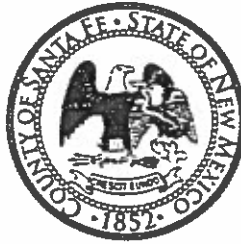


Henry P. Roybal
Commissioner, District 1

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. PCEV 14-5420
VACATION OF PLAT
ERNEST CHAVEZ AND
ROBIN SUELLEN CHAVEZ, PERSONAL REPRESENTATIVE
OF THE ESTATE OF JESSE CHAVEZ, APPLICANTS**

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) for a hearing on January 13, 2015, on the Application of Ernest Chavez and Robin Suellen Chavez, personal representative of the Estate of Jesse Chavez, (Applicants) to vacate a recorded Lot Line Adjustment Survey Plat on two properties totaling 36.38 acres. The BCC, having reviewed the Application and supplemental materials, staff reports and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted subject to certain conditions, and makes the following findings of fact and conclusions of law:

1. The Applicants request approval to vacate a recorded Lot Line Adjustment Survey Plat of 36.38 acres.
2. The Property is located at 210 Entranosa Road, within Section 28 Township 11 North, Range 7 East.
3. The Chavez brothers (Ernest and Jesus) purchased two tracts of land (Tract 1 and 2) in 1979 as evidenced by deeds which were recorded in the Santa Fe County Clerk's Office. In 2006, the Chavez brothers entered into a real estate contract to sell Tract 1 and Tract 2 to Padlock LLC.

4. On January 25, 2007, Padlock LLC submitted an Application to Santa Fe County for a Lot line adjustment on the two lots, which would change the north-south lot line to an east-west lot line and alter the size of the two lots which would become known as Tract 1-R which was 25.00 acres and Tract 2-R which was 11.58 acres. The lot line adjustment plat was approved and was recorded with the County Clerk's Office on April 25, 2007 as Instrument No. 1480106. In 2011, after defaulting on the real estate purchase agreement, Padlock LLC deeded Tract 1 back to Jesus (aka Jesse) Chavez and Tract 2 back to Ernest Chavez.
5. On January 20, 2013, Jesus Chavez passed away. Robin Suellen Chavez is the Personal Representative of his Estate.
6. As required by Ordinance 1996-10, the Santa Fe County Land Development Code (Code), in advance of the hearing on the Application, the Applicants provided a certification of posting of the hearing, confirming that public notice posting regarding the Application was made for twenty one days on the property, beginning on December 19, 2014. Notice of the hearing was published in the legal notice section of the Santa Fe New Mexican on December 23, 2014, as evidenced by a copy of that legal notice which is 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. Article V, Section 5.7.1 (Cause) of the Code provides that, "Any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if:
 - a) the owners of the land propose to be vacated sign an acknowledge statement, declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board; or

- b) the Board finds that a plat was obtained by misrepresentation or fraud and orders a statement of vacation to be prepared by the County.”
8. Article V, Section 5.7.2 (Action) of the Code provides that, “Action shall be taken at a public meeting. In approving the vacation of all or a part of a final plat, the Board shall decide whether the vacation will adversely affect the interests of persons on contiguous land or of persons within the subdivision being vacated. In approving the vacation of all or a portion of a final plat, the Board may require that roads dedicated to the County in the final plat continue to be dedicated to the County.”
9. Article V, Section 5.7.3 (Filing) of the Code requires that, “The approved statement declaring the vacation of a portion or all of a Final Plat shall be filed in the office of the County Clerk.”
10. Staff recommended approval of the request to vacate the Lot Line Adjustment Plat subject to one condition. A Mylar of the Plat to be vacated shall be re-recorded in the County Clerk’s Office with a written declaration that the Lot Line Adjustment Plat was vacated by the Board of County Commissioners on January 13, 2015. The Plat of the subject tracts, prepared by Thomas Martinez, and recorded in the Santa Fe County Clerk’s Office on September 10, 1979, as Document No. 445-771 is accordingly recognized by the Santa Fe County Land Use Department as establishing the current property boundaries of Tract 1 and Tract 2.
11. There is no evidence in the record to support a finding that vacating the Lot Line Adjustment Plat would result in the interests of persons on contiguous land or persons within any subdivision being adversely impacted.
12. No member of the public spoke at the public hearing on this matter either in favor of or in opposition to the Application.

13. The Application should be granted.

WHEREFORE, the BCC hereby approves the vacation of the Lot Line Adjustment Plat on two properties totaling 36.38 acres and the plat recorded in the Santa Fe County Clerk's Office as Document No. 445-771 reflects the current status of the property, subject to the condition as set forth in paragraph 10. The motion to approve the vacation of the Lot Line Adjustment Plat passed by a 5-0 vote; Commissioners Anaya, Chavez, Holian, Roybal, and Stefanics were present.

IT IS SO ORDERED.

BOARD OF COUNTY COMMISSIONERS

By: _____
Robert A. Anaya, Chair

ATTESTATION:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



Gregory S. Shaffer, County Attorney

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

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

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

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

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

CHAIR ANAYA: You may.

[The condition is as follows:]

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

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

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

I stand for any questions.

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

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

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

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

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

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

COMMISSIONER CHAVEZ: Second.

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

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

COMMISSIONER CHAVEZ: Yes.

CHAIR ANAYA: Absolutely. With staff conditions.

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

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

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

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

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

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

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

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

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

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

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



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. V 14-5340

VARIANCE OF DENSITY

LUIS AND ISELA RODRIQUEZ, APPLICANTS

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) for hearing on January 13, 2015, on the Application of Luis and Isela Rodriguez (the Applicants) for a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to allow two dwelling units on 2.5 acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted subject to certain conditions, and makes the following findings of fact and conclusions of law:

1. This Application was submitted following a complaint about the subject property which resulted in Applicants being served with a notice of violation for exceeding density on their property because their dwelling unit was actually a duplex.
2. The Applicants request approval of a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community

Zoning District), Section 6.4 (Zoning Density) to allow the duplex which is considered two dwelling units on 2.5 acres.

3. The subject lot is part of the Vista Land Subdivision (consisting of 86 lots) which was created in 1974, and is recognized as a legal lot of record consisting of 2.5 acres, as evidenced by the Plat of Survey for Vista Land Subdivision recorded in the records of the Santa Fe County Clerk at Book 35, Page 4.
4. The lot is located in Santa Fe County at 92 Camino Montoya, within Section 20, Township 16 North, Range 8 East (Property), within the Traditional Historic Community of La Cienega.
5. In support of the Application, the Applicants submitted a letter of request, proof of ownership and proof of legal lot of record.
6. The Property currently has a duplex, as evidenced by a site plan of the property entered into the record as Exhibit 5 of the staff report. Applicants sought and received a permit for an expansion of the dwelling unit in 2001, but failed to identify the structure as a duplex at the time they received the permit for an expansion.
7. The majority of surrounding properties appear to have one dwelling unit per lot. The La Cienega Valley Association submitted an objection to the granting of variances to cure unpermitted or illegal acts or to increase density.
8. It appears that all noticing requirements of the code were met. Noticing in the legal section of the Santa Fe New Mexican occurred on October 30, 2014, as evidence by the clipping of that publication in the file and the affidavit of publication provided by the New Mexican. A certification of posting and photographs of the posting were provided by the Applicant together with proof of mailing of notices.

9. The property is located within the Traditional Historic Community of La Cienega within the Basin Hydrologic Zone. Minimum lot size in this area is 10 acres per dwelling unit. Lot size can be reduced to 2.5 acres per dwelling unit with proof of 100 year water supply through a geohydrologic reconnaissance report, and adoption of water use covenants.
10. The Applicants have owned the property since August 13, 2001, and claim they purchased the property in its current state with the two dwelling units.
11. Staff recommended denial of the requested variance, as did the County Development Review Committee (CDRC) at their regularly scheduled meeting on December 18, 2014.
12. In the Event the Application was approved by the BCC, Staff recommended imposition of the following conditions of approval:
 - A. Water use shall be restricted to 0.25 acre feet per year per dwelling unit. A water meter shall be installed for each dwelling unit within ninety days of recording the order granting the variance. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office at the time of Development permit.
 - B. The Applicant must obtain a development permit for the duplex within 90 days of recording the Order granting the Variance.
 - C. The placement of additional dwelling units or division of land is prohibited on the Property.
 - D. The Applicant shall provide an updated liquid waste permit for the duplex from the New Mexico Environment Department with the development permit application.

E. The Applicant shall comply with all Fire Prevention Division requirements at the time of development permit application.

F. These conditions are conditions precedent to the granting of the variance. If the Applicants fail to comply with any conditions set forth above within the time periods provided, the variance shall be denied.

13. Article II, Section 3.1 of the Code states that, "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the [BCC] and the [BCC] may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety." Section 3.1 concludes that, "In no event shall a variance...be recommended by [the] Development Review Committee nor granted by the [BCC] if by doing so the purpose of the Code would be nullified."

14. Section 6.25.2 of Ordinance 2002-9 (Review of Applications Requesting Increased Zoning Density) states, "when examining requests for increase in zoning density, all applicable review bodies shall consider the proposed development's impact on factors such as but not limited to traffic, schools, water, liquid waste, and infrastructure as part of the development review process. It is appropriate requests for increases in zoning density to be denied in the Planning Area if the reviewing body determines that there is a reasonable expectation, based

on the evidence presented, that the development would negatively impact the community and/or surrounding neighbors.”

15. The Applicants state a variance is needed to allow the property to remain in the current state in which they purchased it and it will only be used by themselves and for visitation of family members and for their children when needed.

16. There was no evidence presented that granting this variance would have a negative impact on traffic, schools, water, liquid waste, infrastructures, or the safety of the community and/or surrounding neighborhood.

17. A member of the public confirmed that she sold the Applicants the home in 2001 and had lived in the area since 1980. She advised that the home had always had two kitchens and was built that way prior to Santa Fe County enacting the Code. Another member of the public spoke in favor of allowing the property to remain a duplex.

18. Compliance with the Code provisions will exact a hardship, and the requested variance from the Code will not result in conditions injurious to health or safety.

19. Granting this variance request will not nullify the purpose of the Code.

WHEREFORE the BCC hereby approves the request for a variance of Ordinance No. 2002-9 (La Cienga and La Cieneguilla Traditional Community Planning Area and La Cienaga Traditional Community Zoning District), Section 6.4 (Zoning Density) to allow two dwelling units on 2.5 acres on the Property located at 92 Camino Montoya, Santa Fe County subject to the conditions as set forth in paragraph 12. The motion to approve the variance passed by a unanimous 5-0 vote.

IT IS SO ORDERED

By: _____
Robert A. Anaya, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to Form:



Gregory S. Shaffer, County Attorney

~~COMMISSIONER CHAVEZ: Yes, that would be fine.~~

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

~~COMMISSIONER STEFANICS: Yes.~~

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

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

II. PUBLIC HEARINGS

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

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

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

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

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

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

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

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

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

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

CHAIR ANAYA: Yes, you may. Thank you.

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

MR. MARTINEZ: I stand for any questions.

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

MR. MARTINEZ: Yes.

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

[Duly sworn, Luis Rodriguez testified as follows:]

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

[Duly sworn, Isela Rodriguez testified as follows:]

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

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

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

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

CHAIR ANAYA: Are there any questions of the applicant?

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

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

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

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

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

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

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

MR. MARTINEZ: That's correct.

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

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

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

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

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

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

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

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

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

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

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

MR. RODRIGUEZ: Yes.

COMMISSIONER STEFANICS: Thank you.

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

[Duly sworn, Janet Urian testified as follows:]

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

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

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

[Duly sworn, Melody Saucedo testified as follows:]

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

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

COMMISSIONER STEFANICS: Second.

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

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

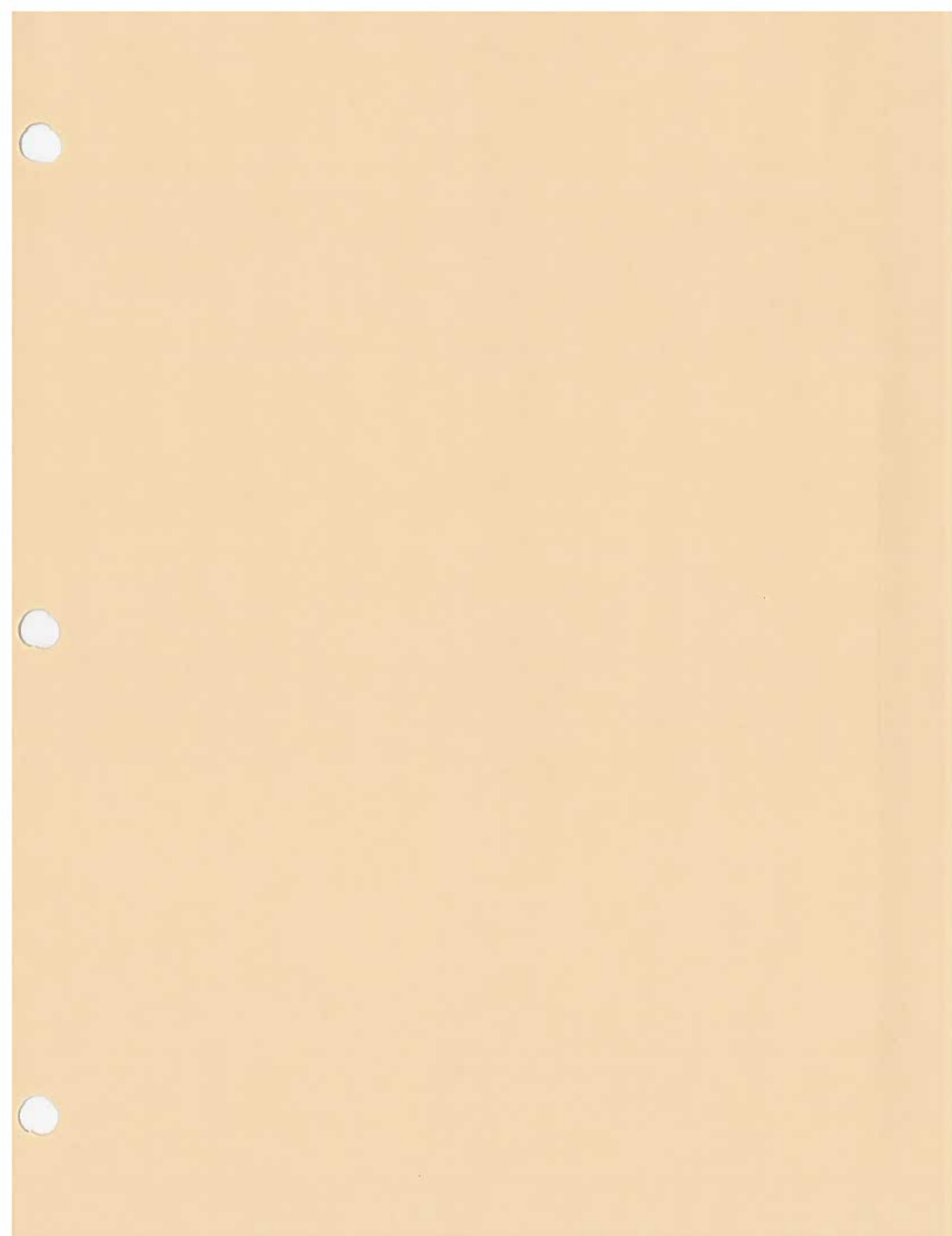
N. A. Proposed Ordinances

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

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

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

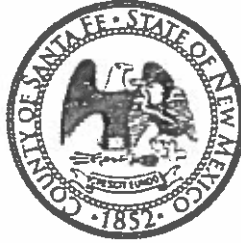
In 2012, a 2012-1 ordinance was approved and in that the intent of that ordinance was to eliminate that lien, the affordability lien over a ten-year period. What we would like to do through this proposed ordinance amendment is to go back to original 2006 language where we'd keep that lien in place; we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



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. V 14-5400

VARIANCE OF DENSITY

MELODY SAUCEDA , APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as “the BCC”) for hearing on January 13, 2015, on the Application of Melody Saucedo (hereinafter referred to as “the Applicant”) for a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density), which is an amendment to Ordinance 1996-10, the Santa Fe County Land Development Code (Code), to allow two dwelling units on 3.26 acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted subject to certain conditions, and makes the following findings of fact and conclusions of law:

1. This Application for a variance was brought forward after a complaint was submitted to the County and a Code Enforcement Officer served Applicant with a Notice of Violation for placing two dwelling units on a single lot without a development permit.

2. The Applicant requested approval of a variance of Ordinance No. 2002-9 (La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to allow two dwelling units on 3.26 acres.
3. The subject lot is part of the Vista Land Subdivision (consisting of 86 lots) which was created in 1974, and is recognized as a legal lot of record consisting of 3.26 acres, as evidenced by the Plat of Survey for Vista Land Subdivision recorded in the records of the Santa Fe County Clerk at Book 35, Page 4. The lot is located in Santa Fe County at 77a Calle Debra, within Section 20, Township 16 North, Range 8 East ("Property"), within the Traditional Historic Community of La Cienega.
4. In support of the Application, the Applicant submitted a letter of request, proof of ownership, and proof of legal lot of record.
5. The Property currently has two dwelling units, as evidenced by photographs of the property entered into the record as Exhibit 6 of the staff report. The majority of surrounding properties appear to have one dwelling per legal lot.
6. The Applicant complied with all noticing requirements of the Code. The Applicant provided receipts for mailing notices before the CDRC and BCC by certified mail October 25, 2014. Noticing in the legal section of the Santa Fe New Mexican occurred on October 30, 2014, as evidence by the clipping of that publication in the file and the affidavit of publication provided by the New Mexican. A certification of posting and photographs of the posting were provided by the Applicant.

7. The property is located within the Traditional Historic Community of La Cienega, which is in the Basin Hydrologic Zone. Minimum lot size in this area is 10 acres per dwelling unit. Lot size can be reduced to 2.5 acres per dwelling unit with proof of 100 year water supply through a geohydrologic reconnaissance report, and adoption of water use covenants.
8. The Applicant has owned the property since March 3, 2008, and claims she purchased the property with both dwelling units on it. There are no records indicating that building permits were issued for either dwelling unit, however the New Mexico Environment Department issued a permit to install a liquid waste system for a three bedroom home on 3.26 acres in 1985 based on a drawing showing only one dwelling unit on the property. Additionally the well for the property was drilled in 1985, suggesting that the first dwelling unit was constructed in 1985.
9. Staff recommended denial of the requested variance, as did the County Development Review committee (CDRC) at their regularly scheduled meeting on December 18, 2014. The recommendation was based in part on the fact that surrounding properties appear to have only one dwelling unit per lot.
10. In the Event the Application was approved by the Board of County Commissioners (BCC), Staff recommended imposition of the following conditions of approval:
 - A. Water use shall be restricted to 0.25 acre feet per year per home. A water meter shall be installed for each home within ninety days of recording the order granting the variance. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in

the County Clerk's Office at the time of submission for a Development permit (As per Article III, Section 10.2.2 and Ordinance No. 2002-13).

- B. The Applicant must obtain a development permit from the Building and Development Services Department for both dwelling units within 90 days of recording the Order granting the Variance. The placement of additional dwelling units or Division of land is prohibited on the property.
- C. The Applicant shall provide an updated liquid waste permit for the second dwelling unit from the New Mexico Environment Department with the Development permit Application.
- D. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application.
- E. The existing driveway entrance and drivable surface shall be 20' wide to meet the minimum county standards for fire apparatus access roads for service to residence. To the second residence the driveway shall be a 14' wide county approved all-weather driving surface of minimum 6" compacted basecourse or equivalent. Minimum gate width shall be 20' and unobstructed vertical clearance of 13'6".
- F. The conditions are conditions precedent to granting of the variance. If the Applicant fails to comply with any conditions set forth above within the time periods provided, the variance shall be denied.

11. Article II, Section 3.1 of the Code states that, "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or

other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the [BCC] and the [BCC] may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety.” Section 3.1 concludes that, “In no event shall a variance...be recommended by [the] Development Review Committee nor granted by the [BCC] if by doing so the purpose of the Code would be nullified.”

12. Section 6.25.2 (Review of Applications Requesting Increased Zoning Density) of Ordinance No. 2002-9 states, “when examining requests for increase in zoning density, all applicable review bodies shall consider the proposed development’s impact on factors such as but not limited to traffic, schools, water, liquid waste, and infrastructure as part of the development review process. It is appropriate requests for increases in zoning density to be denied in the Planning Area if the reviewing body determines that there is a reasonable expectation, based on the evidence presented, that the development would negatively impact the community and/or surrounding neighbors.

13. The Applicant stated a variance is needed because as a single mother of 4 she is barely surviving the economic downturn of 2008. She further states that she is putting pennies together to feed her family. The Applicant also states that she provides affordable housing for her elderly mother and that her mother helps provide care for her children and without her help; her children would not have a place to call home.

14. There was no evidence presented that the requested variance would have a negative impact on traffic, schools, water, liquid waste, other infrastructure, the community and/or surrounding neighbors, and so the BCC makes a finding that granting the variance will not have a negative impact on those aspects of the community.
15. The La Cienega Valley Association noted their opposition to granting this or any variance within the community of La Cienega.
16. Strict adherence to the Code provisions will exact a hardship on Applicant and the requested variance from the Code will not result in conditions injurious to health or safety of the community and/or surrounding neighbors.
17. Granting this variance request will not nullify the purpose of the Code.

WHEREFORE the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of Ordinance No. 2002-9 (La Cienga and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District), Section 6.4 (Zoning Density) to allow two dwelling units on 3.26 acres located at 77a Calle Debra, Santa Fe County subject to the conditions set forth in paragraph 10.

The motion to approve the variance passed by a 4-1 vote, with Commissioners Anaya, Chavez, Roybal and Stefanics voting in favor of the motion, and Commissioner Holian voting against the motion.

IT IS SO ORDERED

By: _____
Robert A. Anaya, Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Gregory S. Shaffer, County Attorney

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

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

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

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

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

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

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

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

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

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

CHAIR ANAYA: Yes, you may.

[The conditions are as follows:]

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

I stand for any questions.

CHAIR ANAYA: Is there any questions of staff?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR ANAYA: Commissioner Holian.

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

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

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

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

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

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

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

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

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

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

COMMISSIONER HOLIAN: Thank you.

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

[Previously sworn, Melody Saucedo testified as follows:]

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

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

COMMISSIONER STEFANICS: Mr. Chair.

CHAIR ANAYA: Commissioner Stefanics.

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

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

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

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

COMMISSIONER STEFANICS: Okay. Thank you very much.

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

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

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

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

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

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

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

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

CHAIR ANAYA: Are you sure?

MS. SAUCEDA: Yes.

CHAIR ANAYA: Okay. Is there any further comments?

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

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

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

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

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

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER CHAVEZ: Yes, go ahead, Commissioner Holian.

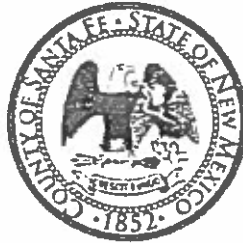
COMMISSIONER HOLIAN: Where would the water come from for this particular development at this point? In the packet, when it was originally – when the



Henry P. Roybal
Commissioner, District 1

Miguel 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. MIS 06-5272
TAVELLI MASTER PLAN TIME EXTENSION
MICHAEL A. TAVELLI, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (“BCC”) for hearing on January 13, 2015, on the Application of Michael A. Tavelli, (herein after referred to as “the Applicant”) for a 24-month time extension of the Master Plan approval for the Tavelli Mixed-Use Subdivision. The BCC, having reviewed the Application and supplemental materials, staff reports and having conducted a public hearing, finds that the Application is well-taken and should be granted and makes the following findings of fact and conclusions of law:

1. Article V, Section 5.2.7(b) of Ordinance 1996-10, the Santa Fe County Land Development Code (Code) provides that, “Master Plan approvals may be renewed and extended for additional two year periods by the Board at the request of the Developer.”

2. On January 8, 2008, the BCC granted Master Plan approval for the Tavelli Mixed Use Subdivision, a 17-lot mixed-use subdivision on 5.65 acres consisting of fifteen (15) residential lots, two (2) commercial lots and an area dedicated to the County for a park trailhead.

3. On January 8 2013 the BCC approved a 24 month time extension of the Tavelli Master Plan pursuant to Article V, Section 5.2.7(b) of the Code.

4. The Applicant now requests a second 24-month time extension of the previously approved Master Plan.

5. The property is located at 3969 Agua Fria Street, east of Lopez Lane, within Sections 31 and 20, Township 17 North, Range 9 East.

6. In support of the Application, the Applicant submitted a letter of request, proof of ownership, and proof of legal lot of record and the approved Master Plan.

7. Notice requirements were met as per Article II, Section 2.4.2, of the Land Development Code. In advance of the 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 December 23 2014. Additionally, notice of hearing was published in the legal notice section of the New Mexican on December 23, 2014, as evidence by a copy that legal notice contained in the record. Receipts for certified mailings of notice of the hearing were also contained in the record for all adjacent property owners.

8. The Applicant is requesting the extension in order to allow additional time for an economic recovery to take effect that would make development of the subdivision financially feasible. The Applicant also asserted that changes in the Affordable Housing requirements may ultimately impact the Final Development Plan of the Tavelli Subdivision.

9. Staff recommended approval of the request for a 24 month time extension.

WHEREFORE, THE BCC HEREBY APPROVES the Application for a 2-year time extension of the Master Plan for the Tavelli Mixed-Use Subdivision pursuant to Article V, Section 5.2.7(b) of the Code and the Master Plan will now expire on January 8, 2017.

The motion to approve the Time Extension 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 _____, 2015.

By: _____
Robert A. Anaya Chair

Attest:

Geraldine Salazar, County Clerk

Approved as to form:



Gregory S. Shaffer, County Attorney

Santa Fe County
Board of County Commissioners
Special Meeting: January 13, 2015
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CHAIR ANAYA: Thank you very much. Is there anyone else that would like to speak in favor of this project? There was none against. What's the pleasure of the Board? I'd move for approval with staff conditions.

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

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

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

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

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

CHAIR ANAYA: Are you sure?

MS. SAUCEDA: Yes.

CHAIR ANAYA: Okay. Is there any further comments?

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

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

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

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

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

COMMISSIONER HOLIAN: Mr. Chair.

COMMISSIONER CHAVEZ: Yes, go ahead, Commissioner Holian.

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

Santa Fe County
Board of County Commissioners
Special Meeting: January 13, 2015
Page 28

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

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

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

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

COMMISSIONER HOLIAN: Thank you.

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

[Duly sworn, Thomas Tavelli testified as follows:]

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

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

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

COMMISSIONER HOLIAN: I'll second that.

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

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

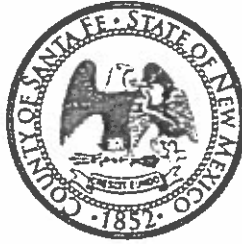
~~II. B. 8. CDRG CASE # Z 06-5033 Village at Galisteo Basin Preserve ("Trenza") Master Plan Amendment, TABLED~~



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 # V/Z 14-5210
SENIOR CAMPUS @ CAJA DEL RIO, VARIANCE AND MASTER PLAN
ZONING
CAJA DEL RIO HOLDINGS, LLC, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) for hearing on October 14, 2014, on the Application of Caja del Rio Holdings, LLC, (Applicant), for Master Plan Zoning approval to allow a Large Scale Mixed Use Development to be utilized as a senior care facility on 28 ± acres in accordance with Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code (Code). The Applicant also requested a variance of Article III, § 6.4.2 (Density Review) and Article III, § 10 (Lot Size Requirements), of the Code, to allow a maximum residential density of 20 dwelling units per acre (approximately 200 units on 10 acres). The BCC, having reviewed the Application and supplemental materials and 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 Zoning approval to allow a Large Scale Mixed Use Development to be utilized as a Senior Care Facility on 28 ± acres.

The proposed Senior Campus @ Caja del Rio will provide a full spectrum of

senior care and living options, including a skilled nursing facility, assisted living, a memory care facility and independent living.

2. The proposed senior care facility will be developed in four phases over a period of 8-10 years: Phase 1 will consist of a 58,000 square foot skilled nursing facility (Lot 1, 6.26 acres, approximately 120 beds) and a waste water treatment system, leach field and centralized drainage pond (Lot 5, 6.69 acres); Phase 2 will consist of a 150,000 square foot assisted living facility (Lot 2, 2.10 acres, approximately 200 beds); Phase 3 will consist of a 180,000 square foot retirement housing/independent living complex (Lot 3, 10 acres, approximately 200 dwelling units); Phase 4 will consist of a 35,000 square foot memory care facility (Lot 4, 2.95 acres, approximately 80 beds).
3. The Applicant requested the following permitted uses as a Large Scale Mixed Use designation: retirement housing; assisted living facility; life care or continuing care facilities; skilled nursing facility; hospitals; medical clinics; social assistance, welfare and charitable services; services for elderly and disabled; offices; research and development services.
4. The property is located at 28 Caja del Rio Road, within Section 2, Township 16 North, Range 8 East, (Commission District 2).
5. The Applicant acquired the Property by warranty deed recorded as Instrument # 1725405 in the Santa Fe County Clerk's records dated December 13, 2013.
6. The Applicant authorized Jenkins/Gavin Design & Development, Inc. to act on its behalf regarding the Application, as evidenced by a copy of a written authorization contained in the record.

7. Notice requirements were met as per Article II § 2.4.2, of the Land Development 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 September 23, 2014. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on September 23, 2014, 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.
8. Article III, § 4.2.1.d.1 (Large Scale Mixed Use Development) states, “[P]roposed developments which are planned for a mix of residential, large scale residential, and/or non-residential uses and large scale developments or subdivisions which may be developed in phases shall present a master plan for development to the County pursuant to Article V, Sections 5.1 and 5.2 of the Code”.
9. 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”.
10. Building and Development Services staff reviewed the project for compliance with pertinent Code requirements and presented the following to the BCC in

support of the request for Master Plan Zoning to allow a Large Scale Mixed Use Development: the Application is comprehensive in establishing the scope of the project; the proposed uses are in compliance with the uses associated with a Large Scale Mixed Use District; the Application satisfies the submittal requirements set forth in the Code.

11. The review comments from State Agencies and County staff have established that this Application, for Master Plan Zoning to allow a Large Scale Mixed Use Development, is in compliance with: State requirements (see below comments for each agency); Article III, § 4.2.1.d.1 Large Scale Mixed Use Development; Article V, § 5 Master Plan Procedures.

- a. State of New Mexico Cultural Affairs Historic Preservation Division recommends a survey be conducted to ensure that no significant archaeological sites are present before construction begins but since this is a low potential site, the survey is not required. If the survey is not conducted, construction crews should be advised to stop work if they discover archaeological artifacts and contact the Division.
- b. The New Mexico Department of Transportation (NMDOT) stated the development will have minor impact to the NMDOT roadway system, so no further traffic analysis is required.
- c. The Santa Fe County Public Works Department determined that this project can be supported subject to the following conditions:
 - i. Submittal of an intersection analysis and intersection turning movement volumes for the driveway/Caja de Rio intersection

for future phases to determine if a southbound left turn lane is required;

ii. Construct a northbound right turn deceleration lane at the proposed driveway along Caja del Rio Road 370 feet long with 12.5:1 taper with the Phase I development; and

iii. Construct and maintain adequate sight distances at the proposed driveway; provide a detailed drainage plan for the proposed culvert located within Santa Fe County right of way /entry of driveway at Preliminary Development Plan.

d. The Santa Fe County Fire Prevention Division reviewed this Application and recommends approval of the Master Plan subject to the following conditions:

i. Roads shall meet the minimum County standards for fire apparatus access roads within this type of proposed development;

ii. The Project shall comply with Article 9, § 903-Water Supplies and Fire Hydrants of the 1997 Uniform Fire Code; and

iii. Automatic Fire Protection Sprinkler systems shall be required as per 1997 Uniform Fire Code, Article 10, § 1003.2.

e. The Santa Fe County Utilities Division (SFCU) has reviewed this submittal and is ready, willing and able to provide water service for this development subject to the following conditions:

- i. the BCC approves new water deliveries for this development, as required by Resolution 2006-57 (Adopting A Santa Fe County Water Resource Department Line Extension and Water Service Policy);
- ii. The developer shall provide SFCU with data and calculations upon which the water budget was established. The developments water budget shall be premised on the Santa Fe County Conservation Ordinance 2002-13, which enumerates required water conservation measures.
- iii. SFCU may adjust the developments water budget as appropriate; approval by the BCC of the projects water budget of 69.7 acre- feet/year, which is in the excess of the maximum of 35 acre-feet/year identified in Resolution 2006-57, § IX.C., causing the development to justify the “extraordinary conditions” which merit an exception to the water allocation limit; the developer shall compensate SFCU for the quantity of water rights and supply assigned to the development per Resolution 2006-57, Article X and IV.A.3 of attached A, currently valued at \$11,000 per acre-foot;
- iv. The development shall meet all other conditions of Resolution 2006-7, Resolution 2012-88, and all other SFCU water related ordinances and resolutions;

- v. The Applicant is responsible for the design and construction of this project in its entirety and shall pay for all costs associated with the water system. Santa Fe County is not responsible for any costs incurred in order to ensure compliance with the County's ordinances or other applicable rules and regulations;
 - vi. The Applicant agrees to construct and dedicate all infrastructure needs identified by the SFCU; and
 - vii. The Applicant obtains a letter from the City of Santa Fe Water Division (City) that identifies what, if any, additional water utility infrastructure is needed in order to supply the proposed 69.7 acre-feet/year demand; the development agrees to construct and dedicate all infrastructure needs identified by the City's water utility hydraulic modeling (Exhibit 3).
- f. New Mexico Environment Department (NMED) reviewed this request and states:
- i. Phase I will require a permit to construct the wastewater treatment system;
 - ii. The sizing, treatment type and subsequent proposed re-use of the wastewater will require an NMED application, staff review and staff approval prior to construction;
 - iii. In the event that municipal sewer connection becomes available for this development the Applicant is responsible for

the design and construction in its entirety and pays for all costs associated with the connection.

- g. The request meets Ordinance 2008-10 (Flood Damage Prevention and Stormwater Management) for Master Plan Zoning. The property contains slopes of 0-15 %, and the project is not located within a designated FEMA Special Flood Hazard Area.
 - h. The request for Master Plan Zoning for Senior Campus @ Caja Del Rio is in conformance with Article VII, § 3 (Terrain Management), of the Santa Fe County Land Development Code.
12. The Applicant also requested a variance of Article III, § 6.4.2 (Density Review) and Article III, § 10 (Lot Size Requirements), of the Code, to allow a maximum residential density of 20 dwelling units per acre (approximately 200 units on 10 acres). The proposed site is within the Basin Hydrologic Zone where the minimum lot size is one dwelling unit per 2.5 acres.
13. Article II, § 3 (Variances) states: “Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and

unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified”.

14. The Applicants would incur a hardship in having to comply with the density requirements of the Code for the reason that the number of units proposed for this project would require 100 acres to be built on.
15. The granting of the requested variance is considered a minimal easing of the density requirements of the Code for this type of development because one of the factors regarding restrictions on density is water, especially water being independently imported from the Rio Grande, here the development will utilize County water. The use of County water is one of the reasons this is a minimal easing of the Code requirements.
16. Granting these variance requests will not nullify the purpose of the Code nor will it inhibit the achievement of the purposes of the Code because this facility is needed in the community in order to tackle the growing population of individuals needing assisted living and the area where this will be developed is a growth area. Additionally, the Sustainable Land Development Code

which has been adopted by the BCC but not yet implemented may allow for this type of development.

17. The agent for the Applicant, testified in support of the Master Plan Zoning and the request for a density Variance. The Agent also testified that this facility will provide a much needed senior care and living facility for the Northern New Mexico community. The initial phase will start with a skilled nursing rehabilitation facility; there is no facility like this in Santa Fe or Northern New Mexico. The first phase of the project will add 120 jobs to the community and the overall project will add 250 jobs to the community.
18. Jeff Stuve, on behalf of Caja del Rio Holdings, LLC, testified in support of the Application.
19. No members of the public commented in favor of or in opposition to the Application.
20. Staff recommended approval of the Application with the following conditions:
 - A. The Applicant shall comply with all review agency comments and conditions, as per Article V, Section 7.1.3.c.
 - B. Master Plan with appropriate signatures, shall be recorded with the County Clerk as per Article V, § 5.2.5.
 - C. Prior to submittal of Preliminary Plat or Development Plan the Applicant shall meet the requirements set forth in Resolution No. 2006-57, A Resolution Adopting a Santa Fe County Water Resources Department Line Extension and Waste Service Policy.

- D. A revised Traffic Impact Analysis shall be submitted, for each phase at Preliminary and Final Development Plan, analyzing the intersection and intersection turning movement volumes for the driveway/Caja del Rio intersection to determine if a southbound left turn lane will be required, as per Article III, § 4.4.1.5.c.
- E. Prior to submittal for Preliminary Development Plan Approval, each phase of development shall submit a proposed water budget that meets County code requirements and incorporates Santa Fe County conservation ordinances and resolutions. Upon approval, Utilities will add 20% to the development's water budget for line losses per Resolution 2006-57 and submit the water budget to the BCC for a water allocation.
- F. Prior to submittal for Preliminary Development Plan Approval, each phase of the development shall have a BCC-approved water allocation in the amount needed for the development's water budget.
- G. Prior to Final Development Plan Approval, each phase of the development shall provide the County Rio Grande surface water rights or a water right acquisition fee will be added to the meter installation fee, per Resolution 2012-88, Customer Service Policy 15, at the discretion of the Santa Fe County Utility Division.

WHEREFORE the Board of County Commissioners of Santa Fe County hereby approves the request for a variance of Article III, § 6.4.2 (Density Review) and Article

III, § 10 (Lot Size Requirements), of the Code, to allow a maximum residential density of 20 dwelling units per acre and for Master Plan Zoning to allow the creation of a Large Scale Mixed Use District, to be utilized as a Senior Care Facility on 28 ± acres. The Master Plan and Variance are approved subject to the conditions set forth in paragraph 20 above. The motion to approve the Application passed by a 5-0 vote; Commissioners Mayfield, Anaya, Holian, Chavez, and Stefanics were present and unanimously voted.

I certify that the Application was approved by the Board of County Commissioners on this _____ day of _____, 2015.


THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

By: _____
Robert A. Anaya, Chairperson

ATTEST:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



Gregory S. Shaffer, County Attorney

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

~~CHAIR MAYFIELD: I have not given any direction so far, but I think we kind of heard it.~~

~~MR. SOMMER: We'll work it out.~~

~~CHAIR MAYFIELD: Thank you, Mr. Sommer. Let me ask one question, I will. Mr. Romero, whose case was that? Mr. Romero, how long has this been in process? When was this initially filed?~~

~~MR. ROMERO: The application was submitted on August 27th.~~

~~CHAIR MAYFIELD: Okay, thank you so much.~~

- VII. B. 3. **CDRC CASE # V/Z 14-5210 Senior Campus at Caja del Rio.**
Caja del Rio Holdings, LLC, Applicant, Jenkins/Gavin, Agents, Request Master Plan Zoning Approval to Allow the Creation of a Large Scale Mixed Use District, to be Utilized as a Senior Care Facility, to be Developed in Four Phases on 28+ Acres. The Request Also Includes a Variance of Article III, Section 6.4.2 (Density Review) and Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located at 28 Caja del Rio Road, within Section 2, Township 16 North, Range 8 East, (Commission District 2)
[Exhibit 2: Applicant Material]

CHAIR MAYFIELD: And I love the name of the road.

JOSE E. LARRAÑAGA (Case Manager): Thank you, Mr. Chair. On August 21, 2014 the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend approval of the applicant's request for master plan zoning to allow the creation of a large-scale mixed-use district to be utilized as a senior care facility, and a variance of Article III, Section 6.4.2 and Article III, Section 10 of the land development code with staff conditions, by unanimous 5-0 voice vote.

The Applicant requests master plan zoning approval to allow a large-scale mixed-use development to be utilized as a senior care facility on 28 acres. The proposed senior campus at Caja del Rio will provide a full spectrum of senior care and living options, including a skilled nursing facility, assisted living, a memory care facility and independent living.

The proposed senior care facility will be developed in four phases over a period of 8 to 10 years. Phase 1 will consist of a 58,000 square foot skilled nursing facility and a wastewater treatment system, leach field and centralized drainage pond. Phase 2 will consist of a 150,000 square foot assisted living facility. Phase 3 will consist of a 180,000 square foot retirement housing/independent living complex. Phase 4 will consist of a 35,000 square foot memory care facility.

The Applicant is requesting the following permitted uses as a large-scale mixed-use designation: retirement housing; assisted living facility; life care or continuing care facilities; skilled nursing facility; hospitals; medical clinics; social assistance, welfare and

charitable services; services for elderly and disabled; offices; research and development services.

The Applicant also requests a variance of Article III, Section 6.4.2, Density Review, and Article III, Section 10 of the land development code, to allow a maximum residential density of 20 dwelling units per acre. The proposed site is within the Basin Hydrologic Zone where the minimum lot size is one dwelling unit per 2.5 acres.

The Applicant states the following reasons to allow the variance: 20 dwellings per acre is in accordance with the multi-family density permitted in the Sustainable Land Development Code; the density is permitted under the current County Land Development Code pursuant to Article III, Section 11 which states: Developments which import water from the surface Rio Grande or other locations outside Santa Fe County to any location in Santa Fe County designated in the development code as other than urban or metropolitan locations are permitted to locate anywhere in the County provided they meet all requirements of the code, except that in lieu of the density requirements as specified in Article III, Section 10, the proposed development shall meet the following criteria. The multi-family uses permitted by the large-scale residential provisions cannot be developed at the single-family density of one dwelling per 2.5 acres.

Staff Response: The Land Development Code rather than the Sustainable Land Development Code is governing law at this time and does not provide regulations to fully implement the density permitted in the SLDC. The SLDC density requirements have not been established within a public institutional zoning district. The proposed amendments to the SLDC which will be adopted with the adoption of the zoning map will establish the density within a public institutional zoning district.

The requested density exceeds the requirements of the Land Development Code. Article III, Section 11 of the Land Development Code was reviewed by County staff and it was determined that this section is not applicable in regards to the density proposed for this development due to the fact that this development will be utilizing County water rather than independently importing water from the Rio Grande. The Application is subject to compliance with Article III, Section 10, of the Land Development Code in regards to density. There are no features of the land which create a non-self-inflicted hardship which could be addressed through a variance.

Building and Development Services staff has reviewed the Applicant's request for a variance of Article III, Section 6.4.2 and Article III, Section 10 of the Land Development Code to allow a maximum residential density of 20 dwelling units per acre, for compliance with pertinent code requirements and has found that the following facts presented do not support the request. The requested density exceeds the requirements of the Land Development Code. No Application shall be approved unless it is determined that the density requirements of the Code will be met. Minimum lot size shall be calculated based upon ground water storage only and the minimum lot size shall not be less than 2.5 acres. There are no features of the land which create a non-self-inflicted hardship which could be addressed through a variance. A variation or modification of this section of the code may be considered more than a minimum easing of the requirements.

Building and Development Services staff has reviewed this project for compliance with pertinent code requirements and has found the following facts presented support the request for master plan zoning to allow a large-scale mixed-use development:

the application is comprehensive in establishing the scope of the project; the proposed uses are in compliance with the uses associated with a large-scale mixed-use district; the application satisfies the submittal requirements set forth in the Land Development Code, with the exception of the density element of the request.

The review comments from state agencies and County staff have established that this Application for master plan zoning to allow a large-scale mixed-use development, is in compliance with: state requirements; Article III, Section 4.2.1.d.1, Large-Scale Mixed-Use Development; Article V, Section 5, Master Plan Procedures. This Application is not in compliance with Article III, Section 6.4.2 Density Review and Article III, Section 10, Lot Size Requirements.

Staff recommendation: Staff recommends denial of the Applicant's request for a variance of Article III, Section 6.4.2 and Article III, § 10. Staff has determined that the density requirements of the code have not been met, therefore staff cannot support the request for master plan zoning to allow a large-scale mixed-use development.

If the decision of the BCC is to recommend approval of the density variance and the request for master plan zoning to allow a large-scale mixed-use development, to be utilized as a senior care facility and be developed in four phases on 28 acres, staff recommends the following conditions be imposed:

1. The Applicant shall comply with all review agency comments and conditions as per Article V, § 7.1.3.c.
2. Master Plan with appropriate signatures, shall be recorded with the County Clerk as per Article V, § 5.2.5.
3. Prior to submittal of Preliminary Plat or Development Plan the Applicant shall meet the requirements set forth in Resolution 2006-57.

Staff also recommends the imposition of the following additional conditions by the BCC:

4. A revised traffic impact analysis shall be submitted for each phase of preliminary and final development plan, analyzing the intersection and intersection turning volumes for the driveway-Caja del Rio intersection to determine if a southbound left turn lane will be required for future phases. (Article III, Section 4.1.5.c)
5. Prior to submittal for preliminary development plan approval each phase of development shall submit a proposed water budget that meets County code requirements and incorporated Santa Fe County conservation ordinances and resolutions. Upon approval Utilities will add 20 percent to the development's water budget for line losses per Resolution 2006-57 and submit the water budget to the BCC for a water allocation.
6. Prior to submittal for preliminary development plan approval each phase of the development shall have a BCC-approved water allocation in the amount needed for the development's wastewater budget.
7. Prior to final development plan approval each phase of the development shall provide the County Rio Grande surface water rights or a water right acquisition fee will be added to the meter installation fee, per Resolution 2012-88, customer service policy 15, at the discretion of the Santa Fe County Utility Division.

Mr. Chair, I stand for any questions.

COMMISSIONER ANAYA: Thank you, Mr. Larrañaga. Is there any

questions of staff?

COMMISSIONER CHAVEZ: I just have a question or two on water supply. In the packet it does state the proposed water budget for this development ranges from 59.4 acre-feet to 67.9, so that's quite a big spread. So I wonder, Jose, if you could explain why there's such a spread in that water budget. And I'm wondering which is more accurate?

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, that is a typo. That should be 67.9. 57.4 acre-feet to 67.9 acre-feet.

COMMISSIONER CHAVEZ: Well, that explains that a little bit. Okay, so it's 67.9?

MR. LARRAÑAGA: Yes.

COMMISSIONER CHAVEZ: Okay. And so that, the water budget then is really depending on our water system, then, right? The developer right now is not expected to bring any water rights to the project?

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, as per one of our conditions per the requirements of the utilities, they would have to bring either water rights or pay fees in lieu of.

COMMISSIONER CHAVEZ: Okay. I didn't see that anywhere. Is that one of the conditions?

MR. LARRAÑAGA: I believe it's our added condition. In condition 7, It's on NBF-9A, last condition recommended by staff.

COMMISSIONER CHAVEZ: Read that into the minutes, please.

MR. LARRAÑAGA: Prior to final development plan approval each phase of the development shall provide the County Rio Grande surface water rights or a water right acquisition fee will be added to the meter installation fee, per Resolution 2012-88, customer service policy 15, at the discretion of the Santa Fe County Utility Division.

COMMISSIONER CHAVEZ: Okay. And that's based on their assumption of the 59.4 to 67.9 acre-feet for their water budget.

MR. LARRAÑAGA: Mr. Chair, Commissioner Chavez, that's correct.

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

COMMISSIONER ANAYA: Any other questions of staff? Seeing none, we'll go to the applicant.

JENNIFER JENKINS: Good evening, Chair, Commissioners, I'm Jennifer Jenkins and this is Colleen Gavin. We are JenkinsGavin Design and Development here this evening on behalf of Cauwels and Stuve in request for master plan approval for a large-scale, mixed-use senior care campus on Caja del Rio.

[Duly sworn, Jennifer Jenkins testified as follows:]

MS. JENKINS: So as Jose mentioned in his staff report, this is a request for master plan zoning for a large-scale mixed use and this is a 28-acre parcel that is right off of Caja del Rio, just northwest of the 599 frontage road and this area has sort of developed with a lot of institutional uses in the vicinity. Like I said, our parcel is about 28 acres and just up the street we have the Challenge New Mexico non-profit horse facility. We have the Santa Fe Animal Shelter. We have the Municipal Recreation Complex, Marty Sanchez Links, as well as the New Mexico Archeology Office directly across the street, and then a little further down the frontage road we have the Santa Fe County

Public Works Facility.

And this campus is going to be developed in four phases and will provide much needed senior care and living options for not only Santa Fe County but our regional northern New Mexican community as well. As we all know, our demographics are changing dramatically in our community, but there's a void of services here. For example, our first phase is a skilled nursing rehabilitation facility. This is the type of facility when someone is released from the hospital but they're not quite well enough to go home because they need continual care but not necessarily hospital care, and then they get the rehabilitation and the care they need, then they are released home. We have no facility like that in Santa Fe. We have no facility like that in northern New Mexico.

So what families are forced to endure is when mom gets out of the hospital they've got to send mom to a facility in Albuquerque, driving down there, visiting, doing the whole thing. It's such a critical healthcare service in our community that we don't have right now. And this is the concept, continuum of care. So we have one campus where you could be in independent living and then if a couple – say if only one of the couple experienced some health issues and they need more assistance they could move into the assisted living. Or someone is dealing with dementia or Alzheimer's. There's a memory care facility right there.

And so it really creates such important options that keeps families close together and doesn't uproot people unnecessarily from something they've become accustomed to. So again, it's being developed in four phases with that continuum from skilled nursing, independent living, memory care and assisted living.

So with respect to the site plan, we have one access point off of Caja del Rio. We did conduct a traffic impact analysis and we will be developing a dedicated right turn lane for people on Caja del Rio northbound into the facility. And as I mentioned, as we move forward with additional phases we will update the TIA to ensure that there aren't any additional improvements to Caja del Rio that may be warranted as the project develops.

There is County water infrastructure in Caja del Rio. We have a water availability letter from Santa Fe County so we are anticipating being Santa Fe County water customers and currently the plans reflect onsite wastewater treatment. There is no public wastewater infrastructure in the vicinity right now. However, we have a request that we have jointly submitted with Santa Fe County Public Utilities Department. We have a request that is moving through the process at the City of Santa Fe to request a connection so we could potentially build a connection and send our wastewater into the City's treatment plant. This would potentially serve a lot of these users. Your own Public Works Facility is on a septic system. The New Mexico Archeology Office is on a septic system so there's an opportunity for some collaboration for the users in this vicinity and we are hopeful that we will be successful in gaining approval of that application through the City so then we can look at constructing the requisite infrastructure for that.

But at the moment we know that onsite wastewater treatment is always an option and that is one of the reasons why we have a range in the water budget, because if we're treating our wastewater on site we're going to have a lot of treated effluent for irrigation purposes. We won't have to use one drop of potable water to irrigate anything because we will have so much water that we will be treating onsite. And so that's the lower end of

the budget, obviously if there's no need for any potable water to back up the stormwater catchment for irrigation purposes.

And the fact that we are going to be served by Santa Fe County water is really the basis for the density variance, and I would like to speak to that briefly. The current County code multi-family – when we talk about multi-family we're talking about the independent living component of the project. It's a permissible use in the Santa Fe County code. We have large-scale residential uses listed in the Santa Fe County code. Large-scale mixed use, which is a combination of commercial or institutional and residential. But yet there's nothing in the current County code that permits the type of density that you have to have.

You can't build 180 independent living units at one unit per 2.5 acres. It's not a reality and I think we all know that. So I think that's why there is an area of the code in Article III, Section 11 that says if you're not pumping groundwater, because we know the hydrologic zones that the County's based on right now for establishing density – if you're in the basin it's one per 2.5. If you're over here, it's one per 40. That is based upon what's available in terms of groundwater. And we all know that's the basis for it. So if you're not pumping groundwater then it's logical to assume that that metric doesn't apply to you. If you're importing water from elsewhere and you're not pumping groundwater onsite, that's what Article III, Section 11 is referring to. However, County staff has determined that is not applicable in our situation. That's fine.

So we are here requesting a density variance so we can build a project that your current code permits, but yet the missing piece in the current code was a mechanism to allow or the type of density that is necessary to realize that. And so we asked the CDRC, we had unanimous recommendation for approval from the CDRC for the master plan and the variance because they recognized that was the proverbial missing link, so to speak.

And so in addition to these services frankly that are important to our community, there's also the component of our first phase is 120 jobs. Just in the first phase. And then overall, the project we're looking at at least 250 jobs for our community. And so with that I would be happy to stand for any questions and I greatly appreciate your time.

COMMISSIONER ANAYA: Commissioner Chavez, then Commissioner Stefanics, then Commissioner Holian.

COMMISSIONER CHAVEZ: Okay. Thank you, Mr. Vice Chair. I'm reading in the packet again under water supply and it states that this development will be served by the County water system and I think you just touched on that. It also goes on to say that the developer will be responsible for constructing the waterlines to serve the development. Five hydrants are proposed along the access drive of the development, and so you're okay with that?

MS. JENKINS: Absolutely. Absolutely.

COMMISSIONER CHAVEZ: Then it goes down a little bit further, it reads, let's see, approval by the BCC of the project's water budget of 69.7 acre-feet a year, which is in excess of the maximum of 35 acre-feet a year identified in Resolution 2006-57. The development shall justify the extraordinary circumstances that merit an exception to the water allocation limit. Then it goes on to say – there's a semi-colon, then it goes on to say the developer shall compensate Santa Fe County Utility for the quantity of water rights and supply assigned to the development per Resolution 2006-57 of

attached A, currently valued at \$11,000 per acre-foot. The development shall meet all other conditions of Resolution 2007-7. So you're okay with all of that too?

MS. JENKINS: Yes. This is pointing out all the conditions of the resolution and we're actually going to – tentatively we're going to be back before you in two weeks. Claudia is bringing some water allocations before the Board, and so we will be on that agenda. That's the plan at the moment, to be on that agenda for the water allocation for this so we can – that's kind of our next step. Because the way your policies are right now it's kind of bifurcated. We come for master plan and then we come back for the water allocation. That's supposed to be happening in a couple weeks.

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

COMMISSIONER ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Are you the applicant or representing the applicant?

MS. JENKINS: We are representing the applicant.

COMMISSIONER STEFANICS: Okay. Has the applicant in fact done any other projects of this nature and of this scale?

MS. JENKINS: Absolutely. They are very active in Albuquerque. They actually just finished a skilled nursing facility very similar to what we're proposing in the first phase in Albuquerque and the applicant – the owner of the property and the developer are here if you would like them to speak to some of the other facilities they have built, but yes, they are very experienced with this.

COMMISSIONER STEFANICS: I'd like to hear a little bit about their experience before – an entity doing a project of this magnitude, we'd like to hear from them.

MS. JENKINS: Sure. Who am I going to hear from? This is Jeff Stuve with Cowles and Stuve.

[Duly sworn, Jeff Stuve testified as follows:]

JEFF STUVE: Good thing Jennifer's tall. Mr. Chair, Commissioner Stefanics, we have had the experience that Jennifer just referenced in the last couple years in terms of licensed skilled facilities. My background was with a company called Horizons CMS Healthcare based out of Albuquerque and we developed post-acute healthcare product in 36 different states. The most applicable in New Mexico would be the Village at Northrise, which was an independent assisted and memory care facility with a skilled component as well, of similar scale and magnitude to this project. And that would be in the state of New Mexico.

COMMISSIONER STEFANICS: So, Mr. Chair and Mr. Stuve, are you the developer or are you the operator? Or both?

MR. STUVE: Mr. Chair, Commissioner, we are the developer and it would be our intention to own the skilled facility, phase 1, under a lease with an operator. And the operator for the balance of the site will be a separate operator from that skilled operator as well. But they will be either tenants or joint venture partners or potentially we would ultimately sell the land to that operator. But we do not operate the facility.

COMMISSIONER STEFANICS: And so, Mr. Chair, have you already identified an operator?

MR. STUVE: We have not finalized with an operator at this point. No.

COMMISSIONER STEFANICS: Well, Mr. Chair, the reason I'm asking is we have a need for skilled nursing and independent living and assisted living, but we also have some companies that come into the state that don't meet, necessarily the standards that the state has established and I get concerned about that. And so I understand we're only dealing with the development but the aftermath is something that would be left in Santa Fe County. So those are the reasons for my questions. Thank you.

COMMISSIONER ANAYA: Commissioner Holian. Can I comment on her concern?

COMMISSIONER HOLIAN: Yes, indeed. Because in fact that was going to be my question about the operation of the facility.

MR. STUVE: Which is, Mr. Chair and Commissioners, that is the absolute most critical component to that. The current operator for our facilities in Albuquerque is On Point Healthcare, which would be known as a small regional provider. Those are typically the providers we like to approach because of the level of care that they typically provide. Your large national providers, the largest here in New Mexico is Genesis Healthcare who is the largest, and we have not approached Genesis at this juncture. They just recently purchased another operator here, and so they are the largest.

But the protection mechanism in place on the skilled licensure level is very high. They're heavily regulated. They're surveyed regularly by the state, but we too, for our ownership purposes, we recognize and understand the critical piece of this is the operation and it's a difficult industry.

COMMISSIONER HOLIAN: Thank you.

COMMISSIONER ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: My question was about the operation.

Thank you.

COMMISSIONER ANAYA: Any other questions of the applicant? We'll move to public hearing. Is there anybody here who would like to speak in favor of or against this project? Seeing none. Mr. Chair. The public hearing is closed. Mr. Chair, the floor is yours.

CHAIR MAYFIELD: Thank you. I'll go to the Commission.
Commissioner Stefanics.

COMMISSIONER STEFANICS: I'd like to hear from staff again, please. Mr. Larrañaga, could you summarize briefly the staff's concerns? I've read the entire packet but I'm trying to determine how serious they are.

MR. LARRAÑAGA: Mr. Chair, Commissioner Stefanics, the concerns as far as master plan and the submittal, they meet all the requirements. It's the density requirements, 2.5 acres and that's the section of the code that they're asking for the variance. That's our main concern that they're not meeting those density requirements. And the fact that they're even in the SLDC, it's still not defined the density requirements in an institutional zone.

COMMISSIONER STEFANICS: So, Mr. Chair, Jose, there's no concern about the water or wastewater?

MR. LARRAÑAGA: Mr. Chair, Commissioner Stefanics, water, they would have to follow the guidelines of the utilities to get the water allocation. The wastewater, this is master plan so at phase 1 development plan the wastewater, the septic

system that they're going to be putting in would have to be reviewed by NMED and get it approved before it comes forward to CDRC for final development plan.

COMMISSIONER STEFANICS: Thank you very much, Mr. Chair.

CHAIR MAYFIELD: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, very familiar with campus facilities of this nature. I would concur with Commissioner Stefanics, there is an absolute need to have these types of facilities in this area and in the region in particular. But those operational concerns are something that I think as Commissioners we're going to be obligated to continually review and raise questions as this project moves through the process. But without a doubt, this type of campus model is something that will benefit the area and we would need to make sure we're conscious and deliberate in our review of the project and it moves through the process. But with those items stated I'd move for approval, Mr. Chair.

CHAIR MAYFIELD: I'll second.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIR MAYFIELD: Commissioner Holian.

COMMISSIONER HOLIAN: With staff conditions?

COMMISSIONER ANAYA: Absolutely, Commissioner Holian.

COMMISSIONER HOLIAN: And is that including the density variance?

COMMISSIONER ANAYA: Including the density variance. Thank you, Commissioner Holian.

COMMISSIONER CHAVEZ: Mr. Chair.

CHAIR MAYFIELD: Commissioner Chavez.

COMMISSIONER CHAVEZ: I want to ask the maker if that includes the additional conditions, 4 through 7?

COMMISSIONER ANAYA: Yes, sir, Mr. Chair, Commissioner Chavez.

COMMISSIONER CHAVEZ: Okay. So I would just state for the record that I agree that the project does have merits. I'm a little concerned about the density but hopefully that will work itself out and maybe the need will outweigh the negative side in the increased density. I'm also a little concerned about future development along the 599 corridor, that it not be done too much in a piecemeal way, that there be some focus in master planning that corridor so that when we're done that it looks good. And we're following the right setbacks and those kinds of things. That's all I have, Mr. Chair.

CHAIR MAYFIELD: Thank you. Seeing nothing else we have a motion and a second as stated.

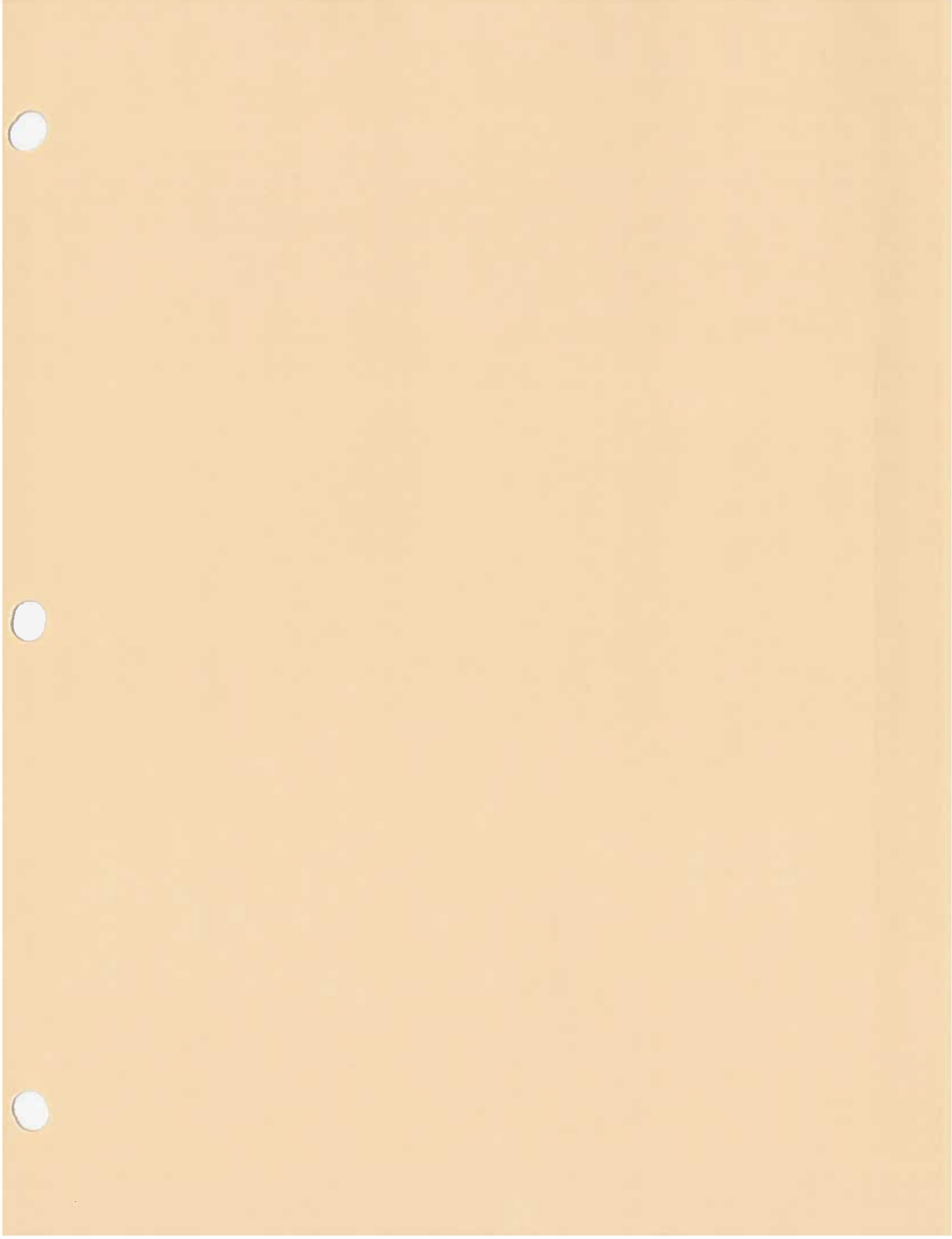
The motion passed by unanimous [5-0] voice vote.

VHI CONCLUDING BUSINESS

A. Announcements

COMMISSIONER ANAYA: Mr. Chair, I wanted to wish you a happy birthday today.

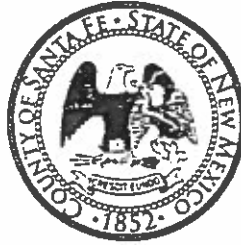
CHAIR MAYFIELD: I appreciate that. Thank you.



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 # Z/PDP/DP 14-5380
SANTA FE COUNTY SOLAR ENERGY CENTER
PUBLIC SERVICE COMPANY OF NEW MEXICO, APPLICANT**

ORDER

THIS MATTER came before the Board of County Commissioners of Santa Fe County (BCC) for hearing on February 10, 2015, and on March 24, 2015, on the Application of the Public Service Company of New Mexico (PNM or Applicant) for Master Plan Zoning, and Preliminary and Final Development Plan approval, in accordance with Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code (Code), as amended by Ordinance No. 1998-15 (amending Article III § 8, "Other Development"), to allow a 10 megawatt solar electric generating facility on a 100 acre site. The BCC, having reviewed the Application, supplemental materials and Staff report, and having conducted two public hearings on the request, finds that the Application is well-taken and should be granted subject to certain conditions, and makes the following findings of fact and conclusions of law:

1. PNM submitted an application for Master Plan Zoning, Preliminary and Final Development Plan approval to allow a 10 megawatt solar electric generating facility on a 100 acre site.
2. The proposed site is located south of the National Guard site and is accessed via the East I-25 Frontage Road, within Sections 3 & 4, Township 15 North,

Range 8 East (Commission District 5), and is hereinafter referred to as the Property.

3. The current owner acquired the Property by warranty deed recorded as Instrument # 1384270 in the Santa Fe County Clerk's records on June 14, 2005. PNM has a contract to purchase the Property from the owner for purposes of installation of a 10 megawatt electric solar facility.
4. Laurie Moye, Coordinator of Regulatory Project & Public Participation for PNM, acted on behalf of the Applicant as its agent.
5. The solar facility will consist of solar tracking panels, which will be configured together in long rows oriented north-south. Each row of panels will be approximately 210 feet in length (the row length varies depending on the amount of developable area) and will rotate together, making adjustments as the panels move to track the sun east to west. The solar modules will be mounted on a ground mounted rack. The height of the top of the panels at full-rotation (90 degree range of motion) will not exceed 7 feet from the natural grade. The site will contain approximately 40,000 panels on approximately 75 acres of the 100 acre site. The site will also house five power converters (9' 11" in height, 14' 10" wide, and 4' 10" deep) and one switchgear facility (7' 10" in height, 12' 8" wide, and 4' deep). An electric distribution line will be extended to the Property to distribute the electricity being generated by the facility. For safety and security, the facility will be enclosed by a 7 foot high chain link fence with 3 strands of barbed wire adding 1 foot to the height of the fence.

6. On December 18, 2014, the County Development Review Committee (CDRC) held a public hearing on the Application. Following the public hearing, the decision of the CDRC was to recommend approval of the Applicant's request for Master Plan Zoning, and Preliminary and Final Development Plan approval subject to conditions proposed by staff. The recommendation was a unanimous 6-0 voice vote.
7. On January 15, 2015, the CDRC Meeting was cancelled due to a lack of a quorum; therefore, the December CDRC minutes were approved by the CDRC at their February 19th meeting and recorded on February 20, 2015.
8. The Application was scheduled for a public hearing before the BCC on February 10, 2015.
9. Notice requirements for the public hearing 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 January 20, 2015. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on January 20, 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.
10. On February 10, 2015, the BCC convened a public hearing on the Application. Staff presented a staff report with exhibits to the BCC, the

Agent for the Applicant presented material and testified in support of the Application, and the BCC heard testimony from the public.

11. Mr. J.J. Gonzales testified in support of the Application.
12. Mr. Mathew Baca testified in opposition to the Application. Mr. Baca questioned whether proper notice for the request had been given. He questioned what zoning the property would be given and whether this was a rezoning. He also expressed concerns regarding visibility of the facility and the archaeological study prepared for the site. Mr. Baca testified that an archeological report prepared by Marron and Associates might disclose archeological information relevant to the Application. Finally, Mr. Baca expressed concern that the December 19, 2014, minutes of the CDRC hearing on the Application had not yet been recorded.
13. Mr. Charlie Dorame, speaking on behalf of the Pueblo of Tesuque, testified that the Pueblo was concerned about the location of the proposed facility and whether adequate steps had been taken to consult and collaborate with tribes within the area.
14. The BCC tabled the case until March 10, 2015, so that the final recorded minutes of the CDRC meeting on the application would be available. The BCC also requested that staff provide additional information on the two cultural resource sites identified in the archaeological report prepared by Marron and Associates and reviewed by the New Mexico Historic Preservation Division (SHPO). Finally, the BCC requested that, on March 10, staff provide information on efforts made by PNM to reach out to the

Tesuque Pueblo in regards to cultural sites on the Property. The BCC rescheduled its regular meeting from March 10 to March 24, 2015.

15. On March 24, 2015, at the public hearing before the BCC pertaining to this application, Staff advised that they did ask SHPO to elaborate on their comments regarding the two cultural resource sites identified in the archaeological survey. SHPO responded with the following information:

- A. Archaeological site LA 180083 is a historic artifact scatter (40 artifacts total) dating from the 1880s to 1945. The artifacts are food related; such as cans, crockery and glass stoppers. The site also has barrel hoops and a piece of window pane. The site is interpreted as a single episode trash dump.

- B. Archaeological site LA 180084 is also a historic artifact scatter (99 artifacts total) with a corral dating from the 1880s to 1945. Artifacts are similar to that of LA 180083 and are comprised of cans, glass, crockery, etc. The corral is constructed of juniper posts, sheep wire, and barbed wire. The artifact scatter is interpreted as a single episode trash dump.

- C. The historic trail (HCPI 34237) is approximately 5 meters wide and was noted by a faint swale. Aerial maps of the project area were inspected and the segment appears to head in the direction of the modern community of Eldorado. The area in the vicinity of the project has been developed and it is unknown where the segment goes. It is likely that the segment is related to ranching in the area and is not associated with major

road/trails in the area, which include the Camino Real. The Camino Real is closer to the Santa Fe River, which is to the west of the surveyed area.

D. The area was historically used for ranching. General Land Office (GLO) records indicate that Tomas Narvaez obtained the area in 1922, so the artifacts, corral, and road segment may relate to his use of the area.

E. SHPO concluded that all three historic properties are not significant and are not worthy of preservation. Although they will be impacted by the proposed development, because they are not significant, they do not need to be placed in a non-disturbance easement.

16. As requested, at the March 24, 2015 hearing, staff provided information on efforts made by PNM to reach out to the Tesuque Pueblo in regards to cultural sites on the property. Representatives from PNM met with Tesuque Pueblo Governor Milton Herrera and key members of the Pueblo's Council on Tuesday, February 17, 2015. The Pueblo leaders communicated their concerns and PNM and the Pueblo leaders agreed that working together during the early stages of a proposed project would help to avoid similar situations in the future. In addition to the constructive dialogue between the Pueblo and PNM, a site visit was scheduled at which PNM shared its standard discovery action plan, so that if any cultural remains are discovered during construction, all parties will understand the actions that will be initiated to respectfully address the Pueblo's cultural traditions and religious beliefs.

17. Staff provided the BCC with recorded minutes from the CDRC meeting of December 18, 2014. 19. Laurie Moye, Agent for the Applicant, testified again at the March 24, 2015 hearing in support of the Application.
18. Mr. Charlie Dorame, Governmental Affairs Pueblo of Tesuque, testified that after meeting with PNM and conducting a site visit, the Pueblo of Tesuque was in support of the Application.
19. Staff reviewed how the Code addresses regulation of utility infrastructure. Ordinance 1998-15 amended Article III, § 8, "Other Development", of the Code, to clarify the development permit requirements for utilities. To obtain authorization for a solar facility such as that proposed, the Applicant must obtain Master Plan Zoning pursuant to the Code as amended by Ordinance No. 1998-15 (an Ordinance amending Article III, § 8.1), which provides that "subject to the requirements of this Section, all uses not otherwise regulated by the Code are permitted anywhere in the County provided a request for zoning approval is granted per Article III." Article III, § 8.2 provides that development standards and criteria and submittal requirements are set forth in Article III, § 4.4.
20. 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 sub-divider 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.

21. Article V, § 7.2 (Final Development Plan) states:

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.

Here the final development plan is coming before the BCC for final approval because it was submitted simultaneous with the Master Plan and Preliminary development Plan, both of which required BCC approval.

22. The Santa Fe County Planning Department reviewed the Application and confirmed that the facility would be consistent with the Sustainable Growth Management Plan adopted by Santa Fe County in 2010 and with the Sustainable Land Development Code which is drafted but not yet in effect.

23. SHPO has determined that the archaeological report identified two cultural resource sites, both of which were recommended not eligible for inclusion on the National Register of Historic Properties or the New Mexico State Register of Cultural Properties. Based on the visual analysis that was performed, the undertaking will have no adverse effect on SR#1993, a state registered segment of El Camino Real.
24. The site will take access via the I-25 East Frontage Road onto a privately maintained road, and the County Public Works Department supports the Application. The proposed access to the site shall be constructed with six inches of compacted base course twenty feet in width.
25. The Santa Fe County Fire Prevention Division reviewed the Application and recommended approval subject to the development complying with Article 1, § 103.3.2-New Construction and Alterations of the 1997 Uniform Fire Code.
26. There is no on-site water required for this type of development; nor will there be solid waste created on the Property.
27. No on site liquid waste system is required for this type of development. NMED reviewed the Application and had no comments other than a concern regarding the use of herbicides for weed control. PNM confirmed that it contracts for weed control using certified weed control specialists. PNM selects herbicides based on site specific conditions and at application rates as specified by the manufactures. In the past, Surmount and Garlon 4 have been used. Typically herbicides on solar facilities are applied as spot applications so as not to discourage acceptable native vegetation.

28. The Property contains slopes less than 15%, and minimal disturbance is expected. The disturbed area will be reseeded with native vegetation. The facility complies with Article VII, § 3, Terrain Management. The Applicant's proposed site plan shows existing topography and vegetation. Disturbed areas will be reseeded and the reseeded is reliant on rain fall to take root. The facility will have minimal runoff from any storm event. Therefore, the submittal is in conformance with Master Plan and Final Development Plan submittal requirements and complies with Article VII, § 3.4.6 and Ordinance No. 2008-10, Flood Damage Prevention and Stormwater Management.
29. The facility will have a PNM sign not to exceed 16 square feet (4'x4') to be mounted on the chain link fence at the entry of the site. The sign will not exceed 5 feet in height with a set back from the property line of 5 feet. Staff has determined that the signage element of the Application complies with Article VIII (Sign Regulations).
30. No outdoor lighting is proposed for this development.
31. No parking is proposed for this development.
32. The 100 acre parcel is currently vacant and is bordered to the north by the National Guard site, a shooting range to the east, and residential properties to the south/southwest. To the west is the I-25 East Frontage Road and I-25.
33. The Application is comprehensive in establishing the scope of the project.
34. The Preliminary Development Plan substantially conforms to the approved Master Plan.

35. The Final Development Plan conforms to the Preliminary Development Plan.
36. The proposed use is in compliance with the uses associated with Other Development.
37. The review comments from the New Mexico Environment Department, New Mexico State Historic Preservation Division and County staff establish that this Application for Master Plan Zoning, Preliminary and Final Development Plan is in compliance with: State requirements and the Code, including: Ordinance No. 1998-15 (Ordinance amending Article III § 8 "Other Development"); Article V, § 5 Master Plan Procedures; and Article V, § 7.2 Final Development Plan.
38. Staff recommended the following conditions for approval of the Application, and the Applicant was in agreement with all conditions:
- a) The Applicant shall comply with all review agency comments and conditions, as per Article V, § 7.1.3.c. Conditions shall be noted on the Master Plan/Final Development Plan.
 - b) The development shall comply with Article 1, § 103.3.2-New Construction and Alterations of the 1997 Uniform Fire Code.
 - c) The proposed access, to the site, shall be constructed with six inches of compacted base course and twenty feet in width.
 - d) Master Plan/Final Development Plan with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 7.2.2.
39. The application will be approved because it meets all relevant Code requirements and:

A. Solar (and other renewable) energy production is beneficial to residents of the County, as articulated in the County's Sustainable Growth Management Plan (e.g., Chapter 7);

B. There is a public need for regulated utilities, such as PNM, to develop renewable energy sources, as demonstrated by renewable energy requirements imposed upon PNM by the Public Regulation Commission;

C. The Property is particularly appropriate for a solar energy generation facility because:

- i. The Property is not highly visible;
- ii. There is a nearby electric distribution line which can be used to transmit the generated electricity;
- iii. There is another solar facility in the vicinity;
- iv. The facility will not generate detectable sound;
- v. Traffic to the facility will be minimal;
- vi. An adjacent property owner supports the facility being installed at the Property;
- vii. The residential community to the Southwest of the facility met with PNM and was satisfied that concerns about visibility and tree removal were unfounded and that traffic to the facility would be minimal and

viii. The property falls within an area designated as having the most potential for solar power on Map 7-1 A of the Sustainable Growth Management Plan adopted by BCC Resolutions 2010-210 and 2010-225.

WHEREFORE the BCC hereby approves the request for Master Plan Zoning, Preliminary and Final Development Plan approval to allow a 10 megawatt electric solar facility on a 100 acre site subject to the conditions set forth in paragraph 38 above. Commissioners Anaya, Chavez, Holian, Roybal, and Stefanics were present and unanimously voted to approve the Application.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

By: _____
Robert A. Anaya, Chair

ATTESTION:

Geraldine Salazar, County Clerk

APPROVED AS TO FORM:



Gregory S. Shaffer, County Attorney



