

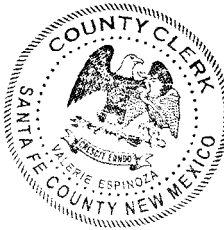
**SANTA FE**  
**BOARD OF COUNTY COMMISSIONERS**  
**REGULAR MEETING**

**October 9, 2007**

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

COUNTY OF SANTA FE ) BCC MINUTES  
STATE OF NEW MEXICO ) ss PAGES: 59

I Hereby Certify That This Instrument Was Filed for  
Record On The 16TH Day Of January, A.D., 2008 at 08:57  
And Was Duly Recorded as Instrument # 1512357  
Of The Records Of Santa Fe County



Deputy Marcella [Signature] ) Witness My Hand And Seal Of Office  
Valerie Espinoza  
County Clerk, Santa Fe, NM

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

**October 9, 2007**

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

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

**Members Present:**

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

**Members Absent:**

[None]

**V. INVOCATION**

An invocation was given by Chaplain Jose Villegas.

**VI. APPROVAL OF THE AGENDA**

CHAIR VIGIL: We're going to go to approval of the agenda and before we do that I think I'd just like to take a moment to introduce a special guest that is with us today. Members of the Commission, some of you had the opportunity to meet him but not everybody here has. I'd like to introduce to you and ask this gentleman to come to the podium and address the Commission for a few minutes, our new Association of Counties executive director, Paul Gutierrez. Mr. Gutierrez, welcome. Thank you for being here. I just want to editorialize a little. It's been wonderful since you've been on board. I feel like I've been communicated with quite a bit. Your e-mails update me a lot on what's going on in the state and on the federal level and I very much appreciate them. Thank you for being here. The podium is yours.

PAUL GUTIERREZ: Thank you, Madam Chair, members of the Commission, Santa Fe County employees. Thank you. People have asked me how it's going, working as the new executive director of the Association of Counties and I say it's like drinking water out of a fire hose. It just seems to never stop. Everything is coming along. We are getting ready to have another board of directors meeting in McKinley County. The executive committee meets tomorrow and then the full board will meet. We're going to have some presentations from the Office of the Administrator of the Courts. Also, we'll be meeting with PNM on some generation and distribution issues. We are working diligently with Tasha Young and others during our legislative interim committees. We are getting ready to present to several committees. In fact Joy Esparza, who is with Interim Governmental Affairs will be presenting the New Mexico Finance Authority oversight committee tomorrow.

I would just like to thank the Commission and the Managers in particular that get our requests for information and are very timely in getting information back to us. It really is a great partnership where we're able to present to the legislature or others on issues. For example, voting machines is one of the priorities for the Association. Don Francisco, Tasha Young, Tito Chavez, who also work with us, have presented to the Board of Finance and have gotten an extension on the moratorium of the payback for the voting machines. We're trying to work with the legislature to get that debt to be paid off and held harmless in the state legislature.

We're also working on a minimum wage issue, which is actually a comp time issue that went into effect - will go into effect January 1, 2008. I have spoken with Brian Condit and Eric Witt in the Governor's office about this issue and we're also going to bring up to the Legislative Finance Committee. We're also working with the Municipal League along with the State Department of Public Safety on the overtime provisions that would hit these entities, public safety entities such as fire departments, corrections, police departments. That total for all the counties would be approximately \$1 million. So that is one issue that we are working on.

There's a whole slew of things that the Association - that we continue to work on on your behalf and I just wanted to come in and let you know that we are here. I've been a little remiss since I'm been on board three months and haven't been able to make it to the Santa Fe County Commission meeting, but I thank you for the opportunity to be here and if there's anything that we can do from the Association's standpoint, please don't hesitate to give us a call so that we can continue to move county government forward in the state of New Mexico. And I stand for any questions or concerns that need to be brought forward that I can begin to work on.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Commissioners, Paul, I want to thank you for coming by and sharing what you shared with us today. We look forward to working with you at the Association of Counties.

CHAIR VIGIL: Any questions? Hearing none, Mr. Gutierrez, thank you. Good luck to you in your new position. We look forward to working with you and if there's every anything Santa Fe County can do for the Association please let us know.

MR. GUTIERREZ: Great. Thank you. You've been very responsive and

helpful to us so thank you.

CHAIR VIGIL: We have not approved the agenda so we'll start with item VI. A. Amendments, Tabled or Withdrawn Items and then I'll ask if there's any Consent Calendar Withdrawals. Mr. Abeyta, would you give us any amendments or tabled items?

ROMAN ABEYTA (County Manager): Yes, Madam Chair. We have two tabled items. The first being under XII. Public Hearings, A. Growth Management Department, 3. CDRC Case #Z 07-5090, the Diamante Lumber and Beam Mill Variance. And finally, item #5, AFDRC Case #Z/S 06-5270, Tavelli Mixed-Use Subdivision. We have gotten a request by the applicant to table that item. Other than that there are no further changes from staff.

CHAIR VIGIL: Any questions on those? We have a brief miscellaneous section on the Consent Calendar. Are there any items any of the Commissioners would like to address? That brief miscellaneous section is I believe X. C. We have two items in there. Does anyone care to discuss those outside of a motion to approve?

COMMISSIONER SULLIVAN: Are you doing withdrawals now?

CHAIR VIGIL: Yes. Withdrawals from the Consent.

COMMISSIONER SULLIVAN: B.2.

CHAIR VIGIL: There's a B. 2 request. Any others?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: On item XII. A. 1, I understand that item was tabled at the last meeting.

CHAIR VIGIL: Yes.

COMMISSIONER MONTOYA: Does that need a motion to have it considered at this meeting? Or are we saying that it's not tabled?

CHAIR VIGIL: I do believe I'll defer that to Mr. Ross. Does it need a motion?

STEVE ROSS (County Attorney): Madam Chair, Commissioner Montoya, the matter was tabled at the last meeting. It probably should have been shown on the agenda as tabled but I think that's inadvertent. You can either take it off the table now in connection with the approval of the agenda or wait until the matter comes up and take it off the table at that point. But it is on the table.

COMMISSIONER MONTOYA: Madam Chair, I would ask that it be left on the table for this meeting.

CHAIR VIGIL: And with that motion what is your intent? Are we allowed to discuss it? Are you requesting that it remain tabled until the next meeting?

COMMISSIONER MONTOYA: Yes, that it remain tabled until the next meeting.

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Commissioner Montoya, why?

COMMISSIONER MONTOYA: I'm not going to be here, Commissioner Campos for that public hearing and I wanted to be a part of that discussion.

COMMISSIONER CAMPOS: What time are you leaving?

COMMISSIONER MONTOYA: I need to leave probably by 5:30.

COMMISSIONER CAMPOS: Okay. It was on the table then we would need to take it off the table, I would say.

CHAIR VIGIL: Okay, is there a motion?

COMMISSIONER ANAYA: Madam Chair, I'm sorry I'm not hearing - what did Commissioner Campos say?

CHAIR VIGIL: Commissioner Campos says that we should that we should move it off the table.

COMMISSIONER CAMPOS: I said it's on the table. I think there has to be a motion to remove it from the table. Is that about right, Mr. Ross?

MR. ROSS: Madam Chair, Commissioner Campos, we've not rigorously used that rule in the past but there is a rule that if you have something on the table it takes a motion to take it off the table. We don't generally do that here. We generally handle it through the approval of the agenda process. But if you want to adhere strictly to the rules that would be appropriate and would be a motion to take it off the table or a motion to leave it on the table for yet another meeting. I think if we don't have a motion at all on the subject it's going to be a little unclear to staff what to do with this in the future. Because we do have to advertise these ordinances for the appropriate amount of time before the meeting at which they're going to be considered and adopted. So we will want to know what your intentions are, whether to put it on a particular meeting or wait until we hear from you.

COMMISSIONER CAMPOS: Is this noticed for today? We can consider it today?

MR. ROSS: We did notice it. We did publish it as if we were going to take action today, just in case.

COMMISSIONER CAMPOS: I have no problem considering it but Commissioner Montoya is not going to be here. Anyone else have any comments on this?

CHAIR VIGIL: It is my preference that when this particular item be considered that we have a full Commission. I think I'm hearing Commissioner Montoya say that he would like it tabled but I'm not sure if it does become tabled that we will hear it at a future date with a full Commission. Is that your intent?

COMMISSIONER MONTOYA: Yes.

CHAIR VIGIL: Okay. So we could do that by motion. Commissioner Sullivan

COMMISSIONER SULLIVAN: I think - I agree. We want everyone here to discuss this. This is an important part of the Land Use Code and it's quite frankly an item that has to be resolved before we can move forward with the Code rewrite. And what's in the Code rewrite now is conflicting and unworkable, so we need to hash this out. I think we have a good staff recommendation here but if the Commission wants to tweak that further this is a good time to do it when we're all here, because we can't move forward with the Code rewrite until we have this issue resolved.

But I just also want to point out I think typically our rules of order are that when an

item is tabled it comes up at the next land use meeting automatically. So I think it's appropriate that it comes up here as a noticed item, unless we specify a different time certain, like in some cases we've said it's going to come up in 60 days instead of 30 days. I think that's the way our rules of procedure read. I think it's appropriate that it be there, but I also agree that we need all the Commissioners onboard in this discussion and we want everyone's ideas and also if you want to put it on for the next land use meeting we want to get your ideas in the interim as well, so if there's any tinkering with this that needs to be done we want to get everybody's thoughts on it. I think what staff has proposed is a good compromise and has minimal impact on the development community but we want to have everyone onboard with it.

I don't know what the exact procedure would be, Madam Chair, but if we wanted to just include in the approval of the agenda that that item would be tabled until the next land use meeting and that would give staff the direction to notice it.

CHAIR VIGIL: I would accept a motion of that nature. We can also accept a separate tabling motion, however the Commissioners wish to proceed.

COMMISSIONER SULLIVAN: Madam Chair, I'd move to approve the agenda with the one Consent Calendar withdrawal specified, item B. 2, and with item XII. A. 1 tabled until the next land use meeting in November.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Motion and second.

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

## **VII. APPROVAL OF MINUTES**

### **A. September 11, 2007**

CHAIR VIGIL: Are there any changes to the minutes?

COMMISSIONER MONTOYA: Move for approval.

COMMISSIONER ANAYA: Second.

COMMISSIONER SULLIVAN: Madam Chair, some typographical changes.

CHAIR VIGIL: There are typographical changes. Any other changes?

**The motion to approve the minutes as corrected passed by unanimous [5-0] voice vote.**

## **VII. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS**

CHAIR VIGIL: This is the opportunity for anyone out there who would like to address the Board of County Commission on any subject that is not a part of our agenda.

If you'd like to address the Commission, now's the time. Please come forth to the podium, state your name and address for the record, and if you would just let me know how much you'll need so I can allocate the time appropriately this evening. Please step forward. Welcome.

RAMOS TSOSIE: My name's Ramos Tsosie, address is 5-A Callejon Valdez in Nambe. I need about two minutes, probably.

CHAIR VIGIL: Thank you, Ramos.

MR. TSOSIE: I'm here as a representative of the Firefighters Union. Dewey Holliday who's the president was unable to come. We actually had a shortage of people working so he's working out in the Eldorado area covering for a sick paramedic. What he asked me to come talk about today was recruitment and retention. It's something that I would like to support Stan - Chief Holden's - efforts to address. And I think actually you all have addressed it in the five year plan and this is specifically today about step increases. I understand he has a proposal out to provide step increases included in the budget that you approved already and included it as a building block.

What it will do is for every year you're in you get a raise, basically, and so what it does is it rewards people for staying with you. For example, we have a paramedic who's been in 17 years or so. I'm brand new - just over a year, and we're being paid the exact same amount. So over the 17 years he's built up a whole lot of experience and has a lot to offer. It's really important. The reason this is really important is because in the last eight years we've had over 100 percent turnover. There's only about 26 of us and we've had to hire 28 people. That means training them, giving them gear. It's really a big cost to have this kind of turnover. Where we're losing people is surrounding departments.

It's not that they're trying to steal from the County; it's just that's what's happening. The City of Santa Fe loses them to Albuquerque. We lose them out of state, and frankly we have the potential to lose people to the City. We all live in this area and the City just pays better, has better benefits even though we do pretty much the same thing.

So I guess the big issue is that we wanted you all to support Chief Holden's effort to address this pretty big recruitment issue, and actually retention issue, more specifically for all of us in the fire department. Thank you.

CHAIR VIGIL: Any questions? Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. Ramos, you mentioned volunteers but this would not be for volunteers, right?

MR. TSOSIE: No, volunteers actually already have \$250,000 allocated to address a very pressing recruitment and retention issue for them. What this is - this is a separate issue. This is for the paid staff and it's about \$100,000 to address the paid staff recruitment and retention issues.

COMMISSIONER ANAYA: Okay. And Madam Chair, Commissioners, I just want let you know that Ramos and I go back about, I don't know, about ten, fifteen years when we worked in the private sector. He's a heck of an operator and I'm glad that you're with Santa Fe County.

MR. TSOSIE: Thank you, Commissioner. Appreciate it. Thank you for your time.

CHAIR VIGIL: Thank you, Mr. Tsosie, appreciate it. Anyone else out there?

**VIII. MATTERS FROM THE COMMISSION**

CHAIR VIGIL: Are there any Matters from the Commission?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: I just wanted to thank the County Fire Department, the volunteers, for the wet-down that we had at Thunder Mountain, Edgewood, and thank our staff for putting all that together. We missed the Commissioners there, but I want to also thank the Commission for that support. But we had a good turnout and we have a new fire station and it's completed and there's equipment and we're ready to roll.

Madam Chair, I also have one more thing and that is an update. Roman, if you could give me an update on the oil and gas situation in District 3 and surrounding District 5. What are we doing and where are we at with that?

MR. ABEYTA: Madam Chair, Commissioner Anaya, we are in the process of drafting an ordinance that will address specifically oil and gas in Santa Fe County. We expect - we would like that ordinance to be ready to come before the Commission for title and general summary, hopefully at the end of the month. We're moving on that. That's a priority of ours. At the same time we also would like to have a discussion with the Commission as to what Santa Fe County's jurisdiction is and what isn't because I think there's been a lot of confusion out in the public but also among staff as to what exactly our parameters are and what our jurisdiction is. So we're doing research on both and we plan on, like I said, bringing both items forward to the Commission in the meeting in three weeks, at the end of the month.

COMMISSIONER ANAYA: Yes, thanks, Roman, because I need to know as well as the Commission needs to know, what exactly are we - what can we do? Does this Board say you can't drill or you can drill, or is that something the state does? So I'm looking forward to hearing what is it that we can do, either for or against oil and gas.

MR. ABEYTA: We're doing that research, Commissioner Anaya, and we'll be happy to bring you all that information when it's ready.

COMMISSIONER ANAYA: Thank you, Roman. And Madam Chair, that's all I have.

CHAIR VIGIL: On that subject, I know I've received a couple of e-mails. They're having public hearings. Does anybody have - there's a hearing at Turquoise Trail and one at Genoveva. Does anybody have those dates?

COMMISSIONER SULLIVAN: The one at Turquoise Trail was last week.

CHAIR VIGIL: Was it last week? When is the Genoveva one?



MR. ABEYTA: I think it's November 4<sup>th</sup> for some reason. The first week of November.

ORALYNN GUERRERORTIZ: It's the first Thursday in November.

CHAIR VIGIL: Okay.

COMMISSIONER SULLIVAN: I, along with Commissioner Sullivan, attended one of the meetings at Tecton had in Turquoise Trail. We, along with staff were there just for information purposes, not to get into any discussion. It was Tecton's that was the one that put that information together so some of the people turned to me to answer or ask questions and I just merely was there for information purposes. Just to let the Commission know. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Madam Chair. I just wanted to let the Commission know that the reason that I will be leaving early - I have a meeting. I'm representing the New Mexico Association of Counties on the DWI Grant Council and we're meeting tomorrow bright and earlier at 8:00 in Las Cruces. So unlike my old college days when I used to be able to drive from midnight until four in the morning, I'm typically sleeping at that time these days, so I want to get there at a reasonable hour.

CHAIR VIGIL: You're getting sleep?

COMMISSIONER MONTOYA: That's questionable too. Madam Chair, I wanted to just congratulate Commissioner Anaya on the wet-down. Unfortunately I had a previous engagement. We had at our Pojoaque fire station a car show and kind of community day. And just to update the Commission also, I continue to work with Tesuque Pueblo. We had a meeting regarding the expansion of the transfer station on Tesuque Pueblo's property, and Hutch will be continuing to move that forward in terms of asking for another almost an acre in order to expand what is a pretty cramped situation over there. So we will continue to work on that.

And Madam Chair, I just wanted to acknowledge your presence and mine for the Surgeon General who was here for the underage drinking townhall meeting. Had a great turnout here in Santa Fe as well as in Albuquerque. It continues to be an initiative that I think maybe we can, as a Commission consider doing something specifically on the underage drinking initiative.

I also wanted to wish a belated birthday to Commissioner Campos, who turned 39 last week.

CHAIR VIGIL: Happy birthday, Commissioner Campos.

COMMISSIONER ANAYA: How come we didn't get a cake for him?

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: One thing, RPA membership - I'm not going to be able to attend the RPA regularly. I think we need to appoint someone. I'd be glad to serve as a substitute but I cannot serve at those meetings regularly. So I think we have to address that. I think Commissioner Anaya is the -

COMMISSIONER ANAYA: Well, who could that be?

CHAIR VIGIL: And I do believe the next RPA meeting is scheduled to meet from 2:00 to 4:00. It's at an earlier time next week.

COMMISSIONER CAMPOS: I can make that meeting.

CHAIR VIGIL: So perhaps we can consider these appointments as a future agenda item. Anything else, Commissioner Campos? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I just wanted to thank the staff on getting together and fleshing out this water ordinance recommendation from the last hearing until today. There were a lot of questions and issues that I think they were able to sit down and discuss effects on the growth management plan and its going forward and what's a pragmatic and reasonable approach. So I think we had a good example there under the County Manager's leadership of interdepartmental coordination and action and they came forward with I think a recommendation which you may or may not approve but nonetheless I think it's got a lot of staff thought and input and research into it. So I was glad to see us working across departments and coming up with a unified recommendation and of course it's up to us debate it and decide how we want to deal with it, but I do appreciate the County Manager's role in getting that coalesced. Thank you.

CHAIR VIGIL: Anything else?

COMMISSIONER SULLIVAN: No, that will do it.

- X. B. 2. EZ CASE # S 02-4325 La Pradera Subdivision, Phases 4-6 - Gardner Associates, LLC (John McCarthy) Applicant Requested Final Plat and Development Plan Approval for 60 Residential Lots on 29 Acres. The Property is Located Along Dinosaur Trail in the Community College District. (Approved 3-1, with Commissioner Sullivan Voting Against. Commissioner Campos was not Present for this Action)**

CHAIR VIGIL: This is just the findings of fact.

COMMISSIONER SULLIVAN: Right, Madam Chair, and I've expressed issues before regarding the Highway Corridor Ordinance and in this particular approval and I think the findings of fact are in error in stating that this meets the County ordinances because it doesn't meet the County Highway Corridor. So I wanted to continue my representation that this particular approval didn't meet the ordinance and in order to do that I don't feel the findings of fact reflect that. So I took it off the agenda so that I can express that opinion to the Commission.

CHAIR VIGIL: Thank you.

COMMISSIONER SULLIVAN: Do you want to vote on it?

CHAIR VIGIL: We should take a motion on it. Yes. What's the pleasure of the Commission?

COMMISSIONER MONTROYA: Move for approval.

CHAIR VIGIL: Motion. Is there a second? I'll second it.

The motion to approve item X. B. 2 passed by 3-1 voice vote with Commissioner Sullivan voting nay and Commissioner Anaya not present for the action.

**X. CONSENT CALENDAR**

**A. Budget Adjustments**

1. **Resolution No. 2007-160. A Resolution Requesting an Increase to the State Special Appropriations' Fund (318) / Vista Grande Library to Budget an Allocation from the 2006 Capital Projects General Obligation Bond Act Awarded Through the New Mexico State Library for Expenditure in Fiscal Year 2008 / \$16,856.66 (Community Services Department)**

**B. Findings of Fact**

1. **LCDRC CASE # V 06-5630 Enriquez Variance - Suleika Enriquez Requests A Variance of Article 902.2.2.6 of the Uniform Fire Code 1997 Edition to Allow the Grade of Driveway to Exceed the Required 11% and Variance of Article VII, Section 3.4.1 (Slope and Buildable Areas), to Allow Slope Disturbance in an Area Where Slope Exceeds 30%. The Property is Located at 98-D Camino San Jose, Via the West Frontage Road, within Section 32, Township 16 North, Range 8 East, (District 3) (Approved 5-0)**

**C. Miscellaneous**

1. **Request Approval of a Lease of 627 Square Feet of office and 193 Square Feet of Shared conference Space with the Town of Edgewood in the Amount of \$723.50 per Month Plus Applicable Utilities Based on a Square Foot Usage by Tenant Pro-Ration (Community Services Department)**
2. **Request authorization to Enter into Amendment No. 3 to Agreement No. 25-0077-TR with Ink Impressions Inc. to Extend the Contract for the Printing of the Tax Bills through FY 08 and an Increase in Compensation (\$34,834.77) (Treasurer's Office)**

COMMISSIONER MONTOYA: Madam Chair, move for approval of the Consent Calendar items.

COMMISSIONER CAMPOS: Second.

The motion to approve the Consent Calendar passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

**XI. Staff and Elected Officials' Items**  
**B. Matters from the County Manager**  
**1. Update on Various Issues**

MR. ABEYTA: Madam Chair, I just wanted to inform the Commission that we are working on our legislative agenda for the 08 state session. We are coordinating a meeting with the Speaker of the House and the Santa Fe delegation regarding the County's priorities and also the issue that we have struggled with and now other counties are struggling with, which is appropriations that get to non-profits. They are willing to talk to us about that before the session starts and we plan on having that discussion with them.

We are planning on making a presentation to the Commission either at the administrative meeting now in October or in November to talk about other issues and priorities that the Commission may have for this 08 session. We're putting a list together now so I'll provide you with that as soon as I have it. And then of course we're going to have the annual reception in the first or second week of January. So we're moving on that front and I'll keep the Board posted as we make progress, and again, we'll have a discussion, probably at the administrative meeting in October. That's all I have, Madam Chair.

CHAIR VIGIL: Thank you.

**XI. B. Matters from the County Attorney**  
**2. Request to Publish Title and General Summary for Ordinance No. 2007-\_\_ Adopting an Ordinance Declaring Graffiti to be A Public Nuisance, Requiring that a Person Whose Property is Damaged by Graffiti Promptly Abate the Graffiti, and Imposing Penalties**

CHAIR VIGIL: I'll turn it over briefly to the County Attorney and then add anything that I know I've been working on with the core group of staff on this. Mr. Ross.

MR. ROSS: Madam Chair, thank you very much. I'm not working directly on this but I'm aware of what's going on. I know yourself, Madam Chair, and a group of staff members have been concerned with the graffiti issue for some months. This proposed ordinance grows out of that effort between staff and yourself to address the graffiti problem. I understand going along with this ordinance is a program that the County will implement to directly address the graffiti issue and I think some of the staff members who've participated in that can describe how that program might operate.

What this ordinance does is declare graffiti to be a public nuisance. That's an important first step to addressing the graffiti issue. Secondly, the ordinance requires that owners or persons in control of real or personal property that have received graffiti

promptly abate the nuisance or remove the graffiti. And if they don't, that's where the County program to go out in the community, help property owners to paint over or otherwise address the graffiti problems that we notice in the community, that's where the County program will come.

The enforcement of a public nuisance unfortunately is not as easy for a county as it is for a municipality. We'd have to go to district court to get an injunction against a landowner who refuses to comply or grant the County permission to comply - to go onto their property and abate graffiti. So it's a little bit more cumbersome a process than a lot of us are familiar with for the City of Santa Fe that's a home-rule municipality.

This is just as effective, just may be a little bit more time consuming. But I think the key for it is to have staff support and to have good program of County employees noticing graffiti, promptly notifying property owners that the graffiti is an issue and it is a nuisance and needs to be abated, and gaining permission from those landowners for the County to go on their property and cover over the graffiti. That's going to be critical to the success of an ordinance like this. So with that, I know Ms. Brown has been helping with this effort. I don't see any other folks.

CHAIR VIGIL: Rachel, is there anything you'd like to add to that? Thank you for working on this. Did I hear you say that we would have to go to district court to get an injunction to enter the property if the property owner didn't agree for the County to assist in abatement?

MR. ROSS: Correct.

CHAIR VIGIL: Okay. It just seems to me, when I started working with the core group on this graffiti ordinance I really wanted it to be a lot broader but I recognize that because we have some limitations as an arm of state government we have to be a little more limited in how we approach this. What it does, in effect is it creates a focus for the County to create a partnership with private owners to work together on abating graffiti because that's the biggest problem we have. If graffiti actually occurs on County property it's not a problem. We can go in there and we can abate the graffiti but if it occurs on private property which the overwhelming majority of graffiti actually does occur, there's really nothing we can do unless we start creating a focus through our own ordinances and our ability to be responsive to this problem.

So I'm looking forward to see where this will move us forward in abating graffiti which is increasingly getting to be a problem. Commissioner Campos.

COMMISSIONER CAMPOS: Madam Chair, how does the City of Santa Fe deal with graffiti? Do they have a similar ordinance?

CHAIR VIGIL: Actually, theirs is a little more liberal. They give three notices to the private property owner and after the third notice if the private property owner does not respond they actually go in and they don't have to go get an injunction. They actually just go in and abate the graffiti.

COMMISSIONER CAMPOS: But they don't send a bill to the owner.

CHAIR VIGIL: Yes, they do.

COMMISSIONER CAMPOS: Do they?

CHAIR VIGIL: Yes, they do.

COMMISSIONER CAMPOS: Because that's my concern. It seems to me that we have somebody that's been victimized and then we're asking them, we're requiring them to pay for the damage caused by a vandal.

CHAIR VIGIL: I think that we have to do that, because otherwise we'd be falling into anti-donation problems or other issues. But I think more importantly what this does is it creates a support system for the County to go in and certainly we would be required to invoice property owners for this. Many property owners won't be able to pay and I would say those that can should willingly be able to support this kind of abatement because many of them want to get it off but just don't have the equipment, don't have the time to create a focus for the matching of stucco, those kinds of things. But it's not intended to be punitive to the victim. It's intended to work with them, and I would be hard-pressed to say that if we punish the victim we'd be defeating our own purpose here.

I think procedurally we actually have to go in there and ask them to assist in the abatement. If they don't I think we're going to have to create an anti-graffiti fund of some kind to be able to support this. And I know I have dedicated some of my dollars to that.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: What about individuals that get busted? They're only going to be fined up to \$300 or 90 days?

CHAIR VIGIL: Actually, if somebody gets busted this ordinance does require that but they can also be charged with criminal trespass. They can be charged with state statute violations too. If we find someone who is in violation of this, this is the minimum requirement.

COMMISSIONER MONTOYA: Oh, so it is minimum under the enforcement?

CHAIR VIGIL: Mr. Ross, you wanted to address that. That's the maximum.

MR. ROSS: Madam Chair, Commissioner Montoya, that's the maximum penalty any county can enforce for any violation of its ordinance. That's statutory, unfortunately. The City isn't burdened by that because, particularly the City of Santa Fe, they're home-rule. They make up the laws. We have to always find our authority in the New Mexico statutes. The maximum penalty for violating a County ordinance is \$300 or 90 days in jail. That's why that looks insufficient because it is. The statute is. It was put into place in the fifties, I think. So it's a very old statute and fine is fairly minimal, but of course if somebody violates the statute they take the risk that we'll go to district court and get a writ of mandamus requiring them to clean up the public nuisance we've just declared. So they actually face two penalties, whereas if a person whose property is defaced by graffiti cooperates with the staff and lets the staff go on and clean up the mess, they're not charged with a violation of ordinance. They aren't subject to a writ of mandamus and the

County takes care of the mess. So there's a built-in mechanism to coerce enforcement, or coerce compliance with the ordinance.

COMMISSIONER MONTOYA: Beyond what's here.

MR. ROSS: Right.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Ross, do you agree that if the County, using its own funds remedied the situation, that is cleaned up the graffiti, that that would violate the anti-donation clause?

MR. ROSS: Madam Chair, Commissioner Campos, I don't think so, because if we enact this ordinance we've just declared that the graffiti is a public nuisance. So as a result it's like garbage in the street or something like that. We can go in and clean it up and not risk donating to any private person.

COMMISSIONER CAMPOS: Madam Chair, my comment would be that we're just publishing notice of title and general summary today, but I don't think that the victim of the graffiti should have to pay. I think we should create fund in the County, at least have a budget up to x-number of dollars and use those dollars to clean up the graffiti problem.

CHAIR VIGIL: Is that possible? My understanding was we couldn't do that. Or could you come back to us with that?

MR. ROSS: Madam Chair, I think we could do that by funding the staff efforts that I described earlier. I think we're actually doing that. The staff will be armed with equipment to remove graffiti. Paint, I suppose and high-pressure sprayers, the whole range of items that people use to get rid of graffiti. And if an owner gives their permission for us to access the graffiti I don't think we're going to charge them for removing it. If they want us to reconstruct a wall or something more difficult we might have to consider whether it makes sense to take those efforts to remove the graffiti. I was thinking about simply covering it over with paint or something like that.

But I would think if the property owner invites us on to their property to abate a public nuisance that we don't have to charge the property owner for that.

CHAIR VIGIL: Okay. I agree with Commissioner Campos on that and actually that was the focus that I would like. If there's another opinion out there to that I'd like it because I have heard other opinions on that. I'd like it to be a part of the first public hearing. Any other questions?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Who determines if it's graffiti or not? The owner? Because it could be a mural.

CHAIR VIGIL: Well, yes. I think the graffiti - we actually have a phone line where we're getting complaints about graffiti.

COMMISSIONER ANAYA: But what if somebody paints a mural on their

outside wall and to other people it looks like graffiti.

COMMISSIONER CAMPOS: There's a definition here in the ordinance, Commissioner, under definitions 4.b, and I think that covers it. It rests on the express permission by the owner. If the owner says paint a mural, that's okay.

COMMISSIONER ANAYA: Okay. Got it. Thank you.

CHAIR VIGIL: Any other questions?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that in section 5.a. 2 we should probably rework that to clarify that when we do go on the owners property that - and add language to the effect that if we're able - in other words, what we're saying is you have to get rid of that graffiti. If we're able, if staffing permits us to do it, and we go on there and do it, then we won't charge you. But that doesn't relieve you of the responsibility to get it removed in the time period specified.

I know the City has a graffiti removal program, several hot line numbers, and I think it's somewhat sporadic in terms of whether it actually gets done or not but in fact they will go onto private property and they will remove graffiti with City - I believe it's Parks Department staff. So I think we'd be consistent with what the City does there, but I think we need to be clear in the language that it's not an obligation for us to do it. If we have funds in the kitty and we have the wherewithal and we have the time and the manpower, then we will do it. But absent that, we're not relieving the owner from the responsibility to remove that graffiti within 15 calendar days if noticed.

So I think we need to be clear, because it says in paragraph 2, and agree to reimburse the abatement and related administrative costs and that's kind of onerous. So I think if we work that we'll have a good ordinance to work with.

CHAIR VIGIL: Okay. Does staff have sufficient direction on this?

COMMISSIONER SULLIVAN: So do we want to publish now or do we need to revise this before we publish?

COMMISSIONER CAMPOS: I think we should publish and work in the interim.

COMMISSIONER SULLIVAN: Well, I just always want to be sure - I know that it's been staff's position that we have to have an ordinance that's very close to what we're going to be hearing when it's published, although it obviously can be amended. Mr. Ross, is this close enough to go ahead and publish?

MR. ROSS: Madam Chair, Commissioner Sullivan, I think if you include in your motion what you just said we can draft some quick language and add it to the draft that we put downstairs.

COMMISSIONER SULLIVAN: Okay. Well, I'd move for approval to publish title and general summary with the direction that paragraph section 5.a.2 be modified, or other sections as necessary, to reflect the direction regarding the requirement for owner payment of the removal.



CHAIR VIGIL: Okay. There's a motion. Is there a second?  
COMMISSIONER MONTOYA: Second.  
CHAIR VIGIL: Any further discussion?

**The motion to authorize publication of title and general summary passed by unanimous [5-0] voice vote.**

COMMISSIONER CAMPOS: That only requires one hearing, right?  
CHAIR VIGIL: It is considered a land use issue?  
MR. ROSS: It is not. It's a one-hearing.  
CHAIR VIGIL: So one more hearing.

- XI. B. 2. Executive Session**
- a. Discussion of Pending or Threatened Litigation**
  - b. Limited Personnel Issues**
  - c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights**

MR. ROSS: I'm not sure how you want to work with this. I think the Public Hearings are noticed for 5:00 routinely. We're actually fairly early now. It's at 4:00.  
CHAIR VIGIL: Right. They were noticed for 5:00 today or 6:00?  
MR. ROSS: Madam Chair, I think we routinely notice them for 5:00.  
COMMISSIONER MONTOYA: Move for going into executive session to discuss the items outlined by our attorney.  
COMMISSIONER ANAYA: Second.

**The motion to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2 and 8) to discuss the matters delineated above passed upon unanimous roll call vote with Commissioners Campos, Montoya, Sullivan, Vigil and Anaya all voting in the affirmative.**

CHAIR VIGIL: And I think we'll just go forth with the amount of time we need for that and if we were noticed for 5:00, if we get back here close to 5:00 that would work well.

[The Commission met in executive session from 4:00 to 6:35.]

**XII. PUBLIC HEARINGS**

**A. Growth Management Department**

**2. Ordinance No. 2007-\_\_ . An Ordinance Adopting an Amended Santa Fe County Hydrologic Zone map to Replace Figure 1 of the Water Appendix to the Santa Fe County Land Development Code (First Public Hearing)**

STEPHEN WUST (Water Resources Director): This is the first public hearing for an ordinance adopting an amended Santa Fe County Hydrologic Zone Map. The zones were updated using information for a USGS survey aeromagnetic study. [microphone malfunction] Basins -- separated by some basin fringe, and those have been joined to one larger area basin, and then to the south, the boundary where basin goes to basin fringe and then homestead, right around the Eldorado area, that's been pulled up more to the north, increasing the area of homestead in that area and decreasing the amount of basin fringe.

The changes were based on information from a report that was done by the USGS survey aeromagnetic study of the whole basin area and that suggested that there was more Santa Fe group, which is kind of how you define the basin and the basin fringe, and we used that to redefine those two areas. Then we cross-checked that against several hydro reports that were done for county developments in those areas where there were changes being made and those hydro zone maps and the well logs seems to confirm what the USGS study shows, that there's more basin to the north and less basin fringe and more homestead to the south. And with that I stand for questions.

CHAIR VIGIL: Questions?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Steve, tell me - basin, you can go down to

2.5?

DR. WUST: Yes, Madam Chair, Commissioner Anaya. You can go down to 2.5 acres in the basin. In the homestead, I believe it's - we have land use people here - 40 acres? The basin fringe you can go down to 12.5 and 20 in the mountain zone. The boundary with the mountain zone really didn't change. So the basin is the one place you can go down to 2.5.

COMMISSIONER ANAYA: So 40 in the homestead.

DR. WUST: With a quarter acre usage restriction.

COMMISSIONER ANAYA: 12.5 in the basin fringe.

DR. WUST: And 2.5 in the basin.

COMMISSIONER ANAYA: Okay. And this is our first public hearing for this?

DR. WUST: First public hearing for that.

COMMISSIONER ANAYA: Do you have a map of what it was before?

DR. WUST: It should be on that map. There's two sets of lines. There's some dashed lines that show the original boundaries.

COMMISSIONER ANAYA: Oh, I see it. So in other words it's closing in.

DR. WUST: Yes. You mean to the south, Commissioner Anaya?

COMMISSIONER ANAYA: Yes.

DR. WUST: Yes. It's getting pulled up to the north there.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR VIGIL: Further questions? This is a public hearing. Is there anyone out there who would like to address the Commission on this item? Seeing, hearing that no one's here to address this item at this point in time we do have another hearing. When will that be scheduled, Dr. Wust?

DR. WUST: Madam Chair, that should be for the next land use meeting.

COMMISSIONER CAMPOS: Question.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Dr. Wust, when you present an ordinance of this nature that changes zoning, what type of evidence do you have to put into the record to sustain it in case of challenge?

DR. WUST: Madam Chair, Commissioner Campos, we didn't put anything into the packet or anything like that. It's a published US Geological Survey report that we used primarily for this, and that is in the public record because it's a published report but we didn't put it into your packet or anything like that.

COMMISSIONER CAMPOS: I would just ask that you consult with our attorney and see if there's anything you need to put in the record, just to help support the zoning changes that are being proposed.

DR. WUST: Sure, Commissioner Campos. At the least we could reference it and give the exact title and reference number so we could refer to that.

COMMISSIONER CAMPOS: Appreciate that.

CHAIR VIGIL: Further questions? Seeing, hearing none, thank you Dr. Wust and we'll continue this hearing at the second public hearing.

**XII. A. CCDRC CASE # Z 07-5031 Los Cabos LLC Reconsideration. Los Cabos LLC (Ron Adams), Applicant, Tigges Planning Consultants (Linda Tigges), Agent, Request Reconsideration of a Condition Imposed by the BCC Requiring a Single Point of Access off Fireplace Drive with a Knox Lock Gated Emergency Access only on NM State Road 14. The Subject Property is Located within the Community College District, off of NM State Road 14, east of the Santa Fe Brewery, Within Sections 24 and 25, Township 16 North, Range 8 East, (5-mile EZ, District 5)**

SHELLEY COBAU (Review Director): Madam Chair, Vicente Archuleta is

not able to attend the meeting tonight so I'll be taking this case for him.

CHAIR VIGIL: Thank you, Shelley.

MS. COBAU: On July 10, 2007, the Board of County Commissioners met and approve the master plan variance and land division with staff conditions, plus an additional condition imposed by the BCC that an onsite dry sewer line be constructed for future connection to community sewer, and the applicant participate in a pro rata share in the offsite sewer. And the July 10, 2007 meeting minutes are attached in your packet as Exhibit C.

On June 6, 2007 the Community College Development Review Committee met and acted on this case. The decision of the CCDRC was to recommend approval subject to staff conditions, and those minutes are attached as Exhibit D. The applicant is requesting reconsideration of a condition that requires all access to the project be from Fireplace Drive with no access from an entrance of New Mexico State Route 14. The entrance is the old State Route 14 highway right-of-way and is now an access to Sonny Otero's property.

The condition was approved by the Board as Single point of access off Fireplace Drive with Knox lock gated emergency access only on New Mexico State Route 14. Safety was expressed as a reason for prohibiting use of the access from State Route 14. The applicant states New, relevant information was provided on August 17, 2007 by Ruben Garcia, Traffic Engineer for District 5. This information shows that a State Route 14 intersection providing an entrance to the property has already been designed and approved by the DOT. According to Mr. Garcia, State Route 14 is being rebuilt by Longford Homes as a condition of approval for their project and the road reconstruction plan was approved to provide for improved safety along the road. That plan is attached in your packet as Exhibit E.

The staff recommendation is as follows, and I'm revising the application that's included in your packet and reading an additional paragraph so I'll try to read slowly. The applicants are requesting that the condition to require a single point of access off Fireplace Drive be deleted and allow access off State Route 14 to the Los Cabos development. The applicant states this request is made because the access has been in place for many years and is frequently used by adjacent property owners. Perhaps more important, the entrance is being revised under a design by NMDOT as part of the rebuilding of State Route 14. The plans provided by the DOT staff show that improvements to State Route 14 provide a safe entrance to the subject property.

The applicant has indicated that DOT gave oral approval for direct access to State Route 14 for the Los Cabos Subdivision. Therefore staff recommends that condition #17, as required by the BCC on July 10, 2007, which stated single point of access off Fireplace Drive with Knox lock gated emergency access only on State Route 14 remain as previously imposed with the added notation that this condition may be removed administratively at such time that the applicant produces an approved NMDOT driveway permit for direct access off State Route 14.

And members of the Commission, the driveway access permit that's included in

your packet has not been signed by the DOT so staff doesn't feel comfortable at this time in removing that condition.

CHAIR VIGIL: Are there any other conditions? All the conditions have been entered into the record?

MS. COBAU: I believe the applicant agreed with all the other original conditions and just would like a reconsideration of condition #17.

CHAIR VIGIL: Okay. Ms. Tigges, would you like to address the Commission on this?

[Duly sworn, Linda Tigges testified as follows:]

LINDA TIGGES: Linda Tigges, Tigges Planning Consultants. I would like to introduce the applicant, Ron Adams. As stated in the staff report the request is to reconsider a condition to the Los Cabos Subdivision and development plan imposed by the Commission at their meeting of July 10<sup>th</sup>. Just a reminder of where the project is, this is a composite map that's been created. This is State Road 14 going around the curve. Here's Mesa Steel and here's the Thornburg. Here's the Harley Davidson. This was the old alignment of State Road 14 and it was vacated by the DOT and eventually sold to my client.

What is being requested and was approved is a three-lot subdivision, one, two, three. Here's State Road 14, and I think there might have been a misunderstanding at the last Board of County Commissioners meeting, just in looking over the minutes. The intention at that time, as it is now, was not to have access to go all the way through and loop around Fireplace Road. And the reason for that, although that might seem like a good idea and it did to us. That is to say have access go through here and loop around here. This is the brewery over here. Ruben Garcia, the District Five traffic engineer said no, he didn't want access all the way through. It will just become a through road and that's not what you're attending.

So he was comfortable with access here off State Road 14, and in fact he approved the traffic report. I think there's a letter in your packet, but he didn't want it looped. And so what we had come in with at the last meeting was limited access off State Road 14 for 1 and 2 lots, and then there'd be a separation here with the Knox lock, and then the other one would come in from the north.

At the meeting as you recall there was some concern about safety at this intersection going around the curve and so the recommendation, or rather the condition of approval, which we agreed to at the time was that this would be - there would be no access. All access would be from over here. I talked to the traffic engineer, Ruben Garcia, about that, and he said, well, he'd rather see it as it was proposed originally, and the reason was because he had already approved an access to it and he showed me in his office the plans for Longford Homes. They had done the plans for rebuilding State Road 14 and they had been issued a building permit and they were in the process of building it and right now, I'm not sure where the bridge is here but they've gone over the bridge and they have the portion left to do and they have the permit to do it from wherever the bridge is, somewhere

in here up to here, then they would be completed with their condition.

So he said look at that. There is an access on there and there is what he called a pork chop. I'd never heard of that, but it's a pork chop access right here. This is the approved design that I got from Morey Walker's office, and this is this pork chop access, which you have in your packet which provides complete access to the north and to the south, and again, going back to the other map, Ron, as we were kind of standing here looking at this pointed out that this is in fact a fairly important intersection here, more going to the southeast, but it's set up as an intersection at that area.

So because of that, with County staff recommendation we went ahead and submitted a driveway permit which we thought we'd have by this time. We do have it partway through, and Ruben's recommendation. We have it partway through. We've got the approval for archeology. We've got the approval for drainage and now we need Ruben's approval and I just couldn't get him to do that before tonight's meeting. That is why we are comfortable with the revised staff recommendation that any approval for access there be conditioned on the driveway permit. In summary, I think the access if important to my client. He's here to speak to that. It's already there. It was State Road 14. There are other people losing it. To shut us off means still other people would use it other than us. It applies, we hope, to two lots. It doesn't apply to all three; there's no through road there nor was there ever intended to be and so we would hope that you would first move to reconsider this and second carefully consider staff's recommendation.

CHAIR VIGIL: Thank you, Ms. Tigges. Are there any questions for Ms. Tigges?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Linda, so what you're asking is to have access off of 14 for two units and then have the Knox lock and then have one access for the other unit on the other side.

MS. TIGGES: That's correct. It would be - this is north. This is Fireplace Road. So there would be access for this lot from here. There'd be this space which wouldn't be connected. There would be a gate, a Knox lock here. It wouldn't be open. And then these two would have access to State Road 14 using that -

COMMISSIONER ANAYA: And what did we previously tell you to do?

MS. TIGGES: No access from State Road 14 at all.

COMMISSIONER ANAYA: Okay, so everything comes in from the side?

MS. TIGGES: Everything comes in from Fireplace.

CHAIR VIGIL: Any further questions for Ms. Tigges? Mr. Adams, would you like to address the Commission? Welcome.

[Duly sworn, Ron Adams testified as follows:]

RON ADAMS: Ron Adams, 2850 Rufina Street, Suite A. Probably the only think I really need to add to what Linda Tigges has already stated is how important it is for me to get the access to State Road 14. My partners and myself feel that the development

cannot continue without the access and in fact we have two potential sales, we had two potential sales from the last Commission meeting that both told us they were not interested any longer if they could not have the access. So we feel it's imperative to have the access to 14 to continue this development. Thank you.

CHAIR VIGIL: Very well. Thank you. Are there any questions for Mr. Adams? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I guess, Mr. Adams in evaluating traffic issues we would want to know of course what's going to go in there. So what will go in those three boxes?

MR. ADAMS: They will be coming back. I don't know. They'll be coming back for final development plan, depending on how buys the lots and what their intentions are. At this point in time I'm not asking for any specific use.

COMMISSIONER SULLIVAN: Yes, and I guess that would be a concern of mine in terms of the traffic on 14 and the movements thereof of that and in and out. If it's a high-use commercial, if it's storage units, it's going to impact what the decisions are on the access. Have you done a traffic study on 14 and determined the service level?

MS. TIGGES: Yes. That was the traffic report that got approved by Ruben Garcia at the state. To pull up the information I'd have to dig in my files for you. I can't speak from memory to that, but I'll be glad to do that.

COMMISSIONER SULLIVAN: And what was the service level?

MS. TIGGES: That's what I'm going to have to look at to see. It was an acceptable service level but I just don't know what it is right now.

COMMISSIONER SULLIVAN: So we don't have that in our packet?

MS. TIGGES: I don't know if we were given the traffic report or not. You should have been.

COMMISSIONER SULLIVAN: I guess I - I certainly understand that you would much rather have an access on Route 14. That makes the property more marketable, certainly. From the standpoint of our considering what and how many entrances and traffic movements are going to be there, I'm at a bit of a loss to know how we can do that without knowing what's going to go there.

MR. ADAMS: Wouldn't you have that under control at the time of the actual building permit or final development approval from the next owner of the lot?

COMMISSIONER SULLIVAN: Not really, and because we've already the access and we can't go back on that. I'm at a little bit of a loss to know how your traffic engineer could have done the traffic study without that because you need to know how many trips per day a particular use is going to generate in order to do the study. So some assumption had to be made as to what was going to go there.

MR. ADAMS: I do not believe we gave him any basis for an assumption. They, from what I understand already had the intersection planned with access to my property.

COMMISSIONER SULLIVAN: No, I understand that, although we didn't

have any information of that sort at our meeting when this was approved. But I'm asking about how your traffic engineer could have done the traffic engineering study without knowing what the uses on the property were.

MS. TIGGES: We based it on light industrial.

COMMISSIONER SULLIVAN: Light industrial. Okay. So you're anticipating some light industrial. And how many vehicles a day - how many trips would that be in and out?

MS. COBAU: Commissioner Sullivan, I have the traffic report that was generated by Morey Walker in March of 2007. He's indicating that the condition on Mesa Steel Road is a level of service B in the morning, level of service C in the afternoon. On Fireplace Drive it's level of service B in all conditions. It's saying Mesa Steel Road which is the main entrance is operating currently at a level of service C in the afternoon hours both currently and with the proposed development being fully built out in 2009. He used his trip generation, as Linda said, based on light industrial development and it was a pretty low trip generation estimate. Based on morning entrance of seven trips, one exit in the morning. The p.m. peak, one entrance and seven exits. So that's the trip generation he based his traffic study on.

COMMISSIONER SULLIVAN: Okay. One entrance in the morning? Say that again, please.

MS. COBAU: It says the average vehicle trip generation for a single structure would be seven entrances in the morning, one exit; in the afternoon, one entrance and seven exit. So for three structures, for the three businesses it looks like he's estimated it would 21 trips per day, based on the three structures and seven trips.

COMMISSIONER SULLIVAN: I can't tell what the square footage of those buildings are. That seems to be fairly low, considering deliveries and so forth and of course a level C is not a very good level of service even to start with, particular for Route 14 which is a wide, pretty well traveled road. Did you consider the possibility of the Knox - just let me know when you're ready. Okay.

MR. ADAMS: Linda was just reminding me that it's only two buildings that we're talking about.

COMMISSIONER SULLIVAN: I understand. If you need more time I'm not in a rush here. Did you consider the gate and the gate and the Knox lock one building over? So there would be two entrances off of Fireplace and one off of Route 14?

MR. ADAMS: We had originally looked at that as an option until we found out about the state putting in this intersection. I was afraid early on that having this format would have - I would have been forced to do what the state is already doing, and I didn't want that expense. Now that the state is already doing it, I would like to have two lots access to 14. I'm also thinking that Sonny Otero has two large buildings that access through there, and it's also accessing Mesa Steel. So I can't see that I'm adding that much more traffic to what has already been planned by the state.

COMMISSIONER SULLIVAN: Okay, so refresh my memory. The plan



that was presented at the last Commission meeting that you had recommended had one building on Route 14 and two coming off Fireplace.

MR. ADAMS: That is correct.

COMMISSIONER SULLIVAN: Now this is a change in that plan. So we're looking at more than here just removing a condition; we're looking at changing the master plan.

MR. ADAMS: Yes. There would be two issues here. Yes.

COMMISSIONER SULLIVAN: I don't know that we have changing the master plan as an item on our agenda here this evening. I understand what you're saying but I don't know that if that's what we'll be doing here.

MS. TIGGES: If that's a problem, we'll go back to what was presented to you at the last meeting and just have the one.

MR. ADAMS: I don't know about that.

COMMISSIONER SULLIVAN: Would you like to consult again? Is it consultation time?

MR. ADAMS: I'm not prepared to answer that question. I would have to consult with my partners on that. We just don't understand why there would be a problem having access to 14 when everyone else is having access to it.

COMMISSIONER SULLIVAN: That's exactly the problem. You just stated it. That's exactly the problem. Driving it every day, I can tell you that the problem is that everyone has access to it and is getting access to it, and it's becoming increasingly dangerous. Not only are you on a curve there, you're on a hill. You're on a hill and a curve.

MR. ADAMS: One thing I can help you out with sir is that currently, the Wolf Canyon Brewery is accessing 14 through my property, which we have been discussing and I think we're going to go out and put a fence up there this week to try to terminate that, because they've been coming through on that middle, where that middle lot is proposed and going down 14 instead of going over to Fireplace. But we're definitely going to do a permanent restriction on that and not allow them to come through.

COMMISSIONER SULLIVAN: Well that on the surface would certainly make sense because that other route is the route they're supposed to go.

MR. ADAMS: This access has been there for many years. I don't know how long but I know it's been there a great deal of time and I don't know exactly what the rules are for, what do they call it? Being grandfathered in. But I know that's been accessed through there for a lot longer than I've owned the property.

COMMISSIONER SULLIVAN: But you're not proposing that it be a through access anymore, the way it used to be when it was Route 14.

MR. ADAMS: No. No, not at all. I don't have desire for that.

COMMISSIONER SULLIVAN: Okay. So you're not suggesting that we keep that as a through access.

MR. ADAMS: No, sir.

COMMISSIONER SULLIVAN: I guess that's all the questions that I had, Madam Chair. I think that we need to - it's nice that DOT is constructing that driveway there and that certainly helps out the applicant. We're just getting a multiplicity of driveways on 14 between the Allsup's and I-25. And traffic pulling out there, it's unsignalized of course, is becoming a problem. The speeds in there are pretty high. People are generally traveling around 50 miles an hour on that part of the road. So it still remains a concern in my mind with as little information as we have. I don't have a problem with going back to the original plan and saying let's put one unit there and access the other two from the back and once we see what the traffic generation is on that one, if it's not creating a problem and the applicant wants to come back and say, well, we're really not having a problem and the generation is lower than we thought and we want to put the second one there. We want to pull the fence and take out the Knox lock and move it over to the next building over, I think that's certainly worthy of consideration. We just have so little information now to make a traffic decision on.

MR. ADAMS: I understand what you're saying there but I won't be involved, hopefully. My intention is to sell the three lots and let the development proceed. As far as coming back -

COMMISSIONER SULLIVAN: That's all my questions.

CHAIR VIGIL: Thank you. Any other questions? Thank you, Mr. Adams. This is a public hearing. Is there anyone out there that would like to address the Commission on this item? Seeing, hearing none, are there any further questions or discussion on this? Shelley, could you further state staff's recommendation so I can have a read clear -

MS. COBAU: Yes, Madam Chair. The staff recommendation would read the first paragraph just as in this staff report, and a second paragraph would be added that would state the following: The applicant has indicated that the NMDOT has given verbal approval for direct access to State Route 14 for the Los Cabos Subdivision. Therefore staff recommends condition #17 as required by the BCC on July 10, 2007, which stated single point of access off Fireplace Drive with Knox lock gated emergency access on State Route 14 remain as previously imposed with the added notation that this condition may be removed administratively as such time that the applicant produces an approved NMDOT driveway permit for direct access off State Route 14.

And I would like to add, Madam Chair, that that was based on the single lot access, not on the two lots accessing, but I believe that that would require another hearing for master plan, as Commissioner Sullivan pointed out. Because the master plan that was approved had indicated only the single lot would be accessing off Fireplace Drive. That was the proposal that was brought before you back in July.

CHAIR VIGIL: Okay. Further questions? Commissioner Anaya.

COMMISSIONER ANAYA: Shelley, so I didn't follow you. What are you saying?

MS. COBAU: I'm saying that you may agree to condition #17 being

removed upon staff receiving and NMDOT approved driveway permit for that lot, the southern-most lot.

COMMISSIONER ANAYA: So what do they have right now? Right now everything has to go around the side.

MS. COBAU: Currently, condition #17 tells them or imposes on them to take access for all three lots north through the site up to Fireplace Drive and all the lots would have to take access off Fireplace Drive. No lots currently, with what they have approved would be allowed to take access directly to State Route 14. There'd be a crash gate there for the fire department's use and that's it.

COMMISSIONER ANAYA: Okay. So Commissioner Sullivan, were you going to suggest that they use one for now?

COMMISSIONER SULLIVAN: I would support, Commissioner Anaya, the removal of that - well, staff's recommendation which is to remove condition #17 pending the receipt and administrative review of a driveway permit issued by the Highway Department with access to one unit, as approved in the master plan. If that's not acceptable to the applicant then they certainly have the right to come back and amend the master plan and say we want it to serve two lots. So in essence, I'm in support of staff recommendation.

MS. COBAU: The master plan that was submitted to us back - when it came before you in July indicated - and I'll walk this up there, that two lots would be accessed off Fireplace Drive and a third lot would be accessed off State Route 14. We didn't know at that time that the Highway Department had designed an intersection for this property and we felt at a staff level that this property should be accessed off Fireplace Drive as the Mesa Vista Business Park, immediately to the southwest of the project had taken direct access off Fireplace Drive.

So if the Highway Department is willing to accept the trip traffic from this single lot, staff is willing to support that application by the applicant. And I'll bring this up there, Commissioners, so you can see.

CHAIR VIGIL: Do you want to use the microphone so everyone can hear what you're telling us?

MS. COBAU: I just pulled the master plan site plan from the original staff report. It shows the two lots taking access to Fireplace Drive and the southernmost lot taking access to State Route 14. I think if the Highway Department can accept that condition I think we at staff level can accept that condition and allow that single lot to access off State Route 14.

COMMISSIONER ANAYA: Madam Chair, so you're saying that if the Highway Department or Department of Transportation says that's okay, you're going to say it's okay?

MS. COBAU: Yes, it's their -

COMMISSIONER ANAYA: And have they said it's okay?

MS. COBAU: They have not said it's okay at this time and that's their

jurisdiction, State Route 14. They do the maintenance. They're doing the design on that and they are designing a four-lane highway for State Route 14. It will be four lanes. And if they're comfortable - if we can have proof that - Linda has stated that she's received verbal approval from them, but we need written, signed approval to feel comfortable about what Linda is telling us what Ruben has conveyed to her. Certainly comfortable in addressing it administratively if you're comfortable with us getting proof from the DOT administratively, not releasing this until we have that.

COMMISSIONER ANAYA: So if they come to you with those two units and say it's okay, then we'd be okay.

MS. COBAU: If they say that the two units were to take access off State Route 14, if that's okay with the Highway Department and it's okay with the Commission, I guess that we can do that administratively also. It seems like that would be a minor adjustment in the master plan.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR VIGIL: Further questions? What's the pleasure of the Commission?

COMMISSIONER SULLIVAN: Move for staff recommendation to delete condition #17 pertaining to access for one unit as indicated on the approved master plan, upon receipt from the New Mexico Department of Transportation of an executed driveway permit.

CHAIR VIGIL: Motion. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: Does that applicant understand and agree with that recommendation?

MR. ADAMS: I believe I do, but I do have a question regarding Commissioner Sullivan's comment that at some point in the future it could be reviewed again to have the second lot access?

CHAIR VIGIL: I don't think that was part of the motion, was it?

COMMISSIONER SULLIVAN: No, I was suggesting that if you wanted - and correct me, Shelley, if I'm wrong. An applicant at any time can come back and revise their master plan.

MS. COBAU: That's correct, Commissioner.

COMMISSIONER SULLIVAN: Particularly if you haven't sold all your lots.

MR. ADAMS: Okay. Because that would be starting this whole process over again.

COMMISSIONER SULLIVAN: Well, it would just be starting the master plan process, yes. To revise the master plan, and the net effect if it went through would be that you would move the fence and the gates to some other location. In the meantime you can go ahead and sell or market what you have and it may be the future owner, let's say of the middle unit, might want to come back and ask for a modification to the master plan. That would be up to them. Or they may find that they're perfectly satisfied with using

Fireplace Drive because Route 14 is becoming a pretty dangerous thoroughfare.

MR. ADAMS: Would that require going back to the College Board Commission?

COMMISSIONER SULLIVAN: Yes. CCDRC would review anything that came back. It would be a reapplication for the master plan.

MR. ADAMS: I understand then.

COMMISSIONER SULLIVAN: It's a pretty routine thing.

CHAIR VIGIL: Thank you. We do have a motion.

**The motion passed by unanimous [5-0] voice vote.**

- XII. A. 6. CCDRC CASE # MP 07-5330 Turquoise Trail Storage. Jim Siebert, Agent for Bruce Golden, Applicant is Requesting Master Plan Approval for a Special Use, to Permit Storage Units in an Employment Center Zone Consisting of 425 Units with 58,704 square feet on 3.1 acres. The Property is Located at 10 Forest Lane off State Road 14 in the Community College District within Section 26, Township 16 North, Range 8 East. (5 Mile EZ, District 2) [Exhibit 1: Communications with Thornburg Partners]**

JOE CATANACH (Technical Director): Thank you, Madam Chair. On September 5, 2007, the Community College Development Review Committee recommended approval and I included the minutes of that meeting in your packet, Exhibit E. The property is within an employment center zone of the Thornburg master plan which was approved by the BCC in 2002 and 2004 for mixed-use development.

The Community College District Ordinance specifies that storage units are a special use within an employment center zone. Special uses are subject to BCC approval and per the Community College District Ordinance shall be considered based on the following criteria:

1. The proposed use is appropriate and compatible in the specific location. Environmental impacts including without limitation noise, lighting, traffic and visibility effects generated as a result of the development are mitigated so that the effects on the adjoining properties are minimized.
2. The intent and principles of the Santa Fe Community College District Plan are implemented by the approval of the proposed use at the proposed location.

Proposed master plan for storage units as a special use shall be developed in two phases as follows: 425 storage units – that would be about 53,575 square feet, and 36 of those units would be climate controlled. There would be a double-level office/apartment of 2,774 square feet of floor area. Storage units are single level with a tan stucco exterior and green metal roofs and two tower structures as architectural features. Lot coverage for

building area is 42 percent.

**Water/wastewater:** City utilities for water and liquid waste disposal will be utilized. The estimated amount of water to be used is a maximum of .50 acre-foot per year.

**Roads and access:** A traffic impact report has been submitted for review by the State Department of Transportation is off an existing road identified as Forest Lane, which intersects off State Road 14. I did include the Highway Department's letter for their review of this and they did not have any issues with the proposed storage units.

The property is not within a flood zone and development areas are in conformance with slope standards. And existing common offsite retention/detention pond will control post-development drainage. Landscaping is proposed along the Forest Lane road frontage and internally at the ends of the storage unit buildings. An open space landscape buffer consisting of 50 feet in width with a trail extension to the Arroyo Hondo open space is proposed along the I-25 access road at the rear of the property and some additional landscaping along the side property lines. Cisterns will be installed to collect roof drainage for irrigation of landscaping.

The archeological report was submitted with the Thornburg master plan and no significant sites are within the property.

**Signs and lights:** Three business signs with a sign area of 70 square feet are proposed to be located on the tower structures. Exterior lighting will be building mounted with cut-off luminaries. I want to explain that one of the conditions that staff and the Community College Development Review Committee worked on had to do with their sign proposal. So the discussion that staff had with the Community College Committee was that their sign proposal as submitted, there was a question whether in fact it was in compliance with minimum standards.

So when I describe three business signs are proposed to be located on the tower structures, that will change slightly. We have talked with this applicant and in your packet you'll notice probably they'll have one sign on this - it's a wall structure. It's a stacked rock wall structure that would be in front of the storage units. We in general agreed that that was in compliance with sign standards but we were not in agreement with the second sign, which was a two-faced sign that they were going to include up on top of a tower structure. It had the appearance of a roof sign.

So I just want to explain that in fact the sign proposal as submitted will change slightly. I think they're probably going to keep the sign that's mounted on that stacked rock wall structure and I believe they'll be making a change to the sign proposal having to do with a sign that appeared to be a tower structure on top of the storage unit buildings. They'll be making a change to that sign. Anyway, we can talk about that more as we need to.

Staff considers the proposed master plan for storage units as a special use to be compatible for the location within an employment center zone and minimizing impacts relevant to noise, lighting, traffic and water use. Staff also considers the proposed master plan to be consistent with the Community College District plan principles based on the

following evaluations: Storage units will not be located along State Road 14 frontage; The storage units will provide a building buffer from the I-25 access road; Storage units will contribute to a needed service within the Community College District for residential and commercial purposes; and the storage units will have an aesthetically pleasing architectural appearance.

The proposed master plan is in conformance with the Community College District Ordinance. Staff recommends approval. The Community College District Development Review Committee recommended approval subject to the following conditions:

1. Compliance with applicable review comments from the following:
  - a. Sangre de Cristo Water Division
  - b. City Wastewater Division
  - c. State Department of Transportation
  - d. County Fire Department
  - e. County Technical Review
  - f. County Hydrologist
2. Submit final documentation for water and sewer service as approved by the City.
3. Applicant shall coordinate with Turquoise Trail Development Company, LLC (Thornburg) regarding a centralized park/plaza meeting minimum standards for an employment center zone as required by the CCD Ordinance
4. Applicant shall submit documentation of a financial surety for a sidewalk, or applicant shall be required to provide a financial surety for a sidewalk within the property.
5. Landscaping plan shall include the following:
  - a. Landscape buffer along Forest Land shall include 50% evergreen trees
  - b. Provide trees within landscape buffer for side property lines
6. Sign alternative sign proposal in accordance with applicable regulations or approved master plan for signs within the CCDRC. [This applicant will probably be able to show you some elevations of the alternative sign proposal.]
7. Proposed trail shall be established as a public easement
8. Submit specifications of proposed light as cut-off luminaires.
9. Submit details of proposed window façade and building elevations. That includes any rooftop equipment for views from I-25 and other public roads.

Thank you, Madam Chair.

CHAIR VIGIL: Thank you, Mr. Catanach. Are there any questions of staff at this point? Commissioner Anaya.

COMMISSIONER ANAYA: What's that sign that you were talking about? The pitched roof? What's up there?

MR. CATANACH: Commissioner Anaya, this applicant was making a proposal to have a - it was an architectural feature. It looked like a short tower steeple on top of the storage unit roofs. That was their initial sign proposal for one of the signs.

COMMISSIONER ANAYA: But what's in there? Is it just going to be hollow?

MR. CATANACH: It would have been hollow. Staff was questioning that sign proposal. That appeared to be a roof sign, which is not allowed. This applicant has indicated that they will be changing that sign proposal.

COMMISSIONER ANAYA: Are they changing it to the rock design?

MR. CATANACH: No, the rock design is one of the signs that we're saying is acceptable.

COMMISSIONER ANAYA: Okay.

MR. CATANACH: That - what I'm calling a tower sign - that's the one they'll be changing.

COMMISSIONER ANAYA: Okay.

MR. CATANACH: And I think what they're prepared to show you is probably a sign on the back of one of the storage buildings, instead of that tower.

COMMISSIONER ANAYA: Thanks.

CHAIR VIGIL: Further questions for staff? Seeing none, is the applicant here. Mr. Siebert.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. I have with me tonight Bruce Golden, the owner and the developer of the property, and Jeff Seres who is the architect. What I'd like to do is have Mr. Golden speak to you about why he wanted to do this project and the objectives of the project and then I will speak to the special use criteria, and then Jeff Seres will go over some of the elevations.

CHAIR VIGIL: Very well.

[Duly sworn, Bruce Golden testified as follows:]

BRUCE GOLDEN: My name is Bruce Golden and I'm the developer. I've lived in Santa Fe for over 20 years now.

CHAIR VIGIL: Welcome, Mr. Golden.

MR. GOLDEN: The project location is as described by Mr. Catanach is about .2 mile north of 599 and backs up to the northbound onramp of 599. It would be the only self-storage facility in the entire Community College District. It would provide service to both residential and commercial clients. The statistics for the City of Santa Fe suggest that up to 40 percent or more of the clients for self-storage facility are in fact commercial. So it would not only serve the Community College District but it would also serve commercial clients in that area as well as beyond that area.

The facility as mentioned is on 3.135 acres that back up to the onramp. It does serve as a buffer between there and some of the other planned development along Highway 14. It's to be a single-story facility and we've gone out of our way to make it as aesthetically attractive as we can from all directions and we believe it will be very attractive and fit into that commercial development area. There's already the Forest Service building which is just to our south and we kind of patterned our design a little bit after



theirs. Ours will be a single-story facility except for the office and caretaker apartment which will be at the front of the facility.

The facility will have a small bit of climate controlled. It will be entirely secure, have state of the art security and should provide an excellent service to that area. I think that's all I really need to say right now. Some of the drawings we have will be addressed by Jeff Seres and some of the other plans specific to the project by Jim Siebert.

CHAIR VIGIL: Any questions for Mr. Golden? Mr. Golden, I have one. Did you do a market analysis on this?

MR. GOLDEN: Yes, I did a cursory analysis myself of the area and then I had a full feasibility study done by an MAI appraiser which is what the banks require when they go for an appraisal of a project. That was all done within the first 30 days that I was analyzing this location and this business for this area. And the conclusions of this appraiser were that all my assumptions and so on were very reasonable; that there is sufficient demand in this area to easily fill up my facility. And there's even greater potential that couldn't be quantified in her analysis but the occupancy rate for Santa Fe overall is very high. It's above 90 percent and actually close to 95 percent for facilities. Some are actually operating at or near 100 percent occupancy.

There's an apparent built-up demand for self-storage in Santa Fe. It still remains a very strong market for self-storage. This is a moderate sized facility, 59,000 square feet and it should serve quite a few clients but not be so large that it's unnecessarily large. But the appraiser did identify that there is demand and that the facility would be successful. In all her analyses of the competition and so on those were her conclusions.

CHAIR VIGIL: With that analysis, did that analysis take into consideration other storage units that we've approved in that area?

MR. GOLDEN: Yes. There is another facility that I know you've given preliminary approval to. It's on the opposite side of the interstate and that is about 2.5 miles from this facility and it is on the opposite side of the interstate. The psychology of people that use self-storage, first off, they want to go to a facility that is an attractive facility that is close by. They'll always go to the one that's closest before they go to the one that's further away. And I see that since there is no facility in the Community College District on that side of the interstate - believe me, an interstate can be a significant barrier to usage.

I see that I serve the community and businesses that are on the southeast or at least on the east side in that area and that they will be serving mostly the community that's on the northwest side of the interstate. There's a lot of development up on that side that's coming their way and that's what they're planning for and there's some to the north as well. Undoubtedly our markets will overlap but I do believe and just my knowledge of self-storage all over the West, because I have done research from Phoenix to Denver, that there's plenty of room for two facilities in this area and that the location of mine, being in the Community College District, 2.5 miles away from the other one is very, very easily an adequate separation and we do serve really different communities.

CHAIR VIGIL: And my concern is broader than just something within that proximity because there are a lot of storage units within the Airport District area. There's a lot of storage units within the Agua Fria, close to the 599 exit. There's storage units - it's been my experience people go to storage units where they can afford them. What is the most affordable storage, because it's really just a temporary space for storage. So I don't know that it particularly serves areas, per se, as it does a population that is looking for that particular kind of service or availability.

But regardless of that, it seems to me that the market analysis should be a little more detailed in terms of the need, and we don't have a copy of it, that's why I wanted to ask you more. An appraisal market analysis? Okay.

MR. GOLDEN: It's a very detailed analysis. It's a document about an inch and a half thick. Very thorough. It took into account all the facilities up off of Airport Road and Cerrillos and up in that area. The criteria that people have on average, and I've spent a lot of time going to facilities and doing a lot of ground research, not only for this in this area but other projects, people want convenience. That's important. If there's a facility that's one mile away they would rather go to that than one that's two miles away. But they also want to go to an attractive, well run facility, and that's right up at the top of the list. They need something that serves their needs and also has excellent security. Interestingly enough, over and over again, in each market that I go to, cost actually, since the costs really aren't - there isn't that big a difference in storage units - is about number four or five on the list.

But anyway, regardless of that, a thorough analysis has been done, and I wouldn't have done it, I wouldn't have gone forward with this project if the feasibility study had indicated otherwise, had indicated it was a weak market. The first thing I do is have a feasibility study done.

CHAIR VIGIL: Thank you, Mr. Golden. Is there anyone else with the applicant that would like to address the Commission? Mr. Seres?

MR. SIEBERT: Madam Chair, let me address the issue of the criteria. There's two criteria that the Board must consider for special use. The first one is the proposed use is appropriate and compatible in the specific location. Environmental impacts, including without limitation noise, lighting, traffic and visibility effects generated as a result of the development are mitigated so that the effects on the adjoining properties are minimized. With regard to criteria one we feel we've certainly met that since the storage units are really very little traffic generators. In terms of light, a great deal of thought's been put into how light will be controlled within the site, on the exterior of the site.

I think most importantly, the issue of aesthetics have been addressed and Jeff Seres will go over that and how they've really tried to enhance the façade, the structure, especially from roadways.

The second criteria is the intent and principles of the Santa Fe Community College District are implemented by the approval of the proposed use at the proposed location. In

this particular case we feel for several reasons that we meet that criteria. First of all, there are no self-storage units within the Community College District. One of the things the market study did indicate is that within the next ten to fifteen years that there's going to be anywhere from 5,000 to 6,000 residential units in the vicinity of State Road 14 south and east of I-25.

Longford Homes, which is immediately across the street has been approved for 500 homes. It's a high-density development. It's the kind of development that has very small yards and storage is something that's badly needed. These are units that would be directly across the street. I think the important thing about this too from an employment standpoint is that the market study indicated that anywhere from 20 to 40 percent of the units are used by business. Interestingly enough, I checked with my storage facility where we store our documents, and it turned out that 44 percent of the people that use the storage units are businesses, particularly small businesses like me. And I think one of the - as business takes off in this particular area you're going to need those kinds of facilities.

No different than any other small business, rather than build on to the building to store my documents, I'd rather just store them in a storage unit and be able to use that space for something that could add value to my business.

CHAIR VIGIL: Mr. Siebert, is Rancho Viejo doing anything with storage units, which is in proximity, and there's also the Turquoise Trail which is utilized, although it's an industrial business park? Are you familiar with Rancho Viejo, whom we've given -

MR. SIEBERT: I'm familiar with the master plan. It's my understanding within the master plan there's no facilities - there's no plans for storage units. Now, they have a separate business park that is on State Route 14 at Rancho Viejo Boulevard. I don't think they have - that I do not know. I know that within Turquoise Trail there are no storage units.

CHAIR VIGIL: Not per se, but many of those units are utilized for those purposes, but it wasn't designed for those. However, a property owner can use it for those purposes and in fact there are several who use it for those purposes.

MR. SIEBERT: Certainly. Any big building you can use to store things in and I think it's an indication of the demand and the demand is growing in that particular area. And I think with that I'm going to have Jeff Seres talk about the architecture and in particular this issue of the sign and how we restructure the building to accommodate the sign.

CHAIR VIGIL: Before you do I have a question: .5 is being requested for the water.

MR. SIEBERT: Correct.

CHAIR VIGIL: Now, why so much? Are you going to have offices there? Are you going to have work spaces there?

MR. SIEBERT: The .5 acre-feet of water? What we've done is we've allocated .25 to the office and the living unit. The other .25 is something that we're

holding in reserve. We hope will never have to be utilized, and the reason for that is there will be – the water harvesting system will be sufficient in all, we hope but the worst drought conditions to provide for the water. So the .25 is only held in reserve for the landscape.

CHAIR VIGIL: I just have to comment, the .25 could be utilized by a family of three on an annual basis. For a storage unit, one of the most attractive development features of it is it doesn't require much sustainable utility support. So why that much and why a reserve?

MR. SIEBERT: Well, we would certainly be willing to consider a reduction in that. I think for the residential unit .2 acre-feet would be adequate for the landscape. Probably .2 would be adequate for a reserve as well, so it would make a total budget of .4.

CHAIR VIGIL: Okay. Thank you.

[Duly sworn, Jeff Seres testified as follows:]

JEFF SERES: Madam Chair, members of the Commission, my name's Jeff Seres of Studio Southwest Architects. What I'm here to do is show you the elevations along the perimeter of the property. I believe these are in your packet in black and white. The first elevation here is along the street, Forest Road, and that is the east elevation. This is essentially the front of the facility. Starting on the right-hand side here you see the two-story building here, the ground floor office space, and then the caretaker's apartment above. Just immediately here to the left is that wall sign that was described that the County has no issue with in regards to the signage.

And then continuing down is the combination of heated or conditioned units and regular units. This is building 7 on your plan, right along the street. I'm going to show you the overalls then along the north side, which is the elevation here, and that is facing – essentially the north side is facing I-25. The signage that was discussed previously or in the initial presentation included a sign on the end over here on essentially a tower element. What we've done is stepped up the buildings along the west side of building 1 to put the signage here, then on the side of the building. Then along the west side of the property, or building #2 is the elevation here that shows the building as it faces the onramp to I-25. That would be 50 foot off of the property line and the landscape plan that is here shows this elevation with the buffer of landscape, the trail system continued through. So that's the elevation here of building 7, along the west side and the elevation of building 1 is here along the north side again. This is facing I-25 over here. This is the onramp on I-25 right here, and then building 7 on the front or the street side is this elevation here. So that's basically it.

CHAIR VIGIL: Questions for Mr. Seres?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: What are the windows for?

MR. SERES: The windows along the street side here are to break up the massing. Storage units don't require windows. We're proposing to put real windows in

there but they would be backed up on the inside for security and they would be real windows. It's essentially to present a better façade along the street. As a building obviously the most intricate or developed façade is along the street there to break up the massing of a typical storage building. So we added the windows in there to just add an element, a smaller scale element that is more indicative of the other development that is going to be there with storefronts or windows along the street. We wanted that to blend in ultimately in the streetscape as best as possible.

COMMISSIONER ANAYA: So they don't do nothing but serve as an architectural -

MR. SERES: Indeed. As a scale element and a building element. An aesthetic element.

COMMISSIONER ANAYA: Thank you.

CHAIR VIGIL: Okay, I'd like to move along on this hearing. This is a public hearing. Is there anyone out there who would like to address the Commission on this. Please come forward, state your name and address for the record.

[Duly sworn, Garrett Robinson testified as follows:]

GARRETT ROBINSON: My name is Garrett Robinson, 4308 Longhaven Lane. What I just handed you is if you will remember just a very few short months ago this is what you guys approved for us to build on the I-25, the west frontage road, and just off of the intersection of Cerrillos and 14 and just north of the 599 intersection. I hope Madam Chair and Commissioners you had a chance to read through my letter. I spent a great deal of time on that letter and I really didn't know where to start.

Three months ago somebody called me and told me that somebody was going to propose a self-storage project in the Thornburg Business Park somewhere and frankly, I dismissed it out of hand. I couldn't believe that anybody in his right mind would even marginally contemplate, the prudent businessman would marginally contemplate building a self-storage project within eyesight of ours. We were approved, as you'll remember for 153,000 square feet and it just seemed illogical, ill-advised, unbelievable that any businessman would even contemplate doing such a project, would be able to approach a bank with a straight face in view of 153,000 square feet.

I noticed that these fellows keep referring to the fact that there's no self-storage in the College District. That's pretty convenient. A little less than 1500 feet away from them, he says, well, they're 2.5 mile away - well, that's another convenient nuance of his strategy to gain approval here. We're 1500 feet away. I can stand on our property and see his property, and it's mind-boggling that anyone would proceed to this point with this project. So I just missed it three months ago.

Now, two weeks ago somebody called and said, Listen, these guys are moving right along. They got approval from the College District, the BCC - there's no way. This is beyond belief. The banks know that when I bring them a deal I have brought them a very good deal. It's been tremendously thought out, well bought, way under market. I showed a market study that's second to none, and I know what I'm talking about. I've got aerial

maps, I've got section maps, I've got street maps, I know what every comp in that area is and when I walk into that bank they know that's a good deal walking in there.

I don't know where these guys are going to get their money but I hope it's not my bank because I'm going back for a reduction on my interest rates and everything else if it's the same bank I've got but I doubt seriously if it is. So they must be self-financing this one. How else could someone proceed with such an ill-advised project? So they either have all kinds of money and can afford to put up this project within eyesight of our, and there are 58,000 which will then have on the outer realm of Santa Fe, the outer fringes of Santa Fe, Madam Chair and Commissioners, 211,000 square feet of self-storage. 1500 units.

So, I assume that they've got all kinds of money, don't need to go to a bank and can afford to put 500 units on top of 1000 units and we're not even under construction yet. We won't start construction until November. Which means in ten months we'll be done and we'll open sometime in October or the first of November.

So if this is the case, you can't go to a bank, you must be self-financing in what is tantamount to a recession, held together only by a half percent interest cut by the Federal Reserve which I think everybody will agree is a political move which won't last. The hammer is about to come down on everybody. We're in a near free-fall in our housing, lending and mortgage markets by anybody's estimate. There's nobody in this room that is either personally or some family member affected by this mess that we're in. And that mess equates to people aren't going to go out and rent self-storage units. That's the last thing in the world they're going to do. Nobody is.

First you're going to try and save your house and the last thing you're going to do is tell your wife, oh, by the way, let's cut back on the groceries and save the house of course, and go out and look for a self-storage unit. It just isn't going to happen. We all live in the real world.

Mr. Golden says that he did a personal history analysis of the market and he said he got an MIA appraisal. If you'll remember, Commissioners, we had the advantage of having four market studies that we took our decision from, the last of which was a decision that we took from one of these foremost marketing analysis companies in the country that came into town. We spent \$8500, and we had this done after you were almost finished with our approval process. I might clarify for you, Mr. Golden, we are not in a preliminary approval status; we have been approved. They came in, they said that you can do this, but it's going to be a squeaker. It's going to be a real squeaker. That was before we were in this economic recession, in this free-fall. That was four, five, six, seven months ago.

So, Mr. Golden also says that 40 percent of his business, 40 percent of his units are going to be rented by businesses. Well, as I look out across there and where we are, and where Mr. Golden is, on the outer realm of Santa Fe, you look out - it's kind of Lion King. You don't see anything around you. You look to the left and you see the Thornburg Business Park and there's some emerging light industrial projects. I can't imagine they're going to come - they've used up their space they're going to run over and get space from

him.

But just to jump back just a moment if I would, obviously I'm very passionate about this, but two and a half, three years ago, I started talking to Dennis Ortiz, and as you know, the Ortiz Brothers have opened recently their self-storage project on the corner of Richards and Rodeo and they started talking about the self-storage business. Well, I guess that was three years ago. So I went through a year with Dennis, watching as he progressed. Took a little over two years for him to get approved, and then I decided after going to conventions, seminars and more conventions and really studying the market and the industry, that it would probably be worth taking a chance on this. So I went out and I looked all over and I found land. There was lots of land for sale but a self-storage project - you can't buy land recklessly.

People think, well, it's an easy business. There's not much to it. You just put up four walls and a garage door. No way. No way. You've got to buy that right. I found land. Bought it real right. Because I knew we were in for a long process with Santa Fe County. Sure enough, it took me two years from the time of inception to the time that you guys actually gave us approval, which we were blessed with that approval. But during that time we crossed every t, dotted every i. We didn't come up with a half-baked idea, a half-baked scenario, and a half-baked conceptualization of how we were going to make this work. Because it's going to work. And 40 percent is going to come from business. I've never heard that. I've been to all the seminars. I've been to Vegas. I've been to Reno. Never have I heard 40 percent of your business is going to come from businesses. It just doesn't happen.

A small percentage might come and you may be able to build that up over time, but certainly not there. But the point I want to make is that if you're looking out south from our project and Mr. Golden's project, you don't see anything. Because there isn't anything. There's nothing to the right. There's nothing to the south, and there's a smattering of construction and light industrial properties over on the left hand side. So that means that where you're going to get your lease up, if you get lease up in this market, is going to be from behind you. And it's not going to be from new construction. And by the way, Longford Homes is not exactly a stable project to be basing anybody's project on. They have today put up 43 homes for auction in Albuquerque. That's along with KB - all these guys are in horrible, horrible trouble. You don't bring a self-storage project on homes that are being built around you. Why? Because when people move into a new home the first thing they're thinking about is to take care of that house and to make their mortgage payment because we all move into a house a little bit bigger than we can afford and the last thing we're going to do is run out and get a self-storage. We have got the push-through backs. Fill up the garage. Fill up junior's room. And then we're going to decide we're going to get a self-storage.

They usually don't have them for three to five years. Well, in this market, what is three to five years. In a down housing market it could be seven to eight years before that occurs. Okay. So we still have to do what everybody else in this country does and get our

growth from the people that are in existing homes. We've got people in existing homes that are holding on for dear life. They either are foreseeing their value, whether rich or poor, crash where they can't get a new mortgage, or they certainly couldn't sell that home. Or they're just hanging on, because like me, my mortgage just rolled over and I've got \$700 a month more I've got to pay in mortgage and my house, apparently, according to the lenders, isn't worth what I thought it was.

So everybody's in this pickle. But that's where you get your stability. That's where you get your break-even, is from existing homes, not future growth. Not just-built growth. And that market is a mess. Then there's this attractive thing that they keep pushing.

CHAIR VIGIL: Mr. Robinson, how much more time do you need? Because I do have to ask the audience if there are other members who'd like to speak.

MR. ROBINSON: Okay. About five more minutes. Will that be okay?

CHAIR VIGIL: If you could limit it.

MR. ROBINSON: Okay. Okay. I'm very passionate about this, Madam Chair.

CHAIR VIGIL: That's fine.

MR. ROBINSON: It's just - if the Commission will remember that when we went through the year and a half process of getting approval from the staff, working through all the really tough, tough, tough, issues we had to go through, one of the tenants or our approval, one of the conditions of our approval is a strong one is because we are so prominently situated out there we would have to make this an attractive project. We couldn't have it look just like a regular old self-storage project, so the rendering that you see there is what we showed you guys and what we're ready to build. But that's going to cost us \$10 a square foot more than a normal self-storage project would cost. But we're still going to do it; we're still committed to it.

So them doing something attractive is nice but we have committed to do \$10 a square foot which is a whole bunch of money, especially having somebody within eyesight pop up and enter the market place in a down economy. And this water situation. We're able to handle our entire project on 0.2 acre-feet. They want 0.5 as a reserve and .25 - well, I don't know. It's a number of things are coming back to me in a not-so-pleasant flash. All the work we had to do to keep ours down to .2. We still had enough water to take care of everybody - the live-in unit, the office unit and any other landscaping we had with all the catchment systems.

For reasons almost too numerous to list, I am imploring the Commission to not allow this master plan approval process to go forward, period. It is going to cause very serious financial damage to our project and our partnership and our families and I'm - even the best scenario I can't imagine being able to see a financial break-even point within eight to ten years under the normal situation much less with these guys here. And these market analyses, you can pay for whatever you get. They can say anything they want to say. But I'm just upset, I'm outraged at this and it's very disheartening.

Commissioner Campos, the last thing I want to say is do you remember what you



said to me before you guys voted, when I was up here? You asked me before you voted, you said, are you telling me, Mr. Robinson that there is room for another self-storage project in this town? And I said yes. And it was true, but just barely. And that was in a rosier time. So thank you, Commissioners for hearing me out and I hope that you deny this request for master plan approval.

CHAIR VIGIL: Thank you, Mr. Robinson. Is there anyone else out there that would like to address the Commission on this item? Mr. Siebert, did you want to say a few things?

MR. SIEBERT: Madam Chair, Commissioners, I'll be very brief. The reason we brought the master plan before you, normally, if this were not considered as a special use we would not be required to bring the master plan before you. It would actually something that would be an action by the CCDRC, the recommended approval of this project. The things that the Commission is considering is those two criteria that I mentioned before and we meet the standards of those two criteria and we feel like we have.

I find it interesting. This is one of the first times that I've ever seen somebody stand up and ask the Commission to use their authority to restrict competition in the economic community. I think that's certainly not one of the criteria that was included in the special use. Bruce, do you want to say something?

MR. GOLDEN: I do trust the market analysis that I had done and as far as the competing facility, we'll just have to see in the long run as far as business is concerned but to actually plan a facility as large as they have planned is pretty ill-conceived in the business of self-storage. That's all I'd like to say.

CHAIR VIGIL: Thank you. Any questions?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Is the hearing closed?

CHAIR VIGIL: Is there anyone else out there. The public hearing will be closed. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I understand that the reason this is being brought forward as a special use is it's not a use that's permitted in the Community College District without special approval, meaning that we're supposed to take a hard look at uses such as this and determine their appropriateness for the area. So it's by no means a routine approval. It's something we need to spend some time and thought on. I do want to let the Commission know that I did meet with the principal, Mr. Golden, I believe it was, and also the architect, who asked to show me what they had planned for this project. And I also did discuss this project on the phone with Mr. Robinson who indicated to me some of his concerns that he's expressed tonight. Just so that we have that on the record.

One of the comments that I made when I met with the architect and the owner was that my anticipation and hope for the Community College District, and I think the goals and plans are to have a living, live, vibrant community with special spaces and people-

oriented transportation and bike paths and all of these components that we felt were going to make the Community College District a place to live and work and to be self-sufficient. I felt a large self-storage area was a rather cold, impersonal mass to place in the front of the – in the middle of all of this development that's going on. The architects said that they would give some thought to that and perhaps consider some live-work units that would make the area a little more humanized. And I was disappointed to see that no consideration was given to that.

The other question, and perhaps staff could explain that to me, Madam Chair, is what does the condition mean, Joe, about #3, coordinating with Turquoise Trail Development, LLC, regarding a centralized park plaza in order to meet minimum standards for the employment center zone. Who has the requirement here to meet the employment center zone design standards? Is it this applicant or is it somebody else?

MR. CATANACH: Madam Chair, Commissioner Sullivan, the requirement for a park plaza should have actually been addressed as part of the subdivision, as part of the platting of the lots for the subdivision and for whatever reason, it was not. So basically forcing the issue and trying to still have that happen. This applicant has been able to get a letter from Tom Thornburg and David Thornburg that they will follow through with making sure that there is a small neighborhood park for that employment zone.

COMMISSIONER SULLIVAN: And will that be on this property or will that be on some other property?

MR. CATANACH: It will not be on this property. It would probably be on the property where the Forest Service building is. So that's what they're working on in acquiring easement to develop a small neighborhood park.

COMMISSIONER SULLIVAN: That concerns me a little. It sounds a little iffy there. Somehow we missed that. But regardless, didn't we hear some testimony at another project review that Thornburg didn't have any more capacity in their sewer and water and that they couldn't provide sewer and water to any other development. Did that include – how does that jibe with this development?

MR. CATANACH: I think probably outside the Thornburg development. This is still part of the Thornburg master plan and there is documentation from the City regarding sewer availability.

COMMISSIONER SULLIVAN: Okay. So this they feel they will have capacity for.

MR. CATANACH: Yes.

COMMISSIONER SULLIVAN: Okay. So what are we going to do about this fact that there's no centralized park plaza meeting the employment center zone requirements?

MR. CATANACH: I think, Commissioner Sullivan, the Thornburgs, along with the owner of the Forest Service building is working on that issue and that's what that letter is about.

COMMISSIONER SULLIVAN: And it says here it's going to be a quarter

of an acre in size with a couple of tables, benches and shade trees. Does that satisfy the Community College District requirements for employment zone?

MR. CATANACH: The general requirement for a neighborhood park are benches and landscaping facilities.

COMMISSIONER SULLIVAN: And will this park be accessible to all the owners of the different tracts within the Thornburg -

MR. CATANACH: Yes, Commissioner Sullivan, that's correct. It would be a common area.

COMMISSIONER SULLIVAN: And do we know where it will be located?

MR. CATANACH: My understanding is it would be located on the property where the Forest Service building is, just north of that building.

COMMISSIONER SULLIVAN: The one that's already constructed.

MR. CATANACH: Yes, Commissioner.

COMMISSIONER SULLIVAN: And who will build that? Will that be Thornburg or will it be whoever comes in for that particular parcel?

MR. CATANACH: Well, it was actually a condition of the Forest Service development plan, so I'm guessing, I'm thinking it's going to be the Thornburgs as well as - well, that letter primarily says the Thornburgs will be responsible for developing the park, is what I understand that letter to say and that the Forest Service would have to grant an easement. This easement would be within a designated open space that was part of the initial Thornburg master plan, so it's consistent. The easement for the park is consistent with the open space that was designated for the Thornburg master plan within that property.

COMMISSIONER SULLIVAN: Are these park plazas allowed to go in open space or do they contribute to the calculation of the 50 percent open space.

MR. CATANACH: Yes. The 50 percent open space can be natural, undisturbed open space and developed park areas.

COMMISSIONER SULLIVAN: Okay. Well, I think that we need to look at compatibility and whether a use is appropriate that's being requested as a special use. I don't think we can second guess the market as long as there's some evidence of a market study. We don't have one here so I can't say that I've reviewed the market study. So I think the issue, and I understand Mr. Robinson's issue is one of marketability. And was that approved by the BCC or was that approved by the EZA?

MR. CATANACH: The Rockhill Storage Units was approved by the EZA.

COMMISSIONER SULLIVAN: It was EZA. Because I don't remember it so that jibes because I'm not a member of the EZA. So my primary concern is the one that I expressed to the owner and the architect when we met a while back and that is to keep a vibrant nature to the Community College District and I felt this was not in that vein. I'm sorry we didn't have any thought put into that idea. Those are my comments. Thank you, Madam Chair.

CHAIR VIGIL: Any other comments? I need staff direction, perhaps even

legal direction. This seems like the environmental impacts must be known, including without limitation noise, lighting, traffic and visibility. It seems to me that that's always sort of reviewed was noise, lighting and traffic. When you're looking at a proposed development for its appropriateness and compatibility in a specific location it seems to me that the environmental impact would be a lot broader than just noise, lighting and traffic. How is staff interpreting that?

MR. CATANACH: Madam Chair, Commissioners, I think in general when you look at environmental impacts you're looking at any type of impacts that may certainly pertain to noise, lighting and traffic. That says without limitation, and so certainly when you think about environmental impacts you're thinking about air, you're thinking about water, you're thinking about soil. So you're thinking about those kind of environmental impacts that may be part of a project.

CHAIR VIGIL: And did staff agree that .5 was sufficient for this development or was there any discussion on bringing that request for water usage lower?

MR. CATANACH: That water usage was a request to the City. This is being served by City water and the County staff did not get too much involved in that process.

CHAIR VIGIL: Okay. I have no further questions. Are there any questions from other Commissioners? Okay, how would the Commission like to proceed? I'm not hearing any motions. What does that mean, Mr. Ross? Mr. Ross, when I don't hear a motion, what does that mean?

MR. ROSS: Madam Chair, you need a motion that's approved to move the application forward. In other words, to approve the master plan.

CHAIR VIGIL: Okay. Or?

MR. ROSS: Well, the master plan, the application would fail if there were no motion.

CHAIR VIGIL: That's what I was asking. So we have two alternatives here. Either we do not make a motion, which the effect of makes the development request fail, or we can make a motion to approve the master plan. Or we can table it.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: What would be the reasons for tabling?  
Insufficient information?

CHAIR VIGIL: If we considered it. What I'm having a lack of confidence with in this project is that I'm not sure we have sufficient criteria to judge whether or not it's appropriate or compatible. I would like to know if there are any other possible environmental impacts.

COMMISSIONER ANAYA: So are you looking at tabling?

CHAIR VIGIL: Yes.

COMMISSIONER ANAYA: Move to table.

CHAIR VIGIL: I'll second it.

COMMISSIONER SULLIVAN: We need a date.

CHAIR VIGIL: Do we need to restate a date in the future, Mr. Ross?

MR. ROSS: Madam Chair, a motion to table is automatically heard at the next land use meeting. A motion to postpone would be to bring the case back up at a specific date, some time subsequent to that.

COMMISSIONER SULLIVAN: Madam Chair, I would say that the applicant - I'm not, at least with the information we have so far, totally opposed to storage units, or some storage units, or something of that nature at this location. But I don't think we have - you're missing some information and quite frankly I'm missing some design thinking that I think we need here that I haven't seen. So I think there needs to be some rethinking done between now and the next land use meeting. I'd like to see what the applicant and his architect could come up with to better make this compatible with the goals of the Community College District. That would be my thinking.

COMMISSIONER ANAYA: So then you're looking at postpone?

COMMISSIONER SULLIVAN: No, tabling is fine with me.

COMMISSIONER CAMPOS: I have a quick question. Is any Commissioner concerned about the number of units and the size of the project?

CHAIR VIGIL: I am.

COMMISSIONER SULLIVAN: I am.

CHAIR VIGIL: I think - I want to know specifically - it looks like -

COMMISSIONER SULLIVAN: It's row upon row upon row of the same thing, regardless of whether it has windows or not, and it I think will have a sizable impact. There may be ways to minimize that impact. There may be ways to personalize this facility or they may be ways to stage it with other design components that would make it more workable. It, as is, seems pretty bare and lifeless.

COMMISSIONER CAMPOS: Big.

COMMISSIONER SULLIVAN: And big.

COMMISSIONER CAMPOS: I think.

COMMISSIONER SULLIVAN: Just refine it down to one word there.

COMMISSIONER CAMPOS: 3.1 acres, 60,000 square feet, 425 units - that's big. It's going to have a big impact.

COMMISSIONER SULLIVAN: It will have a big impact. I'm concerned about it.

CHAIR VIGIL: Irregardless, we live in a community that we have to conserve water. Despite the fact that this is being served by City water, I'd like to see an exact water budget for the particular needs, because it seems to me that if you're going to propose a water budget for storage units you do not need .5 amounts of water. I think that's another way that we as community leaders can provide some water conservation components to our community be setting some restrictions on the amount of water that's used. I think there does need to be some more work. If there are no further questions or statements the motion to table has been made and seconded.

The motion to table passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.

CHAIR VIGIL: Gentlemen, we hope you can work on some of the issues that we've addressed.

- XII. A. 7. **EZ CASE # S 07-4410 Las Campanas. Santa Fe Planning (Scott Hoeft), Agent for Las Campanas Limited Partnership, Applicant is Requesting authorization to proceed with a Master Plat for a portion of a proposed Subdivision Phase Consisting of 108 lots. The Property is Located Directly North of the Las Campanas Drive/Caja del Rio Intersection within Sections 14, 15, Township 17 North, Range 8 East. (5 Mile EZ, District 2) [Exhibit 2: Preliminary Subdivision Plan; Exhibit 3:1993 Contract]**

MR. CATANACH: Thank you, Madam Chair. The Extraterritorial Subdivision Regulations, Section 3.3.7 provide a procedure that allows an applicant the option of submitting a master plat instead of a standard subdivision plat that specifically defines the lot and road layout. The master plat will show a conceptual lot and road layout and establishes the maximum number of lots. A seller and buyer would then have the opportunity to select a specific lot and road layout based on market conditions and demand. This procedure provides flexibility for the seller and buyer. When a lot and road layout is selected a subdivision plat is submitted to the administrative staff for review and approval and recording with the County Clerk. A development plan in conformance with applicable regulations is also submitted for review and approval by staff for construction of the required subdivision improvements.

The following procedure shall be followed for a master plat

1. Before a master plat is submitted the applicant shall submit a request to the Board of County Commissioners for authorization to proceed with the master plat and the BCC shall determine that due to the size, scale or marketing requirements of the proposed subdivision approval of a master plat is in the best interests of the County. That's what we're doing right now - step #1.
2. If the BCC approves a request for master plat authorization a master plat is submitted to the EZC and BCC for approval in compliance with applicable regulations. Before final approval the BCC may rescind its intent to delegate administrative approval if it determines that the delegation is not in the best interest of the County.

Recommendation: Staff considers the master plat procedure to be appropriate for sub-phases within a larger subdivision phase or otherwise as infill developments

surrounded by existing infrastructure for roads, drainage and utilities. And that's really what we're dealing with here. Las Campanas is already a developed, established subdivision in which the infrastructure is developed and as we know it's a community water and sewer system and the same for the roads. Obviously, access to Las Campanas is good access.

If master plat authorization is granted the applicant would be submitting an overall subdivision phase consisting of 170 total lots on 105 acres with a master plat for 108 lots from the total number. Staff recommends approval of the request for master plat authorization. Thank you, Madam Chair.

CHAIR VIGIL: Questions for staff? Mr. Catanach, what phase is this and how many other phases will we be faced with?

MR. CATANACH: Madam Chair, I think it's very possible, and this is an ongoing discussion with Las Campanas, I think it's very possible that this could be the last phase of their overall master plan. So this would complete the total number of lots that were approved. Or this could complete the total number of lots that were approved for the Las Campanas master plan.

CHAIR VIGIL: Thank you, Mr. Catanach. Any other questions?  
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joe, I know on earlier Las Campanas submittals we had I think quite a bit of discussion about water budgets and what Las Campanas felt they had prior approval for and what they subsequently agreed to reduce that amount to, which was fairly excessive in my recollection. I don't see a water budget here. What is the plan? How much per dwelling unit are they proposing?

MR. CATANACH: Madam Chair, Commissioner Sullivan, certainly that would be an issue that would be part of the master plat review, but in trying to address your question, Las Campanas has generally gone with a .25 water restriction per lot, in which case they would have to demonstrate they have water rights to support a .25 allocation. But in general, that's what Las Campanas has come forward with and been approved. .25 with lots for a single home, or .50 for lots with a house and guesthouse. My understanding is that their water right schedule would probably allocate a .25 water restriction per lot is what I believe would come forward as part of the master plat submittal.

COMMISSIONER SULLIVAN: And that comes after this.

MR. CATANACH: Yes, sir.

COMMISSIONER SULLIVAN: Maybe that - and it's been a while, so jog my recollection. So maybe that's what the discussion was about was the need to have .5 acre-feet for a home and a guesthouse where you assume that a guesthouse is just that. It's not a permanent residence, so the need for that - and I recall that it ultimately ended up with an agreement on .38 or .4 or something like that. You're saying that that doesn't come into play at this point.

MR. CATANACH: Well, at this stage of the process I'm not real clear if

Las Campanas would be coming forward with a house and guesthouse on the lots. I believe that they only have water rights to support a .25 allocation at this time. But again, that would be part of the subdivision review for master plan.

COMMISSIONER SULLIVAN: Okay. Because they just say estate lots, 62, cluster lots 108, and they provide the acreage and that's all the information we have.

MR. CATANACH: Yes, and you're correct. There have been some approvals that have been granted to Las Campanas where lots with a house and guest house were allocated - I think it was probably like .35 or something like that. Again, I'm not real clear if this subdivision would be coming forward with a proposal for house and guesthouse.

COMMISSIONER SULLIVAN: Thank you, Madam Chair.

CHAIR VIGIL: Any further questions for staff? Seeing none, Mr. Hoeft, would you please state your name and address for the record. I think you need to be sworn in.

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group. 109 St. Francis, Santa Fe, 87501. If I could quickly approach and pass out these plans.

I'd just quickly like to locate the site for those who are unfamiliar with parcel D is at. We're at - on the Las Campanas master plan, if you look on this plan here, we're in the southwest corner near Caja del Rio, from the center of Las Campanas it's in this area. The parcel is shown in blue in the southwest corner. Caja del Rio is the road at that point. So as you drive Caja del Rio, where it pretty much stops and you're at Las Campanas Drive, you look straight ahead and that's the parcel in question. It's called Parcel D. It's 104 acres in size. The first shows the perimeter lots. We're heard these referred to already as estate lots. There's 62 of them as part of this process and they range in size from .5 to an acre and a half in size.

The interior lots are the subject of this hearing and it's the master plat area. You can see on the plan that it's labeled D-1 through D-3. There's also a range of density on each one of those tracts. And those total 108. So between the 62 and the 108 we've got 170 lots total.

Now in terms of the process and the master plat process, Las Campanas has utilized this throughout the years because it's pretty efficient. What we do is that we go ahead and we go through the subdivision process, the preliminary and the final subdivision process, but rather than having lots shown on those areas, we show an area that we call master plat with a density range. And what that does again, is allow Las Campanas flexibility that if they have a buyer to take on that entire tract that each one of those lots which are small, the interior lots range in size from .13 up to about .39. They're small, so you wouldn't have to go through and replat if there's changes. Each person that comes through has a slightly different product. So it allows us flexibility in the long term and doesn't circumvent the preliminary and the final plat approval process. We still go through that process with you. We have the submittal for preliminary and final plat that's submitted to



the EZC and the Board of County Commissioners.

But what it does is once that's approved it allows for myself and staff, particularly Joe in this case, for those internal areas to submit individual plats for those master plat for the actual product that's going to be placed on those lots. It's an administrative process at that stage. It's tedious. Joe and I have a lot of go-around to do. It's still red-lined. It's still reviewed as normal. It just saves in the long run having to replat if the product changes down the road.

And again, with the process that Joe and I go through as we move forward with those tracts the key is that he's keeping track of the total lot count at 108 for those three master plat areas. And two address two questions that were raised. Commissioner Vigil you asked initially is this the last of Las Campanas. Joe said he's uncertain; so much has been submitted over the years. We're getting close but this isn't the last. Parcel D is almost there. It's 170 lots as I stated. There's one more parcel in Las Campanas which we call Parcel U, which is right next to the town center and you folks may know about the town center from the hearings that we had earlier. It's shown in blue here. That's one former parcel. It's 79 acres in size and the balance of the 1717. Las Campanas has approved 1717 lots total. Whatever remains at the end falls into that lot, of course being able to meet the density and constraints of the site. So we're not quite sure what's going on but we know it's not going to be that many units at this stage. We're pretty much getting down to the end of it with the project overall.

To address Commissioner Sullivan's question regarding water allocation, I was last up here a few years ago and we talked, I think it was Park Plazas or Park Estates and at that time - actually I think it was Commissioner Campos, where we had a water allocation at that time of .5 and we reduced that at that time to .4. What is shown on these lots are the interior lots, the 108, coming in at .25. The perimeter lots, the larger estate lots, are sticking at that .4 number that we agreed to a few years back, Commissioner. With that I stand for additional questions.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Hoeft, what - with this parcel, how many lots would be approved in Las Campanas?

MR. HOEFT: With this parcel we're within 29 of the 1717. So theoretically, on Parcel U, the parcel that I pointed out earlier, there would be 29 lots left over for that parcel if indeed they wanted to maximize the entire density of Las Campanas of the 1717. That's an if.

COMMISSIONER SULLIVAN: Okay. So you're within 29 lots, which you would put in Parcel U.

MR. HOEFT: Correct.

COMMISSIONER SULLIVAN: So when you say 62 estate lots, those are the ones around the edge that are designated like E-60 and E-61?

MR. HOEFT: That is correct, Commissioner.

COMMISSIONER SULLIVAN: Then how do you compute the 108

clustered lots, because it says 50 to 60 dwelling units – that's Parcel D-3. D-2 says 20 to 30 dwelling units and D-1 says 25 to 35. So if you actually put them all together you'd have 125 lots in the cluster area.

MR. HOEFT: You're correct, Commissioner Sullivan, in your calculations. The process of the master plat is to get approved for 108 master plan lots, so this approval tonight if I'm not incorrect or correct me if I'm wrong, is for 108 master plan lots only. It's capped. And what those ranges permit us to do over time is shift lots, the count, between D-1, D-2, D-3 while staff is keeping track with each submittal submitted administratively of exactly where we're at on the count. So Parcel D cannot exceed 170. The perimeter lots cannot exceed 62 and the master plat lots cannot exceed 108.

COMMISSIONER SULLIVAN: Okay. Then the other question I had is since you were here last, or Las Campanas was, the County has passed an affordable housing ordinance. Are you okay with providing the necessary 30 percent affordable housing.

MR. HOEFT: Commissioner, Las Campanas has an agreement that dates back to '93 that pretty much says that it has provided its affordable housing contribution for the balance of the entire master plan. Parcel D is part of the master plan and therefore the \$2 million that Las Campanas contributed throughout the years of '93 through '96 has met its obligation for affordable housing.

COMMISSIONER SULLIVAN: Did that master plan indicate on it that this are would be a master plat?

MR. HOEFT: I believe it did not, Commissioner Sullivan. At that stage –

COMMISSIONER SULLIVAN: So this is a change from the master plan then.

MR. HOEFT: I don't think it's a change, Commissioner Sullivan, but I think even the ordinance or our contract in the affordable housing agreement even states that it allows for amended master plans, but without going there because we don't believe this is an amended master plan. This is a phase of the overall 1717 as we proceed with the process.

COMMISSIONER SULLIVAN: That's all the questions right now. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Hoeft, the estate lots are bigger and do you contemplate having guest homes? Is that why you're asking for .4?

MR. HOEFT: That is correct, Commissioner.

COMMISSIONER CAMPOS: So they're all going to allow guest homes.

MR. HOEFT: Those lots range in size from .5 to 1.5 and at this stage we are allowed guest homes. That's correct.

CHAIR VIGIL: How many lots in Las Campanas have guest homes, would you say? What percentage of the development has guest homes?

MR. HOEFT: Off the top of my head, Commissioner, I could not tell you,

but I could get that information if it's important. I do have colleagues in the audience and I could step back and get a quick answer for you if that would be helpful.

CHAIR VIGIL: Okay.

MR. HOEFT: Commissioner, I was incorrect. We don't have that number. I don't know how many homes out there have guesthouses. On most of the lots you have the larger 2.5-acre density lots and a portion of those - I don't know - have guesthouses on them. There are casitas, there are pueblos that do not have guesthouses and those of course are at the .25 allocation.

CHAIR VIGIL: Mr. Hoeft, is this one of the most densified phases in Las Campanas? Would you say that?

MR. HOEFT: I would say that if you look at it all at once it may be. But if you look at Las Campanas in certain areas, specifically along the clubhouse, those areas of Las Campanas have been brought forth over time, but if you look at that whole area around the clubhouse, that's a very dense area. Between the casitas and the pueblos, you've got a lot of high density in that area.

CHAIR VIGIL: Maybe another way of asking that question is are the lot sizes lower for this phase development?

MR. HOEFT: Lowered for this phase?

CHAIR VIGIL: Let's say less than the other phases?

MR. HOEFT: Certainly. If you look at Las Campanas and how they proceeded in certain areas in the past you have 2.5-acre density and larger lots. This is definitely a slightly different product offering.

CHAIR VIGIL: Okay. Then on the map that you have of the entire Las Campanas development, you said that section U is yet to be developed. You also have another section, as I'm looking at this, in the northern part, is that a prospective development, that's in blue?

MR. HOEFT: That has already been approved. That is an area called Las Terrazas.

CHAIR VIGIL: Okay. The build-out phase hasn't started?

MR. HOEFT: That's currently being built out right now.

CHAIR VIGIL: Currently. Okay. So that U would be the final.

MR. HOEFT: With U you have an issue of buildability. You've got an arroyo that runs through the center of it, so there you have 79 acres. You're limited in the way of how much density you can put on U.

CHAIR VIGIL: Thank you, Mr. Hoeft. Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just briefly, Mr. Hoeft, in reviewing what the staff provided, which is I guess a portion of the development agreement between Santa Fe County and Las Campanas, it refers to Las Campanas having made a developer contribution to the affordable housing program in the amount of \$2 million. This was back, apparently, in the early 1990s, and further states that no further affordable housing

contributions may be required of the developer for the properties. I guess the only comment I would have about that is that our affordable housing ordinance doesn't require contributions. It's essentially a zoning ordinance that requires a certain percentage of home sites be dedicated to different ranges of homeownership.

Now, there is a condition in there that allows the developer to propose a contribution and in this case - I don't know exactly what that number would be but let's just speculate that if it were 30 percent of 108 units that would be about 31 units of let's just guess that those units would cost \$200,000 apiece just to make the math. So just on this tract alone I guess that would come to some \$6 million.

So I don't know that - I think the affordable housing ordinance is completely divorced from what may have been thought about during the development of this agreement as to some agreement which wasn't yet in place, apparently, and I wasn't on the Commission at the time and neither were any of the Commissioners, that is apparently going to require some contributions it mentions to a fund, and that was apparently the thinking at the time. But that's not the way ultimately that we developed the ordinance.

So I'm not sure that I'm in total agreement, and of course you'll have to look at this further, of the fact that we've satisfied any request for contributions, but I don't think we're looking for contributions. We do have affordable housing monies in other sources that we're utilizing and we're doing a study now to see how best to use those monies to further our affordable housing program. So I'm not ipso facto convinced that this reference to contributions is also a reference to an affordable housing ordinance, which requires that certain units be designated and zoned for affordable housing. That would be my comments on that.

And just to confirm, Las Campanas is still at 3,548 acres. Is that correct?

MR. HOEFT: Again, I'm going to need to refer to my colleagues, Commissioner, on that question.

CHAIR VIGIL: Scott, maybe your colleagues could come up front.

COMMISSIONER SULLIVAN: Save you the walk back.

CHAIR VIGIL: Your colleagues could have a consultant. Those of you who might be able to assist him with some of the answers, please come forward.

MR. HOEFT: They like to stay in the back. That is correct, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay, so we're at 3,548 acres. That hasn't changed. Okay. Thank you, Madam Chair.

CHAIR VIGIL: Any other questions? Thank you, Scott. Is there anyone else that would like to address the Commission on this? This is a public hearing, that's why I ask the question. Anyone else out there that would like to address the Commission on this? Seeing, hearing none, how would you Commissioners wish to proceed?

COMMISSIONER SULLIVAN: Madam Chair, my suggestion and I won't make it yet as a motion so that any Commissioner can discuss it as they like, is that we table this pending a staff review of the developer agreement referring to a developer

contribution and get some staff input on that vis-à-vis the affordable housing requirements of our current ordinance.

CHAIR VIGIL: Okay, can I just – Steve Ross, do you feel like that might be something that would glean more insight. I read this pretty clearly that it includes any future passage of an affordable housing ordinance.

MR. ROSS: Madam Chair, this afternoon I looked into this a little bit, reacquainted myself with the contract clauses of the US Constitution and the state constitution. Both of them say the same thing. They say that no state, or in the case of the New Mexico constitution, it says no instrumentality of the state, shall pass any law impairing the obligation of contracts. In the US Constitution that's Article I, Section 10. In the state constitution it's Article II, Section 19. What courts have found when interpreting this language is that a state or county or municipality impairs a contract when they pass a law that essentially invalidates the contract. And how they analyze that is by looking at the contract and determining whether the ordinance does away with any possible remedies the contracting parties have.

Another factor they look at is whether there is a specific reference in the contract to subsequent ordinances, things like that. We have both here. We have a development agreement – you only have a couple pages of it but I have the whole thing here – that not only has no termination provisions whatsoever but is also a covenant running with the land. And we have a contract that specifically in no uncertain terms refers to the passage of an affordable housing ordinance. So I guess I'm a little concerned that were we to say that this – that the applicant under these circumstances would have to provide some affordable housing or comply with our affordable housing ordinance I'd be concerned that we'd be violating the contract clauses.

CHAIR VIGIL: Thank you, Mr. Ross. What's the pleasure of the Commission?

COMMISSIONER SULLIVAN: Move to table.

CHAIR VIGIL: Is there a second? Motion dies for lack of second. Is there another motion?

COMMISSIONER CAMPOS: Motion to approve with conditions. Are there conditions?

COMMISSIONER ANAYA: Second.

MR. CATANACH: No. Commissioner Campos, there are no conditions.


CHAIR VIGIL: There's a motion to approve and a second. Any further discussion?

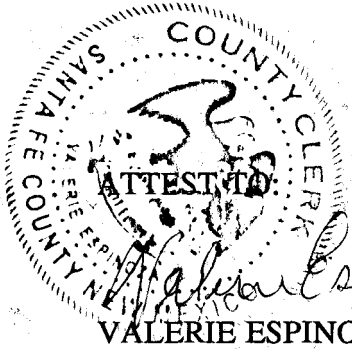
**The motion passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]**

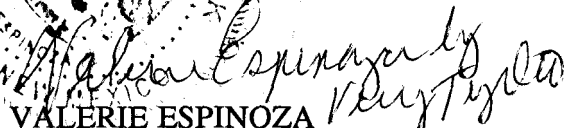
**XIII. ADJOURNMENT**

Chair Vigil declared this meeting adjourned at 8:55 p.m.

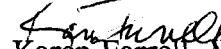
Approved by:

  
Board of County Commissioners  
Virginia Vigil, Chair



  
VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Respectfully submitted:

  
Karen Farrell, Wordswork  
227 E. Palace Avenue  
Santa Fe, NM 87501

**THORNBURG ENTERPRISES LLLP.  
TURQUOISE TRAIL DEV. CO. LLC  
2502 CAMINO ENTRADA  
P.O. BOX 28840 87592-9840  
SANTA FE NM 87507**

---

10/2/07

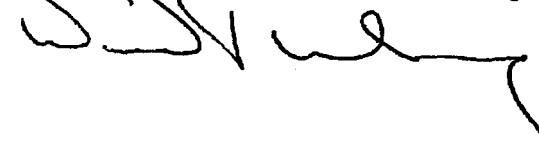
As per the meeting held on September 21, 2007 at 10:30 am with the County of Santa Fe Land Use Office we have addressed the requirement for a park/plaza within the Employment Subdistrict between NM 599 and the Arroyo Hondo, west of State Road 14 as shown on the Thornburg Amended Master Plan adopted by the Board of County Commissioners at its meeting of October 12, 2004. It was agreed at the September 21<sup>st</sup> meeting that the park/plaza will be .25 acres in size and will consist of a couple of tables, benches and shade trees and these improvements will satisfy the Community College Development Review requirement for a park/plaza for the Employment Subdistrict as described above.

We are proceeding with drawings for the park/plaza improvements area as agreed upon by the Santa Fe County Land Use Office. Attached is an email from Vic Blackmon of Santa Fe FS LLC (the owner of land where the park/plaza is proposed) agreeing to grant an easement for the park/plaza. Thornburg Enterprises LLLP/ Turquoise Trail Dev. Co LLC in conjunction with Mr. Blackmon's easement will spearhead the construction of the park.

Thank You,

Tom Thornburg General Partner/Managing Member

*Tom Thornburg*  
Dave Thornburg General Partner/Managing Member



ERK RECORDED 01/16/2008

**siebert and assoc.**

---

**From:** Tom Thornburg [thornburgent@qwest.net]  
**Sent:** Tuesday, October 02, 2007 2:01 PM  
**To:** James Siebert  
**Subject:** FW: Park Area

Hi Jim,

Here is the email that Vic sent agreeing to the easement for the Park area. I will be forwarding a letter for you to revue. Let me know if you think it's enough.

We are also still proceeding to hopefully have a sketch on Monday? Will see.

FYI:

I will be unavailable Thursday and Friday.

Tom

---

**From:** Vic Blackmon [mailto:vblackmon@carotex.com]  
**Sent:** Monday, October 01, 2007 8:06 AM  
**To:** 'Tom Thornburg'  
**Subject:** RE: Park Area

This is in response to the request for easement on the lower part of the property for a park area.

We are willing to grant the easement for such park area as needed.

Please let me know the proper metes and bounds so that the easement can be established.

V Blackmon  
Santa Fe FS LLC  
979-820-1481

---

**From:** Tom Thornburg [mailto:thornburgent@qwest.net]  
**Sent:** Monday, October 01, 2007 10:53 AM  
**To:** Vic Blackmon; Vic Blackmon  
**Subject:** Park Area

Good Morning Vic,

I've tried calling you on your cell phone but it's always busy.

I was wondering if you could give me a call regarding the Park Area and possible easement.

Thanks  
Tom Thornburg  
505-490-2354

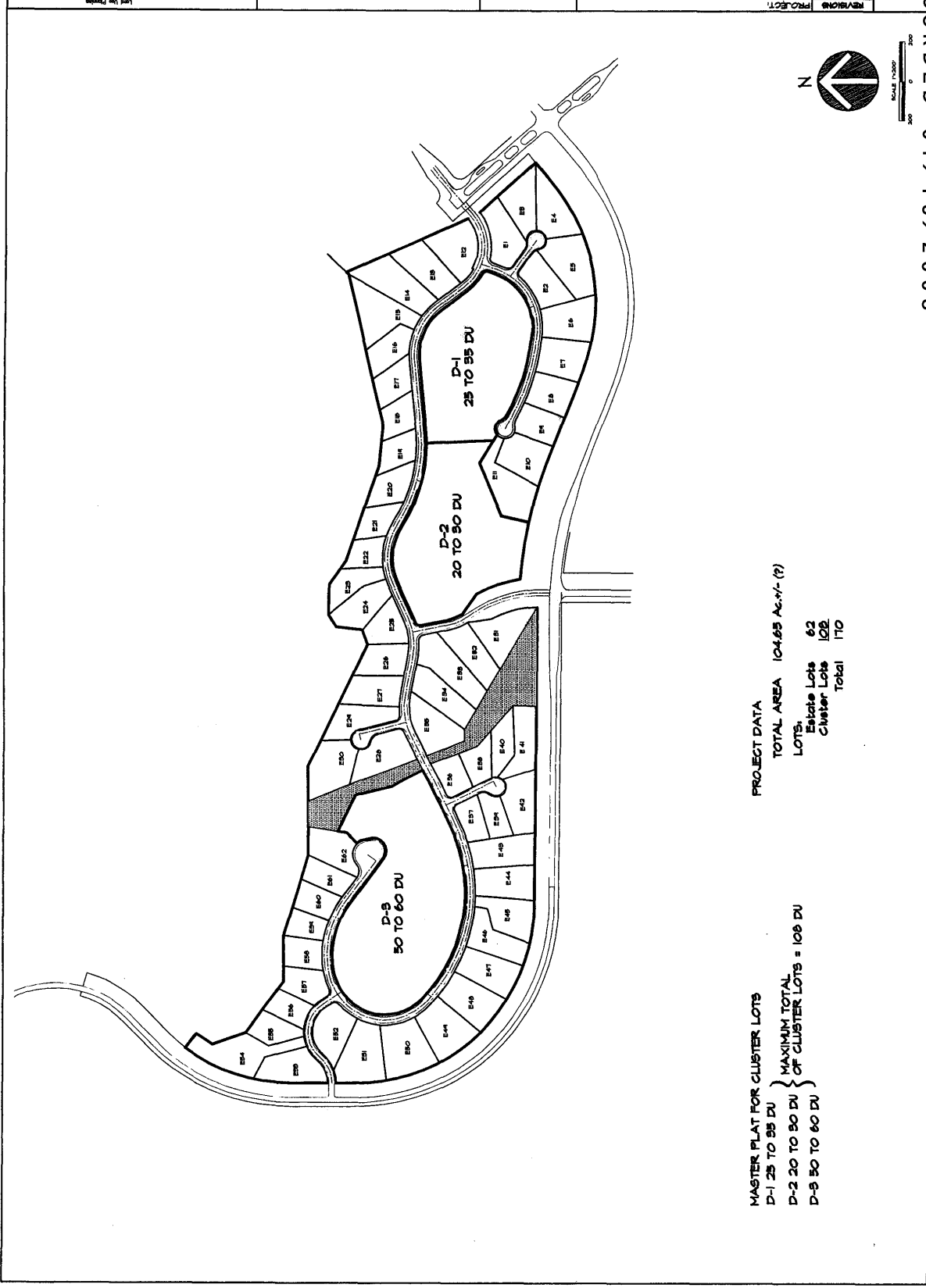
Internal Virus Database is out-of-date.

Checked by AVG Free Edition.

Version: 7.5.484 / Virus Database: 269.12.0/957 - Release Date: 8/16/2007 1:46 PM

10/2/2007





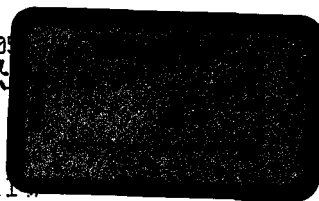
MASTER PLAT FOR CLUSTER LOTS  
 D-1 25 TO 55 DU  
 D-2 20 TO 80 DU  
 D-3 50 TO 60 DU  
 } MAXIMUM TOTAL  
 } OF CLUSTER LOTS = 108 DU

PROJECT DATA  
 TOTAL AREA 104.95 Ac. +/- (P)  
 LOTS 62  
 Exclude Lots 102  
 Cluster Lots 102  
 Total 110

REVISION	DATE	BY	PROJECT
			Parcel D, Las Campanas
SHEET TITLE:			Preliminary Subdivision Plan
SHEET NO. 1			

C.R. WALBRIDGE & ASSOCIATES, LLC  
 1421 LUISA STREET SUITE E  
 SMITHS PT.  
 NEW MEXICO  
 (505) 982-9711

Let the Planning  
 Landscape Speak  
 LANDSCAPE ARCHITECTURE  
 GROUP



which is incorporated herein by reference. These wells shall be completed by June 1, 1993. The Developer agrees to pay for the installation, maintenance and operation of the monitoring system. The monitoring initially shall be performed on a quarterly basis, although the frequency of monitoring may be modified by agreement of the County and the Developer. The monitoring shall continue on the agreed schedule for as long as the golf course is operated. Developer agrees to notify the County hydrologist in advance of the collection of samples and shall allow opportunity for the County hydrologist to be present if requested.

9. Developer's Contribution to Santa Fe County Low Income Housing Fund.

Upon approval of the Amended Master Plan, approval of the water cooperative association and final plat approval of Estates III at the January 21, 1993 meeting, Las Campanas agrees to contribute the sum of two million dollars (\$2,000,000.00) to the County's incipient affordable housing program. This amount shall be paid into escrow by Las Campanas on the following payment schedule: \$500,000.00 payable prior to recording of the final plat for Estates III, but in no event later than the end of February, 1993; \$500,000.00 payable by the end of December, 1993; \$333,000.00 payable by the end of December, 1994; \$333,000.00 payable by the end of December, 1995, and \$333,000.00 payable by the end of December, 1996. The escrow instructions for said contributions are as contained in Exhibit "A" to the Amendment of August 19, 1991, Agreement between the Developer and the County dated January 22, 1993, which is incorporated herein by

CLERK RECORDED 01/16/2008

903038

reference.

The County agrees that this \$2,000,000.00 affordable housing contribution satisfies the Developer's requirements for contributions for affordable housing for Estates I, Estates II and the 3548 acre tract covered by the Master Plan. No further affordable housing contributions may be required of Developer for the properties under any circumstances including, but not limited to, future passage of an affordable housing ordinance or subsequent requests for amendment of the Master Plan.

The County agrees that, other than the affordable housing contribution referenced above and the other contributions referenced in this Master Development Plan Agreement, it shall not require additional payments of any kind from Las Campanas for Estates I, Estates II, or the 3548 acre tract covered by the Master Plan unless required by a County ordinance.

The County agrees that the \$2,000,000.00 affordable housing contribution will be earmarked for that use only and that Las Campanas management will be offered the opportunity to participate in any task force or committee regarding the affordable housing program. The County further agrees that it shall provide an accounting of the affordable housing funds at least annually.

Las Campanas pledges that, upon request by the County, it will provide additional management resources for the research and development of an affordable housing program.