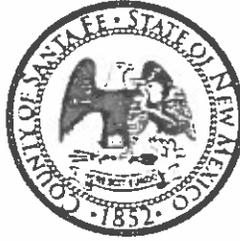


**Henry P. Roybal**  
*Commissioner, District 1*

**Miguel M. Chavez**  
*Commissioner, District 2*

**Robert A. Anaya**  
*Commissioner, District 3*



**Kathy Holian**  
*Commissioner, District 4*

**Liz Stefanics**  
*Commissioner, District 5*

**Katherine Miller**  
*County Manager*

**CASE NO. S15-5041**

**UNIVEST-RANCHO VIEJO (LA ENTRADA PHASE I) MASTER PLAN, PRELIMINARY  
AND FINAL PLAT AND DEVELOPMENT PLAN AMENDMENT**

**UNIVEST-RANCHO VIEJO LLC, APPLICANTS**

**JAMES W. SIEBERT AND ASSOCIATES, INC. (JAMES W. SIEBERT), AGENT**

### **ORDER**

**THIS MATTER** came before the Board of County Commissioners (BCC) for hearing on November 10, 2015, on the Application of Univest-Rancho Viejo LLC, (Applicant) and James W. Siebert (Agent) for a Master Plan, Preliminary Plat, Final Plat, and Development Plan Amendment to sub-phase the previously approved La Entrada residential subdivision Phase 1 into four (4) sub-phases. Sub-phase 1, the 500 Series (58 lots); Sub-phase 2, the 600 Series (24 lots); Sub-phase 3, the 700 Series, (35 lots); and Sub-phase 4, the 800 Series (49 lots) for a total of 166 lots. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing, finds that the Application is well taken and should be granted subject to conditions, and makes the following findings of fact and conclusions of law:

1. The Applicants request an amendment to the Master Plan, Preliminary Plat, Final Plat, and Development Plan to sub-phase the previously approved La Entrada Residential Subdivision Phase 1 into four (4) sub-phases.

2. On March 9, 2006, the Extraterritorial Zoning Commission (EZC) recommended Master Plan approval for Rancho Viejo Village West, a mixed use development consisting of 1,250

residential units and 117,250 sq. ft. of commercial space on 668 acres to be developed in 3 phases within Ranch Viejo.

3. On April 11, 2006, the Board of County Commissioners (BCC) granted Master Plan Approval for Rancho Viejo Village West.

4. On September 12, 2006, the BCC approved the La Entrada Subdivision Phase 1, which was part of Rancho Village West, a request for Preliminary Plat, Final Plat, and Development Plan of 456 residential lots with a Commercial Community Center, on 249 acres with the approved Master Plan and Variance to allow a Cul-de-sac road exceeding 300 feet.

5. On June 10, 2014, the BCC approved the vacation of the platted Archaeological Easement located within La Entrada Phase 1 residential subdivision.

6. On June 9, 2015, the BCC approved a Preliminary Plat, Final Plat and Development Plan Amendment for La Entrada Phase 1 to reduce the number of lots from 456 lots to 404, an increase of undeveloped open space from 139.78 acres to 146.36 acres, an increase of developed open space from 5.69 acres to 7.87 acres, and a reduction of the private park area from 4.13 acres to 3.94 acres. The approval included the removal and realignment of several roads within the subdivision.

7. In support of the Application, the Applicant's agent submitted a letter of request, a development plan report including proof of legal lot of record and proof of ownership, a development plan set of drawings, and survey plat. The Applicant authorized James W. Siebert and Associates, Inc. (Agent) to act on behalf of Uninvest-Rancho Viejo LLC in making application for the La Entrada Phase 1 residential subdivision.

8. The project lies within the Village Zone/New Community Center Zone of the Community College District. Residential Density of Village Zones including any new Community

Center, Neighborhood Centers and Neighborhoods contained within the zone is 3.5 dwelling units per acre minimum. The Applicant's proposal is 3.62 dwelling units per acre.

9. Notice requirements were met as per Article II, Section 2.4.2, of the Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for twenty-one (21) days on the property, beginning on September 24, 2015. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on September 24, 2015, as evidenced by a copy of that legal notice contained in the record.

10. The applicable requirements under the Santa Fe County Land Development Code, Santa Fe County Ordinance No. 1996-10, (Code) which governs this amendment are:

a. Article V, Section 4.5, Staging/Phasing, states:

For large scale developments and large subdivisions, the County Development Review Committee and Board may grant approval of an initial development stage only; and further, the County Development Review Committee may set criteria for development of the first stage as a condition for approval of subsequent stages. However, a subdivider may propose, and the County Development Review Committee and Board may approve, a phasing schedule which permits flexibility in the sequential development of the various stages as to timing and order of development.

b. Article V, Section 5.2.a, Amendments and Future Phase Approvals, states:

Approval of the master plan is intended to demonstrate that the development concept is acceptable and that further approvals are likely unless detailed development plans cannot meet the requirements of applicable law and County ordinances in effect at that time. Each phase of the development must be considered on its own merits.

c. Article V, Section 5.2.6.d, Amendments and Future Phase Approvals, states, "[t]he phasing schedule may be modified by the Board at the request of the developer as economic circumstances require as long as there is no adverse impact to the overall master plan."

d. Article V, Section 5.3.6.b, Phased Development of the Code states:

subdivider may file final plats for portions of the development, and the expiration date of preliminary plat shall be extended for an additional thirty-six (36) months after the date of the filing of each final plat. The number of phased final plats shall be determined by the Board at the time of the approval or conditional approval of the Master Plan.

11. The Applicant states, "Each sub-phase of the project has been designed to allow for the construction of roads and utilities to stand independent of the succeeding phases. Temporary cul-de-sacs will be constructed in Phase 1. All other roads in Phase 1 will connect to existing or planned roads providing for continuous road linkages. Failure to proceed with Sub-phase II would require the completion of the cul-de-sacs as permanent infrastructure. Sub-phase II-IV do not require temporary cul-de-sacs, since the roads are designed for continuous linkages, either connection to existing roadway in previous sub-phases or connection to planned roads within the respective sub-phases."

12. At the public hearing before the BCC on November 10, 2015, staff recommended approval of the amendment to the Master Plan, Preliminary Plat, Final Plat, and Development Plan of the La Entrada Phase 1 Subdivision creating four (4) sub-phases, subject to the following conditions:

- a) Compliance with all conditions of the approved Master Plan, Preliminary Plat, Final Plat, and Development Plan.
- b) Each sub-phase of the Final Plat and Development Plan must be recorded in the Office of the County Clerk.

13. In support of the Application, the Agent stated that the Applicant is in agreement with all conditions.

14. At the public hearing no one from the public spoke either in support or opposition to the Application.

**WHEREFORE**, the Board of County Commissioners of Santa Fe County hereby approves the Application for the Master Plan, Preliminary Plat, Final Plat, and Development Plan Amendment to sub-phase the La Entrada Phase 1 residential subdivision into four (4) sub-phases: sub-phase 1 (58 lots); sub-phase 2 (24 lots); sub-phase 3 (35 lots); and sub-phase 4 (49 lots) for a total of 166 lots subject to the staff conditions set forth in paragraph 12. The motion to approve passed by unanimous (5-0) voice vote.

**IT IS SO ORDERED:**

This Order was approved by the Board of County Commissioners on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

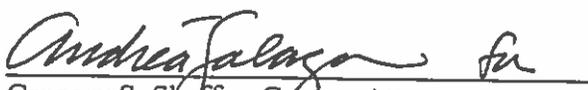
**BOARD OF COUNTY COMMISSIONERS  
OF SANTA FE COUNTY**

By: \_\_\_\_\_  
Miguel M. Chavez, Chair

**ATTEST:**

\_\_\_\_\_  
Geraldine Salazar, County Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Gregory S. Shaffer, County Attorney



CHAIR ANAYA: So a motion, second from Commissioner Stefanics, second from Commissioner Chavez as well.

COMMISSIONER CHAVEZ: You have a double second.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I would like to make a comment that I'm really looking forward to a good restaurant in Cerrillos and apparently, so is just about everybody else who lives in the area, judging from all the comments that we got in our packet. I think we're unanimous on this one. Thank you.

CHAIR ANAYA: Thank you, Commissioner. Any other questions or comments? There's a motion, there's two seconds.

**The motion to approve the master plan passed by unanimous [5-0] voice vote.**

CHAIR ANAYA: Do we need another motion?

MR. SALAZAR: The motion for the variance for rainwater harvesting and that one was the motion for the master plan, correct?

CHAIR ANAYA: That motion will cover the master plan. So I'd make a motion to approve the variance on the harvesting for the space limitations noted.

COMMISSIONER STEFANICS: I'll second that.

CHAIR ANAYA: There's a second. Motion from myself, second from Commissioner Stefanics.

COMMISSIONER CHAVEZ: And Mr. Chair.

CHAIR ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: Just for clarification, that does include the following conditions 1 through 5.

CHAIR ANAYA: The motion as made would include staff conditions.

COMMISSIONER CHAVEZ: Okay.

CHAIR ANAYA: Is there any further discussion? Seeing none.

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

- VIII. B. 5. **CDRC CASE # ZA 15-5041 La Entrada Master Plan, Preliminary Plat, Final Plat and Development Plan Amendment.** Univest-Rancho Viejo, Applicant, James W. Siebert, Agent, Request an Amendment of the Master Plan, Preliminary Plat, Final Plat, and Development Plan for La Entrada Phase 1 to Sub-Phase the Previously Approved La Entrada Phase I Residential Subdivision into Four (4) Sub-Phases. Sub-Phase 1 will Consist of the 500 Series Lots (58 Lots), Sub-Phase 2 will Consist of the 600 Series Lots (24 Lots), Sub-Phase 3 will Consist of the 700 Series Lots (35 Lots), and Sub-Phase 4 will Consist of the 800 Series (49 Lots) for a Total of 166 Lots. The Property is Located North of Rancho Viejo Blvd and West of Avenida del Sur, within the Community

**College District, within Sections 19 and 20, Township 16  
North, Range 9 East (Commission District 5)**

MR. ARCHULETA: Thank you, Mr. Chair. Univest-Rancho Viejo, applicant, James W. Siebert and Associates, Agent, request an amendment of the master plan, preliminary plat, final plat, and development plan for La Entrada Phase 1 to sub-phase the previously approved La Entrada Phase I Residential Subdivision into four sub-phases. Sub-Phase 1, the 500 Series, Sub-Phase 2, the 600 Series Lots, Sub-Phase 3, the 700 Series Lots, and Sub-Phase the 800 Series for a Total of 166 Lots. The property is located north of Rancho Viejo Boulevard and west of Avenida del Sur, within the Community College District, within Sections 19 and 20, Township 16 North, Range 9 East.

On October 16, 2015 the County Development Review Committee recommended approval of this case. On June 9, 2015 the BCC approved the request for the amendment to the preliminary plat and final plat and development plan for La Entrada Phase 1, reducing the number of lots and the layout.

The applicant requests another amendment to the master plat, preliminary plat, final plat and development plan for La Entrada Phase 1 in order to sub-phase the previously approved La Entrada Phase I residential subdivision into four sub-phases.

Staff recommends approval of the amendment to the master plan, preliminary plat, final plat, and development plan of the La Entrada Phase 1 Subdivision creating four sub-phases subject to the following conditions. May I enter those into the record?

COMMISSIONER CHAVEZ: Yes, you may.

[The conditions are as follows:]

1. Compliance with all conditions of the approved Master Plan, Preliminary Plat, Final Plat, and Development Plan.
2. Each sub-phase of the Final Plat and Development Plan must be recorded in the office of the County Clerk.

MR. ARCHULETA: Thank you, Mr. Chair.

COMMISSIONER CHAVEZ: Are there any questions from staff? No. Okay. This is a public hearing then. Is there anyone here to speak in favor of or against this request? Please come forward. Seeing none, that closes the public hearing portion.

COMMISSIONER STEFANICS: Mr. Chair.

COMMISSIONER CHAVEZ: I will move for approval with staff conditions.

COMMISSIONER HOLIAN: Second.

COMMISSIONER CHAVEZ: Okay. There's a motion and a second with staff recommendations. Any other further discussion? Seeing none.

The motion passed by unanimous [5-0] voice vote. [Commissioner Anaya voted after the fact, see page 65.]

VIII. B .6. CDRC Case 06-5212 La Bajada Ranch (Santa Fe Canyon Ranch) Time Extension. Santa Fe County, Applicant, Requests

SFC CLERK RECORDED 12/09/2015





Henry P. Roybal  
*Commissioner, District 1*

Miguel M. Chavez  
*Commissioner, District 2*

Robert A. Anaya  
*Commissioner, District 3*



Kathy Holian  
*Commissioner, District 4*

Liz Stefanics  
*Commissioner, District 5*

Katherine Miller  
*County Manager*

**CDRC CASE # MP/DP 13-5000 AMMA CENTER  
AMMA CENTER OF NEW MEXICO**

**ORDER**

**THIS MATTER** came before the Board of County Commissioners (BCC) for hearing on December 8, 2015, Amma Center of New Mexico (Applicant) for a Master Plan, Preliminary and Final Development Plan approval to allow existing structures to be utilized as a religious institution on a 40 ± acre site. The BCC, having reviewed the Application, supplemental materials, staff report, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests Master Plan, Preliminary & Final Development Plan approval to allow a Community Service Facility on 40 acres in conformance with Ordinance No. 2010-13, Community Service Facilities, which amends Article III, § 7; Article V, § 5; and Article V, § 7 of the Santa Fe County Land Development Code, Ordinance No. 1996-10 (Code). The existing structures consist of a 5,000 square foot Residential Ashram, a 1,400 square foot Meditation Hall, a 200 square foot storage shed, and a 1,000 square foot greenhouse. The existing structures are located within a 20 acre parcel. The Applicant proposes to consolidate the 20 acre parcel with an adjoining 20 acre parcel to create a 40 acre parcel which will be utilized for the Community Service Facility.
2. The property is located at 48 Stone Cabin Road, via Old Santa Fe Trail, within Section 27, Township 16 North, Range 10 East.

3. The owner, Amma Center of New Mexico, a non-profit corporation, acquired the property by warranty deed recorded as Instrument # 1709839 on June 24, 2013, in the records of the Santa Fe County Clerk.

4. Dolores Vigil, Liaison Planning Services, is authorized to be the Agent by the property owner to pursue the request for Master Plan, Preliminary and Final Development Plan approval to allow a Community Service Facility on a 40 acre site, as evidenced by a copy of the written authorization contained in the record.

5. On November 19, 2015, the County Development Review Committee (CDRC) recommended denial (3-2) of the request for Master Plan, Preliminary and Final Development Plan to allow existing structures to be utilized as a religious institution on a 40 ± acre site.

6. Notice requirements were met as per Article II § 2.4.2, of the Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for twenty-one days on the property, beginning on November 17, 2015. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on November 17, 2015, as evidenced by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners.

7. The applicable requirements under the Santa Fe County Land Development Code, Santa Fe County Ordinance No. 1996-10, (Code) which governs this application are:

a. Ordinance No. 2010-13 Community Service Facilities states, “[c]ommunity service facilities are facilities which provide service to a local community organization. These may include governmental services such as police and fire stations, elementary and secondary day care centers, schools and community centers, and churches.”

b. Ordinance No. 2010-13, § 7.1 Standards states, “[c]ommunity service facilities are allowed anywhere in the County, provided all requirements of the Code are met...”

c. Article V, § 5.2.1.b states:

A master plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the subdivider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval.

d. Article V, § 5.2.3 Master Plan Review states:

The master plan shall be submitted to the Code Administrator or his authorized representative with a written application for approval. The Code Administrator will review the plan and submit analysis, written comments and a recommendation to the County Development Review Committee and the Board. Master plans shall be reviewed by the County Development Review Committee which shall make determinations regarding compliance with the County General Plan or the Extraterritorial Plan and the Code and shall forward the plan to the Board with the Committee's recommendation. The Board may adopt, amend, supplement, or reject the County Development Review Committee recommendation.

e. Article V, § 7.1.3. Review (Preliminary Development Plans) states:

- a. A preliminary development plan may be only a phase or portion of the area covered by an approved master plan, so long as the preliminary development plan substantially conforms to the approved master plan.
- b. A preliminary development plan shall be submitted prior to or concurrent with submission of a preliminary plat.
- c. The application for preliminary development plan approval shall be presented to the County Development Review Committee for review with a staff report. The staff report shall include a description of the proposed project, an evaluation of pertinent planning issues, and a statement on the compliance of the project with the County General Plan and Code. The report may include recommended conditions of approval. The report shall include all comments from appropriate State or Federal agencies, the County Fire Marshal, the County Hydrologist, and other appropriate County personnel. Particular attention shall be given in the staff report to public agency comments which relate to potential limitations of lot size, intensity, or character of development.

f. Article V, § 7.2, Final Development Plan, states:

§ 7.2.1 Submittals, A final development plan conforming to the approved preliminary plan and approved preliminary plat, if required, and containing the same required information shall be submitted. In addition, the final development plan shall show, when applicable, and with appropriate dimensions, the locations and size of buildings, heated floor area of buildings, and minimum building setbacks from lot lines or adjoining streets. Documents to be submitted at this time are: proof of ownership including necessary title documents, articles of incorporation and by-laws of owners' association; required disclosure statements; final engineering plans and time schedule for grading, drainage, and all improvements including roads, water system, sewers, solid waste, utilities; engineering estimates for bonding requirements; development agreements; and final subdivision plats, if required.

§ 7.2. Reviews, The final development plan shall be submitted to the County Development Review Committee accompanied by a staff report. The County Development Review Committee shall review the plan and make a determination as to its compliance with the County General Plan and Code. The County Development Review Committee may recommend changes or additions to the plan as conditions of its approval. The final development plan as approved by the County Development Review Committee shall be filed with the County Clerk. The approved final development plan becomes the basis of development permits and for acceptance of public dedications. Any changes in the plan must be approved by the County Development Review Committee.

8. The proposed use meets the criteria set forth in Ordinance No. 2010-13, Community Service Facilities as an allowed use.
9. The Application is comprehensive in establishing the scope of the project.
10. The proposed Preliminary Development Plan substantially conforms to the proposed Master Plan.
11. The Final Development Plan conforms to the Code requirements for this type of use.
12. The Application satisfies the submittal requirements set forth in the Code.
13. The review comments from State Agencies (NMDOT, NMED, OSE, SHPO) and County staff have established findings that the Application is in compliance with state requirements, Ordinance No. 2010-13, Article V, § 5.2 Master Plan Procedures, Article V, § 7.1 Preliminary Development Plan, and Article V, § 7.2 Final Development Plan of the Code.

14. At the public hearing before the BCC on December 8, 2015, staff recommended approval of the Application, and suggested the following conditions if approval were granted:

1. The Applicant shall comply with all review agency comments and conditions as per Article V, § 7.1.3.c.
  - If the improvements to Stone Cabin Road can be restricted to this area of previous disturbance on the west side of the road, then the proposed widening of Stone Cabin Road will not adversely impact LA 175659. If LA 175659 can be avoided then this trail segment should be placed in a non-disturbance easement. If the road improvements cannot avoid LA 175659, then a treatment plan must be prepared to mitigate the adverse impacts to the Santa Fe Trail.
  - The Applicant shall address the approach of Stone Cabin Road to meet Article V, § 8.2.7d which states, “grades at the approach to intersections shall not exceed 3% for 100 linear feet, excluding vertical curve distance.”
  - Return radii shall be a minimum of 30 feet.
  - All internal radii shall be a minimum of 30 feet unless approved by the Santa Fe County Fire Marshall.
  - Stone Cabin Road shall be improved to Local Road Standards as Article V, § 8.1.3 of the Code.
  - The Applicant shall demonstrate that existing culverts are sized correctly to accommodate storm run-off.
  - The Applicant is proposing to accommodate run-off via bar ditches, these bar ditches traverse slopes of approximately 11%, the Applicant shall demonstrate how they will reduce the potential for erosion.
  - The Applicant shall provide a 50 foot asphalt apron from the edge of Old Santa Fe Trail on the approach of Stone Cabin Road.
  - The Applicant shall provide an R1-1 33”x30” at the exit of the property.
  - Driveway, turnouts, and turnarounds shall be County approved all weather driving surface of minimum 6” compacted base course or equivalent.
  - Minimum road way width shall be 20’ and an unobstructed vertical clearance of 13’6”.
  - The secondary emergency access/egress loop shall be designated and legally recorded on the registered plat.
  - Driveway/fire access shall not exceed 11% slope and shall have a minimum 28’ inside radius on curves.
  - The Application shall comply with Article 1, § 103.3.2-New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

- Upon completion of the permitted work the Applicant shall contact the Santa Fe County Fire Marshal to conduct a final inspection.
2. Master Plan, Preliminary and Final Development Plan with appropriate signatures, shall be recorded with the County Clerk as per Article V, § 5.2.5.
  3. Prior to recordation of the Master Plan the Applicant shall record a Lot Consolidation Plat, combining Lot 1-A (20.00 acres) and 1-B (20.00 acres), creating a 40 ± acre parcel to be utilized by the Amma Center.
  4. The Applicant shall monitor the traffic created by the approved use, if it is determined that the development generates more than the estimated 25 vehicles per peak hour, the Applicant shall provide Santa Fe County with a revised Traffic Impact Analysis.
  5. Water restrictive covenants, restricting the water use to 0.50 acre feet per year, shall be recorded along with the Final Development Plan. Meter readings shall be submitted to the County Hydrologist on an annual basis. If the water use exceeds 0.50 acre feet per year the Amma Center may have to adjust their water use for individual uses in order to stay within 0.50 AFY. This shall be noted on the Master Plan/Development Plan.
  6. Large events, exceeding the daily use, at the Amma Center shall be required to obtain a special event permit from NMDOT and a Special Use Permit from Santa Fe County.
  7. The dimensions and location of the Applicant's signage must comply with Article VIII, Sign Regulations.

8. The Applicant shall submit a financial guarantee, in sufficient amount to assure completion of all required improvements prior to Final Development Plan recordation, as per Article V, § 9.9.
15. In support of the Application, the Applicant stated that they are in agreement with the conditions.
16. At the public hearing Dolores Vigil, Mr. Christopher Graeser, Barry Green, Ronald Boyd, Brenda Wittner, Christopher Bentley, David Ginsberg, Bishop Doug Walker, Anton Koury, and Steven Schmidt spoke in favor of the Application.
17. At the public hearing Scott Armstrong, David Birnbaum, Jim Moore, Therese Martinez, Erica Chiado, and Mr. Joseph M. Karnes spoke in opposition to the Application.

**WHEREFORE** the Board of County Commissioners of Santa Fe County hereby approves the request for Master Plan, Preliminary & Final Development Plan approval to allow a Community Service Facility on 40 acres in conformance with Ordinance No. 2010-13, Community Service Facilities, which amends Article III, § 7; Article V, § 5; and Article V, § 7 of the Code subject to the staff conditions set forth in paragraph 14. The motion to approve the Application passed by a unanimous 5-0 vote.

**IT IS SO ORDERED**

This Order was approved by the Board of County Commissioners of Santa Fe County on this \_\_\_\_ day of \_\_\_\_\_, 2016.

THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Miguel M. Chavez, Chairperson

ATTEST:

\_\_\_\_\_  
Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Gregory S. Shaffer, County Attorney

VIII. B. Land Use Cases

5. **CDRC CASE # MP/DP 13-5000 Amma Center.** Amma Center of New Mexico, Applicant, Dolores Vigil, Agent, Request Master Plan, Preliminary and Final Development Plan Approval to Allow Existing Structures to be Utilized as a Religious Institution on a 40+ Acre Site. The Property is Located at 48 Stone Cabin Road, via Old Santa Fe Trail, within Section 27, Township 16 North, Range 10 East, (Commission District 4). Jose E. Larrañaga, Case Manager

*[Exhibit 31: NMED 11/20/15 memo; Exhibit 32: Graeser & McQueen, LLC, Packet of material, dated 12/8/15; Exhibit 33: Church of Antioch at Santa Fe support letter; Exhibit 34: Signatures of approximately 38 individuals in support of the Amma Center; Exhibit 35: Census info from 2000, submitted by opponents; Exhibit 36: Sommer, Karnes & Assoc. on behalf of the Preserve the Trail Association letter dated, 12/2/15]*

[Commissioner Holian participates in this portion of the hearing telephonically.]

CHAIR ANAYA: For the Amma case, Mr. Larrañaga.

JOSE LARRAÑAGA: Thank you, Mr. Chair. Amma Center New Mexico, Applicant, Liaison Planning Services, Inc., agent, requests Master Plan, Preliminary and Final Development Plan approval to allow existing structures to be utilized as a religious institution on a 40 acre site. The property is located at 48 Stone Cabin Road, via Old Santa Fe Trail, within Section 27, Township 16 North, Range 10 East.

The Applicant requests Master Plan, Preliminary & Final Development Plan approval to allow a Community Service Facility on 40 acres in conformance with Ordinance No. 2010-13, Community Service Facilities, which amends Article III, § 7; Article V, § 5; and Article V, § 7 of Santa Fe County Land Development Code, Ordinance No. 1996-10. The existing structures consist of a 5,000 square foot residential ashram, a 1,400 square foot meditation hall, a 200 square foot storage shed and a 1,000 square foot greenhouse. The existing structures are located within a 20 acre parcel. The Applicant proposes to consolidate the 20 acre parcel with an adjoining 20 acre parcel to create a 40 acre parcel which will be utilized for the Community Service Facility.

On November 19, 2015, the County Development Review Committee recommended denial of the request for Master Plan, Preliminary and Final Development Plan to allow existing structures to be utilized as a religious institution on a 40 acre site.

The Applicant's Report states: The Amma Center has utilized the subject property since 1988. The Ashram was built in 1996. The non-profit spiritual center will continue to occupy the residential ashram and conduct Satsang, meditation and meetings with residents/members and guests. There are several larger gatherings per year, coinciding with Swami's visit and Amma's birthday celebration.

Building and Development Services staff has reviewed this project for compliance with pertinent Code requirements and have found that the facts presented support this request. The proposed use meets the criteria set forth in Ordinance No. 2010-13 as an allowed use, this is not a rezoning or a zoning of the property.

The Application is comprehensive in establishing the scope of the project. The proposed Preliminary Development Plan substantially conforms to the proposed Master Plan; the Final Development Plan conforms to the Code requirements for this type of use; and the Application satisfies the submittal requirements set forth in the Code.

The review comments from State Agencies and County staff have established findings that the Application is in compliance with state requirements, Ordinance No. 2010-13, Article V, § 5.2 Master Plan Procedures, Article V, § 7.1 Preliminary Development Plan, and Article V, § 7.2 Final Development Plan of the Code.

Staff Recommendation: Staff recommends approval of Master Plan, Preliminary and Final Development Plan to allow a Community Service Facility on 40 acres in conformance with Ordinance No. 2010-13, which amends Article III, § 7; Article V, § 5; and Article V, § 7 of the Santa Fe County Land Development Code, Ordinance No. 1996-10, subject to the following conditions. Mr. Chair, may I enter them into the record?

CHAIR ANAYA: You may enter them into the record.

The conditions are as follows:

1. The Applicant shall comply with all review agency comments and conditions as per Article V, § 7.1.3.c.
  - If the improvements to Stone Cabin Road can be restricted to this area of previous disturbance on the west side of the road, then the proposed widening of Stone Cabin Road will not adversely impact LA 175659. If LA 175659 can be avoided then this trail segment should be placed in a non-disturbance easement. If the road improvements cannot avoid LA 175659, then a treatment plan must be prepared to mitigate the adverse impacts to the Santa Fe Trail.
  - The Applicant shall address the approach of Stone Cabin Road to meet Article V, § 8.2.7d which states, "grades at the approach to intersections shall not exceed 3 percent for 100 linear feet, excluding vertical curve distance."
  - Return radii shall be a minimum of 30 feet.
  - All internal radii shall be a minimum of 30 feet unless approved by the Santa Fe County Fire Marshall.
  - Stone Cabin Road shall be improved to Local Road Standards as Article V, § 8.1.3 of the Code.
  - The Applicant shall demonstrate that existing culverts are sized correctly to accommodate storm run-off.
  - The Applicant is proposing to accommodate run-off via bar ditches, these bar ditches traverse slopes of approximately 11 percent, the Applicant shall demonstrate how they will reduce the potential for erosion.
  - The Applicant shall provide a 50 foot asphalt apron from the edge of Old Santa Fe Trail on the approach of Stone Cabin Road.
  - The Applicant shall provide an R1-1 30"x30" at the exit of the property.
  - Driveway, turnouts, and turnarounds shall be County approved all weather driving surface of minimum 6" compacted base course or equivalent.

- Minimum road way width shall be 20' and an unobstructed vertical clearance of 13'6".
  - The secondary emergency access/egress loop shall be designated and legally recorded on the registered plat.
  - Driveway/fire access shall not exceed 11 percent slope and shall have a minimum 28' inside radius on curves.
  - The Application shall comply with Article 1, § 103.3.2-New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.
  - Upon completion of the permitted work the Applicant shall contact the Santa Fe County Fire Marshal to conduct a final inspection.
2. Master Plan, Preliminary and Final Development Plan with appropriate signatures, shall be recorded with the County Clerk as per Article V, § 5.2.5.
  3. Prior to recordation of the Master Plan the Applicant shall record a Lot Consolidation Plat, combining Lot 1-A (20.00 acres) and 1-B (20.00 acres), creating a 40 + acre parcel to be utilized by the Amma Center.
  4. The Applicant shall monitor the traffic created by the approved use. If it is determined that the development generates more than the estimated 25 vehicles per peak hour, the Applicant shall provide Santa Fe County with a revised Traffic Impact Analysis.
  5. Water restrictive covenants, restricting the water use to 0.50 acre feet per year, shall be recorded along with the Final Development Plan. Meter readings shall be submitted to the County Hydrologist on an annual basis. If the water use exceeds 0.50 acre feet per year the Amma Center may have to adjust their water use for individual uses in order to stay within 0.50 AFY. This shall be noted on the Master Plan/Development Plan.
  6. Large events, exceeding the daily use, at the Amma Center shall be required to obtain a special event permit from NMDOT and a Special Use Permit from Santa Fe County.
  7. The dimensions and location of the Applicant's signage must comply with Article VIII, Sign Regulations.
  8. The Applicant shall submit a financial guarantee, in sufficient amount to assure completion of all required improvements prior to Final Development Plan recordation, as per Article V, § 9.9.

MR. LARRAÑAGA: Mr. Chair, also staff recommends the Board make three motions: the first regarding the master plan, the second regarding the preliminary development plan, and the third regarding the final development plan. Mr. Chair, also you have two handouts. One was a review letter that didn't make it in time for the packet material from New Mexico Environmental Department on the site and the other is a support letter handed to me by the applicant prior to this hearing.

I stand for any questions.

CHAIR ANAYA: Thank you, Mr. Larrañaga.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: The applicant agrees to all the conditions? I'm asking staff.

MR. LARRAÑAGA: Mr. Chair, Commissioner Stefanics, the applicant has read the report and they haven't told me that they've agreed to all the conditions but at the CDRC they agreed to all the conditions.

COMMISSIONER STEFANICS: Okay, so let's ask the applicant. Do you agree to all the conditions?

CHRIS GRAESER: Mr. Chair, Commissioner Stefanics, yes.

COMMISSIONER STEFANICS: Thank you very much.

CHAIR ANAYA: Thank you, Commissioner Stefanics. Any other questions of staff?

COMMISSIONER STEFANICS: Mr. Chair, there is one other question. The Environment Department talks about the liquid waste is set up for six bedrooms, not 100 people. What improvements will be made for the larger group?

MR. LARRAÑAGA: I kind of read over that section on MBH 2 on my report where in the event of larger events the applicant can submit for a special use permit and at that time they would address to have the facilities there – the porta-potties, for the larger events.

COMMISSIONER STEFANICS: Thank you very much.

CHAIR ANAYA: That you, Commissioner Stefanics. Other questions of staff? Is there anything the applicant would like to add at this time?

[Duly sworn, Dolores Vigil testified as follows]

DOLORES VIGIL: Good evening, Mr. Chair and Commissioners. My name is Dolores Vigil. I am with Liaison Planning Services. I'd like to recognize the team that will be testifying and answering any questions that you may have. We have Christopher Graeser with the Graeser McQueen attorneys at law; Morey Walker with Walker engineering; Meghan Hodkins with Glorieta GeoScience and Steve and Kathy Schmidt of Amma Center of New Mexico.

We represent the applicant, Amma Center of New Mexico, and are here to answer any questions you may have. Amma Center is a religious organization of 501c3 which receives tax deductible donations from members in New Mexico, Arizona and Colorado. In addition, Amma Center has fundraisers to raise money to provide food and clothing for homeless, children's school uniforms and literacy programs. The donations support these charitable programs, the ashram and expenses like rezoning applications, legal and land use fees.

Amma Center is a small residential community that provides Amma's members a place to worship and live and convene. Members are devotees of Amma an international spiritual and humanitarian leader. We are here to request master, preliminary development plan and final plan approval of 40 acres owned by Amma Center. The property is surrounded by 177 acres of primarily vacant land and is located on Stone Cabin Road which is accessed by a 2,800 linear foot easement off of Old Santa Fe Trail. The request is from rural residential to community service facility as requested by the County in order to define the uses.

Amma Center began holding meetings in 1987 at the home of Steve and Kathy Schmidt where they still reside. Their home is located east of the 40 acres. In 1996 the

Schmidt family donated 40 acres to Amma Center of New Mexico. That year Amma Center obtained permits from Santa Fe County and built a 5,000 square foot residential ashram. The ashram is and always has been used for long-term housing by Amma's members. Up to seven people have lived in the residence at one time. Currently, only two members live there. In 1993 permits were obtained from Santa Fe County for a 1,400 square foot meditation hall. The hall has been and still is used as a gathering space for meditation, worship and prayer meetings. The hall is not plumbed so most attendees bring their own water to drink. If they need the restroom, they use the ashram which is located on the property. Approximately 30 to 40 people attend these gatherings on Saturday between the hours of 6 and 8 p.m. It is important to note that the septic system has never been overtaxed as speculated by opponents at the CDRC meeting.

To support the ashram and provide sustainability a greenhouse was erected about eight years ago. In addition, 10,000 gallon water holding tanks were installed that provide alternative water conservation measures for the greenhouse and landscaping.

From 1986 to 2004 Amma Center hosted large gatherings were Amma would visit. Prior to the events, Amma Center always contacted the County for approval which was given verbally by Land Use and further they followed up with any specific instructions that were given by staff.

After 2004, the large events were moved off site and held in different venues in Albuquerque and Santa Fe. The last two years these very large events were held at Buffalo Thunder Resort. Several additional events have occurred on the property that may bring in 90 to 120 people. These events coincide with, as Mr. Larrañaga explained, Amma's birthday and Swami's visit.

At the CDRC meeting there was much confusion regarding the application. The original application included a 16,000 square foot gathering hall where the large yearly events would be held. Since, contrary to what was testified at the CDRC meeting by the neighbors, Amma, herself, decided to continue to hold these events offsite. Thus, the original application was withdrawn.

The application before you does not include a request for a new structure for Amma's annual program. The applicant is asking for approval for what has been occurring there for 29 years, excluding Amma's annual program.

The Santa Fe County Land Use Office has recognized and has been aware of Amma Center's activities during this entire period starting with Gilbert Chavez, the Land Use Administrator in 1987. The applicant has worked diligently with County staff and all reviewing agencies to comply with all regulations. County staff recommends approval for this application for Amma Center to be a community service facility. Your approval is greatly appreciated. Mr. Graeser, Mr. Schmidt would like to add to this presentation with a brief explanation. Thank you.

MR. GRAESER: Thank you, Mr. Chairman, Commissioners. I have handed out a letter and supporting materials. I won't belabor those points. I just want to address a few key points to you.

The primary one is that the Amma Center is small residential community. It is also a place of assembly for its members to worship and a base for the charitable activities. The most important point, and to reiterate what Dolores said is, we're not asking for anything new, just what has been happening there for 20 years. In the spirit of

cooperation we agreed to apply for approval and also because it will make Amma Center's rights more clear. We've been working with staff for several years now. We've obtained recommendations of approval from land use, traffic, hydrology, fire, everyone else. We have addressed all staff concerns, all staff questions and requirements.

I want to be very clear that there has been no unpermitted development and no unlawful use on the property. All buildings were permitted. Every year when Amma was visiting the Amma Center would call the County to determine if any sort of special permit was needed and they were always told one was not. I think Steve Schmidt will talk a little bit more about that history, about what Amma Center means.

I wanted to touch on the code provisions starting with Article 3 Section 7.1, community service facilities are allowed anywhere in the County. So unlike commercial uses that are limited to where they can occur, places of worship can be anywhere. And, in fact, the Sustainable Growth Management Plan encourages location of places of worship within communities. And it's particularly relevant with this application because there are many, many neighbors who visit the center. Similarly, the Sustainable Land Development Code permits uses anywhere in the County and that would be the most recent expression of policy from this Board. There are also other reasons that religious uses are allowed anywhere and these are constitutional, federal, state law that protects religious uses. There must be a compelling government interest to warrant substantially burdening religious practices such as by denying them or unreasonably conditioning them.

Amma Center does constitute a religious use of land as the County Assessor has already recognized. The requirements under 7.1.1. proposed facilities are necessary in order that community services may be provided for in the County. The community services to be provided here are specifically long-term housing for members, provision of assembly and worship for many devotees of Amma in Santa Fe County, and significant volunteer and charitable services to the local community. This is the only option in Santa Fe County or anywhere in the area for Amma devotees to connect.

This location in particular is considered consecrated ground for devotees due to the significant history and long-term connection with Amma with the property. This property was also donated to the Amma Center specifically for this use and the Amma Center is not in a position to purchase property elsewhere for this use. Finally, the quiet rural setting is consonant with Amma's own values of in ethos of environmental preservation and respect for the natural world.

7.1.2, the use is compatible with the existing developing in the area and is compatible with development permitted under the code. As I noted, community service facilities are allowed anywhere in the County as are residential and agricultural uses. By definition community service facilities must be compatible with residential uses because they are specifically made to co-exist under the code. There is nothing about this area of the County that makes it uniquely unsuited to the current use and the requested use. It is in the El Centro growth management area which is the fastest growing region of the County and it's in the SDA2 where new development is likely to occur.

The lot consolidation that Amma proposes will mean that this center is on a 40-acre lot in the middle of 200 acres owned by the Schmidt family; so in essence, it has its own built in buffer. By the way the Schmidts have never developed their property

despite having over 200 acres other than the Amma residential ashram and a few family homes.

I did a little quick math. There are 30,634 dwellings in the unincorporated County. There's 1,168,000 acres in the unincorporated County that puts us at an average of 38 acres per dwelling unit, right at the 40 acres that Amma Center is.

We've addressed, in the process of addressing code and staff concerns, we have addressed major issues brought up by concerned neighbors and opponents. The first being fire. The reality is we are facing significant, expensive requirements to obtain Fire Prevention Division approval. We accept those requirements in the context of being a responsible resident and neighbor. We understand community concerns about fire but the scenarios presented are not supported by the evidence. The fact is this approval is going to require better fire apparatus access roads, vegetation management plan, additional water storage in the form of cisterns – it will be in a better position to prevent fires than any surrounding properties.

Second concern raised is water use. We have a budget of .50 acre-feet. We have allowable use of .50 acre-fee which has been accepted by staff. Over the course of 20 years out there water use was, at least for the first 18 of those years, .59 acre-feet per year. They simply have never taken meter readings. Once they did so, they instituted water conservation measures including getting reverse osmosis water filter, including changing out their landscaping for low-water use landscaping, it is, in fact, the outdoor uses that are significant in addition to not have the large events with Amma that had occurred every year. They are now down to a fairly consistent .35 acre-feet per year. We are confident that Amma Center can easily live within the .5 acre-feet requirement.

The water budget is also conservative. We have an allowable water use of .5 acre-feet and there's no reason to limit the budget to less than .5 acre-feet so there is room in there to adjust amongst the uses in the water budget. And we will submit annual water meter readings and subject to enforcement.

Traffic was a major issue raised. The traffic impact analysis was submitted and approved. History has demonstrated that there is no significant traffic, or really no traffic impact at all whatsoever during regular usage of the center. Levels of service will remain acceptable. We do have a requirement from Public Works Department that if we're seeing peak traffic, more than 25 trips per peak hour, we'll have to revise the study and address that. There have been, we acknowledge in the past, a few occasions during special events where there was some traffic backup on Stone Cabin Road. Amma Center certainly learned from those events and will address traffic concerns with any larger events in the future, particularly larger ones that might require a special use permit which would require a traffic management plan.

We believe we have addressed all staff concerns, all reasonable concerns from neighbors and opponents related to the current application. We have tried working with the opponents but we can't really – if the concern that they don't want us there we can't really address that concern.

As I noted, we accept all County conditions of approval. We don't have accept the conditions of approval proposed by the opponents. They are unfair, unreasonably treat the Amma Center differently from any other land owner. And I think what is going on is the opponents know that the land use is permitted and they are attempting to use water

use to bootstrap a land use regulation. But this would unfairly limit Amma Center's uses, potentially infringe on Amma Center's religious rights. The fact is, there's a budget and we need to live within that budget. It is subject to enforcement and we are committed to living within it. Similarly, traffic; we have a limit on traffic and we have to live within that. So this proposal is very compatible with the overall area which is primarily rural residential with businesses and community services facilities interspersed as you see on the map. In shorthand pretty much everything that is not in green is a non-residential use, including of course nearby community facilities on Camp Stony, the La Cañada church, Desert Academy – it's an existing use, it's a compatible use, it meets all the code requirements and there's no compelling reason to reject it. As I mentioned, there is a federal law overlay. I don't even think we need to get into that because the applicant meets the code requirement and staff recommends approval. We agree with the staff's conditions.

Before I sit down I want to address – I understand that the opponents want to show a video of a discussion with Mr. Schmidt taken last year. And as Mr. Schmidt will tell you, he ran into his neighbors on the road. They engaged in a conversation and then started videotaping the conversation and now are going to use a 30 second clip of a 10 minutes conversation taken out of context against them.

It's appalling to me if we're at a point where you can't talk to your neighbors without being videotaped and have that become a public record used against you. I don't think it should be allowed for that reason. That said, I don't think that there's any concern. It's not particularly relevant. Mr. Schmidt at the time was explaining all the potential uses that could be involved in a community service facility. Amma Center subsequently decided to simply apply for its current existing use and that's all it is asking for. Anything else that could have been applied for is not relevant. It is again just asking for approval to what they're doing now.

So on behalf of numerous supporters and we may have lost about half the folks we had over the course of the night, but if I could get a show of hands of supporters of the Amma Center. Lots of them did stick it out and I am sure you'll hear from some of them. So we look forward to and appreciate your approval. I am happy to answer any questions as are anyone from the Amma Center or Mr. Walker and Ms. Hodkins.

CHAIR ANAYA: Thank you, Mr. Graeser.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Yes, I have a couple of questions for either

Mr. Karnes [sic] or Ms. Vigil.

CHAIR ANAYA: Okay, if we could get the mike turned up so we could hear a little better.

COMMISSIONER HOLIAN: Can you hear me now?

COMMISSIONER CHAVEZ: Better.

COMMISSIONER HOLIAN: How's that?

CHAIR ANAYA: That's better. Go ahead, Commissioner.

COMMISSIONER HOLIAN: My first question is what is the maximum number of people whom you might expect at a gathering hosted by the Amma Center?

CHAIR ANAYA: Maximum number of people expected for a gathering.

COMMISSIONER HOLIAN: At any of the kinds of gatherings that you might have.

MS. VIGIL: Mr. Chair, Commissioner Holian, 120.

COMMISSIONER HOLIAN: Okay, and would you expect to ever have a gathering at which there would be more than say 27 vehicles?

MS. VIGIL: No.

COMMISSIONER HOLIAN: And, let's see, how far away is the nearest neighboring residence?

MS. VIGIL: Mr. Chair, Commissioner Holian, it is to the east of the property, the 40 acres, and is owned by Kathy and Steve Schmidt.

COMMISSIONER HOLIAN: Where or how far away would the nearest neighboring residence be that is not owned by the Schmidts?

MS. VIGIL: I would say – that person actually uses the same easement that is used for the Amma Center and that easement was actually given by Kathy and Steve Schmidt and I would assume it is probably, it's hard to see on this map, but I think I can point it out to you. It is not adjacent to directly adjacent to, I think there's maybe about 10 acres between.

COMMISSIONER HOLIAN: And my understanding is that you don't have any current plans for any future development on the property. Any further building, is that correct?

MS. VIGIL: No, we do not.

COMMISSIONER HOLIAN: And, I guess I have one other question. Are you going to be putting in a water supply cistern by any chance that might be used for fire protection purposes?

MS. VIGIL: Mr. Chair, Commissioner Holian, that is not proposed in this application but there is an approximately 10,000 gallons of cistern and holding tanks that could be used for fire protection if need be.

COMMISSIONER HOLIAN: Thank you. And, then I guess I have one question for staff and that might be for Marshal Patty and that is to explain what the requirements are for the center with regard to fire safety?

FIRE MARSHAL PATTY: Mr. Chair Commissioner Holian, being as they are not adding any new buildings, the one gathering building that they get is under the 1,500 square foot that triggers the sprinkling and the water storage. So at this time they don't have to have any because the fire department will haul the amount to meet the ISO requirement of rural fire fighting of 250 gallons a minute for two hours, which is 30,000 gallons.

COMMISSIONER HOLIAN: I see, thank you, Marshal Patty. Those are all my questions, Mr. Chair.

CHAIR ANAYA: Thank you, Commissioner Holian. Are there other questions or comments. Ms. Vigil go ahead.

[Duly sworn, Steven Schmidt testified as follows]

STEVEN SCHMIDT: Mr. Chair, Commissioners, my name is Steven Schmidt. I'm sorry I have to prolong this any longer than we have to since it's so late but I just want to mention that much of the opposition against Amma Center has been directed at me personally. Kathy and I, my wife Kathy, and I, donated the land for the

center. But we do not control its membership. We don't control its activities or the programs. The Amma Center has a life and character of its own. People come from the Santa Fe area and other parts of New Mexico to pray, sing, meditate, prepare meals for the homeless and other activities. Over 100 volunteers are organized every year to host Amma and her entourage when she has a public program at what's been the last two years at Buffalo Thunder. There are no plans, may I repeat, there are no plans for expansion of the Amma Center facilities. By granting this request our spiritual community will continue to operate with minimal impact on the land and resources.

Having been involved with the Amma since its beginning I would like to explain why this land and this location mean so much to us. Amma held annual programs on the property for 18 years starting in our living room in 1987. Amma held the very special event [inaudible] in the Amma Center temple which makes the temple most holy. Moving to another site could never recapture that history or the blessings the property has received. For many years we had the large annual events around Amma's visit on the site. We no longer do that and will not in the future.

Every year I would meet with County staff. I believe the first year in 1988 I met with Gilbert Chavez who was the Land Use Administrator and explained to him what we were going to do. He told me that I did not need a special event permit and that I should stay in touch with the County. Every year that we had the programs there and that was for 18 years until 2004, I was in contact with the County particularly Greg Al-Yassin and every year they told me that if the event resulted in a code enforcement complaint then Amma Center would have to get a permit. I am frustrated because it was the opponents who insisted that we get approval to be a community service facility. We were very, you know, content just being private like we have been since 1987. It's like they were for us to become a community service facility before they were against it. It's like they for it before they were against it and now they're against it and we are suffering the fallout.

There are many troubling claims and misrepresentations. I am sure you will hear some personal attacks against me from Mr. Karnes. As an example, it is said that our burrito project impacts the neighborhood and will exceed our water budget. Although we are joyful to have serviced over 100,000 burritos to the homeless for the last 20 years the reality is that the project is five people in the kitchen and only the water used to cook a pot of beans and wash our hands when we are done.

Other claims that I am a developer and that we have a hidden agenda to expand beyond what we are requesting. That is simply not true and as a practical matter why wouldn't we ask for approvals or expansion plans if we had the intent to expand our activities. We have no plans to do anything other than what we have been doing peacefully for almost 30 years and that is serve the homeless with food, warm clothes, buy children's uniforms for the high schools and support various other charitable activities in the community.

What the opponents called a large unpermitted event in September of last year, in fact, was a visit by a monk. A person during – at the beginning of this event told me that there was somebody in the road harassing the people coming with a video tape and with signs that were threatening against Amma Center, I went out to see what was happening. And I saw Ms. Sahlin in the middle of the road harassing all the people who were coming up the road to the monk's event. I saw her brother who is a friend of mine and he came

over and got in the car with me and started talking to me and Ms. Sahlin came in the car put a video camera in my face and at that point it was pretty frustrating. And I addressed to her my really truthful feelings about what we were doing. And what I basically said to her was, I said you know we would really just like to remain private and not have to go through with this community service facility approval because once we do that we become public and a community service facility is like a church, a police station, a fire station, a camp, a community center and we become public and we have more rights than we would have if we just remain private. Mr. Karnes is going to try to show that I was threatening them with expansive activities and I wasn't.

CHAIR ANAYA: Sir, if I could. I appreciate your testimony and the testimony of everybody that is going to come before us today. Do me a favor, just provide your feedback and let's not speculate on all that you presume might happen.

MR. SCHMIDT: Okay.

CHAIR ANAYA: I'll make sure that we maintain decorum in the discussions and hopefully we don't get into redundant comments. Do me a favor if we could, let's not speculate on what might happen and let's provide your input and we'll go through a public hearing process and I'll do my best to keep the decorum fair and appropriate for all parties involved.

MR. SCHMIDT: I understand. Thank you.

CHAIR ANAYA: You bet.

MR. SCHMIDT: So, finally as I said, Amma Center is on land that was donated. It does not have the resources to relocate elsewhere and any fund raising it does is to put its funds back into community service efforts for the poor nor would it want to relocate due to the consecrated nature of the existing site.

In the end, I ask you to approve our permit request to keep doing the peaceful, beneficial and very small scale works we have been doing all along. Thank you.

CHAIR ANAYA: Thank you, sir.

MS. VIGIL: Mr. Chair, Commissioners, that concludes our presentation. We stand for any questions that you may have, thank you.

CHAIR ANAYA: Any other questions or comments at this time? Seeing none, this is a public hearing and I will open the public hearing for those that want to speak in favor or against this particular project. What I'm going to do, is I'm going to alternate. I'm going to do against or in favor and alternate back and forth. I'm not going to put a clock up right now but I'm going to respectfully ask that we not be redundant in our comments. If something has already been said, let's not be redundant in our comments. I would respectfully ask that from all of you on both sides.

Please stand and be sworn, if you would.

[Those wishing to speak were administered the oath.]

CHAIR ANAYA: So like I said, people that are in favor and against, we're going to alternate back and forth between the two. And if you don't mind, could you move the maps back? Thank you, appreciate that.

And another thing I'm going to do just to make sure that we maintain a respectable decorum, those people that are against I want you to be against, I want you to be on this side and those people that are for I'd like you to come from this side, if we could from this side if we could.

So if you're going to speak if you'd line up and I'm not going to put the clock like I said, but, please, please, please be respectful of one another and the time of night for lack of a better word. And if we could start with you, sir.

SCOTT ARMSTRONG: My name is Scott Armstrong. I live at 14 Jericho Lane in Santa Fe County. And I am under oath.

I am going to make just a couple points on the way. We, my wife and I, enjoy the ethnic cultural and economic diversity of our community and we have no problems with the Amma Center's religious practices. I am not even aware of the events that were just described. But we have a series of concerns that I think go to the heart of what it is to have a community service facility in your neighborhood. We live on a cul-de-sac that starts from Two Trails Road and Old Santa Fe Trail, that's where the bottleneck is, and goes up and around, basically, the area you see in that map. It includes during the day time roughly 2,000 people and roughly 1,000 cars or vehicles that would have to exit. And we live there at sufferance of the – as the result of the support of the Hondo Volunteer Fire Department, one of the finest in the country.

On June 6, 2013 we were asked to come to a meeting by the Hondo Fire Chief and we went to the meeting and at the meeting he discussed the notion of the fire conditions in the area and the fact that we were facing a potential fire disaster in the area and would we please help work on an evacuation plan. We got involved at that point and that led, from my point of view, to what became as known as the organization of Preserve Old Santa Fe Trail. When we began to look at it we recognized that the bottleneck that would occur in an emergency if under a very short period of time while the fire department is coming in one direction into the cul-de-sac, 2,000 people and 1,000 vehicles presumably some with horse trailers and other things were going to be exiting.

Now, it may sound like an unlikely event but we know how severe the fire conditions have been in the last five years. And to illustrate on November 5<sup>th</sup> on a point that is actually on their – there's a little red dot down on their thing, which indicates the Red Sky, some sort of Red Sky Center, which is just above that is to say, just west of the bottleneck so it is not within our area. There was a fire that 13 Hondo fire people responded, Glorieta and Santa Fe County and Santa Fe City all responded and they had to stage it on Santa Fe Trail because they couldn't get back into it because of the size of the equipment which is one of the problems that we have with this site is how much of the equipment can get back there. As a result, the structure burned completely to the ground and they had to shut off Old Santa Fe Trail to have the staging area to allow them to get any water in at all. And I don't think we have the equipment that can get 30,000 gallons in a situation like that, much less to one up the location where the Amma Center wants to be.

Last night we had another fire and that fire was up on Overlook Pass and it was in a separate garage. It burned to the ground. But it was very difficult to get fire equipment up there. They could only get one small engine up there. They had to then relay and shuttle water up and as a result it burned to the ground. Had it been during the fire season the Deputy Chief told me he would have expected that would have gotten the main building, the trees around it and we would have had a major disaster. Exactly, the sort I am talking about. So we are not talking about something that is unlikely. We are talking about two incidents that if in the right season would have –

We all know that the Hondo Fire Department is having difficulty recruiting. It needs additional support. That's another matter before the County. One of the things in your code –

CHAIR ANAYA: Sir, I'm going to respectfully stop you. I'm going to let you finish but I'm going to say this, behind you there's a lot of people and I'm going to be equitable with time and I got your point on your third sentence that you're concerned about the fire impact and you're concerned about ingress and egress. So, respectfully, I'm going to ask you to close and I'm going to ask all of you standing there on both sides, for and against, not to be redundant with your comments and not to go on and on about the same thing. Because I'm telling you respectfully, I got what you're after in the second or third sentence that you said it. So, respectfully I'm going to ask you to close in fairness to both sides and I'm going to do this on both sides. I didn't put the clock up there on purpose but I don't want to get in a situation already on the first speaker where I move to do that. So if you could – I'm going to respectfully ask you to wrap up and then we're going to go through some additional comments. Okay?

MR. ARMSTRONG: I will wrap up. You mentioned the community services facilities would be evaluated. They were evaluated. The traffic study is not an appropriate traffic. It needs to be a traffic study under stress, what would happen in an emergency not one that is done under the idea conditions. Not to mention it doesn't – for a cul-de-sac – it doesn't presently meet the traffic study does not meet the present standards.

Lastly, I think that the – you need to have the traffic study evaluated by people with fire expertise and people that have studied the emergency evacuation procedures that we put into place which are quite cumbersome and would take several hours to execute. I'll leave it there.

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

BARRY GREEN: Thank you, Mr. Chair, Commissioners. I will try to be brief. I am Barry Green, I testified earlier. My property is about one mile from the Amma Center but more importantly I have to drive past it to get out of the cul-de-sac that was just mentioned. I met Steve Schmidt in 1996, that's when I started living on my property. I don't know why people are saying negative things about him; I think he's a great guy. I even in the 80s went to some of the Amma meetings when they were at St. John's College. About 300, 400 people were at each of those meetings. I'm a neighbor. I don't have anything against them.

But I did want to raise two concerns and sort of along the lines of the other gentleman. We can only get to our properties through one road and that road goes up a big steep hill and that's where the entrance is to get to the Amma Center. Twice now I've been in some really scary situations on that road and I think that needs to be addressed. Once, I was coming home and about halfway up that hill someone had lost control of their vehicle and hit a power pole and the power line across the road dropped and it was the middle of winter and for 2.5 hours we were not allowed to go home until the power company got out there and did something about that line. And I've counted it, from Two Trails Road/County Road 67 C to my road the power line crosses the road 23 times. So that's 23 chances for someone who loses control of their vehicle or a fire drops a power line across the road and trap everybody there. I think something needs to be done

about that.

The second thing is, right where the driveway is to Steve Schmidt is the worst part of the road to the Amma Center, Steve Schmidt's house. It is the worst part of the road. It is designed wrong. People go off the road in the winter all of the time there. There's a guardrail now that stops most of them. I was hit head on by my neighbor coming down that road sliding in the ice and hit me head on, I don't know, in 2000 or so. So in the winter time, again, there's another concern about the road that it's really dangerous in that section right where they enter into the road that goes to the Amma Center. I don't know that it's the Amma Center's responsibility to deal with the road but since I was here earlier for the hearing I wanted to mention that to at least make the Commissioners aware that there's some problems on that road that you should really be concerned with.

CHAIR ANAYA: Thank you, sir. Appreciate it.

MR. GREEN: Thank you.

DAVID BIRNBAUM: Good evening. David Birnbaum and I live at 7727 Old Santa Fe Trail and I'm the president of the Preserve the Trail Association. And I'll be brief.

I live less than a mile away and I'm painfully aware of the very limited water resource that we all share having drilled four wells on my property and hauled water in a tank in my truck at times as each of the first three wells failed. So when a neighbor applies to permit a use which clearly will consume a large amount of water and submits three water budgets all of which leave out significant uses I am alarmed.

The first budget submitted by the applicant in the spring of 2015 specified seven full-time residents using the total of the allocated .5 acre-feet ignoring the weekly meetings which draw approximately 40 people and the weekly event where 100 burritos are made as well as several larger gatherings of over 100 people each year.

The subsequent revisions of the water budget reduced the proposed number of residents but still failed to include all the uses the applicant proposes. The CDRC members in recommending denial of the application seem to recognize that the proposed solution of depending on their promise to live within the budget despite having documented themselves that they don't have sufficient water by requiring annual reporting of the monthly well meter readings would not be a timely enough response to protect the fragile water supply that we all share.

The other concern which the CDRC members agreed was a significant concern is the fact that the septic system for the property was designed and permitted in 1994 for a six bedroom house and that for a variety of reasons there is a reasonable expectation that it would not properly treat the waste generated under the proposed use. And would therefore probably or possibly release contaminated water or result in contamination of the groundwater. The attitude of the applicant in response to my raising this concern was surprising and disappointing because there were statements made indicating unrealistic assumptions about the participants at the weekly events not using toilets and a testimony by an expert that the system can treat a lot of waste as well as a refusal to install a modern advanced-type system that would purify the waste to a degree which would allow the outflow from the system to be used for irrigation and to be much less likely to contaminate groundwater. In responding to these concerns, the applicants exhibited a lack of willingness to consider alternatives which were proposed, which I believe

contributed to the CDRC recommendation for denial.

The assertion this evening that the system has never been over-taxed is meaningless in the context of our objection as this system does not need to overflow in order to malfunction and potentially pollute groundwater. There is a history in our neighborhood of many promises made and broken: promises to keep the noise down late at night when a mile away it was keeping my children awake; promises to reduce the number of participants; promises last year that there would be no event and then a surprise tent gets set up and there's 200 people coming in on tour busses and the idea that this traffic backup never affects any road other than Stone Cabin Road is not correct. We've had people waiting on the long Abeyta Hill that leads up on the Old Santa Fe Trail when there's congestion as people are turning off the Old Santa Fe Trail onto Stone Cabin Trail.

So I am just briefly addressing the fact that they make is sound like we have a personal vendetta against Steve Schmidt which is not at all true. It is simply that we have not been treated honestly in our attempts to be good neighbors and try to live with what has been an unpermitted and out of context use in our lovely rural residential neighborhood. Thank you very much.

CHAIR ANAYA: Thank you. Yes, sir.

RONALD BOYD: My name is Ronald Boyd. I live on 7741A Old Santa Fe Trail. I am three driveways down from Mr. Birnbaum who just spoke which is on the Camp Stoney Road. I drive past the entrance to the Amma Center, Stone Cabin Road, normally twice a day. I have never had to pause for traffic going in or out of the Amma Center property.

The first gentleman who spoke about there being thousands of vehicles going up and down this road is absolutely false. There is only about 100 or so houses beyond this junction so at most there might be 200 cars in the course of a day going in and out. There would never be that kind of traffic jam he envisions. The speed limit at this point is only 20 miles per hour so people are generally moving slow. I have not known of any congestions or traffic accidents in this stretch of the road. Although, Mr. Green who testified earlier said he has had problems with sliding on the ice or a power line being down in the road, that would have nothing to do, absolutely nothing to do, with the Amma Center activities. The only problems with the road have been occasional snow or ice when the County can't clear it fast enough.

On Saturday evenings when there are services held, again, I've never experienced any delays for people going up and down the road caused by attendees of the program going in and out. And you're talking about 15, 20 at the most 25 cars over a two hour period.

The Amma Center property has no large signs or bright lights. Its building is barely visible from Old Santa Fe Trail. There's no smoking. There's no fireworks, no trash burning, or campfires on the property. There's a zero chance that any activity on the property would cause a fire except, perhaps, by lightning. No alcoholic beverages are allowed on the property so there would never be a drunk driver living the property.

At this time there are under three permanent residents on the property and it's capable of housing six permanent residents. The clothes washing machine is water conserving. The toilets are low flow. The dishwasher is run only when it is full. The

septic system has never backed up or smelled bad. All the work for the various projects and programs is volunteer. No one gets paid. I believe we are good stewards of the land and good neighbors. Our contribution to the community is great. But the impact to the land and the neighbors is minimal. Thank you.

CHAIR ANAYA: Thank you, sir.

MR. BOYD: I also have several signatures of people, about 60 signatures, of people who are either present or who were present this evening who were unable or don't want to take the Commission's time. How can I deliver this to you?

CHAIR ANAYA: Give it to staff and we'll make sure that that's included in the record, sir.

MR. BOYD: I'll give it to Mr. Larrañaga.

CHAIR ANAYA: That's fine. Thank you. Yes, sir.

JIM MOORE: Good evening, Mr. Chair and Commissioners. My name is Jim Moore. My wife and I live at 20 Jericho Lane also known as County Road 67B which is just off Old Santa Fe Trail almost right where Two Trails Road comes in. I just want to present a few facts that have been presented to me by Ms. Martinez of the Preserve the Trail Neighborhood Association which we belong to, just to put this in a little bit of context.

The Association itself, just for the record, covers an area where we have County Road 67 at the intersection of Old Santa Fe Trail and Two Roads and it goes all the way out to Cañada de los Alamos. We have eight neighborhood captains as we call them that are serving in a volunteer capacity notifying neighbors of emergencies, evacuation, etc.

I understand from census bureau figures in the last 15 years the Village of Cañada has gone from 310 to 438 residents just in the context of more traffic and more population something that is presumably going to continue. Ms. Martinez has traffic tables that she would like to put into the record which indicate that over the last 12 years traffic along this road has gone from an average of roughly 1,200 vehicles a day to over 2,200 vehicles or trips a day, considerably more than someone just mentioned. And we are served, of course, by the Hondo Fire Department and you're familiar with it but this is a little bit different than other areas in Santa Fe County. It is a land locked area particularly with Cañada. It is in a densely forested area at considerable altitude in terms of the fire danger and so forth.

So I just wanted to put those facts into the record. And we'll be happy to pass out those traffic tables but it is something that is more dense, more traffic and likely to continue independent of the application here and I would urge you just to look at the application in the context of something that is less – it's still rural but it is less so than it was and likely to become even a little bit more that way. Thank you very much.

CHAIR ANAYA: Thank you, sir. If I could have the next person come. I don't want everybody to just stand there the whole time. So sit down but – go ahead and sit down those of you that are just standing respectfully. But please, I'm going to ask again, please be brief and succinct with your comments.

BRENDA WITTNER: I am Brenda Wittner. I live at 3603 State Highway 14, Santa Fe. I want to say that I have been going to the Amma Center for 20 years and I am really here to speak about the spiritual music and the devotion music. However, I just really need to mention that because I drive there and I've driven my

children there I have never had any fear of fire, any fear of traffic, any fear that there are septic problems, any fear that we are not doing what we can for water conservation and care of the environment. And I keep hearing the same thing over and over again which you keep asking the opposition not to say.

So I'm going to speak about singing and listening to spiritual music which is a benefit that Amma teaches her disciples and I deeply believe and many people in our community whether they are Christian, Catholic, whether they are Buddhist, whether they are Amma devotees we all believe that when we pray in that environment the atmosphere is purified and there is a certain level of protection. And that's why my stepfather wears his scapula and that's why I go to the Amma Center. I pray for my family and I sing spiritual songs and I believe that area is protected because of the prayers I do and that I'm not going to get into a fire. I'm not going to have an accident and that the neighbors are protected. I do [inaudible] for world peace when I go there and neighborhood peace and peace in my community. So I want you to know that every night we perform our devotional music and we do six songs, we have five backup singers and we practice and we are accompanied by a keyboard, harmonium and drums. We are so attentive to the volume and the quality of the sound because it is so important to create a devotional mood and not be too low but only loud enough that people want to join in, the 15 to 25 people who are there with me. And when is Amma is in the country, sometimes I am there with 10 other people – it is such a small group. Sometimes there's five cars parked in the parking lot. There is no traffic. There is no danger. And all they are doing, the opposition wants to talk about danger and I'm here to tell you that we pray to uplift the area. To uplift the Santa Fe community. We are just a small group who practice and I don't even want to say anymore. I just want you to know that we then practice enough that we perform for Amma in June at a big convention where thousands of people come and the quality of music for Amma is world class. And we do our best to have supreme sound and we work with the children. I work with the children for them also to sing these spiritual songs. And anymore it's like a little bit of a movement like Tina Turn-on on YouTube you can watch here. She also works like I do with children to help uplift humanity. If anything is going on on the planet where we need it more than ever is for small groups of people to come together and pray. And I ask that you consider how important this is for us. Hundreds of – maybe there's 20, 25 people usually who come to the Amma Center on a Saturday and I ask that you let us continue to go to donated land where people have been generous enough to give us septic tanks and a kitchen to make burritos and a place where we can gather money for uniforms and we gather gloves and hats for homeless people. And, I'm asking you that you let us continue to pray for the entire community through devotional singing and music and prayer.

CHAIR ANAYA: Thank you. An individual from the opposition, come forward.

THERESE MARTINEZ: Good evening, again, Chairman and members of the Board of County Commissioners. My name is Therese Martinez. I am the vice president of the Preserve the Trail Neighborhood Association. I am the fifth generation of my family that has lived in this area for over 100 years. I live at 30 Little Island Road 7/10 of a mile from the proposed development being discussed tonight.

In regard to the application for preliminary and final plan approval to allow

existing structures to be utilized as a religious institution on a 40 acre site at 48 Stone Cabin road we have the following concerns. Ordinance number 2010-13, community service facilities state, and it is still current, Community service facilities are facilities which provide service to a local community organization and continues the proposed facilities are necessary and compatible with the existing development. As a neighborhood we do not find the use providing service to the local community nor necessary nor compatible as is evidenced by the petitions and letters in your packets.

The Hondo volunteer fire department district is not governed by the size of area, square miles, terrain, density or other factors. It is governed by preset boundaries decided years ago to make sure all of Santa Fe County was covered. The proposed center is beyond five driving miles from the closest fire station. For ISO ratings and the general well being a fire substation with equipment and man power would be more of a necessity. More of the type of community service facility needed in our area than the proposed development. With a dedicated water storage equipped with fire hydrant, with draft hydrants.

At the present the proposed development is already using their limit of .5 acre-feet yearly allowance with just the residence in their ashram. The harvested rain water in the storage tanks are not outfitted with the draft fire hydrants so are therefore not a usable source of water for fire suppression. The total gross square footage of the development is 7,600 square feet total. What started in a private residence has grown into a 501c3 and several buildings totaling 7,600 square feet. We want to know what is to stop this use from increasing to the convention center sized building that was initially proposed; covenants, footprint or height restrictions, what about the change of ownership. How is that enforced? What are the parameters to govern this proposed use that states in their proposal no changes to the subject property. Traffic has increased significantly over the several years, the last several years and will significantly increase with the proposed community service facility. Their 2013 traffic study submitted by the applicant recorded 16 trips per hour entering and leaving Stone Cabin Road with peak hours being 7 to 11 a.m. and 2:30 to 6 p.m. that's 104 more vehicles per day, 728 more per week, 21,840 more per month during peak hours. This number is 3,065 times more than the Village of Cañada has increased in one year and 255 times more than the traffic has increased in 20 - excuse me, 12 years in the village alone. These are single vehicle counts that do not include the amount of passengers in those vehicles. And the report also states it would not be a substantial burden on the area yet this amount is more than the County allowance of 25 vehicles per day.

As the CDRC recommended our neighborhood also recommends that this proposal be denied. Thank you.

CHAIR ANAYA: Thank you. Yes, sir.

CHRISTOPHER BENTLEY: Mr. Chair, Commissioners, my name is Christopher Bentley. I live at 2491 Sawmill Road here in Santa Fe, New Mexico. I am one of the volunteers that delivers the burritos for the burrito project to the Interfaith Community Shelter on Cerrillos Road on Sundays. Every Sunday the Amma Center of New Mexico serves a wholesome nutritious burrito snack lunch meal for the needy to one of the homeless shelters in our community. The guests in the shelter are always grateful to have something that they can pack up and take with them for later. We serve

anywhere from 50 and 100 people at a time. We serve people who are destitute with nowhere to call home and also people who have a place to stay or live but are struggling just to get by. We serve young people, seniors and also families. Some with wheelchairs and some with mental disabilities. In the winter we also distribute clothing and at times it seems that the need is greater than what we can provide.

The words that most people commonly use to express their gratitude to us is, God bless you. Many people that we serve have told me that they save their sack lunches so that they have something to eat later in the week. I even had one homeless man tell me one time that one week the only food he had for the whole week were the sack lunches that he took from us. You saved my life, he said.

Our community relies on non-profit charitable organizations, churches, spiritual centers like the Amma Center to work together and provide clothing for the homeless and needy and also food. There are some days when the other organizations that work together with us at the shelter to provide food run out and all that is left to serve are the sack lunches that the Amma Center have brought.

I am never left wondering if my contribution is used appropriately. Every week I see right before my eyes directly, exactly the result of Amma Center's dedication and service to humanity in our community.

I just want to close in saying that Amma has told us that she has only one thing to teach us and that is that our lives should be of some benefit to the world and I am grateful to the Amma Center for providing this opportunity for me to directly serve the community in this way and I only ask that the center be able to continue and operate in the way that it has done for the last 20 years. Thank you for your time.

CHAIR ANAYA: Thank you. Yes, ma'am.

ERICA CHIADO: Good evening, Board of County Commissioners. My name is Erica Chiado and I live at 1 Courts Trail in the Village of Cañada de los Alamos, Santa Fe County. I have been sworn.

I would like to state that I have no issue with the Amma Center or with the Schmidts nor am I against feeding the homeless, eating burritos, or singing – I do all of these things. My concerns are regarding the land use and its impact and the rural character of said land.

My colleagues have already addressed the handling of liquid waste during large gatherings which was not addressed nor required in the proposal. They have addressed special use permits for large gatherings. The intensity and the variance of the use of this land which concerns me. And also the water usage. That is all, thank you.

CHAIR ANAYA: Thank you. Yes, sir.

DAVID GINSBERG: Mr. Chair, Commissioners, my name is David Ginsberg. I live at 3 Monte Alto Way in the County. I run a successful company in the County and for note I am also chairman of the Board of Southwest Care Center as well as Women's Health Services which has a long history of helping to safety net a population of this town and very long history of being supported by the County for which we greatly appreciate.

I have also been a participant and a member, if you will, or devotee of the Amma Center since 1990. In that time I have served on their residence committee approving the residents that come into the facility and chair of the finance committee. I can assure the

Commissioners that our finances are not such, nor have they ever been, to really support any kind of major expansion in that it is a truthful statement that is being presented in the application that there are no plan right now to expand or go beyond the facility size. In fact, really the ultimate goal is to remain where we are and continue the ability to exercise our right to assemble and our civil rights to worship.

Additionally, in my role as the residence committee, one of two people that approves residents, we've really never looked to have more residents than the property can accommodate and that six to seven number has stayed fairly stable although we'll have some residents who will leave and some who will come back but typically the facility does not get overwhelmed in terms of the size.

I think you've heard all the other statements in support of the safety net services that the organization does. Clearly, that is a passion of mine which drives me to service to this community both as chair of Southwest Care Center but also my service to the Amma Center and I would urge the Commission to recognize our long standing role for the community and to approve our ability to continue just what we've been doing for many, many years. Thank you.

CHAIR ANAYA: Thank you, sir. Yes, ma'am.

MARIA MARTINEZ: Buenas tardes y muchas gracias. Thank you kindly everyone. I am Maria Martinez. I am generational and this is where our ancestors have been on both the indigenous and the Iberian history.

We support all the good things that transpire in the community. We understand that the Amma followers work honorably to support peoples at any measure. We have no issue with that. We understand growth is imperative. We would appreciate that all of the concerns cited previously and today be responded to with respect and responsibility individually and collectively.

We recognize that there has been much sentiment, much emotion and we ask solely that we all respect the land and each other for safety and welfare for all of us. It is not a division. It is not a we and they. It is all of us. Let us be whatever intelligent is and whatever gentle is in this reciprocal respect with the land and all the peoples. Muchas gracias.

CHAIR ANAYA: Thank you.

BISHOP DOUG WALKER: Mr. Chair, Commissioners, I am Bishop Doug Walker. I am the ordinary of the ordinariate of Holy Faith and ambassador to the parliament of world religions.

I want to share a little bit about Amma. Amma is a very unique person and I think what makes this community unique is the teachings of Amma. Amma doesn't require her devotees to be Hindu. Many of her devotees are Christian, are Jews, many of her devotees are people of all different faiths. And why they follow Amma and why they serve as Amma asks them to serve is because Amma has a vision of feeding the poor, clothing the naked, serving those who are the neediest in all communities. This community has done that faithfully for 28 or 29 years. To deny them the benefit of continuing on their property would be to deny them their religious freedom and so I stand here in support of the Amma Community and in support of their ability to practice their religion; to practice the charity that they offer to this community. Denying them the right to continue as they have would impact not only this small community but the larger

community of several people who depend on them for help annually. Thank you.

CHAIR ANAYA: Thank you. Yes, sir.

JOSEPH KARNES: Thank you. Chair Anaya and members of the Commission, Joseph Karnes, 200 West Marcy Street here on behalf of the Preserve the Trail Organization. I'll wrap up the opposition presentation by briefly initially reiterating that my clients as some of them have stated have no quarrel whatsoever with the good works carried out by the Amma disciples; that is not what this is about. What this is about is the compatibility or more specifically the incompatibility of the use with the existing development in the area. That is still a test under the code that is being applied tonight and I'll briefly address that test which the CDRC found was not met here. As he did before the CDRC we listened to Mr. Graeser explain his rationale or his understanding of the test basically saying that since community service facilities are allowed anywhere in the county then by definition, that was the term he used, by definition they are compatible with surrounding development. If that was the case we wouldn't be here tonight. The CDRC applied that test and they said, no, that's the reason they were making the determination whether the use is compatible with existing development in the area. They found it was not. Now you have that responsibility tonight. And, in most cases, with a proposed community service facility you're looking into the future. You're anticipating what the impacts of that use might be. Well, here that is not the case. You have before you 28 years of actual impacts. You have the testimony before you. You have a record before you to determine compatibility or the lack thereof.

Now, I'm going to, given the late hour, I'm going to refrain from showing the video and just focus and finish up briefly by addressing the impacts this use has had on the community over the last 28 years. What they have done in the past has resulted in long standing issues and complaints that you've heard about tonight and are in the record. There have been large events carried out without the issuance of special use permits repeatedly. And I'll just point out that the relocation of the weeklong Amma visit every year to outside of Cañada de los Alamos, that's a good thing. That's a positive thing. Likewise, there was an unsuccessful attempt to obtain administrative approval of the 16,000 square foot building as an accessory structure. That didn't go through. That's a good thing as well. However, we are left with these large events that happen every year and the concern that you've heard tonight from the residents of the area is that for 28 years the feeling is that the Amma Center has done basically whatever it wants. It hasn't complied with the County's requirement that community service facilities have approval from this County. They never approached the County. They didn't – they were charged with complying with the code. They heard from Mr. Larrañaga and members of the planning staff for the last several years that they needed to come into compliance with the County code if they wanted to continue their use. That requirement has been held off for a couple of years while they pursued the large building that they eventually dropped but when they decided when Amma, as they just described, decided to drop that proposal then they were left with nothing but a bare unpermitted use that needed to be rectified. That is why we are here tonight.

I'll just summarize on the compatibility issue by reading the statement that CDRC member Bette Booth made before moving that the CDRC recommend denial of the

application before you. I think she understood and expressed very well the issues regarding the lack of compatibility that this community has faced for the past many years. Member Booth said, and I am reading from the minutes of that meeting: Member Booth said that the CDRC has been challenged to look at the legalities of the current and long standing 20 year unpermitted use for this facility. Member Booth said in her review of whether the use is compatible with existing development in the area, it is not. The use is too intense for the area and does impact the surrounding community as documented by the complaints heard today and letters in the record going back to 2000. She said the dead-end road concerned her as well as the tremendous potential for a real major catastrophe to happen, speaking specifically of the fire threat. She said it was just too dense for this rural residential area. Your CDRC is charged with applying your land use code and making a recommendation to you. That's their expertise. That's their job as the planning commission of this county. They recommended denial of the application because based on the 28 year record of unpermitted use, the use is incompatible with the existing development in the area.

I urge you to follow the CDRC recommendation and deny this use. Thank you very much.

CHAIR ANAYA: Thank you, sir.

ANTON KOURY: My name is Anton Koury and I reside at 31 Paseo Vista, Santa Fe, New Mexico, 87508. Respected Commissioners and staff my family and I have been part of the Amma Center community for over 12 years. Like many other families, our children grew up visiting the center, spending time with other children and participating in numerous service oriented activities like the burrito project mentioned earlier. The Amma Center is a safe, peaceful environment and most importantly it maintains a minimal impact philosophy on the environment along with its commitment to serve which like many other parents we wanted to instill in our children through examples. In regard to the request for being granted a community service status, the Amma Center has been a service to the New Mexico community for over 25 years. Along with other families, my family has been providing meals for two Santa Fe area homeless shelters for the past seven years. We cook twice a month, full meals for around 40 people in each shelter. We all take turns cooking in our homes, using our own kitchens to provide the meals under the blessings and support of the Amma Center. Being that the meals happen on Sundays the same day as the burrito project early on we made the conscious decision to cook at our homes and not burden further the kitchen in the facilities at the center.

Both the burrito project and the shelter meals are only a few of the many examples and services that the Amma Center provides and supports. We appreciate your time and consideration in keeping this vital center part of this community, inspiring others, a new generation in service and care for our county and state. Thank you so much.

CHAIR ANAYA: Thank you. Mr. Graeser.

MR. GRAESER: Mr. Chair, I know there were a lot of other people to speak and if no one absolutely has to speak I'll ask you to simply hold your good wishes because I do believe the Commission has got a feel for it at this point, unless the Commission would like to hear from more individuals.

CHAIR ANAYA: I would appreciate it if you would move to closure.

MR. GRAESER: Thank you, Mr. Chair. I'll just take a minute with a couple of comments. The first one, towards Commissioner Holjan's question about traffic, I think to clarify the requirement from staff was no more than 25 peak vehicles per house, or whatever the staff put in there and we can certainly live under that. There was discussion of all the petitions in the record. I need to clarify. There is two different petitions in there. One from opponents and there were opponents to the plan from a couple of years ago for a 16,000 square foot building not to this. There was also a petition in support of this project. As far as fire equipment access we are upgrading half a mile of road to 20 foot wide, full base course, it's an expensive project. It's going to provide much better fire apparatus access.

Morey Walker, you don't even have to stand up. Was your traffic report done to meet all required engineering standards?

MOREY WALKER: Yes, it was.

MR. GRAESER: Yes, thank you. Meghan, does your water budget meet all required hydrologic standards?

MEGHAN HODKINS: Yes.

MR. GRAESER: Okay. And Morey, you have reviewed the engineered septic system plans, is the septic system adequate to meet all required uses in your professional opinion?

MR. WALKER: In my professional opinion, yes.

MR. GRAESER: Thank you. I told my client they had to pay these folks to sit here all night so I needed to get them to testify.

You know, I think the biggest point is that we meet all the requirements, staff has recommended approval, there have been requests from opponents to impose all kinds of conditions of approval, in fact, a fire substation. The reality is the conditions of approval requested by staff are supported by evidence and professional standards. The conditions of approval requested by the opponents are not.

We very much appreciate your time. We know it is late and thank you.

CHAIR ANAYA: Commissioners. Commissioner Chavez.

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER CHAVEZ: Yeah, I just want to thank everyone for their testimony and the time that you put into this. I know it's not easy. It's been stated that the County Development Review Committee recommended denial and that's true but it was 3 to 2 and it was not a unanimous vote. We're not all going to agree on everything all the time. We have to listen to each other respectfully. But we're not always going to agree. So I respect the time and the effort that the CDRC puts into this as well because we may or may not follow through with their recommendation. They are a recommending body.

As was stated earlier there are numerous conditions of approval that staff has placed on this. They're not all numbered by there must be, I'm estimating somewhere between 10 and 12 conditions of approval. The majority and this may be a minor consolation to those that don't support the project right now in its current form or in the application that is being requesting but most of the staff conditions deal with the road surface, with improvements to the road – I'm going to read just a couple of them: The

Applicant shall address the approach of Stone Cabin Road to meet Article V, § 8.2.7d which states, "grades at the approach to intersections shall not exceed 3 percent for 100 linear feet, excluding vertical curve distance; return radii shall be a minimum of 30 feet; all internal radii shall be a minimum of 30 feet unless approved by the Santa Fe County Fire Marshal; Stone Cabin Road shall be improved to Local Road Standards as Article

V, § 8.1.3 of the Code suggests; The Applicant shall demonstrate that existing culverts are sized correctly to accommodate storm run-off; The Applicant is proposing to accommodate run-off via bar ditches, these bar ditches traverse slopes of approximately 11 percent, the Applicant shall demonstrate how they will reduce the potential for erosion; The Applicant shall provide a 50-foot asphalt apron from the edge of Old Santa Fe Trail on the approach of Stone Cabin Road; The Applicant shall provide an R1-1 30"x30" at the exit of the property. I'm going to stop there. It goes on and again the majority of the staff recommendations deal with the road with the ingress and egress.

I'm going to touch on one other condition of approval and I want to ask staff to expand and explain this. The secondary emergency access/egress loop shall be designated and legally recorded on the registered plat; Mr. Larrañaga.

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, yes, and actually on page NBH1 there is a simple little city map that you're looking at on the first page, the two properties are going to be combined to create the 40 acre lot as you see the arrow pointing to them, where the roadway transverses through the other property that is where Mr. Schmidt lives and that's where that plat would have to show the – so there will be an outlet roadway or a turnaround right there to go out for fire.

COMMISSIONER CHAVEZ: So that should help for fire, to respond to fire if necessary but also allow a better flow of traffic in general.

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, that's correct and also that roadway will be a 20 foot roadway with 6 inch basecourse.

COMMISSIONER CHAVEZ: Okay, that's all I have, Mr. Chair.

CHAIR ANAYA: Other questions or comments of staff?

COMMISSIONER HOLLAN: Mr. Chair.

CHAIR ANAYA: Commissioner Holian.

COMMISSIONER HOLLAN: I'm ready to make a motion if there are no further questions.

CHAIR ANAYA: The floor is yours, Commissioner.

COMMISSIONER HOLLAN: Thank you, Mr. Chair. As has been noted this is a community service facility and they are permitted anywhere in the County but I think it is also important to recognize that they have to adhere to certain standards. And I think as Commissioner Chavez just pointed out this facility has met all the use standards including road access issues, water availability, fire protection and so on.

So, therefore, I would like to make a motion for approval of this application with staff recommendations.

COMMISSIONER CHAVEZ: Second.

CHAIR ANAYA: There's a motion to approve the application with staff conditions.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Staff is recommending or requesting three different motions. A master plan, the preliminary development plan and the final development plan. So would the maker of the motion agree to that?

COMMISSIONER HOLIAN: Yes, I will include all three.

CHAIR ANAYA: Mr. Shaffer, do we need those independent motions? Is that the purpose of the statement in – we can do it that way if that's the request. This is one of the first time I've seen it in that format.

MR. SHAFFER: Mr. Chair, Commissioners, I think it's fine to have a single motion to approve the master plan, preliminary development plan and final development plan with the staff conditions. I think that's fine.

COMMISSIONER HOLIAN: Okay. My motion is for the master plan approval, preliminary development plan and final plat approval.

COMMISSIONER CHAVEZ: Mr. Chair, my second for that motion still holds.

CHAIR ANAYA: There's a motion inclusive of master, preliminary and final –

COMMISSIONER CHAVEZ: And all staff –

COMMISSIONER HOLIAN: And all staff conditions.

COMMISSIONER CHAVEZ: -- conditions of approval.

CHAIR ANAYA: With staff conditions. The maker of the motion is okay with that?

COMMISSIONER CHAVEZ: Yes.

CHAIR ANAYA: And the seconder?

COMMISSIONER CHAVEZ: Yes.

CHAIR ANAYA: Before we go to the vote, I have a few brief comments some of which apply to the comments relative to ingress and egress and fire protection and those issues around that particular issue in particular. Having been in the fire service myself for several years there is no fire representative, firefighter, fire chief or officer in the County that wouldn't look at anybody straight in the face with common sense and say that this particular area is a challenge. But the reality is that each person, and I'm going to have a caveat to this next statement, there's families like the Martinezes that are over here and made comments that have been in that area for generation and generation that through no fault or input maybe of their own they have seen a growth in that whole area. And you can pick, there are several long standing families in that whole quadrant and year after year and I'm not picking on anybody prior to us but it wasn't this Commission sitting here but year after year there was growth but there was still that same road and that same loop that all of those same people that drove and I'm going to keep saying with the caveat of those generational families that didn't come up and probably protest having new neighbors at that time but have watched this migration into these areas. Why? Because they are beautiful areas and people wanted to come and have a home and have a place to dwell and live and pray and sing and do all things that we as humans do on a regular basis. But it's – without a question – it's a challenged area. And without a question in that urban wildland interface area, Mr. Patty, Chief Sperling or any of our fire districts would look you square in the eye and say, if and when an event occurs in that area it's going to be a difficult situation to deal with. That's not the fault of the Amma

Center. The reality is that that progression happened over years and years. That wasn't the Amma Center's making. That was a consolidation of different projects and different divisions of land that evolved into a situation that is difficult. What we've done at this point and what we try to do with all projects is we try to figure out how do we, as best we can, mitigate as best we can, Mr. Patty if I can hopefully use the right words, a situation to make it a little better. Will this plan rectify and deal with a catastrophic event, nope, it won't. But will this plan provide for a framework where there can be a chipping away and an improved access, ingress and egress, and water supply, I think it probably will. It doesn't answer your question Ms. Martinez and your frustrations maybe with not just what evolved in those 28 years with this project but all the other houses and growth that happened. But we have to be cognizant that this isn't a brand new facility. This is an existing use and we have to figure out amongst one another with whatever decision happens after this how in the heck do we continue to reside amongst one another and work through other challenges so as Mr. Green said earlier we figure out how to work with the Commissioner and the Commission and the public works department to figure out how to work through the roads and improvements associated with the roads and access to a substation and there may be a need at some point to figure out that. Mr. Patty, I don't know that because of that ingress and that egress issue I don't know that that would even fit into a planning phase but we always want to figure out ways to improve fire suppression and all of those other matters.

I'm going to leave it there but I'm going to say this, when the dust settles we reside among one another in the interest of the collective goodwill. I thank you all for your service that you do in the community for the homeless and others and I pray that there can be some common ground found at the end of the day to figure out how to respect one another continually and I don't imply that there was disrespect. I think people get emotional and they get frustrated but at the end of the day we're all in this together. And somebody earlier today and maybe it was even part of this case said, now more than ever in this society and the things that have happened in other parts of the country and the world I think we have to maybe agree to disagree, not always agree because that's just who we are as a world and a country but we have to reassemble ourselves and put ourselves around some common cause and effort in the interest of goodwill amongst one another. So I'll leave it at that.

Commissioners, other questions or comments? All those in favor of the motion signify by saying "aye."

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

CHAIR ANAYA: Motion carries.

MR. GRAESER: Thank you, Commissioners.

- ~~1. CDRC CASE #Z/DP 14-5370 PNM Caja del Rio Solar Energy Center Project. In Accordance with an Order from the First Judicial District Court in Case D-101-CV-2015-01488, Public Service Company of New Mexico, Applicant, Laurie Moye, Agent, is Requesting to Vacate a Master Plan Zoning,~~





Henry P. Roybal  
*Commissioner, District 1*

Miguel M. Chavez  
*Commissioner, District 2*

Robert A. Anaya  
*Commissioner, District 3*



Kathy Holian  
*Commissioner, District 4*

Liz Stefanics  
*Commissioner, District 5*

Katherine Miller  
*County Manager*

**BCC CASE # APP 13-5062  
ROBERT AND BERNADETTE ANAYA APPEAL  
ROBERT AND BERNADETTE ANAYA, APPLICANTS**

**ORDER**

**THIS MATTER** came before the Board of County Commissioners (BCC) for hearing on November 10, 2015, on the Appeal of Robert and Bernadette Anaya (Applicants), to overturn the County Development Review Committee's (CDRC) decision to uphold the Land Use Administrator's decision to reject a submittal for Master Plan, Preliminary and Final Development Plan deeming it untimely. The BCC, having reviewed the Application, supplemental materials, Staff report, and having conducted a public hearing on the request, finds that the Application is not well-taken and should be denied and makes the following findings of fact and conclusions of law:

1. The Applicants acquired the Property by Quitclaim deed recorded as Instrument # 1543429 on November 6, 2008, in the records of the Santa Fe County Clerk.
2. The property is located at 2253 Ben Lane, within Sections 31, Township 17 North, Range 9 East in a densely developed residential neighborhood.
3. This matter was commenced as a result of a neighbor's complaint about a towing business operating without proper zoning or a business license in a residential area. The Applicants were issued a notice of violation of Ordinance No. 1992-3 (Business Registration and Licensing Ordinance) on February 9, 2012, for operating a business without a County Business Registration.

4. The Applicants authorized Sommer, Karnes & Associates, LLP to pursue the request for an appeal of the CDRC's decision as their Agent as evidenced by a copy of the written authorization contained in the record.

The history of the matter is as follows:

5. On February 12, 2013, the Board of County Commissioners (BCC) conditionally approved Applicants' application for a variance of Ordinance 1996-10, the Santa Fe County Land Development Code (Code), as amended by Ordinance No. 2007-2, Section 10.5, Village of Agua Fria Zoning District, to allow a towing business as a Special Use under Ordinance No. 2007-2, Section 10.5, Village of Agua Fria Zoning District Use Table. A Special Use is an allowed use which is subject to Master Plan and Development Plan approval by the BCC. The approval of the variance was conditioned on the Applicants presenting a Master Plan, Preliminary and Final Development Plan approval to the BCC by July 9, 2013.

6. The Applicants submitted an Application for Master Plan, Preliminary and Final Development Plan on February 8, 2013. On April 18, 2013, the CDRC met and acted on the Application. At the hearing, Staff only recommended approval of the Master Plan because the request for Preliminary Development Plan approval was incomplete due to non-compliance with Article V, § 7.1.2.e & § 7.1.2.j (Development Plan Requirements) and Article III, § 4.4 (Development and Design Standards). The decision of the CDRC was to recommend approval of the Applicants' request for Master Plan and denial of the Applicants' request for Preliminary Development Plan.

7. On June 11, 2013, the BCC granted a request made by the Applicants for Master Plan Zoning to conditionally approve operation of a towing business on 0.33 acres ±. The request was granted subject to the following conditions precedent:

- a. The Master Plan with appropriate signatures, shall be recorded with the County Clerk, per Article V, § 5.2.5;
- b. A Preliminary and Final Development Plan shall be submitted within ninety days, meeting all criteria set forth in Article V, § 7, to be reviewed and presented to the CDRC for consideration;
- c. The Applicants shall comply with Ordinance No. 2007-2, § 10.6 (Density & Dimensional Standards);
- d. Storage of towed vehicles shall not be permitted on this site as per the 1989 decision of the Extraterritorial Zoning Authority. A note stating that the storage of towed vehicles on the site shall not be allowed shall be placed on the Master Plan;
- e. No more than three small tow trucks and two large tow trucks may be stored on the site at any given time.

8. On September 26, 2013, the Applicants submitted a request for an extension of time to submit the Preliminary and Final Development Plan, an amendment to the approved Master Plan and reconsideration of certain conditions contained in the BCC's August 20, 2013, Final Order. The Applicants submitted a letter of request, a copy of the Master Plan Report, Master Plan drawings, fees, a deed, and a recorded plat.

9. On March 11, 2014, the BCC held a public hearing on the request by the Applicants to reconsider the conditions imposed on the Master Plan Zoning approved on June 11, 2013. The BCC then deliberated over the matter in closed executive session on March 25, 2014, and again on May 13, 2014. The conditions that the Applicants requested the BCC reconsider are:

1. The Applicants shall submit Preliminary and Final Development Plan to the County Development Review Committee for consideration within 90 days of approval of the Final Order;
  2. No more than three small tow trucks and two large tow trucks may be stored on the site at any given time;
  3. The implementation of a landscape buffer on the east side of the site alongside the platted easement; and
  4. The listing of personal vehicles that will be stored on the site.
10. On June 11, 2014, the BCC, at a properly noticed, televised open meeting, approved a Final Order which denied the request to reconsider the conditions, however, allowing an extension of the deadline for submitting a Preliminary and Final Development Plan to the CDRC thirty days after the recording of the order denying the request for reconsideration. All other requests were denied.
11. The extension of the deadline for submitting the Preliminary and Final Development Plan to the CDRC was only for thirty days after recordation of the final order granting that extension. The Final Order was recorded on June 13, 2014, making the deadline to submit the Preliminary and Final Development Plan July 13, 2014. Applicants failed to submit the Preliminary and Final Development Plan on or before July 13, 2014. Applicants also failed to timely submit an appeal of the BCC Order denying the application yet granting an extension of the deadline to submit the Preliminary and Final Development Plan.
12. A copy of the recorded Final Order was mailed to the Applicants on June 16, 2014, via certified mail along with a letter stating the following:

“This letter is to inform you that the Board of County Commissioners met and acted on your request for reconsideration of conditions which were imposed by

the BCC for Master Plan Zoning approval to allow a towing business on .33 acres. The decision of the BCC was to deny your Application, except that the deadline for submitting a Preliminary and Final Development Plan to the County Development Review Committee shall be extended thirty (30) days after recording of the Final Order. The Final Order was recorded on June 13, 2014. The enclosed order is a final order of the Board of County Commissioners, which, pursuant to Section 39-3-1.1 of the New Mexico Statutes Annotated 1978, you may appeal by filing a timely Notice of Appeal in the appropriate district court. Any such district court appeal must be filed within 30 days of the recording of this Order. The Order was recorded today, which is a matter of public record.”

13. On June 17, 2014, the United States Postal Service left notice of the certified letter at the Applicants' mailing address. The Applicants did not contact staff nor did they file an appeal with the District Court during the 30 day period. The Applicants did contact staff after the thirty-day deadline to inquire about how to proceed with their Application. Staff advised the Applicants that the deadlines for submitting both the Preliminary and Final Development Plan and for filing an appeal to District Court had lapsed.

14. On August 13, 2014, approximately twenty-nine days after the deadline for their submission, or approximately fifty-nine days after the Final Order was recorded, Counsel for applicants submitted an Application for Master Plan Zoning, Preliminary and Final Development Plan. The submitted materials were identical to the original submittal from February 7, 2013, which had already been determined to fall short of the Code requirements and conditions imposed by the BCC. The submittal had the following deficiencies:

- a. The proposed Master Plan, Preliminary and Final Development Plan drawings did not demonstrate the easement required to create the 28 foot inside radius, at the intersection of Agua Fria and Ben Lane, which is required by the County Fire Marshal;

b. The proposed plan set illustrated 8 parking spaces for trucks, where the condition of approval by the BCC was to limit the tow trucks to 5 (three small tow trucks and two large tow trucks);

c. A Master Plan Report and Development Plan Report were not submitted as per Article V, § 5.2.2 Master Plan Submittals and Article V, § 7.2.1 Final Development Plan Submittals;

d. A survey to create a .33 acre parcel to be zoned as a Special Use, under the Village of Agua Fria Zoning District Ordinance Use Table, was not submitted.

15. On November 13, 2014, the Land Use Administrator issued a letter to Applicants' attorney stating the following: "The submission of the Robert & Bernadette Anaya Master Plan, Preliminary and Final Development Plan is rejected as untimely and not constituting a complete Application."

16. The applicable requirements under the Code, which govern this Appeal are:

2.3.4 Appeals

2.3.4a Filing an Appeal

All appeals under the Code shall be filed in writing with the Code Administrator.

2.3.4b Appeal of Code Administrator Decision under Section 2.3.1 to the County Development Review Committee

- i. Any person aggrieved by a decision of the Code Administrator under Section 2.3.1 may file an appeal to the County Development Review Committee within five (5) working days of the date of the Code Administrator's decision. The County Development Review Committee shall hear the appeal within sixty (60) calendar days after the date the appeal is filed. The County Development Review Committee shall make and file its decision approving or disapproving the application or approving the application with conditions or modifications.
- ii. A decision of the County Development Review Committee on an appeal shall become final thirty (30) calendar days after the decision is filed, unless within that month an appeal of the decision has been filed by an interested person including the Code Administrator, pursuant to Section 2.3.4c of this Article or

the Board on its own initiative has decided to review the decision.

2.3.4.c Appeal of Development Review Committee Decisions to the Board.

- i. Any person aggrieved by a decision of a Development Review Committee may file an appeal in writing to the Code Administrator within thirty (30) calendar days of the date of the decision of the Development Review Committee. The Board shall hear the appeal within sixty (60) calendar days after the date the appeal is filed. The Board shall timely make and file its decision approving or disapproving the application or approving the application with conditions or modifications.
- ii. The decision of the Board shall become final on the date when the decision is filed.

17. The Applicants complied with all noticing requirements of Article II § 2.4.2, of the Code. In advance of a hearing on the Application, the Applicants provided a certification of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for twenty-one days on the property, beginning on September 22, 2015. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on September 22, 2015, as evidenced by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners.

18. At the public hearing before the BCC on November 10, 2015, staff recommended denial of the Applicants' appeal of the CDRC's decision to reject the incomplete and untimely submittal for Master Plan, Preliminary and Final Development Plan approval, noting that the CDRC's decision was in compliance with the BCC's Final Order.

19. The Agent spoke in support of the Appeal, acknowledging that the Applicants missed the deadlines for filing established by the BCC. He also advised the BCC that the question in front of the BCC is: what was the policy of the Board behind setting a deadline on the Application.

20. At the public hearing, Georgia Romero spoke in opposition to the Appeal, advising that she had filed the initial complaint on the Applicant's in 2012, and Rosemary Medrano also spoke in opposition to the Appeal.

**WHEREFORE** the BCC denies the Appeal and hereby upholds the CDRC's decision to reject the Applicant's submittal for Master Plan, Preliminary and Final Development Plan approval because it was untimely. The motion to deny the Appeal passed by a unanimous 5-0 vote.

**IT IS SO ORDERED**

This Order was approved by the Board of County Commissioners of Santa Fe County on this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS

By: \_\_\_\_\_  
Miguel M. Chavez, Chairperson

ATTEST:

\_\_\_\_\_  
Geraldine Salazar, County Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Gregory S. Shaffer, County Attorney

VIII. B. 8. **BCC CASE # APP 15-5250 Robert and Bernadette Anaya Appeal.** Robert and Bernadette Anaya, Applicants, Karl H. Sommer (Sommer, Karnes & Associates, LLP), Agent, are Appealing the County Development Review Committee's Decision to Reject a Submittal for Master Plan, Preliminary and Final Development Plan as it was Deemed Untimely. The Property is Located at 2253 Ben Lane, within Section 31, Township 17 North, Range 9 East, (Commission District 2)

JOSE LARRAÑAGA (Case Manager): Thank you, Mr. Chair. On May 21, 2015 the County Development Review Committee met and acted on a request made by Robert and Bernadette Anaya to appeal the Land Use Administrator's decision to reject a submittal for master plan, preliminary and final development plan because it was untimely and incomplete. The CDRC upheld the Land Use Administrator's decision to reject the applicant's submittal for master plan, preliminary and final development plan approval because it was untimely and incomplete. The motion to deny the appeal passed by unanimous 6-0 vote.

The following is a chronology of the past events leading up to the applicants' request. On November 13, 2012 the Board of County Commissioners granted a request made by the applicants for a variance to allow a towing business as a special use under Ordinance No. 2007-2, Section 10.5, Village of Agua Fria zoning district use table. A special use is an allowed use which is subject to master plan and development plan approval by the Board of County Commissioners. The approval of the variance was conditioned on the applicants presenting a master plan to the BCC within eight months of the November 13, 2012 hearing. The applicants submitted an application for master plan, preliminary and final development plan on February 8, 2013.

On April 18, 2013 the CDRC met and acted on the request by the applicants for master plan zoning and preliminary development plan approval. Staff only recommended master plan approval because the request for preliminary development plan approval was incomplete due to non-compliance with Article V, Section 7.1.2.E and 7.1.2.J, Development Plan Requirements, and Article III, Section 4.4, Development and Design Standards. The decision of the CDRC was to recommend approval of the applicants' request for master plan approval and denial of the applicants' request for preliminary development plan.

On June 11, 2013 the BCC granted the request for master plan zoning to allow a towing business on .33 acres subject to the following conditions:

1. The master plan with appropriate signatures shall be recorded with the County Clerk per Article V, Section 5.2.5
2. A Preliminary and Final Development Plan shall be submitted within ninety days of issuance of this Order, meeting all criteria set forth in Article V, § 7, to be reviewed and presented to the CDRC for consideration;
3. The Applicants shall comply with Ordinance No. 2007-2, § 10.6, Density & Dimensional Standards;

4. Storage of towed vehicles shall not be permitted on this site as per the 1989, decision of the Extraterritorial Zoning Authority. A note stating that the storage of towed vehicles on the site shall not be allowed shall be placed on the Master Plan;
5. No more than three small tow trucks and two large tow trucks may be stored on the site at any given time.

On September 26, 2013, the Applicants submitted a request for an extension of time to submit the Preliminary and Final Development Plan, an amendment to the approved Master Plan, and for reconsideration of the BCC's August 20, 2013, Final Order conditions. The Applicants submitted a letter of request (Exhibit 4), a copy of the Master Plan Report, Master Plan drawings, fees, deed and recorded plat.

On March 11, 2014, the BCC held a public hearing on the request by the Applicants to reconsider the conditions imposed on the Master Plan Zoning approved on June 11, 2013. The BCC then deliberated over the matter in closed executive session on March 25, 2014, and again on May 13, 2014. The conditions that the Applicants requested the BCC to reconsider are:

1. The Applicants shall submit Preliminary and Final Development Plan to the County Development Review Committee for consideration within 90 days of approval of the Final Order.
2. No more than three small tow trucks and two large tow trucks may be stored on the site at any given time.
3. The implementation of a landscape buffer on the east side of the site alongside the platted easement.
4. The listing of personal vehicles that will be stored on the site.

On June 11, 2014, the BCC approved a Final Order which denied the request to reconsider the conditions and which allowed an extension of the deadline for submitting a Preliminary and Final Development Plan to the CDRC, to thirty days after recording the order denying the request for reconsideration. All other requests were denied.

The approval of the extension of the previously imposed deadline was subject to submitting the Preliminary and Final Development Plan to the County Development Review Committee within thirty days of the recordation of the Final Order.

The Final Order was recorded on June 13, 2014. The Preliminary and Final Development Plan was not submitted within the thirty days of the recording date. Additionally, an appeal of the Order was not filed within thirty days of the recording date. A copy of the recorded Final Order was mailed to the Applicants on June 16, 2014, via certified mail along with a letter stating the following:

This letter is to inform you that the Board of County Commissioners met and acted on your request for reconsideration of conditions which were imposed by the BCC for Master Plan Zoning approval to allow a towing business on .33 acres. The decision of the BCC was to deny your Application, except that the deadline for submitting a Preliminary and Final Development Plan to the County Development Review Committee shall be extended thirty days after recording of the Final Order. The Final

Order was recorded on June 13, 2014. The enclosed order is a final order of the Board of County Commissioners, which, pursuant to Section 39-3-1.1 of the New Mexico Statutes Annotated 1978, you may appeal by filing a timely Notice of Appeal in the appropriate district court. Any such district court appeal must be filed within 30 days of the recording of this Order. The Order was recorded today, which is a matter of public record.

On June 17, 2014, the United States Postal Service left notice of the certified letter at the Applicants' mailing address. The Applicants did not contact staff nor did they file an appeal with the District Court during the 30 day period. The Applicants did contact staff after the thirty-day deadline and inquired how to proceed with their Application. Staff advised the Applicants that the deadline for submitting the Preliminary and Final Development Plan and for filing an appeal to District Court had expired.

On August 13, 2014, approximately twenty-nine days after the deadline for their submission, or approximately 59 days after the Final Order was recorded, Joseph Karnes on behalf of the Applicants submitted an Application for Master Plan Zoning, Preliminary and Final Development Plan. The plan that was submitted was identical to the original submittal, submitted on February 7, 2013, which ultimately did not meet Code requirements or conditions imposed by the Board of County Commissioners. The submittal was deficient in the following:

- a. The proposed Master Plan, Preliminary and Final Development Plan drawings do not demonstrate the easement required to create the 28 foot inside radius, at the intersection of Agua Fria and Ben Lane, which is required by the County Fire Marshal.
- b. The proposed plan set illustrates 8 parking spaces for trucks, where the condition of approval, by the BCC, was to limit the Tow Trucks to 5 (three small tow trucks and two large tow trucks).
- c. A Master Plan Report and Development Plan Report was not submitted as per Article V, Section 5.2.2 Master Plan Submittals and Article V, Section 7.2.1 Final Development Plan Submittals.
- d. A survey to create a .33 acre parcel to be zoned as a Special Use, under the Village of Agua Fria Zoning District Ordinance Use Table, was not submitted.

On November 13, 2014, the Land Use Administrator issued a letter to Mr. Karnes stating the following: The submission of the Robert & Bernadette Anaya Master Plan, Preliminary and Final Development Plan is rejected as untimely and not constituting a complete Application.

The Applicants claim that they did not receive notice of the Final Order adopted by the BCC until after the 30 days had passed. They also claim that the Final Order did not address ramifications of failure to submit the Application within the identified timeframe.

Staff Response: The Applicants failed to appeal, in a timely manner, the BCC order imposing a deadline for submission of the Preliminary and Final Development Plan as a condition precedent to Master Plan approval. The BCC approval of the order was made in a televised open meeting and the order was adopted at properly noticed public hearing. A certified letter along with the Final Order was mailed to the Applicants, a letter the Applicants did not timely retrieve.

The failure of the Applicants to retrieve the order sent to them does not serve to extend the deadline for submission of the Preliminary and Final Development Plan, which deadline was triggered by the recording of the Order in the Office of the County Clerk. In light of the untimely filing of the Master Plan, Preliminary and Final Development Plan, no Master Plan Zoning is in place which would form the basis for the submission of a Preliminary and Final Development Plan. Having failed to meet a condition precedent to approval of the Master Plan, staff has no authority to accept the Master Plan, Preliminary and Final Development Plan for processing.

Additionally, the documents presented were not compliant with submittal requirements of the Code.

Staff recommendation: Staff recommends denial of the Applicants' appeal of the CDRC's decision to uphold the Land Use Administrator's decision to reject the Applicant's Master Plan, Preliminary and Final Development Plan submittal because it was untimely submitted and did not constitute a complete Application.

Staff requests BCC to support the CDRC and Land Use Administrator's decisions to deny the Applicant's Master Plan, Preliminary and Final Development Plan submittal because it was untimely and not in compliance with the BCC's June 13, 2014 Final Order and thirty-day deadline extension.

Mr. Chair, I stand for any questions.

COMMISSIONER CHAVEZ: Thank you, Mr. Larrañaga. Mr. Chair, go ahead.

CHAIR ANAYA: Thank you, Commissioner Chavez. Is the applicant present?

KARL SOMMER: Mr. Chair, my name is Karl Sommer. I'm here on behalf of Bernadette and Bob Anaya who are here. They're taking care of their grandson here this evening, and yes, we are present. We'll make a very brief presentation to you. It's a long night and you have other cases behind us.

What is this case about? It's about one simple thing. You have four pages of a litany of a history that boiled down to one question and one question only. Mr. and Ms. Anaya received an approval from you after a reconsideration of a long and drawn-out application. And the final order said submit your master plan documents within a certain time period, 30 days from the date of the recording of the order.

Staff says they sent out the notice, certified mail. I have no doubt that they did. Ms. Anaya who's here will tell you, under oath, she checked. She was going to the mailbox every day because that's their business and they get certified mail in their business of towing all the time. They always have to deal with that. She says she never got or never saw the slip for this particular notice. Whatever happened, it did not get picked up within the 30 days and they did not get the notice within the 30 days. They got it later, realizing that they needed to do something they came into staff very shortly after that and said we need to move our application along. Staff said, done, you're out. It's finished. We have no authority to accept your application and we're not going to do it. So they hired us.

We submitted an application and the question is in front of you just simply this. Was that deadline that you all set hard and fast, unforgivable? Did it mean that because they did not submit on time, even though you will hear tonight that they had hired Morey

Walker, the plans were actually finished and done before the deadline. They just didn't realize that they had to get that thing finalized by that time, whether that means they're out of luck.

These people have been working in this community for 28 years in this business, in this location. They have hired dozens of people, raised many, many kids and grandkids, and they have put their life, their heart and their soul into their business and they fought a long, hard battle in front of this Commission and the Commission said you can have your business here are the conditions. Was one of those conditions you can't have it ever, ever, ever if you miss this deadline. That is the question in front of you.

I submit this Board has been laboring under deadlines that have passed without consequence and passed again without consequence, and the question in front of you is, is that what you meant? That Ms. Penny Ellis-Green could not, should not accept the application 30 days or less than 30 days late. That's the question in front of you. I submit to you that that is not what your order meant, that is not the policy behind setting this particular kind of deadline. I submit to you that the reason you set a deadline, and you all can determine, is so that this would get over with, that it would be done with and they would not sit back on their rights for years and years and years. That's not what happened. They missed a deadline inadvertently by less than 30 days.

We're here in front of you asking that you take into account the facts and circumstances. There is a long litany of four pages that has nothing to do with the set of facts in front of you. It's just simply this: Does Ms. Penny Ellis-Green have your authority to process this application 30 days after the time ran. There's nothing in your code, absolutely nothing in the law that requires you or required you to set a deadline. And so we're here asking you give Ms. Penny Ellis-Green the authority to accept and process this application and please consider the circumstances under which these people come in front of you.

Yes, they missed the deadline; it was inadvertent. They showed every intention of complying with your deadline. They just missed it on an inadvertent basis. Why is this case here a year later? Well, in the last year their house has burned down. They're living with relatives, in relatives' homes, and they're trying to get out. This case has taken them a long time to get in front of you. They had many, many delays and we're here tonight asking you for your consideration. I submit to you that this is a family, a local family, that deserves at least the consideration that you have given yourselves to extend deadlines, that you have given to your staff to extend deadlines.

And the reasons for that were all good reasons and right in front of you, you're talking to people who have been in this community working hard, serving their community and they deserve your consideration. I would ask Mr. and Ms. Anaya to testify to the facts that I've told you about. I represent to you that's what they would say. It would be redundant but you can ask them any of the questions that you might have and they'll answer your questions under oath. So we would stand for questions you might have.

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

COMMISSIONER CHAVEZ: So Mr. Sommer, I guess I can agree with you that deadlines come and go but I think that we don't want to hold that as a standard. I

think that deadlines do mean something and I don't personally like them but I have to deal with them. And so that's one issue. So let's put that aside. Let's say deadlines don't matter for purposes of discussion. But in this case, on August 13<sup>th</sup>, approximately 29 days after the deadline for their submission, or approximately 59 days after the final order was recorded, Mr. Karnes, on behalf of the applicants submitted an application for master plan zoning, preliminary and final development. The plan that was submitted was identical to the original submittal submitted on February 7, 2013 which ultimately did not meet code requirements of conditions imposed by the Board of County Commissioners. The submittal was deficient in the following.

So let's say that that deadline didn't matter, but the plan that was submitted I think in this case means more to me than the deadline because of the conditions of approval that were placed on that business. And I agree that that business was there for many, many years but it's grown, and rightly so. They've done good at growing their business. It's outgrown the size of the property and the residential setting that it started out in. That's my observation. That's why the conditions of approval were placed on the original request.

So how would you – what would your response be to the plan that was submitted not being accurate to what was presented?

MR. SOMMER: In response, Mr. Chair, Commissioner Chavez, I've been at this business for a few years now and I can't tell you the number of times that applications have been submitted to staff and returned with redlines.

COMMISSIONER CHAVEZ: No, forget the deadline.

MR. SOMMER: I said with redlines.

COMMISSIONER CHAVEZ: Oh, okay.

MR. SOMMER: Saying you need to submit this, your application doesn't have that, you need to have this in there, this is wrong. Look at what they're telling you. There are parking spaces not designated. Okay, so designate the parking spaces. There are – an easement not shown. So you're not going to record the master plan until that easement is shown. So I submit to you, Commissioner Chavez, that what you got in terms of deficiencies are standard, redline kinds of comments that staff routinely returns to applicants and says we need the following documents from you; this is wrong, and we will not act further on your application until these things are in there.

I tell you that that is no excuse for staff not processing an application. If that were the case that an application came in without all the things in there, there would be no applications being processed because almost – would bet you 99.9 percent of them get redlines and get turned back. They do not get rejected because they're incomplete just because there are redlines required.

COMMISSIONER CHAVEZ: I want to ask staff then to respond to deadlines, because if deadlines mean something they mean something. If they don't, they don't. So could you respond to the concept of having deadlines and what that means for staff and the process, and is it applied fairly and equally across the board?

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, this particular deadline was set by the BCC. That was one of the conditions of approval that they submit the, first of all to submit the preliminary and final development plan to CDRC. They

didn't meet that deadline and came back for an extension of that deadline plus the reconsideration of conditions that were imposed by this Board on the master plan. And then that deadline wasn't completed either.

COMMISSIONER CHAVEZ: So these are not necessarily deadlines that would be imposed by Penny or your staff but these were deadlines that were imposed by the County Commission during the proceedings of the hearing the request.

MR. LARRAÑAGA: That's correct.

COMMISSIONER CHAVEZ: Thank you. Thank you, staff. Are there any other questions of staff? Commissioner Anaya.

CHAIR ANAYA: I got it, Commissioner. We're gone through the applicant. Does the applicant have anything else they want to add at this time before we go to public comment, and the public comments under narrow parameters.

MR. SOMMER: Just one thing in response to what's been said is we're here on one question, not the whole history of this case. We're here on one question and what was the policy of this Board behind setting this deadline? I submit to you it was so that this case didn't sit around for years and years and then nothing happened. These people acted late but diligently. They should not be severely punished or penalized for it. I've never seen this Board do that before.

CHAIR ANAYA: Thank you, Mr. Sommer and before I go to public comment, Mr. Shaffer, if you could help me out. The public comment we're looking for is narrowed to the framework of the request at hand dealing with the policy and the actual timeline. If you could clarify, Mr. Shaffer, before I ask people to come forward, because we don't want to get into all of the detailed cases already previously been presented and heard in various hearings.

MR. SHAFFER: Mr. Chair, I think that's right. You have two separate issues, the timeliness of the application in light of the Board's established deadline and then also whether or not the submittal complied with the previously adopted and unappealed conditions of the Board. So it is very limited to those two issues.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I have another question for staff. If this case is denied again, or denied this evening, then the applicants can reapply?

MR. LARRAÑAGA: Mr. Chair, Commissioner Stefanics, if this gets denied the SLDC and the Agua Fria Ordinance would not allow a wrecking service in this area, so it's not a permitted use. So I don't know. We'd be running out of time. If they reapplied – I don't know what they'd reapply –

COMMISSIONER STEFANICS: They would have to reapply with a variance? For a variance?

MS. LUCERO: Mr. Chair, Commissioner Stefanics, they would be reapplying under the SLDC at this point. It would be probably too late to get them through the entire process before the SLDC takes effect. And as Jose mentioned, in the SLDC this is not an allowed use, so my understanding is that the new code doesn't allow you to request a variance for use, therefore it may require some type of a rezoning request

or other type of application.

COMMISSIONER STEFANICS: So it wouldn't be a request for a variance but there would be another avenue.

MS. LUCERO: Mr. Chair, Commissioner Stefanics, I believe that's correct.

COMMISSIONER STEFANICS: Okay. Thank you very much.

CHAIR ANAYA: Other questions or comments from the Board? Seeing none, this is a public hearing on those limited items we just clarified and that public hearing is now open. Is anybody here that wants to speak related to this case? If you would be sworn and come forward.

[Duly sworn, Rosemary Medrano testified as follows:]

ROSEMARY MEDRANO: My name is Rosemary Medrano and I own property adjacent to where this business would be located. Of course you have on record you have my concerns as to why this business should not be in that area but more than anything, that area is zoned residential and this type of business really does not belong there. Again, I'm requesting that the request for appeal be denied by you the Commissioners for those reasons. Thank you.

CHAIR ANAYA: Thank you.

[Previously sworn, Georgia Romero testified as follows:]

GEORGIA ROMERO: Georgia Romero. We have the property right behind the Anayas. We're an adjoining property. We filed the complaint back in 2012 when they tore down our wall. They had a 23-foot gap that was never repaired by them. We had to go through our house insurance, and they - we've been here for 3 1/2 years. They're never in compliance. They're always late. And the fact that they didn't get their notice in the mail - sorry. Everybody else gets certified registered mail and if you don't pick it up within a few days they send you another notice. In 30 days they should have gotten at least three notices. They just don't get one.

Anyway, this is how the property is being used as of today. I took some pictures this morning. Can I pass them out to the committee? The fact that Mr. Chavez put restrictions on them, that they were to have three small tow trucks and two large tow trucks and they didn't even want to do that. I mean, you can't help people that can't help themselves. Right now they're storing wrecked vehicles which they weren't supposed to do since 1989. We're going on 26 years that there has been no tax revenue to the County for them doing business in the county. I think that you should deny the appeal. They have to get their act together and they have two other areas where they can park cars.

If you go up to the Nancy Rodriguez Center, up there off of Agua Fria, all that junkyard you see right behind Nancy Rodriguez belongs to them. They have an acre and a half there and it's all nothing but burnt vehicles, junked, wrecked vehicles. If you remember the bus accident that happened in Hyde Park where the little boy and father were killed, that bus is still sitting on their property. Everybody can see it.

So I'm asking you to please not accept their appeal. Thank you.

CHAIR ANAYA: Thank you. Is there anybody else that would like to speak in relation to this case? Is there anybody else that would like to speak in relation to

this case? Seeing none, this public hearing is closed. What's the pleasure of the Board?

COMMISSIONER CHAVEZ: Chair Anaya.

CHAIR ANAYA: Commissioner Chavez.

COMMISSIONER CHAVEZ: I know this and other cases like this are not easy. We've been through this two or three times already. In this case I'm going to support staff request and make a motion to deny the applicants' request for a variance.

COMMISSIONER HOLIAN: I will second that.

CHAIR ANAYA: There's a motion from Commissioner Chavez, a second from Commissioner Holian to deny the request. Is there any further discussion.

MR. SHAFFER: If I could, Mr. Chair, Commissioners, it would be a motion to deny their appeal.

COMMISSIONER CHAVEZ: Motion to deny their appeal. This would be an appeal for their master plan, preliminary and final development plan submittal.

MR. SHAFFER: That's correct.

CHAIR ANAYA: Motion from Commissioner Chavez to deny the appeal. Second from Commissioner Holian accepting the new motion?

COMMISSIONER HOLIAN: Yes.

CHAIR ANAYA: Is there any further discussion? I just have one comment. This case has been before us – I think even before you got here, Commissioner Chavez, and we had a lot of discussion, a lot of deliberation. We had requests for facilitation, we had numerous amounts of comments. I actually think it's beyond the scope of this Board after this particular vote takes place and there are other vehicles and venues – no pun intended – that people can pursue. But I think it's been discussed, over-discussed. I think there was options that were provided. There was an attempt at a balance. All that being said I'll leave it at that. Is there any further discussion?

**The motion to deny the appeal. passed by unanimous [5-0] voice vote.**





