.

MR. PEPERAS: Mr. Chairman, Commissioners, I'll give you this so you can get an idea of how the roads run.

CHAIRMAN DURAN: We have one of those in our packets.

MR. PEPERAS: I didn't create this subdivision and I didn't make the minimum standards which are 2.5 acres. I would think that anybody that would purchase property in that area, like I did, would do some research on it and know that if there is a minimum of 2.5 acres, at some point down the road, if you're willing to go into that subdivision, whether it be now or 30 years ago like my uncle did, you've got to know that if that's the minimum, at some point down the road in your life living there, that's what the lots are going to get to at a minimum. I'm not asking to go below that minimum. I just think that if someone would take the time, if you're living there you'd know that that's what the County said is the rule, minimum 2.5-acre parcels. If you get a five-acre parcel you know that it's a possibility that your whole subdivision could double in lots by the time, in the time that you live there.

Also, I do agree with what everybody said here. The roads are lousy. They could use improvement. But that's why is that my fault for upgrading them? I heard someone mention let the people doing lot splits, well they're making all the profit. Where am I making a profit by splitting up my land? I choose to split up my land so I can leave property for my children. I

2230557

have three children. If I pass away tomorrow I don't want them to have to go through a legal battle to get situated on where they can live. Nowadays, for local people in Santa Fe, for their children to stay here and be able to afford to live here, is very hard. And I was fortunate enough to get this property through family to where I might give my children a chance to stay in this city that I love so much. I've been here all my life and I'd like my children to be able to stay here and it's getting harder and harder for the next generations to be able to afford to stay here next to their parents or family. Usually they've got to move out of state or out of town because they can't afford to do that.

I don't oppose bringing the subdivision up to current standards. I'm in agreement with that and I'd like to see it. I don't think it should be done in this fashion, imposing those costs on anybody applying for a subdivision because the simple fact is we have what we have. What was allowed in the past is allowed and you can't change that. I think we've got to go forward and work on a way to improve what we have but not in this fashion. I think it's wrong. Everybody that bought land in there had a chance to look into what they were getting into, just like I had a chance to look at what I was getting into. And I think it's only fair that something is developed, some type of system to bring everything up to current standards equally throughout everybody and not impose it on people that want to split because they would like their children or their brother or sister to live next to them. I think that's wrong. I'm not doing the lot split for the purpose of profit. It's actually going to cost me a lot of money and it already has just to get to this point. I don't understand where they think I'm making a profit.

Also if eventually a water system and sewer system and all these other systems are put in, what happens to all the money, not just that I, but even the people here that spoke, all the money they spent to put their wells and their septic system in. We don't get compensated for that money. Is there any kind of compensation? You're talking about paying thousands of dollars that people have paid to have their current systems in and if another system comes in and we've got to shut those off automatically, or do we get compensated for having to spend all that money to do what we did before? I currently don't have a gas line. I've got to use propane. I'd like to see gas there also. I went to the utility companies to see why they stopped the utility lines where they did on the roads and didn't continue them on.

At any point, that's my feeling and hope that not just me but anybody going for a lot split there that isn't asking for a variance or isn't trying to get below what the County said is standards for that subdivision I hope it's granted because I don't think that solves anything by stopping lot splits. You still have—if you deny my lot split or anybody else's or grant it, we still have the same problem after the fact. We've got to bring the subdivision up to standards sufficient to what everybody's asking for. Thank you.

CHAIRMAN DURAN: Okay. Thank you. Roman, I have a question. How many other subdivisions or lot splits are coming before us in this area?

MR. ABEYTA: Mr. Chairman Vicente has a better feel for that than I do.

MR. ARCHULETA: Mr. Chairman, there's approximately six more coming up within the next two months.

CHAIRMAN DURAN: With that in mind I'd like to make a motion to table

2230558

this issue until the community and all of those people that are coming forward to ask for lot splits have an opportunity to address the road issue and the other concerns, fire protection, and maybe as a community as a whole they can come forward with some solution to those problems. I'd make that a motion. My motion is to table. My motion dies for lack of a second. What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I'm concerned that we have a safety problem here and have had a safety problem. I move to deny.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

**The motion to deny EZ Case #DL 02-4340 passed by unanimous [4-0] voice vote.**

CHAIRMAN DURAN: I have a meeting with my son, so Commissioner Sullivan, it's all yours. I'll try and be back.

COMMISSIONER SULLIVAN: Be back for the fun part?

CHAIRMAN DURAN: Is there fun?

COMMISSIONER SULLIVAN: I don't know.

CHAIRMAN DURAN: I'll try and be back.

- X. A. 8. **CDRC Case #DP 02-5080 Gabriel's Art Gallery/Retail. Syd Gabriel, applicant, Southwest Design, agent, is requesting master plan, preliminary and final development plan approval to allow 3000 square feet of art gallery space and 2000 square feet of retail space. The property is located on Banana Lane off US 84/285 in Cuyamungue, within Section 28, Township 19 North, Range 9 East, (Commission District 1)**

PENNY ELLIS-GREEN (Review Specialist): Thank you, Mr. Chairman, Commissioners. On May 31, 2002 the CDRC met and acted upon this case. There's an existing well on the property. The County Hydrologist recommends water restrictions of a quarter acre-foot per year and the installation of a water meter. The applicant has submitted a water budget that is well below the quarter acre-foot per year water restriction. A conventional liquid waste system is being proposed. The buildings will be fully sprinklered. There will be 25 parking spaces with two handicap spaces.

Recommendation: The decision of the CDRC was to grant master plan zoning and preliminary development plan approval with administrative approval of the final development plan subject to the following 20 conditions.

1. Compliance with applicable review comments from the following:

2230559

- a. County Hydrologist
  - b. County Fire Marshal
  - c. County Subdivision Engineer
  - d. City of Santa Fe
  - e. New Mexico State Highway and Transportation Department
  - f. Public Works Department
  - g. State Engineer
2. The applicant must provide copies of approval from NMED for the proposed liquid waste disposal system.
  3. The portion of private driveway proposed must be developed meeting SFC Common Roadway Standards.
  4. All signage to comply with County standards.
  5. All exterior lighting shall be shielded. The applicant shall provide cut sheets for all outside lighting to comply with County standards.
  6. All landscaping to comply with County standards.
  7. All parking must be defined.
  8. All utilities shall be underground.
  9. All redline comments will be addressed. The drainage and grading plan is to be approved by the Development Review Division Director. Original redlines will be returned.
  10. A final fire inspection is required for all buildings.
  11. The Master Plan/Development Plan will be recorded with the County Clerk's Office.
  12. All trees shall be 6 feet in height, 1.5 inch caliper at planting. All landscaping shall require only low to moderate water use as per County Code.
  13. The applicant shall provide employee parking spaces.
  14. The applicant shall submit a financial guarantee, in an amount approved by the County, for all improvements including but not limited to fire protection, temporary liquid waste system improvements and removal, road, parking, drainage improvements, retention ponding and landscaping, prior to grading or construction permit issuance. The financial guarantee for landscaping and revegetation will be kept until the plantings have taken, for a minimum of one year.
  15. All recommended improvements in the traffic impact analysis to be completed according to New Mexico State Highway and Transportation Department standards and requirements, and shall be coordinated with the New Mexico State Highway and Transportation Department prior to final development plan approval.
  16. An automatic fire protection sprinkler system will be required for the building. Designs for this to be approved by the Fire Marshal prior to permit issuance.
  17. The applicant shall provide hard-surfaced handicapped parking.
  18. Outdoor landscaping shall use imported water.
  19. The retention pond shall be located if it falls within any future R/W acquisitions.



2230560

20. Applicant shall work with New Mexico State Highway Department to coordinate improvements to ensure applicant is in compliance with New Mexico State Highway Department requirements prior to final development plan approval.

COMMISSIONER SULLIVAN: Are there any questions of the staff?

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Ellis-Green, no recommendation from staff? Is that right?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, staff actually recommended approval of this. We usually bring the CDRC's recommendation to you if it's in concurrence with the staff.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER SULLIVAN: Other questions of Penny?

COMMISSIONER VARELA: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner.

COMMISSIONER VARELA: I noticed on one of these plats here that there's also some type of an arroyo that runs basically where the footprint of the art gallery would be. Is that correct?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, I don't believe there is an arroyo on the property. Not in the vicinity of the art gallery. There is an existing swale ditch. Mr. Chairman, Commissioners, my understanding is that there is an existing swale ditch which takes stormwater to a culvert and that's going to be improved so it will take it around the building.

COMMISSIONER VARELA: Thank you.

COMMISSIONER SULLIVAN: Penny, I had a question. I hadn't seen this condition before from this State Engineer indicating that this is in an area that well water cannot be used for landscaping. And so apparently, Southwest Designs is currently contacting private companies to obtain quotes for bringing water in. I'm a little concerned. Can you give me a little more background on that?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, I understand that it must be fairly recent. This is only the second project I've seen this on. The applicant is proposing to have a maintenance agreement for the landscaping. In addition to that, County staff would hold the landscaping bond for at least a year to ensure that the trees and shrubs do actually take. But I understand it is a newish condition by the State Engineer's Office. They do not allow outside landscaping on a domestic well.

COMMISSIONER SULLIVAN: And it mentions it for this particular Nambe, Pojoaque, Tesuque area, where outdoor water use from a 72-12-1 well is prohibited by special condition of approval for the permit. How extensive is that area that the State Engineer is referring to?

MS. ELLIS-GREEN: Mr. Chairman, I believe it is a pretty extensive area

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and it does apply, my understanding is it applies only to new wells. There haven't been a condition that they have imposed on an older well. Just a new well or a well that's been redrilled.

COMMISSIONER SULLIVAN: Also the State Engineer appears to disagree with the water budget. And again, since this is coming forward for final approval, what's the staff's position on that?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, I did review the State Engineer's comments and they were talking about a half acre-foot water budget. The applicant's water budget is under a quarter acre-foot and therefore the State Engineer had required water availability. That is only required if the applicant uses more than a quarter acre-foot. Our County Hydrologist has reviewed the application and believes that their water budget is appropriate and that they would be using less than a quarter acre-foot of water.

COMMISSIONER SULLIVAN: Okay. And was evaporative cooling considered in that water budget?

MS. ELLIS-GREEN: Mr. Chairman, I'm not sure that was included in the water budget. But I believe their water budget came under the quarter acre-foot—I believe it came quite a ways under the quarter acre-foot of water so the County Hydrologist did not believe that that was an issue.

COMMISSIONER SULLIVAN: I see a handwritten thing that's very difficult to read. It says water consumption something, and it talks about landscape irrigation. But we've just learned that we can't use the well for landscape irrigation.

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, that is correct. Was that on the State Engineer's review?

COMMISSIONER SULLIVAN: No, it was part of—

MS. ELLIS-GREEN: I believe that after the State Engineer reviewed, that the applicant then understood that they could not use water for landscaping and therefore wrote us a letter stating they would have a maintenance agreement.

COMMISSIONER SULLIVAN: Oh, okay. And so I see you have that as a condition that outdoor landscaping shall use imported water.

MS. ELLIS-GREEN: Mr. Chairman, that's correct.

COMMISSIONER SULLIVAN: And I wonder again, how do we enforce that?

MS. ELLIS-GREEN: Mr. Chairman, that is an enforcement issue. We will require I believe annual water meter readings. If they're also using the water for outside landscaping it would be considerably higher than their water budget. So we would definitely keep an eye on the meter readings to make sure that they are consistent with their water budget.

COMMISSIONER SULLIVAN: I don't—maybe I missed it.

MS. ELLIS-GREEN: Mr. Chairman, I don't believe you did miss that. I don't actually see that here. We need to add a condition 21 of a quarter acre-foot water

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restriction and those restrictions need to be recorded and annual water meter readings sent to the County Hydrologist.

COMMISSIONER SULLIVAN: Are there any other questions of Ms. Ellis-Green? Is the applicant here? You've been previously sworn?

MR. ROMERO: Yes, I have. Chairman Sullivan, I agree with you. This issue with regard to the water issue with the State Engineer. It's the first time that it's come up in quite some time and it's in regard to the Aamodt case that's currently ongoing within the Pojoaque Valley. As you currently know, you have Pojoaque Pueblo out there who has built two 18-hole golf courses and they seem to be exceeding the water use that they have rights available to. But I guess the law applies also to private landowners when they drill a domestic well.

At the time that we made the submittal for master plan, preliminary and final development plan approval, when we made the submittal, we were unaware of these restrictions. After we got the letter back, when I say we, the County and the developer, got the letter back from the state, we sat down and discussed various options in regard to the landscaping. One option that was thrown out that we just use xeriscape to maintain the landscaping requirements that the County requires. The County said, well, we want more than xeriscape. We want that buffer of trees along US 84/285 and there is another option. The Pueblo of Pojoaque sells water to neighboring communities and they do enter into maintenance agreement contracts. So the developer can purchase water from the Pueblo to establish his landscaping.

All the landscaping that you see on the landscaping plan will be native vegetation, the grasses, the trees, so they will be low-impact plants that will consume a lesser amount of water than other plants.

COMMISSIONER SULLIVAN: Have you considered roof catchment systems?

MR. ROMERO: That's something that the developer and me are talking about and putting into a cistern system. And that might be a possibility. One of the things we're looking at is some of the discussions that we've had with the Fire Chief because the developer might have to put fire storage tanks onsite to accommodate the Fire Marshal's needs. So if that's the route we're going to take we will put in a system to capture roof runoff and store it for landscaping.

COMMISSIONER SULLIVAN: Any questions of the applicant?

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

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Would you agree today to a water catchment system?

MR. ROMERO: Yes, if that's the wishes of the Commission.

COMMISSIONER CAMPOS: Ms. Ellis-Green, what do you think of water catchment as an alternative? For an area that is dry and has a serious water problem, it seems the natural thing to do. What are your thoughts?

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MS. ELLIS-GREEN: Mr. Chairman, Commissioners, certainly in this area and in a number of areas, applicants have proposed water catchment and utilized that for landscaping purposes. It's been done and staff does support that.

COMMISSIONER CAMPOS: Well, a situation like this, how many gallons would you want to capture? Do you have storage for a couple thousand? Do you have any idea? So it's something you would have to still study at this point.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner, I'm really not sure how much. People have done it in the past by putting their planting beds around the building. It's usually what the applicant states that they're wanting to do as far as the size is concerned because our Code doesn't require it.

COMMISSIONER CAMPOS: I think the applicant said they would be willing to install a cistern, which you would have some underground water capacity you could store throughout the year, which is the logical thing, I would think. I just don't know how much storage you would need. But I would think that's something we need to consider in these situations.

MR. ABEYTA: Mr. Chairman, we could add a condition and we could determine with our hydrologist. I'm sure we have enough information so we could determine an amount and if it's not adequate, then maybe he can use a combination of both a cistern and the offsite water that he was proposing.

COMMISSIONER CAMPOS: I agree. I think the combination is probably the better way to go.

COMMISSIONER SULLIVAN: Perhaps, Roman, the condition could be worded something to the effect of "Water catchment shall be utilized to the maximum extent possible."

MR. ABEYTA: Right.

COMMISSIONER SULLIVAN: If there's not enough roof area or rainfall then you might have to supplement it.

MR. ROMERO: Mr. Chairman, Commissioner Campos, that's one of the things me and the developer have been tossing around. We didn't know whether to put a system underground or to store it above ground in smaller detention ponds, because we already have a detention pond onsite as per County regulations.

COMMISSIONER CAMPOS: But you have evaporation with that type of a pond, don't you?

MR. ROMERO: Yes, you do.

COMMISSIONER CAMPOS: With a cistern you have a way to preserve your water.

MR. ROMERO: Yes, you do but it's hard to judge the type of rainfall event that we're going to get at any one time. Do we need to capture 500 gallons, 1000 gallons?

COMMISSIONER CAMPOS: That's a question.

MR. ROMERO: Yes. That's a question that we'll have to come to an agreement on. And the developer has no problem in putting in one of those systems.

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COMMISSIONER CAMPOS: I understand.

COMMISSIONER SULLIVAN: Additional questions of the applicant?

COMMISSIONER VARELA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Commissioner Varela.

COMMISSIONER VARELA: Let's see. I'm going back to my previous question of staff. We do have a letter here from the State Highway and Transportation Department and I think it was stated before that that was a swale that was shown on the drawing near the building. This says The plans show the proposed building placed on a natural arroyo.

MR. ROMERO: Sir, I've been to the site. I live out in the area. There are no arroyos on the site at all. There's a natural swale that the owner dug to get water off the property that was ponding into a culvert that sits within the highway right-of-way.

COMMISSIONER SULLIVAN: Does the staff, anyone of the staff who's been out on the site, Penny, have you been to the site, Penny?

MS. ELLIS-GREEN: Mr. Chairman, I have been to the site. I haven't actually seen the arroyo and looked into specific detail on that.

MR. ROMERO: I'll address the letter from the State Highway Department. I think one of the reasons this letter came out from the Highway Department was that the fact is that US 84/285 from Santa Fe to Pojoaque is currently in the process of going to construction and they wanted to make sure that any water from the site be routed to the appropriate locations at the culverts that are being placed for the new roadway, that the water gets to the new culverts rather than to another area within the right-of-way, the highway right-of-way. But I assure you, there are no arroyos on the site, just a drainage swale that was created by the owner.

COMMISSIONER VARELA: I do see this where they're talking about the proposed development of the highway and you might have to relocate your pond, etc., etc. But for the state to come out and say that the building, the proposed building is placed in a natural arroyo, that bothers me.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner, a little later in that paragraph they do state that they will impact 84/285 unless the offset flows are efficiently routed around the proposed development. The design of the retention pond seems adequate but should be relocated if there are any future right-of-way acquisitions. So I believe that they have reviewed this and looked at the water being routed around the building. They seem to be in agreement with the retention pond design.

COMMISSIONER VARELA: Thank you.

COMMISSIONER SULLIVAN: While you're there, Penny. This is addressed somewhat in condition 15, where you say All recommended improvements in the traffic impact analysis to be completed according to New Mexico State Highway and Transportation Department standards and requirements shall be coordinated with New Mexico State Highway and Transportation Department prior to final development plan approval. But the applicant is coming for final development plan now.

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MS. ELLIS-GREEN: Mr. Chairman, I believe the final development plan would be administrative once these conditions have been met. So the CDRC recommended master plan and preliminary with final once the conditions are met.

COMMISSIONER SULLIVAN: Okay, but according to the citation for the case, it's preliminary and final development plan approval.

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, that is what the applicant is requesting. The CDRC recommended master plan and preliminary at this point and final when the conditions of approval have been met.

COMMISSIONER SULLIVAN: Okay. I wasn't aware of that distinction. Any other questions of the applicant or Penny? This is a public hearing. Are there those in the audience who wish to speak: What's the desire of the Commission?

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I would move to approve CDRC Case #DP 02-5080 with the conditions recommended by the CDRC. Additional recommendation as to water catchment and an additional condition as to .25 usage and the reporting requirements. Is that what you asked us for? That's my motion.

COMMISSIONER SULLIVAN: Let me clarify. Is that for master plan and preliminary with final approval upon satisfaction of the conditions are recommended by CDRC?

COMMISSIONER CAMPOS: Well, that's my thought right now, but let me ask Ms. Ellis-Green. Do you recommend we go with final at this point and administratively have staff make sure that all the conditions are met? Is this the way it's usually handled?

MS. ELLIS-GREEN: Mr. Chairman, staff would support that. We did support that at the CDRC level.

COMMISSIONER CAMPOS: Is that the way it's usually done?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner, a lot of times, yes, it is. Unless the applicant is missing a substantial piece of information.

COMMISSIONER CAMPOS: Yes, it would be for final.

COMMISSIONER SULLIVAN: And Ms. Ellis-Green, what was the reason that the CDRC felt differently?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, we actually recommended master plan and preliminary because there were a number of conditions and we wanted to see those met, but we did state that we did not object to the final being reviewed administratively. So what we would like to see is these conditions met before final is actually granted.

COMMISSIONER SULLIVAN: That's granted by the Board of by—

MS. ELLIS-GREEN: By the Land Use Administrator.

COMMISSIONER SULLIVAN: By the Land Use Administrator. So that doesn't need to be a condition. That's normally what's done, isn't it?

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MS. ELLIS-GREEN: Mr. Chairman, usually a development plan is reviewed by the CDRC but they usually review a preliminary and final development together. What happened here is the CDRC and the Board would review or approve the master plan and preliminary and give the authority to the Land Use Administrator to review a final development plan. And that has been done on a number of projects in the past.

COMMISSIONER SULLIVAN: But in this instance, if we grant final approval, what does that mean?

MS. ELLIS-GREEN: Mr. Chairman, you could grant final approval but conditions still have to be met. The applicant wouldn't get to start building until the conditions were met anyway.

COMMISSIONER SULLIVAN: So the only difference is in the other scenario the applicant wouldn't get final development plan approval until the conditions were met, the submittal conditions.

MS. ELLIS-GREEN: Mr. Chairman, that's correct.

COMMISSIONER SULLIVAN: And then he goes on and gets his building permit.

MS. ELLIS-GREEN: That's correct.

COMMISSIONER SULLIVAN: And there's still conditions that have to be dealt with such as water catchment and drainage and so forth.

MS. ELLIS-GREEN: Mr. Chairman, that's correct and as far as building out and doing final inspections even after you've got a permit, the cost estimate, the letter of credit being released. That kind of thing still needs to take place after the permit's been issued.

COMMISSIONER SULLIVAN: Okay. So there's a motion to grant with staff conditions and two additional conditions preliminary and final approval. Is there a second?

COMMISSIONER VARELA: Second, Mr. Chairman.

COMMISSIONER SULLIVAN: Is there further discussion on the motion?

**The motion to approve passed by unanimous [3-0] voice vote. [Chairman Duran was not present for this action.]**

- X. A. 9. EZ Case #DL 02-4350. Young Family Transfer. Tom and Connie Young, applicants, request plat approval to divide 2.511 acres into two lots. The lots will be known as Lot 7A (1.255 acres) and Lot 7B (1.255 acres). The property is located within the Tom Young Subdivision off Indian Circle, within Section 9, Township 16 North, Range 9 East (Two-mile EZ District)**

2230567

MR. ABEYTA: Mr. Chairman, I'll take that for Romella. She's not here this evening.

COMMISSIONER SULLIVAN: Mr. Abeyta.

MR. ABEYTA: the subject property is within the Tom Young Subdivision, a Type III subdivision approved by the BCC on August 11, 1980, creating of eight parcels with lot ranging from 1.867 to 3.153 acres. Since then, only one lot of 3.15 acres has been partitioned into three lots of .75, .82 and 1.52 acres. If the applicant's request is granted, the subdivision's lot density will increase from the original eight lots to 11 lots. Nevertheless, the subdivision's lot density still falls within a Type III subdivision classification. The above-described property lies within the Basin Hydrologic Zone where the minimum lot size to be retained and transferred is 2.5 acres with a quarter-acre foot per year per lot water restriction. However, with family transfer, the 2.5 acre minimum lot size could still be reduced to 1.25 acres as this particular section of the EZO allows for the creation of lots one-half of the standard minimum lot size allowed in the hydrologic zone.

Based on the zoning ordinance in effect for this particular location, the applicants are proposing to divide their lot into the following sizes: Lot 7-A, 1.255 acres, more or less, with a house, to be retained by the applicant. The applicants and owners, Mr. and Mrs. Tom and Connie Young, and Lot 7-B, 1.25 acres, more or less, vacant, to be transferred to one of the owners' child of legal age.

The application was reviewed for access, water supply, liquid waste, solid waste, fire protection and environmental. Required action as per Section 3.2.3.b of the Extraterritorial Subdivision Regulations, which state that applications involving subdivision of existing lots or parcels in an approved subdivision that results in an increase in the total number of lots, the Board shall make findings as follows: 1) Whether the proposed increase in total lots changes a subdivision classification and the requirements of design, environmental or improvement standards for the new subdivision type. 2) What required improvements or standards of the ESR must now be met in order to allow creation of additional lots. The BCC should review the attached material and consider the recommendation of the EZC, take action to approve, conditionally approve, disapprove or table for further analysis of this request.

Recommendation: On July 11, 2002, the EZC found this application in conformance with Section 3.2.3.b, serial subdivision of the ESR and therefore recommended approval subject to conditions 1 through 13 as listed in the staff report.

1. Compliance with the La Cienega Watershed Conditions which include:
  - a. Connection to the County Water Utility when service becomes available within 200 feet of the property line of the land being divided. The 200 feet shall be measured along platted easements to the nearest property line.
  - b. At the time a line extension is made pursuant to paragraph (a) above, the distribution system within the land divided shall be designed to meet the minimum fire flow requirements of the Santa Fe County Water Utility, exclusive of any reservoir capacity.



2230568

- c. At the time the connection is made to the Santa Fe County Water Utility, lot owners, their heirs, successors and assignees, agree to disconnect any domestic wells created under NMSA Section 72-12-1 NMSA 1978 and to discontinue said wells except in emergency circumstances.
  - d. Lot owners shall dedicate a 15-foot wide utility easement along all property lines for the installation of infrastructure and water distribution lines for the County utility system.
  - e. A shared well agreement, approved by the County, must be executed prior to plat recordation.
2. As per Section 3.6.2.F of the ESR, if and when the property becomes connected to the County Water Utility, and public sewer lines become available to the property, the onsite liquid waste should be abandoned in order to protect the potential for future return flow credits. the lot owners should locate easements for future mains and laterals on the plat. Connection to the public sewer system line shall be made at the lot owner's expense, within 120 days following a public sewer line being within 200 feet of the affected property. The City, County or sanitation district shall give at least 90 days notice to the property owner stating the estimated date when a sewer line will be extended and the date when the required sewer connection shall be made. This condition should also be noted on the plat.
  3. The applicants must obtain approval from NMED for the proposed septic tank and leach field for Lot 7B prior to plat recordation.
  4. The applicants must record water restrictive covenants simultaneously with the plat of survey imposing 0.25 acre-feet per year per lot. Water meters must be installed on the water line to each dwelling unit and proof of installation shall be provided prior to plat recordation. Water meter readings must be submitted to the County Hydrologist annually by June 30<sup>th</sup> of each year.
  5. The applicants must file an affidavit with the County Clerk containing the following:
    - a. Legal description of the property being transferred.
    - b. A statement that the applicants have not made any transfers of any other lots to the same person under the family transfer provisions of the ESR or the zoning ordinance in effect for the location.
  6. Deeds transferring Lot 7B to a family member must be recorded at the time the family transfer plat is filed.
  7. The applicants are required to contact Rural Addressing for assignment of address for Lot 7B. Rural addresses for 7B must be reflected on the plat.
  8. As per Extraterritorial Subdivision Regulations Section 3.6.4., "Solid Waste" a fee-in-lieu of land for solid waste disposal site of \$39.16 per lot must be paid prior to plat recordation.
  9. As per Section 3.5.2.F.3.c of the EST, the driving surface of the existing driveway that will be shared by the lot owners of 7A and 7B must be widened to 20 feet.

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10. Building and utility permits and certification of occupancy will be required for Lot 7B.
11. A retention pond, which should be shown on the survey plat, must be constructed for Lot 7B in accordance with EZO's Section 12.1.C.5 "Storm drainage."
12. All redline comments by the County Subdivision Engineer shown on the plat of survey must be addressed and resubmitted with the 24" by 36" mylar prior to plat recordation. The plat with redline comments must be returned to the staff.
13. Prior to recording plat, the property owner must obtain a sewer availability statement from the City of Santa Fe. If sanitary sewer service is available the applicant must hook up both lots to the City sewer system. [Added at motion.]

Thank you, Mr. Chairman. That concludes our presentation.

COMMISSIONER SULLIVAN: Questions for Mr. Abeyta?

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Are there any subdivision restrictions as to lot splits in the covenants?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, it's my understanding that there are not, but maybe the applicant can confirm that.

COMMISSIONER CAMPOS: Now, Mr. Abeyta, another question. This was originally approved as eight—was it eight lots?

MR. ABEYTA: Eight lots, yes.

COMMISSIONER CAMPOS: Do you feel that increasing it to 11 would overburden the infrastructure, the roads, any other basic—

MR. ABEYTA: Mr. Chairman, Commissioner Campos, based on our evaluation, no it would not. Going from eight lots to a total of 11 lots in that subdivision.

COMMISSIONER CAMPOS: The Piñon Hills case, for example. We have a lot of people splitting. Eventually do you get to a point where you have a problem with infrastructure being inadequate, the roads, the fire protection?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, you could, depending on where the property is located. For example, in Piñon Hills, one of the major problems was there was only one way in and out that was crossing a 100-year flood plain. In this case, we don't have that situation. The other is the situation is right outside the city limits where there are hydrants along Governor Miles Road which are within 500 feet of this property and these properties, so fire protection wouldn't be an issue. And we got a review from the City of Santa Fe that states that in this case.

As far as water and sewer, again, depending on the number of lots, with this type of subdivision you can probably go up to 24 lots before you're required to have a community water system or water rights. Where this property is located, again, because it's so close to the city, it's within I believe water and sewer is within Governor Miles so if need be, they may be able to access utilities in the future. Right now at this point, staff

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feels that the creation of additional lots will not overburden the existing infrastructure in the subdivision.

COMMISSIONER CAMPOS: So you don't think there would be a burdening until you got over the 24 lots?

MR. ABEYTA: At 24 lots I think then you need to start looking at the other requirements in the Code.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER SULLIVAN: Roman, my concern here is—well, first of all, this is a serial subdivision. The applicant has had eight lots and then he divided the first of those eight and now they're dividing the second of the eight, right?

MR. ABEYTA: Mr. Chairman, this is a serial subdivision. There were eight lots. They're dividing one of the lots, so now the total number is going to go up to 11.

COMMISSIONER SULLIVAN: But they can continue to divide those lots.

MR. ABEYTA: Yes, provided that they come in to the Board of County Commissioners for approval each time.

COMMISSIONER SULLIVAN: What concerns me is obviously, the use of the wells on those lots where we have City water right down the street. And secondly, the use of septic tanks where right across the street is a gravity City sewer that they're just completing construction on now. Right on the other side of Governor Miles Road it used to be force main sewer in there and now they're constructing a gravity sewer that goes all the way down to the Arroyo Chamiso and ties into the Arroyo Chamiso. I'm rather surprised that we would look at this as a septic tank type of approval when the sewer is right across the street.

MR. ABEYTA: Mr. Chairman, I'm not familiar with, I didn't review this case but the City of Santa Fe participates in these reviews. They have a—they reviewed this and according to the City the sanitary sewers are not available right now at this time, so I believe that was looked into and I guess the City is just not in a situation to serve them right now.

COMMISSIONER SULLIVAN: Well, right at this minute they're not because they're just completing construction of it, but perhaps the applicant can address that. If there are no further questions of the staff, would the applicant like to come forward. Have you been sworn in?

[Duly sworn, Paul Armijo testified as follows:]

PAUL ARMIJO: Paul Armijo, agent for Tom Young.

COMMISSIONER SULLIVAN: You have the floor.

MR. ARMIJO: Well, we did come before the CDRC in July and were granted preliminary approval and here we are for the next meeting.

COMMISSIONER SULLIVAN: Do you have any comments on the sewer or water situation?

MR. ARMIJO: Well, the recommendations staff provided to us before stated a shared well would be allowed and septic would be allowed and since we're over 330 feet

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from Governor Miles Road, I believe the City wasn't going to impose sewer on us because we're over the 200-foot distance.

COMMISSIONER SULLIVAN: Well, I'm not sure you are. Looking at the vicinity map, Exhibit B, and I don't know, do you have that? I said the sewer was across Governor Miles Road. It's actually on the same side of Governor Miles Road as your site. Do you have this map that looks like this?

MR. APMIJO: Yes, I do.

COMMISSIONER SULLIVAN: Okay. Do you see where it says "site"?

MR. ARMIJO: Yes.

COMMISSIONER SULLIVAN: And then you see where Governor Miles Road is.

MR. ARMIJO: Yes.

COMMISSIONER SULLIVAN: All right. Well, the sewer that the City's building right now is in that arroyo, right between your site and Governor Miles Road. They just bored under Richards Avenue last month. And it's a gravity sewer. A little further up Governor Miles Road on the right hand side, which would be the southside, you see a building there that kind of has a lifting mechanism. That's the lift station that they used and still use until this gravity sewer is constructed and once that's constructed that lift station will be decommissioned is my understanding.

So I'm not at all clear why we would even think of not connecting into that sewer. It looks to be well within 200 feet of your site.

MR. ARMIJO: Well, when we submitted our proposal, that construction hadn't started yet so we weren't aware that it was going to be in the arroyo.

COMMISSIONER SULLIVAN: Well, that could be, but I feel that that should be a condition of any approval is that you connect into that sewer. Do you have a concern with that?

MR. ARMIJO: I'm sure my client would have a concern with the expense of having to tie into that sewer as opposed to a septic tank on his property.

COMMISSIONER SULLIVAN: Right. But my concern is the environmental one of we have extremely dense development on Governor Miles Road now and that area is in a heavily populated area. A subdivision was just approved on Richards Avenue just to the west of you that's connecting into the City sewer. That was 20 lots. That's where the school was going to be. And that's connecting into that sewer. This subdivision is 11 lots now, may eventually be 20 or more, depending on the time. So it seems to me the time to connect into the sewer is now.

MR. ARMIJO: Well, this is a small-lot family transfer, so we're going from one lot to two so you're comparing it to a 20-lot subdivision by the school.

COMMISSIONER SULLIVAN: I understand. But still, I'm sure the applicant is considering possible future splits as well.

MR. ARMIJO: No, the applicant only owns this one lot. Even though it's called the Tom Young Subdivision, he only owns this one lot. The other lots have been

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sold off in the years past. He only owns this one lot.

COMMISSIONER SULLIVAN: He only owns one. So he feels that the cost—has that been investigated, the cost to connect into the sewer would be greater than the cost of a septic system?

MR. ARMIJO: We hadn't done that. We weren't aware that the sewer was going to be that near the property.

COMMISSIONER SULLIVAN: Roman, can you add any light to this?

MR. ABEYTA: Mr. Chairman, it's not uncommon for the Board to place a condition that requires them to obtain a sewer availability statement from the City of Santa Fe and if it is available that they connect and we would make sure they do that before we issue any building permit. So you can approve it with a condition that if sewer is available that they connect to the City sewer.

COMMISSIONER SULLIVAN: Okay. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Armijo, are there any covenants governing the subdivision that would prohibit these lots splits?

MR. ARMIJO: In the information provided to me by the property owner, there weren't any.

COMMISSIONER CAMPOS: Are you the agent?

MR. ARMIJO: Yes.

COMMISSIONER CAMPOS: And have you actually reviewed these documents?

MR. ARMIJO: Yes. I don't have them with me, but I have reviewed the subdivision covenants.

COMMISSIONER CAMPOS: And I think you've testified that seven of the lots have been sold?

MR. ARMIJO: Of the original Tom Young Subdivision—

COMMISSIONER CAMPOS: Of the eight lots—

MR. ARMIJO: Of the eight lots, he only owns one.

COMMISSIONER CAMPOS: And the other seven?

MR. ARMIJO: Have been sold off.

COMMISSIONER CAMPOS: Are they developed or undeveloped at this time?

MR. ARMIJO: I believe Exhibit G shows that all the lots have been developed.

COMMISSIONER CAMPOS: So there's structures on all the lots.

MR. ARMIJO: I believe there's residences on all the lots.

COMMISSIONER CAMPOS: Okay. Thank you.

COMMISSIONER SULLIVAN: Exhibit G, did you say?

MR. ARMIJO: Yes. It's a schematic of Tom Young Subdivision showing

2230573

renderings of houses on the lots. This was provided by staff, not me.

COMMISSIONER SULLIVAN: Roman, do you have a copy of Exhibit G?

MR. ABEYTA: Mr. Chairman, I just went through the file and I found a copy that wasn't included in the packet and it does show homes on all of the lots.

COMMISSIONER SULLIVAN: Could you just pass that around?

MR. ABEYTA: Sure.

COMMISSIONER SULLIVAN: Even though there's homes on those lots, those lot owners could come back for splits, could they not?

MR. ABEYTA: For family transfer, Mr. Chairman, down to 1.25.

COMMISSIONER SULLIVAN: So far no one else has, apparently. All the other lots surrounding this one are 2.5 acres. One is 1.8 and another is 3.1. Another one's

MR. ARMIJO: I believe the most northwesterly lot of the Tom Young Subdivision was divided.

COMMISSIONER SULLIVAN: Okay, I see that here. You're correct. That one has already been divided. Is that correct?

MR. ARMIJO: Yes, that's correct.

COMMISSIONER SULLIVAN: Okay. And that's not the lot we're talking about. That's divided into an A, B, and C. And the applicant's lot is the one in the—

MR. ARMIJO: The most southeasterly—

COMMISSIONER SULLIVAN: The southeastern corner. And the proposal is to divide it into two lots, both about 1.255 acres. So these other lot owners could do what the one in the northwestern corner has done for a family transfer, I suppose.

MR. ABEYTA: Mr. Chairman, they would be restricted thought to 1.25. They wouldn't be able to go to .87 or .75. Those were probably done prior to 1989 when the family transfer rule changed to half the minimum.

COMMISSIONER SULLIVAN: Ah. Okay. So some of these couldn't do that. I see the 1.867-acre lot, it couldn't split any further.

MR. ABEYTA: It could not. Only the 2.5-acre lots could be split further.

COMMISSIONER SULLIVAN: Okay, that answers my questions. Are there more questions for the applicant. Okay, this is a public hearing. Are there any in the audience who would like to speak in favor of or opposition to the proposal? Seeing none, what's the pleasure of the Commission? I'd like to see, if a motion is made, I certainly would like to see a condition requiring a sewer availability from the City and connection if the City does deem it to be available, but I'll see if any motion makers agree with that.

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I'll make a motion to approve with conditions, EZ Case #DL 02-4350. The conditions set by staff, the condition suggested by you concerning sewer availability from the City. I guess we have to make some findings here, Mr. Abeyta. That would be page 3, required action, with Extraterritorial zoning.

MR. ABEYTA: Mr. Chairman, that's correct. Whether the proposed

2230574

increase in total lots changes the subdivision classification and the requirements of design, environmental improvement standards for a new subdivision type and what requirements of standards of the Extraterritorial Subdivision Regulations must now be met in order to allow creation of additional lots.

COMMISSIONER CAMPOS: And your statement was that this does not change the classification and does not change the required improvements or standards at this time?

MR. ABEYTA: That's correct.

COMMISSIONER CAMPOS: I would, as part of the motion make those two findings.

COMMISSIONER SULLIVAN: We have a motion.

COMMISSIONER VARELA: I'll second it.

COMMISSIONER SULLIVAN: And a second from Commissioner Varela Lopez. Is there further discussion?

**The motion to approve EZ Case #DL 02-4350 passed by unanimous [4-0] voice vote. [Chairman Duran was not present for this action.]**

- X. A. 12. **TDRC Case #V 02-5280. Trujillo and Benavides Appeal/ Variance. Elvira M. Trujillo and Lorraine L. Benavides, applicants, are requesting a variance of Article XIV, Section 3.4, the Tesuque lot size requirements of the Land Development Code to allow a family transfer land division of 0.395 acres into three lots. The lots will consist of Lot 1 (± 0.157 acres), Lot 1-A (±0.0798 acres) and Lot 1 B (±0.158 acres) The property is located off White Boulder Road in the traditional community of Tesuque, within Section 31, Township 18 North, Range 10 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 a three-lot family transfer land division of a 0.395-acre tract. The land would be divided into three lots in order to accommodate the three existing dwelling units currently on the property. The property is located within the tradition community of Tesuque. The minimum lot size in this area is one acre per dwelling unit. The applicants state the residences have been there since the early 1970s. The have provided aerial photograph from the Highway Department as proof of that. The residences share one well with three other residences located on adjacent properties.

There is a correction to the report on page 2. Elvira Trujillo is the mother and owns Lot 1. Her daughter, Lorraine Benavides, who lives with her on Lot 1. Another daughter, Gloria Ortega, lives in the residence on proposed Lot 1-A. And her son Fidel Trujillo lives

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in the residence on proposed Lot 1-B.

Staff recommends that the request for a variance be denied. The intent of the Code is to set minimum lot size as one acre per dwelling unit. The decision of the TCDR was to recommend approval of a variance of Article XIV, Section 3.4 to allow a family transfer land division of 0.385 acres into three lots subject to the following 8 conditions.

1. The applicants must follow all other family transfer regulations.
  2. Water use shall be restricted to 0.25 acre-feet per dwelling. Water restrictive covenants shall be recorded with the plat. A water meter shall be installed for each dwelling unit, and water meter readings must be reported to the County Hydrologist annually by June 30<sup>th</sup> of each year.
  3. No further division of this land shall be permitted, and this shall be noted on the plat.
  4. Applicants must submit a shared well agreement with the family transfer plat.
  5. Existing driveways to serve the existing residences.
  6. Applicants must test the water supply wells for the following constituents: nitrate as nitrogen, total Kjeldahl nitrogen, coliform bacteria, ammonia and hardness. The testing must be completed and submitted to the County for approval prior to recordation of the plat. If test results show that the well is already contaminated, the plat will not be recorded until the threat to public health has been resolved to the satisfaction of the County Hydrologist.
  7. All homes must be supplied by the existing well.
  8. Any future development shall comply with the Environment Department requirements at the time of development.
  9. The septic system and leachfield shall be inspected by the Environment Department to ensure it is functioning correctly and is of an adequate size for the three homes.
- [Added at motion.]

COMMISSIONER SULLIVAN: And what is the staff recommendation, Ms. Ellis-Green?

MS. ELLIS-GREEN: Mr. Chairman, staff recommended denial of this variance. It does not meet minimum lot size of the Code.

COMMISSIONER SULLIVAN: Questions of Penny?

COMMISSIONER VARELA: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner.

COMMISSIONER VARELA: Ms. Ellis-Green, I didn't see anything here specific as to what type of septic or how many houses the septic feeds. Is it all three houses? Could you point out the location of the septic?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, I believe there is one septic system and I believe it's on Lot 1-B though it is not shown on your Exhibit E. There is one septic system that serves all three residences.

[Duly sworn, Raymond Ortiz testified as follows:]



2230576

RAYMOND ORTIZ: My name is Raymond Ortiz. I'm the surveyor for the Trujillo family and also their agent. They have two septic tanks. One is a solid waste and then the other is liquid waste. And it serves all three residences. And it is on Lot 1-A and the leach field is on Lot 1-B.

COMMISSIONER SULLIVAN: So how would that work if the lots became separate fee-simple lots with the septic system being spread over two lots?

MR. ORTIZ: This is all family. It's all the same family. The mother, the daughter and son. And it's been working for probably 30 years.

COMMISSIONER SULLIVAN: But if one of those were to pass on or to sell, what would happen then?

MR. ORTIZ: Well, you know I can't really speak for them as far as that goes but in talking to Fidel, if a property came for sale, one of the other family members would buy the lot. This family has been in Tesuque for over 100 years. His grandfather, I have an article here on the oldest living Tesuque resident and they've been here since the 1800s and the two pieces of property that are in question were surveyed by Turley in '47 and his grandfather gave them to his two sons, which was Fidel and Pantaleon and these pieces were only the half acre that we're talking about.

He built a house for him and his wife and I think in the early 70s his son Fidel put a trailer on there and also Gloria put a trailer on there. So this has been in the existing conditions since, I'd have to guess 1970.

COMMISSIONER SULLIVAN: Let me clarify, you said the septic tank is on Lot 1-A and you think the drainfield is on Lot—

MR. ORTIZ: It is. The septic's on the middle lot. The leach field's on the southern lot.

COMMISSIONER SULLIVAN: The septic tank's on Lot 1-A and the leach field's on Lot 2-A?

MR. ORTIZ: Let me just make sure here. If I could approach—

COMMISSIONER SULLIVAN: Here's a small version.

MR. ORTIZ: The septic tank is on Lot 1-A. I guess that's the septic tank. And then there's a solid waste tank and then the leach field comes back up in here. And it serves all these three residences, this septic system.

COMMISSIONER CAMPOS: What about these residences up here?

MR. ORTIZ: They have their own system. The reason that this piece was drawn into this project was Fidel, he put the corner of his trailer and part of his portal on his uncle's property. Well, she's agreed to adjust the lot line to accommodate is trailer. This lot exists by deed of record. This lot is a lot of record and this lot just gets created by exclusion. It's also a family member. But the only reason this piece is being shown is because the trailer stuck out of the lot so we've got to adjust the line to accommodate what he's using. And they're all sharing this one well.

COMMISSIONER SULLIVAN: I count five residences here? Six? But the part that you're subdividing or platting is three?

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MR. ORTIZ: Yes. It's the west lot.

COMMISSIONER SULLIVAN: And all of those are served by one well and one septic? Or you said the others had their own septic tank.

MR. ORTIZ: Yes. The residents on the eastern half have their own septic system, but yes, this well's been in place for 30 years.

COMMISSIONER SULLIVAN: How far is it from the well to the septic system?

MR. ORTIZ: A hundred feet, I'd say.

COMMISSIONER SULLIVAN: Do you know what the environment requirements are? The Environment Department requirements?

MR. ORTIZ: Well, you know, it's probably not good, but it's downstream and it's been working for a long time. I realize we don't fit almost anywhere in the Code, but here we have three families and at this point it's owned by the mother. They have no recourse. They can't mortgage their property to send a son to college because they don't own nothing. And we're here more or less at the mercy of the Commission to I guess follow the spirit of the family transfer law and allow these people to continue. And there's no opposition. We accept the conditions.

COMMISSIONER SULLIVAN: Penny, what's the minimum family transfer lot size, or Roman, in the historic zone?

MR. ORTIZ: I think it's one acre.

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, it is one acre in Tesuque.

COMMISSIONER SULLIVAN: Okay. Are there additional questions of the applicants' representative? Or would you like to make additional testimony?

MR. ORTIZ: I really don't have anything to add other than I think if these people would have realized they were going to have this kind of problem they would have come forth in 1970 and split the property. Here you are, they're thinking about, Well, what am I going to do? And here we are in this predicament. It doesn't fit, but it sure feels right. That's about all I've got to say.

COMMISSIONER SULLIVAN: Thank you very much. This is a public hearing. Are there those in the audience that would like to speak in favor of or in opposition to the proposal? Come forward and be sworn in by the Clerk please.

[Duly sworn, Abel Davis testified as follows:]

ABEL DAVIS: Thank you, Mr. Chairman. My name is Abel Davis. I live in Tesuque. I'll tell the truth. I'm a member of the TDRC. We listened to this question at some length. It doesn't fit anywhere. They're asking for a family transfer. There's not enough land for a family transfer. The houses already exist. We listened to it long and hard and came to the conclusion that our job was to look at variances. The staff came up with a bunch of exceptions if it was accepted and we certainly went along with those and I am asking you gentlemen to accept this request of the Trujillo family. Thank you.

COMMISSIONER SULLIVAN: Thank you, sir. Who else would like to speak? Who are these other people? This is the last case? Are these—

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MR. ORTIZ: It's the Trujillo family.

COMMISSIONER SULLIVAN: Okay.

MR. ORTIZ: They came and they've been praying hard. They just came for support.

COMMISSIONER SULLIVAN: Those who are from the Trujillo family, would you raise your hands please? Okay. Thank you very much. I was just curious.

MR. ORTIZ: The matriarch is back there, Elvira Trujillo.

COMMISSIONER SULLIVAN: I was just curious as to who would be here at 7:00 in the evening for the last case. All right. Are there any other questions of the staff or the applicant from the Commission? Hearing none, what's the pleasure of the Commission?

COMMISSIONER CAMPOS: Mr. Chairman, may I ask a question of Ms. Ellis-Green?

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Ellis-Green, you've recommended against it. Basically it seems like the damage has been done here. By denying this variance, what benefit do we get as a community?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, staff recommended denial based on the Code. However, if you do divide the land the three homes are already there, staff has agreed they are grandfathered in. They've provided us documentation to that effect, so it wouldn't create any more intense a use on the site. The lot lines would be drawn; that would be the difference.

COMMISSIONER SULLIVAN: Any other questions of Ms. Green? Waiting for a motion here.

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Do you have concerns about the septic system? If we should make a motion to approve the variance, what kind of conditions would you suggest would be appropriate as to wells and septic?

COMMISSIONER SULLIVAN: Well, I think my concerns are probably addressed in condition 6. They require that testing be done for nitrate, nitrogen, total Kjeldahl nitrogen, coliform bacteria, ammonia and hardness. These are all the parameters that indicate contaminants in the water and if the results show that the well is already contaminated the plat will not be recorded until the threat to public health has been resolved to the satisfaction of the County Hydrologist. And I'm quite frankly concerned about that. I wouldn't be surprised if that well were not contaminated, which would mean that we'd have to have another system or an advanced waste treatment system, additional septic tanks or something of that sort.

COMMISSIONER CAMPOS: Are you satisfied with the one septic system? Do we know if it's working? Has anyone gone out to check that septic system to make sure it's working?

MR. ORTIZ: According to Mr. Trujillo, he empties it once a year and has been doing so for as long as it's been operating. And we have tested the water for nitrates. Now, we

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haven't tested for all the other contaminants that are mentioned in item 6, but it has been tested for nitrates and they're low. Staff has a copy of that.

COMMISSIONER SULLIVAN: Did you say low or none?

MR. ORTIZ: Low.

COMMISSIONER SULLIVAN: What was the reading?

MR. ORTIZ: I don't know, I think it was 1.0—1.0 and then I think it's 1.6.

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, also condition number 8 requires if there's any future developments or additions to any of the houses that they would comply with the Environment Department requirements at that time, meaning they would need to go back to the Environment Department and get their permit updated for any additional development.

COMMISSIONER SULLIVAN: Okay, 1.6. The maximum is 10 milligrams per liter. They have, they're showing nitrates. Normally those tests come up with zero.

COMMISSIONER CAMPOS: Tesuque has a history of high nitrates. And that's been known for 20, 30 years.

COMMISSIONER SULLIVAN: Yes. So they're showing that there is nitrate contamination but it doesn't come close to the maximum level of 10 mg/l, yet.

COMMISSIONER CAMPOS: Mr. Chairman, I would like to make a motion to approve the variance with the conditions. I'm concerned about the septic system. I would feel more comfortable knowing that someone would go out there now and check it before it's approved. That it's adequate, that it's adequate in size, that it's adequately laid out and is properly functioning. If it's not I think it needs to be replaced, just for public safety issues. That's just an idea. I'd like to throw it out to the Commissioners for some ideas before I do make that motion.

COMMISSIONER SULLIVAN: Well, Commissioner Campos, you could add a condition 9 that the septic system be reviewed by the State Health Department in advance of approval.

COMMISSIONER CAMPOS: Could we do that?

MR. ABEYTA: Yes, Mr. Chairman.

COMMISSIONER CAMPOS: To make sure it's the proper size and that it's properly functioning. And if it's not, the applicant—this would not be approved unless the applicants came back and obtained a working septic system and the appropriate sized septic system. Are the Commissioners comfortable with that? Any issues with the well, right now as far as its location? Is it pretty separated from—

COMMISSIONER SULLIVAN: I think the well is probably, in today's criteria, too close, as you indicate. But then again the question is, you're out of room. You put it any further away and you're on someone else's land.

COMMISSIONER CAMPOS: Okay. Mr. Chairman, Ms. Ellis, do you have a comment?

MS. ELLIS-GREEN: Mr. Chairman, I was just going to say that the Code actually requires that the well be separated 50 foot from a septic tank as a minimum, and 100

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foot from a leach field as a minimum.

COMMISSIONER CAMPOS: Does that meet the requirement?

MS. ELLIS-GREEN: The septic system, I believe is approximately 100 foot. The leach field is further away than that from the well.

COMMISSIONER CAMPOS: Okay. Mr. Chairman, I'd like to make a motion to approve the variance with the conditions set forth by staff. Additional condition that this particular septic system and leach field be checked to see if it's properly operating and if it is an appropriate size in light of the three homes that are using it, checked by the State Environment Department. Any other conditions that anybody wants to throw in? Okay. That's the motion.

COMMISSIONER SULLIVAN: We have a motion. Do we have a second?

COMMISSIONER VARELA: I'll second, Mr. Chairman.

COMMISSIONER SULLIVAN: A motion and a second from Commissioner Varela Lopez. Is there further discussion on the motion?

COMMISSIONER VARELA: Mr. Chairman, just to reiterate what's been said before that if this variance is granted it's because this property does not fit into any—it was pre-existing and does not fit under the County Code and basically, there's no recourse for these folks.

COMMISSIONER SULLIVAN: Okay. Further discussion?

The motion to approve TDRC Case #V 02-5280 passed by unanimous [3-0] voice vote.

**ADJOURNMENT**

Chairman Duran declared this meeting adjourned at approximately 7:10 p.m.

Approved by:




Board of County Commissioners  
Paul Duran, Chairman

Respectfully submitted:

  
Karen Farrell, Commission Reporter

ATTEST TO:

  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK



Tabling

**Subject: Tabling**

**Date:** Wed, 18 Sep 2002 16:51:28 -0600

**From:** Tom Sedillo <sedillot@lanl.gov>

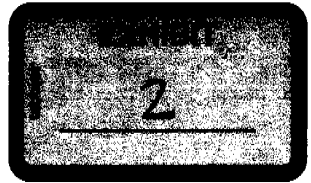
**To:** Vicente Archuleta <varchuleta@co.santa-fe.nm.us>

2230581

>Vicente Archuleta I sending you this e-mail requesting that my hearing be  
>tabled.

I would like to change my court date to October 8-02. Thank you very much

Tom Sedillo  
667-7757



land planning  
land use code  
assistance  
zoning analysis  
historian



2230582

September 18, 2002

Wayne Dalton  
Land Use Department  
Santa Fe County  
P.O. 276  
Santa Fe, NM 87501

**RE: Tabling Request for the Heart and Soul Animal Sanctuary**

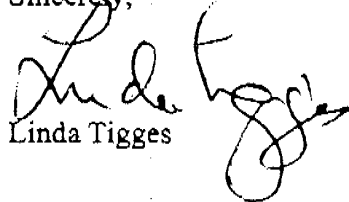
Dear Wayne,

This letter is written to request a tabling until the County Commission meeting of October 8, 2002 for the Heart and Soul Animal Sanctuary (Case #DP-02-5230).

The applicant will be out of town and unable to attend the meeting.

Your attention to this matter is appreciated.

Sincerely,

  
Linda Tigges

Sanct table 9 18 02