



**SANTA FE COUNTY**

**SPECIAL MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**January 13, 2015**

This land use meeting of the Santa Fe Board of County Commissioners was called to order at approximately 5:40 p.m. by Chair Robert Anaya in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Commissioner Chavez moved to convene as the Board of County Commissioners for the purpose of hearing land use cases. Commissioner Stefanics seconded and the motion carried unanimously. A quorum was achieved with the following members present:

**Members Present:**

Commissioner Robert Anaya, Chair  
Commissioner Miguel Chavez  
Commissioner, Kathy Holian  
Commissioner Henry Roybal  
Commissioner Liz Stefanics

**Members Excused:**

None

**I. C. Approval of Agenda**

COMMISSIONER CHAVEZ: Mr. Chair, I'd make a motion to approve the agenda.

CHAIR ANAYA: Any changes or comments relative to the agenda, Ms. Miller?

MS. MILLER: Mr. Chair, I just want to note that we have under public hearings, II. B. 5 has been tabled and my understanding as well is that II. B. 8 has also been tabled. So we do have those two items tabled and just one note, we're actually starting at 5:40 for the record.

CHAIR ANAYA: Excellent. 5:40 with those two items tabled. Would you amend that motion, Mr. Vice Chairman?

COMMISSIONER CHAVEZ: Yes, I would, and what was the second item that was amended?

CHAIR ANAYA: II. B. 8 was tabled.

COMMISSIONER CHAVEZ: Okay.

MS. MILLER: Mr. Chair, also, just to note that for case number 2 we do have an interpreter that the County provides and the interpreter is here so if you wanted to move that case up that would be okay as well.

CHAIR ANAYA: Mr. Vice Chairman, given that request, can we move item 2 first.

COMMISSIONER CHAVEZ: Yes, that would be fine.

CHAIR ANAYA: So there's a motion for amendment with some tablings and moving one item, number two and a second by Commissioner Stefanics. Are you okay with that, Commissioner Stefanics?

COMMISSIONER STEFANICS: Yes.

CHAIR ANAYA: Any further discussion from the Board? Seeing none.

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

## II. PUBLIC HEARINGS

**B. 2. CDRC CASE # V 14-5340 Luis and Isela Rodriguez Variance.  
Luis and Isela Rodriguez, Applicants, Request a Variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to Allow Two Dwelling Units on 2.5 Acres. The Property is Located within the Traditional Historic Community of La Cienega at 92 Camino Montoya, within Section 20, Township 16 North, Range 8 East (Commission District 3**

CHAIR ANAYA: Actually, this goes straight to that item that we just moved up to make it number one, so that would be CDRC Case V 14-5340, Luis and Isela Rodriguez Variance.

MATHEW MARTINEZ (Case Manager): Thank you, Mr. Chair. Luis and Isela Rodriguez, applicants, request a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to allow two dwelling units on 2.5 Acres. The property is located within the Traditional Historic Community of La Cienega at 92 Camino Montoya, within Section 20, Township 16 North, Range 8 East, Commission District 3.

The subject lot is part of the Vista Land Subdivision consisting of 86 lots which was created in 1974, and is recognized as a legal lot of record. There is currently a duplex on the property. The Applicants have owned the property since August 13, 2001, and claim they purchased the property in its current state with the two dwelling units.

On November 2, 2001, the Applicants applied for a 336 square foot residential addition to the existing 1,925 square foot duplex. At that time, the Applicants floor plan did not indicate two kitchens were located in the residence and in fact misrepresented that the kitchen was a bedroom and the permit was issued. The residence, including the addition, does not exceed the maximum allowable lot coverage of twenty percent.

On August 13, 2014, the Building and Development Services Division received a complaint regarding a potential density violation on the property. On August 15, 2014, the Applicants met with staff and admitted that there were two kitchens within the residence which makes the structure a duplex rather than a single dwelling unit.

The Applicants request a variance of Ordinance No. 2002-9, La Cienega and La

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Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District, Section 6.4, Zoning Density, to allow two dwelling units on 2.5 acres. The applicants state that the variance is needed to allow the property to remain in its current state in which they purchased it and would only be used by themselves and for visitation of family members and for their children when needed.

Staff recommendations: Denial of the variance of ordinance No. 2002-9, La Cienega and La Cieneguilla Traditional Community Planning Area and the La Cienega Traditional Community Zoning District, Section 6.4, Zoning Densities, to allow two dwelling units on 2.5 acres. The decision of the CDRC was to recommend denial of the applicants' request.

If the decision of the BCC is to approve this request staff recommends imposition of the following conditions. Mr. Chair, may I enter these conditions into the record?

CHAIR ANAYA: Yes, you may. Thank you.

1. Water use shall be restricted to 0.25 acre-feet per year per unit. A water meter shall be installed for each unit within ninety days of recording the order granting the variance. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office at the time of Development Permit (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development Permit for the duplex within 90 days of recording of the Order granting the Variance.
3. The placement of additional dwelling units or Division of land is prohibited on the property. (As per Ordinance No. 2002-9 § 6.4) (Zoning Density).
4. The Applicant shall provide an updated liquid waste permit for the duplex from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv).
5. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).
6. The conditions are conditions precedent to granting of the variance. If the Applicants fail to comply with any conditions set forth above within the time periods provided, the variance shall be denied.

MR. MARTINEZ: I stand for any questions.

CHAIR ANAYA: Is there questions of staff? Seeing none, is the applicant present?

MR. MARTINEZ: Yes.

CHAIR ANAYA: If the applicant could please come forward and be sworn in.

[Duly sworn, Luis Rodriguez testified as follows:]

LUIS RODRIGUEZ [Speaking through translator]: Yes, I am Luis Rodriguez, and I live at 92 Camino Montoya.

[Duly sworn, Isela Rodriguez testified as follows:]

I SELA RODRIGUEZ [Speaking through translator]: My name is Isela Rodriguez and I live at 92 Camino Montoya.

CHAIR ANAYA: Is there anything that the applicant would like to present?

MR. RODRIGUEZ: We'd just like to say that we bought the property in 2001 with two kitchens as it is right now with the purpose of using it for family and friends that are visiting.

MS. RODRIGUEZ: I just want to reaffirm what my husband said. We liked the way the house was distributed so that's why we bought it.

CHAIR ANAYA: Are there any questions of the applicant?

COMMISSIONER STEFANICS: I'd like to go back to questions of staff when it's time.

CHAIR ANAYA: Okay. Thank you, Commissioner Stefanics. Commissioner Chavez, Commissioner Roybal? Thank you. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. Let's go back to when did this start? In 2002?

MR. MARTINEZ: No, it was brought to, Commissioner Stefanics, excuse me. It was brought to our office on August 13, 2014.

COMMISSIONER STEFANICS: Okay. So looking at Exhibit 1. Oh, I see. The 2002 is relating to the La Cienega and La Cieneguilla Traditional Community Planning District and zoning density. So, Mr. Chair, I'll just wait to hear from members of the community. Thank you.

CHAIR ANAYA: Thank you. This is a public hearing. Commissioner Chavez, questions?

COMMISSIONER CHAVEZ: Thank you. I do. I apologize. Question to staff. Your memo states that this does not exceed the maximum allowable lot coverage of 20 percent. So is the issue then just the fact that it's a duplex and not a single-family unit?

MR. MARTINEZ: That's correct.

COMMISSIONER CHAVEZ: Okay. So it's not the density but it's the type of residential. It's the residential category of a duplex versus a single-family unit.

VICKI LUCERO (Building and Development Services): Mr. Chair, Commissioner Chavez, it is a density issue. The minimum lot size is one dwelling unit per 2.5 acres, and because they have a duplex it would be considered two dwelling units.

COMMISSIONER CHAVEZ: So then this is not quite accurate. It reads it does not exceed the maximum allowable lot coverage of 20 percent. So am I reading that wrong?

MS. LUCERO: Mr. Chair, Commissioner Chavez, the lot coverage would be the amount of area that the duplex is taking up relative to the entire lot, so that's what that 20 percent covers.

COMMISSIONER CHAVEZ: Okay. And what is the square footage? Do we have that? Is it based on square footage?

MS. LUCERO: Mr. Chair, Commissioner Chavez, it's roughly about 2,200 square feet.

COMMISSIONER CHAVEZ: Okay. Thank you, Mr. Chair.

CHAIR ANAYA: Thank you, Commissioner Chavez. Quick question of staff that's tied to accessory dwelling structures that we're proposing in the new code. Did we talk in that language that we've been discussing, keeping in mind that we're not working under the new code yet. Do we speak to common laws being allowable? If we didn't I think we need to, I would just tell my colleagues on the bench, but I don't remember if we did or not.

PENNY ELLIS GREEN (Growth Management Director): Mr. Chair, Commissioners, I don't believe we have stated in the SLDC as to whether or not it can be attached or has to be detached. We haven't spoken to that.

CHAIR ANAYA: I'd like to hear from my colleagues whenever they feel like they need to but my perspective is that when we get to that point in trying to finalize it that we would consider common walls whether it's common wall or detached. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I do have a question for the applicants. If this was approved are they willing to abide by all the conditions that the staff have identified.

MR. RODRIGUEZ: Yes.

COMMISSIONER STEFANICS: Thank you.

CHAIR ANAYA: Thank you, Commissioner Stefanics. This is a public hearing so I would ask anybody here that wants to speak against this project. Is there anybody here that wants to speak against this project? If you'd please come forward. Is there anyone here that wants to speak in favor of this project, please come forward and be sworn in.

[Duly sworn, Janet Urian testified as follows:]

JANET URIAN: Janet Urian, and my mailing address is 1000 Cordoba Place, number 169, Santa Fe, 87505. And Commissioners, I was the real estate agent who sold the Rodriguezes their house in 2001 and I also lived in that area in 1980 when there were hardly any houses. I remember passing that house. It was already there pre-permit times, which is I believe 1982. And I realize this is hearsay but the other agent, Gail Stratton, who represented the seller, told me she had built it that way, that she had always had two kitchens in it and she was the only owner since – I thought it was 78 but I guess it's 79 because that's when the well went in.

So at the time it was built there were no regulations, so it's grandfathered in as far as I'm concerned and I don't see it being any detriment to the neighborhood. I have a house out there and I think it's actually an asset because people can have their families there to help each other and if they like, they could make it one unit but there's really no point to that. So as far as I know, it was always that way, pre-building permit times. I remember seeing it with my own eyes in 1980. So that's the way it was.

CHAIR ANAYA: Thank you very much. Appreciate your input. Other questions or comments? Ma'am, come forward. Please be sworn in.

[Duly sworn, Melody Saucedo testified as follows:]

MELODY SAUCEDA: Melody Saucedo, 77-A Calle Debra, Santa Fe, New Mexico, 87507. I'm actually a neighbor of theirs and I also believe I'm in favor of them having the property in their dwelling and it's an asset to the community. I jog past their house every day and it's very well kept. It's nice and it actually raises the value of our homes.

CHAIR ANAYA: Thank you very much. Anybody else who would like to make any questions or comments? Seeing none, this public hearing is closed. This is a District 3 and I would move for approval with staff conditions.

COMMISSIONER STEFANICS: Second.

CHAIR ANAYA: There's a motion, there's a second. Is there any other questions or comments? Seeing none.

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

**II. A. Proposed Ordinances**

**1. Ordinance No. 2015-\_\_\_, An Ordinance Amending Ordinance No. 2012-1 Pertaining to the Affordability Lien that is Executed and Recorded at the Time of Closing of an Affordable Home Sale (First Public Hearing)**

STEVE BRUGGER (Affordable Housing): Mr. Chair, Commissioners, this is the first of two public hearings, this proposed amendment. The second public hearing would be scheduled for February 10<sup>th</sup>. This relates to an affordability lien which is created through our inclusionary zoning program. In short, the inclusionary zoning program, developers are required to build affordable housing serving households in four income ranges. In each of those four income ranges there's a maximum target home price that the County legislates. That's the subsidized price which the affordable homebuyer purchases the home at. The difference between the appraised value of that unit being sold, 95 percent of the appraised value, and this legislated price is the affordability lien which we're talking about here.

In the original 2006 ordinance, which enabled this inclusionary zoning program this affordability lien was going to be due on sale, which the few times when the home was sold the lien was paid off, the money would go to the affordable housing program. Many other times, especially since I've been here, we found another affordable buyer to assume that lien and to maintain the affordability of the property.

In 2012, a 2012-1 ordinance was approved and in that the intent of that ordinance was to eliminate that lien, the affordability lien over a ten-year period. What we would like to do through this proposed ordinance amendment is to go back to original 2006 language where we'd keep that lien in place; we would not reduce it over a ten-year period. The reasons for doing that are articulated in our staff report which you have and the staff recommendation is, after the second public hearing is to approve the proposed ordinance. With that, I would stand for any questions.

CHAIR ANAYA: Thank you, Mr. Brugger, and the Commissioners, we had a presentation on this last time and essentially you're asking for public comment and you'll come back again. So we have an opportunity if we so choose to make additional comments. So if we could, I'd like to go to public hearing unless we have something burning we need to take care of now. Commissioner Chavez.

COMMISSIONER CHAVEZ: Mr. Chair, thank you. Steve, before you go to public hearing, could you go over the fiscal impact again and the benefit to the County in doing this, because I think that's pretty significant.

MR. BRUGGER: Mr. Chair, Commissioner Chavez, the fiscal impact of this is assuming that we had an average lien of I think \$50,000 and we had ten liens coming up per year, instead of that amount, ten times \$50,000 going away or being essentially gifted to the affordable home buyer, it would be retained by the County. So it would either be money for the program or it could be passed on to an affordable buyer. We see the benefits from that as promoting long-term affordability. We have now I think have had 13 affordable home sales where we facilitated the sale and had an affordable home buyer assume the existing lien, be able to get in a home that they wouldn't have had a chance of affording if not for that opportunity.

In other instances such as one last week there was a payoff of a lien of \$85,000 into the program. The lien amounts range in our program from about as low as \$30,000 to about \$146,000, so the decision on whether to forgive that or retain that has a large fiscal impact and we feel it advantageous to the affordable housing program to retain those liens.

COMMISSIONER CHAVEZ: I appreciate that, Steve and thank you, Mr. Chair. But Steve, I appreciate that and what it tells me is that there's a fiscal benefit but there's also a value added benefit with the community in keeping our housing stock affordable for those that are just average income and I think that's more significant than the \$50,000 we might save. So there's a value-added component there that I think is pretty significant. Thank you, Mr. Chair.

CHAIR ANAYA: Thank you, Commissioner Chavez. Any other comments? If there are none, this is a public hearing. Is there anyone here that would like to speak in relation to this particular ordinance? Mr. Thompson.

[Duly sworn, Warren Thompson testified as follows:]

WARREN THOMPSON: Warren Thompson, P.O. Box 235, Santa Fe, 87504. Chairman Anaya, Commissioners, We've closed four affordable houses under this program that forgives the note and we have one that's currently under construction that won't close until May or June so I have some concern where that party would fall. They bought under this program and I kind of thing they ought to stay with it. And we have a couple parties that we're working with currently that could go under contract between now and when you adopt this ordinance if you do. So in doing it I would appreciate if you would address that issue.

CHAIR ANAYA: Mr. Shaffer, correct me if I'm wrong, but the ordinance is not changed until the Commission would change it, and this is only the first public hearing, so what's your interpretation of people that are already in the cycle, if you will, of trying to be qualified as homebuyers, is what Mr. Thompson's asking.

MR. THOMPSON: Right. We're constructing those houses and so it's about six months from when they sign up till when they move in.

MR. SHAFFER: Mr. Chair, I guess I'd like to know whether or not there have already been executed purchase agreements and other related documents that would be called for under the current ordinance, or exactly where they're at in the process. It may also something that we could work on if we could between now and the next public hearing to get more specific information as well as potential draft language that might present some different alternatives for the Board to consider.

MR. THOMPSON: I just want you to consider it.

CHAIR ANAYA: Absolutely. And I think people that are in the cycle and have executed certain agreements should be under the existing ordinance, not under any potential change but why don't you get him what you have and then we'll see what we need to do to make sure that we have clarity when the Commission decides to do whatever they decide to do.

MR. THOMPSON: Thank you.

CHAIR ANAYA: Thank you. This is a public hearing. Are there any others wishing to comment on this particular ordinance. Mr. Ortiz.

JOE ORTIZ: Thank you. I'm Joe Ortiz at 99 San Marcos Loop, Santa Fe, New Mexico.

[Duly sworn, Joe Ortiz testified as follows:]

MR. ORTIZ: Thank you, Commissioners. I just wanted to take a little bit of time and give you my experience of the affordable housing that I built in Tierra Contenta and surrounding communities and how some of those individual homeowners are now affected by the existing liens that were put in their place. The first example is at 3100 El Nido Avenue. A consumer bought a home for \$182,000. It appraised in the \$235,000 range. There was a lien placed on the home and now that particular property is appraising for about \$160,000. She's unable to refinance. She's unable to do any of the normal market activity to get out of the home. She's actually currently renting it because she can't afford to live in the home any longer.

So there was whole group of unintended consequences because we all anticipated natural appreciation in the market place and when the market fell out in 2008 and things got really weird, when you had fixed amount mortgages they really became problematic to the end consumer. So I don't know what the language is or how we would address it but when the change was passed and it would go away after ten years it allowed time to kind of heal the ills of the market, and there was some very effective ways to get out from underneath the affordability and allow the consumer to actually benefit from homeownership.

My second point is one of the largest take-aways from a firm second mortgage is it basically freezes the move-up buyer. And in a naturally occurring market you have a first-time homebuyer that will enter the market and then somewhere between year five and ten, they'll actually sell that home and they'll move on to move into the market. Because they have this second mortgage on the property they can't move, because if they sell the home there's difficulty in selling the home and if it gets paid off, which the County is now contemplating that \$85,000 mortgage, then that particular home, it creates

a void in that move-up buyer program. And that's why the disparity of the have and the have-nots is not getting filled, because the natural market is not occurring.

We have a suppression of the first-time homebuyer movement which is actually brought out from a rental agency and they're not being able to go into that mid \$250,000 to \$300,000 market, so there's no housing stock turnover that would naturally occur. And that's why you have this void sitting in the Santa Fe market, both in town and out of a between \$230,000 and \$320,000 that's very difficult for consumers to find existing product. And existing product is just as important to a healthy market as new construction. And what's happening is that turnover of that product is not occurring and that's creating a disparity in our market and I can actually bore you to death with graphics and actual numbers of why that goes.

And I really respect Mr. Brugger and all the things he does for affordable housing but it's that experience. I didn't see it when we were building a home ten years ago and it's only now that I'm being called to resell those homes for those consumers, that I'm addressing problems that we just didn't have. So I really feel like a permanent \$50,000 or \$80,000 mortgage that just basically sequesters the equity and natural American dream appreciation of homeownership just really flies in the face of our intent.

The affordable housing is to help the consumer to build equity, to grow wealth and become part of the American dream. What that gap, what that permanent second mortgage does is it just caps that individual, both from a move-up market standpoint, from an equity appreciation standpoint and that's very difficult.

There's some legal issues that I want to go on the record with and ask, if that money is actually going to the County and being used for other services, is that or is that not a tax? And do we have a legal opinion on that? And I would like to address that. Because if it is a tax, then we need to be passing it as a tax and not putting it in the name of some social program. If those monies are put into the coffers, what are they used for? Mr. Brugger said that if he has 13 closings that went on, I would ask the question of since the beginning of the ordinance, how many existing mortgages are out there? What is the number? Is it \$3 million? Is it \$5 million? Is it \$20 million? What are we talking about here?

And so I really – and who are they for? And who monitors that? Many times I've seen and I know this for a fact that we have communities in our county that were deemed affordable housing by little stars in an annexation plan. Years go by, administrations passed, and now I see that house, that lot, being built with a very big house on it. And I know damn good and well it was a part of the affordable housing program but because the tracking mechanisms weren't in place at the time of those approvals, time just kind of goes over and those people who they change it and – I won't go to fault but I'll go to accountability. Let's just leave that.

There are two other points I would like to make before I leave. A subdivision that was approved in 2005, Apache Springs, I agreed to a 30 percent affordable housing requirement. We had 16 total lots and I agreed to make three of them affordable. That's fine. It worked for what we did. As part of that affordability program I was trying to maximize or take advantage of what is called a density bonus. In other words, you were allowing me to do a couple more lots and I put them in the affordable bin and everything

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works.

Those approvals expired. The change went from 30 percent affordable to 15 percent affordable. So, no problem, I just want to get my subdivision re-approved. I don't want to have to spend any more money on engineering. Let me just get a pass and go through. Everyone said, Great. In the reviewing process it was discovered that those two lots were .75 acres not 2.5 acres. So even though I was being granted a waiver from 30 percent to 15 percent, I'm ending up having to spend more money on engineering, redoing the plats, and now my engineer is telling me that because of the way the lot lines are, in order to get a market rate lot at 2.5 acres, I have to move the entire road. This is making my head explode.

So in saving affordable housing I ended up in a situation where I'm spending another \$18,000 in new engineering in order to pass this. So the unintended consequences that go on when we start making changes in the market are really – they're in depth and they're very difficult.

And lastly, I want to speak to alternatives. The biggest thing that I'm facing as a developer right now in the Apache Springs Subdivision, I would like to take the value that is contemplated in that equity gap that we talked about and give it to the County in cash. Because rather than spending \$18,000 in engineering, I'd rather just give it to my affordable housing people to do something good with. There's no point in redoing that. So perhaps in that mechanism – and maybe there's a discount for cash. I don't know. But those are things that as a developer holding assets for long periods of time and evolving through a change in affordable housing requirements that I'm faced with on a daily basis. Thank you for your time.

CHAIR ANAYA: Thank you, Mr. Ortiz. Are there others that wish to come forward and make comments? If there's none –

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Could I ask Mr. Ortiz, if you could – since we're not voting on this tonight, if you could do me a tiny, little chart of the examples that you were talking about I would really appreciate that. And when are we dealing with this again? A month?

MR. ORTIZ: February 10<sup>th</sup>.

COMMISSIONER STEFANICS: In the next month could you just put something down?

MR. ORTIZ: Absolutely.

COMMISSIONER STEFANICS: Great. Thank you very much.

MR. ORTIZ: And to that request, if we could have like the inventory of existing seconds that are out there that would be helpful.

COMMISSIONER STEFANICS: Thanks.

CHAIR ANAYA: Thank you, Commissioner Stefanics. And also, Mr. Ortiz, you don't need to come back but I just wanted to let you know that associated with the deferral of the mortgage I actually concur with you. I actually think it's fine. I know maybe my colleagues, some of them feel different but I think the information

Commissioner Stefanics just requested might be helpful and all of us better seeing the actual reality of what happens out there. Relative to your comments on the tax, I have a little different perspective on that because we're reducing the value of the property in that deferred mortgage based on the assessed value, so I don't actually see it as a tax, but I would like to see some additional information and actually am fine with the deferral mortgage the way it is, personally. Thank you. If there's no other questions or comments I'm going to go ahead and close the public hearing, and this item is on for February 10<sup>th</sup>, Mr. Brugger, for additional comments and then potential action by the Commission. Thank you very much.

**II. B. 2. Ordinance No. 2015-1, the Santa Fe Brewing Company Local Economic Development Act (LEDA) Project Ordinance (First and Only Public Hearing)**

DAVID GRISCOM (Economic Development Manager): What you have before you is Ordinance No. 2015-1, the Santa Fe Brewing Company Local Economic Development Project Ordinance. Essentially, this is a job creation and a gross receipts tax creation ordinance. I will describe to you a little further and you will see in your memo some of the economic development impacts from this proposal, but to bring you up to speed we have published title and general summary of this. This is a public hearing.

The Santa Fe Brewing Company started in 1988 in Galisteo. It's a well established company. It currently has 41 employees. They have approached the County for a Local Economic Development Act project – LEDA – and have also approached the State Economic Development Department for LEDA funding. Santa Fe County staff has evaluated the qualifications, the management stability and the commitment on behalf of the Brewing Company to comply with economic development objectives, and determined that the Brewing Company meets the criteria for a LEDA project. The New Mexico Economic Development Department has determined the same.

The proposal is to expand the Brewing Company in general and specifically, the money from this LEDA project would be used to design, construct and implement a state of the art treatment facility at the brewery to treat the brewery's effluent. The Economic Development Department is proposing to provide \$250,000 in LEDA monies and should the Board of County Commissioners adopt the ordinance tonight the process would essentially work as follows: The County would enter into an intergovernmental agreement with the New Mexico Economic Development Department, an IGA. Once the IGA is signed then the County would enter into what's called a PPA, a project participation agreement with the Brewing Company and once that document is signed then we would establish a mechanism for the County to receive money from the Economic Development Department and essentially reimburse the Brewing Company when they have their expenses.

So the Brewing Company would receive \$250,000 from the Economic Development Department and on behalf of the County we are proposing to waive all the development and permit fees related to the construction in this project going forward. As you see from the memo, on the second page, the economic development impact, the brewery is proposing to ramp up from 17,000 barrels of beer to 80,000 barrels of beer by

2020. Sales are projected to ramp up from \$4.3 million to \$17 million in 2020 and they are proposing to have 105 employees on their payroll by January 1, 2020. They currently have 41, so that's an increase of 64 employees.

I've listed there some of the potential gross receipts and other taxes that would benefit local and state government and on the third page of your memo I wanted to just highlight a few things, some changes that staff made to the proposed ordinance since we were before you last on December 12<sup>th</sup> requesting authorization to publish title and general summary. Just to highlight a few of those bullets. We want to be consistent in stating that the number of new jobs to be created is 64, given that there are 41 right now. We wanted to strengthen the security being provided and also emphasize that the fee waiver does not include impact fees.

In your packets, Commissioners, you have the proposed ordinance. You have the proposed project participation agreement, the security agreement, the actual LEDA application that we will submit to the Economic Development Department should you adopt this ordinance tonight, as well as the FIR. I would also point out that with me I have Brian Lock who is the president of the Brewing Company. We have Juan Torres from the Economic Development Department, and Val Alonso from the Regional Development Corporation. And with that, I stand for questions.

CHAIR ANAYA: Questions of staff? Commissioner Chavez.

COMMISSIONER CHAVEZ: Thank you, Mr. Chair. So, David, could you just estimate the dollar amount in waiving the application and development review fees?

MR. GRISCOM: Mr. Chair, Commissioner Chavez, assuming that the construction totals \$3.8 million for the buildings, based on our ordinance it would be roughly \$14,860.

COMMISSIONER CHAVEZ: So that would in addition to the \$250,000 grant, right? Or how is that – will it be in addition to the \$250,000 that will be part of that grant?

MR. GRISCOM: Mr. Chair, Commissioner Chavez, they will be receiving \$250,000 to construct the treatment facility and we are proposing to waive all of those future development and permit fees which in theory could add up to the \$14,860.

COMMISSIONER CHAVEZ: Okay. And the treatment facility is for treating water that will be used primarily for landscaping?

MR. GRISCOM: The treatment facility will be used to treat water for landscaping but it will also be treating water that goes back into the system to be treated secondarily at the wastewater treatment at the airport.

COMMISSIONER CHAVEZ: Okay. And then you touched a little bit a minute ago on impact fees. Go back to that for a minute and restate your statement regarding impact fees.

MR. GRISCOM: Staff is merely proposing that the County waive the building and development permit fees but not the impact fees. The impact fees are a whole separate set of fees that the brewery will have to consider.

COMMISSIONER CHAVEZ: And those would be offsite improvements. Is that correct?

MR. GRISCOM: Some of it could be.

COMMISSIONER CHAVEZ: Could you give us an estimate in a dollar amount of what those impact fees would be?

MR. GRISCOM: I would have to defer to the Building and Development Services folks to give you an estimate on that.

COMMISSIONER CHAVEZ: And I'll stand corrected but I thought that impact fees could be used only for offsite infrastructure improvements. Is that not accurate?

CHAIR ANAYA: Commissioner Chavez, we can get it, but my understanding is you're talking about impact fees. Those are predominantly fire impact fees. Those fire impact fees are established and determined based on program plans that each fire district has. So in this case I think you're still in the La Cienega fire district is what I'm recalling. I see people nodding so that's good. So typically those fire impact fees are established for those fire districts. But I don't think there's a prohibition of where they're used. I think it's dependent on what those needs are of that individual fire district. Mr. Patty, am I in the ballfield here or am I out of line?

BUSTER PATTY (Fire Marshal): Mr. Chair, Commissioner Anaya, the impact fee that would be charged for the brewery is for La Cienega district. The impact fees do not cross the line.

CHAIR ANAYA: And those districts have plans that they have associated with those impact fee dollars that vary from their capital needs but they're district by district specific. Correct?

MR. PATTY: Correct.

CHAIR ANAYA: Thank you. Does that answer your question, Commissioner?

COMMISSIONER CHAVEZ: That clarifies, yes. Thank you, Mr. Chair. Thank you, Chief Patty.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR ANAYA: Commissioner Stefanics. Are you done, Commissioner Chavez?

COMMISSIONER CHAVEZ: Yes.

CHAIR ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. One of the reasons that I feel that this is reasonable is that we have discussed the financial impact to the County and the financial payback to the County in terms of gross receipts taxes and property taxes, and I believe that this is – and correct me if I'm wrong, but we're still talking about the \$14,000, right?

MR. GRISCOM: That is correct, Commissioner.

COMMISSIONER STEFANICS: I think that's a reasonable amount to consider. Thank you.

CHAIR ANAYA: Commissioner Stefanics, Commissioner Chavez, do you want to go to public hearing?

COMMISSIONER CHAVEZ: Yes.

CHAIR ANAYA: We'll go ahead. This is a public hearing on the ordinance. Is there anyone here that would like to speak in favor or against this particular ordinance? Seeing none, the public hearing is closed. What's the pleasure of the

Commissioner?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I move Ordinance No. 2015-1, the Santa Fe Brewing Company Local Economic Development Act Project Ordinance.

COMMISSIONER CHAVEZ: Second.

CHAIR ANAYA: There is a motion and a second.

MR. SHAFFER: If I could, Commissioner, that would be with all of staff's recommended changes?

COMMISSIONER STEFANICS: With all staff recommendations.

CHAIR ANAYA: With all staff recommendations – the seconder is okay?

COMMISSIONER CHAVEZ: Yes.

CHAIR ANAYA: There is a motion and a second to approve the ordinance. Commissioner Holian, do you have any questions?

COMMISSIONER HOLIAN: No.

CHAIR ANAYA: Excellent. Before we go to roll call I do want to say I was in Chico, California in recent days and saw the benefit and the magnitude of a brewery of this type and the benefit to the community, where things can head with this type of endeavor. I applaud Santa Fe Brewing for your efforts and I think that it's a small investment for a big gain for jobs and for the community, and you guys make some really good beer. I'll put that on the record as well.

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

**II. B. Land Use Cases**

1. **CDRC CASE # Z/DP/V 14-5430 Santa Fe Brewing Co Expansion. Lock Builders, LLC, Applicant, JenkinsGavin, Agents, Request a Master Plan Amendment, Preliminary and Final Development Plan Approval to Allow an Expansion to an Existing Brewing Facility on 4.97 Acres. This Request Also Includes a Variance of Ordinance No. 2000-12, Article XV, Section 6.H Open Space Standards to Allow 37% Open Space Rather than the Required 50% Open Space. The Property is Located at 35 Fire Place within the Community College District, within Section 24, Township 16 North, Range 8 East (Commission District 5)**

JOHN MICHAEL SALAZAR (Case Manager): Thank you, Mr. Chair. On December 18, 2014, the County Development Review Committee met and acted on this case. After conducting a public hearing and taking testimony from the applicant and his agent the CDRC recommended approval for a master plan amendment, preliminary and final development plan to allow an expansion to an existing brewing facility on 4.79 acres. The CDRC also recommended approval to allow a variance of Ordinance No. 2000-12, Article XV, Section 6.H to allow 37 percent open space rather than the required 50 percent open space.

On November 9, 2004, the Board of County Commissioners approved CCDRC CASE # MP 04-5440, Santa Fe Brewing Master Plan. The approval incorporated master plan zoning and preliminary development plan within a designated employment center zone to allow a brewing facility and restaurant, and an 11,200 square foot warehouse on 4.97 acres. The master plan was subsequently amended in 2011, to permit outdoor entertainment at the restaurant.

As mentioned in the caption, the applicant is requesting a master plan amendment to the existing 1.7-acre brewing facility site in order to rezone 3.27 acres on lot 1-A, which was recently added via a lot line consolidation. The additional acreage was originally part of the Los Cabos Master Plan which was approved in August 2008. The master plan created three lots for the purpose of constructing 18,750 square feet of commercial and industrial uses. However, the project was never constructed and the approval has since expired.

The Applicant is also requesting preliminary and final development plan approval for the expansion. This proposed brewery expansion will be developed in one phase and will include a 2,400 square foot addition to the north side of the existing brewing facility; a new 6,300 square foot entrance, lobby and tasting room on the east side of the existing building; additional bottling and brewing facilities totaling 47,000 square feet to be added to the proposed lobby and tasting room; and a 3,500 square foot landscaped outdoor area with seating and a performance platform.

The Applicant is also requesting a variance of Ordinance No. 2000-12, Article XV, Section 6.H, Open Space Standards. The Community College District Ordinance requires 50 percent open space for new development which would consist of about 149,693.94 square feet of open space. The applicant's 37 percent proposal comes out to 110,344 square feet.

The applicant states the following reasons for the variance: The necessity for this open space reduction stems from the fact that the Project is a manufacturing facility in an Employment Center Zone. Therefore, although the lot coverage is only 26 percent, significant paved areas are essential for loading and deliveries, which reduces the amount of available open space. Full compliance would limit the functionality of the manufacturing facility and its role as an important employer in Santa Fe County.

Staff's response to this is the 50 percent open space requirement in the CCDO does not contemplate flexibility based on use. Planning Division staff has reviewed this application and has stated that the applicant may utilize proposed trail connections allowing public access to district trail systems for the purpose of meeting the 50 percent requirement and has recommended the following conditions of approval should the variance be granted:

1. Provide a trail connection to the proposed district trail and trailhead/bicycle and pedestrian access point on the property which could be counted as open space.
2. Staff supports the inclusion of a district trail connection and trailhead/bicycle and pedestrian access point in the open space requirement.

The Applicant has agreed to accept the conditions as they believe it is a bigger benefit to the community rather than dedicating unusable property such as arroyos or floodplain as open space.

I'll move on to staff recommendation, Mr. Chair. Staff recommends denial of the applicant's request for a variance of Ordinance No. 2000-12 Article XV, Section 6.H, to allow 37 percent open space. If the decision of the BCC is to approve the open space variance, and the master plan amendment, preliminary and final development plan to allow an expansion to the existing brewing facility, staff recommends the following conditions be imposed:

1. The Applicant shall comply with all review agency comments and conditions as per Article V, § 7.1.3.c.
2. Master Plan with appropriate signatures, shall be recorded with the County Clerk as per Article V, § 5.2.5.
3. The Applicant shall provide a trail connection to the proposed district trail and trailhead/bicycle and pedestrian access point on the property which can be counted as open space behind the restaurant on Lot 2-A along with vehicular and bicycle parking.
4. Final design plans for the required improvements to Highway 14 shall be submitted for review and approval by NMDOT prior to Final Development recordation.

Mr. Chair, there are these four conditions that I would like to enter into the records but there is also an additional one that I would like to read into the record.

CHAIR ANAYA: Go ahead.

MR. SALAZAR: The additional condition would be:

5. The applicant shall prove water availability and available water rights for any use exceeding the 10.8 acre-foot per year from the well that they're currently allowed.

CHAIR ANAYA: Thank you, John Michael.

MR. SALAZAR: Thank you, Mr. Chair. I'll stand for questions.

CHAIR ANAYA: Questions of staff. Commissioner Chavez.

COMMISSIONER CHAVEZ: So, Mr. Salazar, it seems on face value if the applicant agrees to your recommendations to address the open space, the need for the variance is a moot point, isn't it?

MR. SALAZAR: Mr. Chair, Commissioner Chavez, it's not. It's just an additional – they're giving us more – although we can't really count it because it's part of the parking area and parking area can't be included in the open space number.

COMMISSIONER CHAVEZ: But if they did provide the trail connection for the trailhead, bicycle and pedestrian access points, your memo states that that could be counted as open space. And then staff would support the inclusion of a district trail connection and trailhead and pedestrian access point in the open space requirement. So am I reading something into that that's not there?

MR. SALAZAR: Mr. Chair, Commissioner Chavez, I suppose that could be worded different but staff believes that does help make this a minimal easing for this variance.

COMMISSIONER CHAVEZ: Okay. Thank you, Mr. Chair.

CHAIR ANAYA: Thank you, Commissioner Chavez. Commissioner

Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Could John Michael or one of the other staff share with me any other entity that we've waived this for?

MS. LUCERO: Mr. Chair, Commissioner Stefanics, I'm sorry. Can you repeat the question?

COMMISSIONER STEFANICS: Can you give me an entity, an organization, a company, that we've done this waiver or in the past?

MR. SALAZAR: Mr. Chair, Commissioner Stefanics, just from my experience, a lot of the time it's new construction that's taking place within the Community College District, especially the area where Rancho Viejo is located where a lot of this open space was designated originally. This is on an existing property that the CCDO didn't really taking into consideration when the 50 percent open space requirement was created.

COMMISSIONER STEFANICS: I understand that. The reason I'm asking the question, Mr. Chair, is that I'm wondering if we've been consistent with our standard and if we're changing it now for a new entity. And if we've changed it for others, I'd like to know that. If we haven't, I'd like to know that.

CHAIR ANAYA: Commissioner Stefanics, and maybe staff, you guys can give me some feedback, but I seem to recall that we've had some adjustments to where open space would be allotted and trail alignments.

COMMISSIONER STEFANICS: This is a percentage.

CHAIR ANAYA: Go ahead.

MS. LUCERO: Mr. Chair, Commissioner Stefanics, we do recall that there was a project several years back. It was a door company out off of Highway 14 and I believe that they did have some sort of a variance in regards to the open space, although they were moving into an existing building. They weren't adding any additional structures. So that was in existence, I believe, prior to when the CCD came in effect.

COMMISSIONER STEFANICS: Well, Mr. Chair, if that is correct, that's La Puerta, and they are the neighbor to the brewing company. So, that's one of the reasons I'm asking. If we've set a precedent I'd like to know, in that area. So maybe you guys could research that while we keep going. Thank you, Mr. Chair.

CHAIR ANAYA: Any other questions or comments right now? If now we'll go to the applicant. Is there anything the applicant would like to add?

JENNIFER JENKINS: Thank you, Mr. Chair, Commissioners. I'm Jennifer Jenkins with JenkinsGavin design and development here this evening on behalf of Brian Lock and the Santa Fe Brewing Company.

[Duly sworn, Jennifer Jenkins testified as follows:]

MS. JENKINS: I just have a couple of items I wanted to add. I'll be brief. So this is an aerial of the subject property. This is Fire Place Lane and here's I-25, and this is Fire Place Lane that serves as the primary access. Highway 14 is a little bit off the map here. And this is the restaurant building, which is currently not functioning as a restaurant; it's an event space for evening music events. And here's the existing brewery facility.

What precipitated this, as was mentioned in the staff report, were these three parcels here were approved as the Los Cabos project for a commercial project. That

project was never developed and it has an access point here on Highway 14. And that master plan has since expired. These lots came up for sale, which was an unbelievable stroke of luck for Brian, because he had significant needs to expand and he had nowhere to go. He was running out of space. In what his site could accommodate there were significant limitations there. So he jumped on the opportunity to acquire these parcels.

So we're dealing with an existing facility. We're dealing with an existing sort of land configuration and terrain that we are – we had to make his program fit within the geometry of the real estate that is here.

So the restaurant building is now on its own parcel. It has been separated out although it's still part of the original Santa Fe Brewing Company master plan. So now we have a new 4.9-acre parcel which is the subject of the development plan request that's before you this evening. So again, here's the existing brewing facility, and then it's being added on to and coming around this way. So this is the brewing and bottling activities. The new, kind of front door entry is going to be here. So using the existing parking area here this is a densely landscaped beer garden area, and the front door and the tasting room. So we're utilizing the existing access off of Fire Place. This is a loading only access, because this is the loading dock area back here off of Fire Place, and then we have an additional access coming off of Highway 14 and some additional parking being constructed here.

So in speaking to the request for an open space variance, this is a manufacturing facility so we have a lot more asphalt than what would be typical for whether it's an office building or some other sort of commercial use. So that cuts into our ability to have those kind of landscaped or undisturbed areas. And just to keep it in perspective, the difference between the 50 percent that the code requires and the 37 percent we are providing is an area – it's less than 40,000 square feet or an area that's 200 feet by 200 feet.

So we met with the Trails and Open Space staff and they expressed interest in providing some trailhead parking on this property because the Arroyo Hondo Trail improvements are going to be coming right through here. Brian actually loved the idea. This parking area sort of that's behind the restaurant is really underutilized unless there's an event going on. Really, during the day, there's really nobody parking over there. So this area, we're going to be doing some signage, and notifying the public that this is permissible parking for people accessing the trail.

So we feel like this is much more to the public benefit than a little 200 by 200 postage stamp of green space on a piece of private property. And I think another important thing, I think as John Michael was alluding to, in the Community College District when we talk about open space, and you look at Rancho Viejo, which was kind of the genesis of the CCDO originally, their open space is part of a master planned community and it travels throughout the entire project, taking advantage of arroyos and those sorts of areas. So every parcel in Rancho Viejo does not have to comply with the 50 percent open space requirement. That open space is provided comprehensively and coordinated throughout the entire master planned community.

Santa Fe Brewing Company doesn't have the benefit of master planned community with respect to that type of open space program. So he's subject to providing all of that onsite. And we feel like this is a really good compromise. We had a really good

meeting with Trails and Open Space staff on this issue and we feel it is something that is much more to the public good. So with that I would be happy to stand for any questions. Thank you.

CHAIR ANAYA: Are there any questions? Seeing none – Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Jennifer, when would construction start and about how long would it take, do you think?

MS. JENKINS: We hope to start construction as early as probably March, and probably be under construction for about six months, eight months. Probably more like six to eight months. So he would have started six months ago if he could have. So, yes, this is starting right away.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIR ANAYA: Thank you. Other questions, Commissioners? Seeing none, this is a public hearing. Is there anyone here that would like to speak against this particular project? Anyone like to speak against this project? Is there anyone here that would like to speak in favor of this project or any other comments? Seeing none, this public hearing is closed. Pleasure of the Board?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I'll move for approval with all staff conditions including the new one read in.

COMMISSIONER HOLIAN: Second.

CHAIR ANAYA: There's a motion to approve from Commissioner Stefanics with all staff conditions and a second by Commissioner Holian. Any further questions or comments or discussion? Just a brief comment. I think relative to the open space discussion, I appreciate Commissioner Stefanics' asking the question about other projects, but I do recall that we've had subdivisions that end up with a space that's open, but it's not necessarily functional. And so I would say that the compromise in having functional space is much more important to me.

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

CHAIR ANAYA: Commissioner Roybal had to step out briefly but please let the record reflect that he voted yes on that roll call vote for the ordinance. Correct?

COMMISSIONER ROYBAL: Yes, that's correct. Thank you.

CHAIR ANAYA: Thank you, Commissioner.

GERALDINE SALAZAR (County Clerk): Chairman Anaya, may I make a statement for the record?

CHAIR ANAYA: Yes, ma'am.

MS. SALAZAR: Regarding Agenda 2, Section III. B. I had recommended that the Finance Director initial the blanks that would be filled out. There was no need for that. County staff did enter into the document the accurate information. The resolution was passed. So we did not need to have the Finance Director initial the – enter the information. So it's a complete document with no blanks. Thank you.

CHAIR ANAYA: Thank you for that clarification, Madam Clerk.

II. B. 3. **BCC CASE # PCEV 14-5420 Ernest Chavez and Robin Suellen Chavez (Personal Representative of the Estate of Jesse Chavez) Vacation of Plat. Ernest Chavez, Applicant and Robin Suellen Chavez (Personal Representative of the Estate of Jesse Chavez), Applicant, (Sommer, Karnes & Assoc, LLP) Joseph Karnes, Agent for the Estate, Request Approval to Vacate a Recorded Lot Line Adjustment Survey Plat which Reconfigured 2 Existing Lots that Became Known as Tract 1-R Consisting of 25 Acres and Tract 2-R Consisting of 11.58 Acres, on a Total of 36.38 Acres. The Property is Located at 210 Entranosa Road, within Section 28, Township 11 North, Range 7 East, (Commission District 3)**

MIKE ROMERO (Case Manager): Mr. Chair, Commissioners, the original lots were created on September 10, 1979. On or about August 30, 2006, the property owners Ernest Chavez and Jesus Chavez entered into a real estate contract to sell Tract 1 and Tract 2 to Padlock, LLC. On January 25, 2007, Padlock, LLC submitted an application to Santa Fe County for a lot line adjustment on two lots. On April 25, 2007, a lot line adjustment plat was recorded with the County Clerk's Office, which changed the north-south lot line to an east-west lot line and altered the size of the two tracts, which became Tract 1-R, 25.00 acres and Tract 2-R, 11.58 acres.

In 2011 Padlock LLC defaulted on the real estate contract and deeded Tract 1 back to Jesus Chavez and Tract 2 back to Ernest Chavez. On January 20, 2013, Jesus Chavez passed away leaving his spouse, Robin Suellen Chavez, sole beneficiary and personal representative of his estate. The agent for the estate has provided documentation from the Santa Fe County Probate Court recorded in the Santa Fe County Clerk's Office on August 12, 2014, instrument No. 2014-0106. The joint applicants request to vacate the lot line adjustment plat and return the properties back to their original state as they were originally created in 1979 by the plat prepared by Thomas Martinez recorded on September 10, 1979 in the Santa Fe County Clerk's Office as document 445-771.

The applicants state, because the real estate contract had not been paid off, the Chavez Brothers retained legal title to the two tracts. The applicants also state that they did not sign the lot line adjustment plat, which was subsequently recorded and neither of the Chavez Brothers received notice of the lot line adjustment application prior to its approval, join in or consent to the adjustment. However, for lot line adjustment plats the code requires that notice must be posted on the property and the applicant shall provide written certification of posting of the notice to the Code Administrator. The applicant was not required to send certified mail to property owners within a 100 ft. of their property lines. The applicant, Padlock, LLC met all noticing requirements of the code. The current applicants further state, they learned of the lot line adjustment only when unpaid taxes threatened the titles to their properties. Since this time, Padlock, LLC has deeded the properties back to the Chavez Brothers. And the applicants have met all noticing requirements of the code.

Staff recommendation: Approval to vacate a lot line adjustment plat on two properties totaling 36.38 acres and return the properties back to their original state, as shown on the plat recorded in the Santa Fe County Clerk's Office as document No. 445-771 subject to the following conditions. May I enter these into the record?

CHAIR ANAYA: You may.

[The condition is as follows:]

1. A Mylar of the plat to be vacated shall be re-recorded in the County Clerk's Office with a statement declaring the vacation of the Final Plat.

MR. ROMERO: Mr. Chair, I have some additional language that needs to be entered into the record and I will go ahead and I will read that out.

This plat vacated by the Board of County Commissioners on January 13, 2015, the plat of the subject tracts prepared by Thomas Martinez and recorded in the Santa Fe County Clerk's Office September 10, 1979 as document number 445-771 is accordingly recognized by the Santa Fe County Land Use Department as established the current property boundaries of Tract 1 and Tract 2.

I stand for any questions.

CHAIR ANAYA: Is there any questions of staff? Is the applicant here? Mr. Karnes. Is there anything you'd like to add, Mr. Karnes?

JOSEPH KARNES: Chair Anaya, members of the Commission, Joseph Karnes. I'm here tonight on behalf of Robin Suellen Chavez, personal representative of the estate of Jesse Chavez, Mr. Chavez' widow. We appreciate Mr. Romero's staff report, agree with all of the conditions of approval, and ask for you to help rectify the error that was carried out back a few years ago by Padlock, LLC, who purchased the property and as Mr. Romero has described, neither Jesse Chavez nor Ernest Chavez, who is present tonight, were aware of or signed the lot line adjustment plat. So what we're trying to do is return it back to the previous circumstances.

There were two applications filed since the two brothers each owned one of the lots, so again, I represent Ms. Robin Suellen Chavez. I understand Mr. Ernest Chavez is here and you can ask him if he wants to make a presentation but we'll stand for any questions you might have. Thank you very much.

CHAIR ANAYA: Thank you, Mr. Karnes. Commissioner Chavez.

COMMISSIONER CHAVEZ: Before the vote I'd just like to disclose that as far as I know I'm not related to this branch of the Chavez family but I'm glad you're here.

CHAIR ANAYA: Thank you, Commissioners. Is there anyone here to speak against this application? Is there anyone here to speak against this application? Is there anyone here to speak in favor of this application that would like to speak at this time? Seeing none, this is District 3, I'd move for approval.

COMMISSIONER CHAVEZ: Second.

CHAIR ANAYA: Motion by myself, second by Commissioner Chavez.  
Further discussion?

COMMISSIONER HOLIAN: Mr. Chair, is that with the staff condition?

COMMISSIONER CHAVEZ: Yes.

CHAIR ANAYA: Absolutely. With staff conditions.

COMMISSIONER CHAVEZ: And Mr. Chair, on that note, the applicant is aware of staff recommendations?

ERNEST CHAVEZ: Yes, I did. I read it and I'm in agreement.

COMMISSIONER CHAVEZ: Okay. Thank you, Mr. Chair.

CHAIR ANAYA: Thank you, Commissioner Chavez. There's a motion and a second to approve with staff conditions.

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

- II. B. 4. **BCC CASE # PCEV 14-5450 Kelly Wilson Vacation of Easement. Kelly Wilson, Applicant, (Paramount Surveys, Inc.) Paul Rodriguez, Agent, Request Approval to Vacate a Thirty-Eight Foot (38') Wide Private Access and Utility Easement on One Lot Totaling 2.50 Acres. The Easement will be Relocated On-Site. The Property is Located at 177B Los Pinos Rd., within Section 28, Township 16 North, Range 8 East, (Commission District 3**

MR. ROMERO: Mr. Chair, Commissioners, would you like me to go straight into the summery?

CHAIR ANAYA: Yes, sir, Mr. Romero. Thank you.

MR. ROMERO: The subject property, Lot 1, was created by a Division of Land Plat, recorded on November 28, 1990. The plat was approved by the Extraterritorial Zoning Commission, the EZC. The plat identifies a 38-foot wide access and utility easement running along the northern boundaries of Lot 1. The applicant has provided proof of ownership of the property by providing a warranty deed which was recorded in the County Clerk's Office July 9, 1991, Book 737 Page 515.

There is currently a residence and an accessory structure on the subject property. The residence was permitted in 1991, by the previous owner, Permit# 91-568, and was approved by Santa Fe County. The applicant claims during the construction of the residence, the residence was placed on a private access and utility easement, causing the easement to run through a portion of the residence. The subject easement provides access to Lot 2. The applicant wishes to vacate the 38' wide private access and utility easement that runs east to west on the north end of the property and relocate the easement to the middle of the property which will be located at the southern portion of the property running east to the property line.

The Applicant claims in 1991, when she purchased the land/home package that the contractor had placed the home into the easement which provided access to Lot 2. During that time the applicant hired an attorney and with the applicant's title company, drafted and relocated the easement from the north side of the property to the south side entrance on Lot 3, which was owned by the contractor. The easement vacation and

relocation was done by deed and not taken forward to the Extraterritorial Zoning Commission, which was the approval body at the time. The applicant has provided documentation of the Grant of Easement which provides signatures from all adjoining property owners that would be affected by the vacation and relocation of the private access and utility easement as well as a signature from PNM. This document was recorded with the County on February 22, 1993.

The applicant has met all noticing requirements of the code.

Staff recommendation: Approval to vacate and relocate a portion of the platted 38' wide private access and utility easement on one lot totaling 2.50 acres subject to the following conditions. May I enter these into the record?

CHAIR ANAYA: You may.

MR. ROMERO: Would you like for me to read that one condition?

CHAIR ANAYA: Yes, please.

1. The Applicant shall file the portion of the Final Plat (Lot 1) affected by the vacation and relocation of easement with the County Clerk's Office (As per Article V § 5.7.3).

I stand for any questions.

CHAIR ANAYA: Is there any questions of staff? Seeing none, is the applicant present? If you'll be sworn in, Mr. Rodriguez. Is there anything you'd like to add?

[Duly sworn, Paul Rodriguez testified as follows:]

PAUL RODRIGUEZ: No, I'd like to add the County did a good job getting this prepped for this meeting and we've read the report and we are in agreement with it and we stand for questions as well. Paul Rodriguez, Paramount Surveys. 1151 Cerro Gordo. So we stand for questions based on the report.

CHAIR ANAYA: Is there any questions of the applicant from the Commission? Commissioner Chavez.

COMMISSIONER CHAVEZ: Just a standard question. Mr. Rodriguez, then you agree with the one recommendation that staff read into the minutes?

MR. RODRIGUEZ: Yes, we do.

COMMISSIONER CHAVEZ: Thank you.

CHAIR ANAYA: Thank you, Mr. Rodriguez. Is there anyone here that would like to speak against this case? Is there anyone here that would like speak against the case? Seeing none, is there anyone that would like to add any comments in favor of the case? Seeing none, this hearing is closed. What's the pleasure of the Board?

COMMISSIONER CHAVEZ: Mr. Chair.

CHAIR ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: I move for approval.

COMMISSIONER ROYBAL: Second.

CHAIR ANAYA: Motion to approve from Commissioner Chavez.

COMMISSIONER CHAVEZ: With staff recommendations.

CHAIR ANAYA: Commissioner Holian will get on us for that. Thank you, Commissioner Holian. Motion to approve with staff conditions, second by Commissioner Roybal.

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

**II. B. 5. BCC CASE # PCEV 14-5410 Richard Berman Vacation of Easement (TABLED)**

**II. B. 6. CDRC CASE # V 14-5400 Melody Saucedo Variance. Melody Saucedo, Applicant, Requests a Variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to Allow Two Dwelling Units on 3.26 Acres. The Property is Located within the Traditional Historic Community of La Cienega at 77 A Calle Debra, within Section 20, Township 16 North, Range 8 East, (Commission District 3)**

MR. MARTINEZ: Mr. Chair, Melody Saucedo, applicant, requests a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4, Zoning Density, to allow two dwelling units on 3.26 acres. The property is located within the Traditional Historic Community of La Cienega at 77 A Calle Debra, within Section 20, Township 16 North, Range 8 East, Commission District 3.

The subject lot owned by the applicant is part of the Vista Land Subdivision consisting of 86 lots which was created in 1974, and is recognized as a legal lot of record. There are currently two dwelling units on the property. Staff has found no evidence that the structures were permitted by Santa Fe County. The applicant has owned the property since March 3, 2008, and claims she purchased the property with both dwelling units on it. Currently the applicant and her family reside in one dwelling unit – 2,275 square feet, and her elderly mother resides in the second dwelling unit – 696 square feet.

On August 13, 2014, the Building and Development Services Division received a complaint regarding a potential density violation on the property. On August 15, 2014, Code Enforcement conducted an inspection on the property. At that time the applicant was issued a Notice of Violation for exceeding density.

The applicant states a variance is needed due to her being a single mother of 4 and barely surviving the economic downfall of 2008. She further states that she is putting pennies together to feed her family. The applicant also states that she provides affordable housing for her elderly mother and that her mother helps provide care for her children. Without her help her children would not have a place to call home.

Staff recommendations: Denial of a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4, Zoning Densities to allow two dwelling units on 3.26 acres. The decision of the CDRC was to recommend denial of the

applicant's request. If the decision of the BCC is to approve the request, staff recommends imposition of the following conditions. Mr. Chair, may I enter these conditions into the record?

CHAIR ANAYA: Yes, you may.

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each home within ninety days of recording the order granting the variance. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office at the time of submission for a Development Permit (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for both dwelling units within ninety days of recording the final order granting the variance. (As per Article II, § 2). The placement of additional dwelling units or Division of land is prohibited on the property. (As per Ordinance No. 2002-9 § 6.4) (Zoning Density).
3. The Applicant shall provide an updated liquid waste permit for the second dwelling unit from the New Mexico Environment Department with the Development Permit Application (As per Article III, §2.4.1a.1 (a) (iv)).
4. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).
5. The existing driveway entrance and drivable surface shall be 20' wide to meet the minimum county standards for fire apparatus access roads for service to first residence. To the second residence the driveway shall be a 14' wide county approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate width shall be 20' and unobstructed vertical clearance of 13'6".
6. The conditions are conditions precedent to granting of the variance. If the Applicant fails to comply with any conditions set forth above within the time periods provided, the variance shall be denied.

I stand for any questions.

CHAIR ANAYA: Is there any questions of staff?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you. There was – let's see. Apparently, the current owner of the property bought it in 2008 and then I think I saw somewhere in the notes here that you inspected aerial photography of the property prior to 2008 and you did not see two dwellings on it at that point. Is that correct?

MR. ROMERO: Mr. Chair, Commissioner Holian, that's correct. In 1992. Between 1992 and 2005 is when the second structure appeared.

COMMISSIONER HOLIAN: So the second structure showed up in 2005?

MR. ROMERO: It showed up on the aerial photography, Santa Fe County's aerial photography but it really could have been anywhere in between 1992 and 2005.

COMMISSIONER HOLIAN: Really? Because – are you saying that the second dwelling unit was there even as early as 1992?

MR. ROMERO: No. I'm saying in between. In the 1992 aerial photo that we have it's not existent.

COMMISSIONER HOLIAN: It's not there. And then what year does it appear?

MR. ROMERO: Commissioner Holian, it shows up in our 2005 aerial photography.

COMMISSIONER HOLIAN: I see. So there was no aerial photography in between those two dates, correct?

MR. ROMERO: Commissioner Holian, that's correct. We didn't have any here at Santa Fe County. We outsourced and were unable to find anything.

COMMISSIONER HOLIAN: Thank you.

CHAIR ANAYA: Thank you, Commissioner Holian. If there's no other questions is the applicant here? If you would please come forward and be sworn in. Do you have anything you'd like to add?

[Previously sworn, Melody Saucedo testified as follows:]

MELODY SAUCEDA: When I bought the property the home and the existing structures were already there. When I bought it everything was already existing.

CHAIR ANAYA: Okay. Is there any questions of the applicant?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: In the past case there was a realtor who was a witness to the fact that something was present. Do you have any photos? Any real estate ads, etc. that would indicate that it had been present when you bought it?

MS. SAUCEDA: On me I don't, but when I bought the property from Denise Duvalier, the real estate agent, everything was already existing. She's actually also a neighbor of mine that lives in the area. But everything was already existing.

COMMISSIONER STEFANICS: Well, the reason I ask, Mr. Chair, is it's our staff's word against this individual's word and if there was some other tangible proof. The other question I was going to ask of our staff is would this be considered a – would the second dwelling be considered accessory under our new code?

MS. LUCERO: Mr. Chair, Commissioner Stefanics, we haven't reviewed it entirely against the accessory dwelling unit section, but based on the size of the structure it seems like it would qualify.

COMMISSIONER STEFANICS: Okay. Thank you very much.

CHAIR ANAYA: Thank you, Commissioner Stefanics. Is there anyone here that would like to speak against this project before us? Is there anyone here that would like to speak against this project? Is there anyone here that would like to speak in favor of this project? Ma'am, please come forward.

MS. RODRIGUEZ: Yes. My name is Isela Rodriguez and we're neighbors of Mrs. Saucedo and I would like to just tell you she's a very honest person and she walks by our house and [inaudible] her lovely children and she's very polite and a very good neighbor, that I would like to tell to you.

CHAIR ANAYA: Thank you very much. Is there anyone else that would like to speak in favor of this project? There was none against. What's the pleasure of the Board? I'd move for approval with staff conditions.

COMMISSIONER CHAVEZ: And I'll second that motion, Mr. Chair.

CHAIR ANAYA: Any further questions or comments? Commissioner Chavez.

COMMISSIONER CHAVEZ: I want to ask the applicant if she's aware of staff's recommendation, if she agrees to all of them, because there are six conditions of approval.

CHAIR ANAYA: Ma'am, are you aware of staff's conditions and do you understand them? All the staff conditions?

MS. SAUCEDA: Can you repeat them to me? Okay, yes, I agree.

CHAIR ANAYA: Are you sure?

MS. SAUCEDA: Yes.

CHAIR ANAYA: Okay. Is there any further comments?

**The motion passed by majority 4-1 voice vote with Commissioner Holian casting the nay vote.**

**II. B. 7. BCC CASE # MIS 06-5272 Tavelli Master Plan Extension.  
Michael A. Tavelli, Applicant, Requests a 24-Month Time Extension of the Previously Approved Tavelli Mixed-Use Subdivision Master Plan. The Property is Located North of Agua Fria Street, East of Lopez Lane, within Section 31, Township 17 North, Range 9 East, (Commission District 2)**

MR. MARTINEZ: Thank you, Mr. Chair, Commissioners. Michael A. Tavelli, Applicant, requests a 24-month time extension of the previously approved Tavelli mixed-use subdivision master plan. The property is located north of Agua Fria Street, East of Lopez Lane, within Section 31, Township 17 North, Range 9 East, Commission District 2.

The current master plan for the Tavelli mixed-use subdivision will expire on January 8, 2015. The applicant is requesting a two-year extension in order to allow additional time for an economic recovery to take effect that would make development of the subdivision financially feasible. The applicant also states that changes in the affordable housing requirements may ultimately impact the final development plan and plat of the Tavelli Subdivision and may require further review.

Staff recommendation is approval of a two-year time extension of the approved master plan for the Tavelli mixed-used subdivision which will render the master plan valid until January 8, 2017. Commissioners, Mr. Chair, I stand for any questions.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER CHAVEZ: Yes, go ahead, Commissioner Holian.

COMMISSIONER HOLIAN: Where would the water come from for this particular development at this point? In the packet, when it was originally – when the

master plan originally went forward it was coming from the City, but would it come from the Agua Fria Water Association now?

MR. MARTINEZ: Mr. Chair, Commissioner Holian, it would still be coming from the City of Santa Fe water system.

COMMISSIONER HOLIAN: And they would agree? Would there be any problem that you would foresee? Would they agree to that?

MR. MARTINEZ: Commissioner Holian, none that I see.

COMMISSIONER HOLIAN: Thank you.

CHAIR ANAYA: Are there any other questions of staff? Is the applicant present? If you would come forward please and be sworn in.

[Duly sworn, Thomas Tavelli testified as follows:]

THOMAS TAVELLI: My name is Thomas Tavelli. I'm here on behalf of the Tavelli family and my brother Michael A. Tavelli. It's basically a hardship request and basically it's about the continuing recession that has made it so difficult to really go forward with any project. And so other than that I don't have anything to add.

CHAIR ANAYA: Thank you. Thank you, Mr. Tavelli. Any questions of the applicant? Is there anybody here that would like to speak against this particular request? Is there anyone here that would like to speak against this particular request? Is there anyone else that would like to speak in favor of this request present? Seeing none, what's the pleasure? Commissioner Chavez.

COMMISSIONER CHAVEZ: Move for approval of the two-year time extension for the master plan of the Tavelli mixed-use subdivision. I think this is a standard request. I don't think it's out of the ordinary. And so that would be my motion, Mr. Chair.

COMMISSIONER HOLIAN: I'll second that.

CHAIR ANAYA: There's a motion from Commissioner Chavez, the vice chair, second from Commissioner Holian. Any further discussion?

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

**II. B. 8. CDRC CASE # Z 06-5033 Village at Galisteo Basin Preserve ("Trenza") Master Plan Amendment. TABLED**

**II. B. 9. CDRC CASE # V 13-5190 Minnie Walsh Variance. Minnie Walsh, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) and a Variance of Article III, Section 2.4.1a.2.b (Access) of the Land Development Code and a Variance of Article 4, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to Allow a Family Transfer Land Division of 1.195 Acres into Two Lots. The Board of County Commissioners Rendered a Decision to Approve this Request on October 8, 2013. The BCC's Decision was then Appealed to District Court, and the Court Decision on July 31, 2014, was to Remand the Case Back to the BCC for a Rehearing. The Property is Located at 58 Arroyo Jaconita, within the Traditional Community of Jacona, within Section 11, Township 19 North, Range 8 East, (Commission District 1)**

CHAIR ANAYA: This item we had the public hearing already. The public hearing was closed. Is that correct, Mr. Lovato?

JOHN LOVATO (Case Manager): Mr. Chair, that is correct.

CHAIR ANAYA: So now we're waiting the questions of the Commission or action from the Board? Correct?

MR. LOVATO: Mr. Chair, that is correct.

CHAIR ANAYA: What's the pleasure of the Board?

COMMISSIONER ROYBAL: I believe this one is in District 1 and I move for approval.

COMMISSIONER CHAVEZ: Second.

CHAIR ANAYA: There's a motion from Commissioner Roybal for approval, second by Commissioner Chavez.

COMMISSIONER CHAVEZ: And there are staff recommendations on this as well.

CHAIR ANAYA: Motion to approve with staff conditions, Commissioner Roybal?

COMMISSIONER ROYBAL: Yes.

CHAIR ANAYA: Second from Commissioner Chavez? Any other discussion? Seeing none.

**The motion passed by majority 3-2 voice vote with Commissioners Holian and Stefanics voting against.**

**III. Concluding Business**  
**A. Announcements**  
**B. Adjournment**

Having completed the agenda and with no further business to come before this body, Chair Anaya declared this meeting adjourned at 7:15 p.m.

Approved by:



Board of County Commissioners  
Robert A. Anaya, Chair

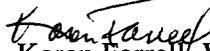
ATTEST TO:

  
GERALDINE SALAZAR  
SANTA FE COUNTY CLERK

2-10-2015



Respectfully submitted:

  
Karen Farrell, Wordswork  
453 Cerrillos Road  
Santa Fe, NM 87501

REC  
CLERK  
RECORDED  
02/12/2015