1570220

BOARD OF COUNTY COMMISSIONERS

SANTA FE, NEW MEXICO

REGULAR MEETING

NOVEMBER 10, 1998

Marcos Trujillo, Chairman
Paul Duran, Vice Chairman
Richard Anaya, Commissioner
Javier Gonzales, Commissioner
Joe Griñé, Commissioner

SANTA FE COUNTY

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November 10, 1998

This regular meeting of the Santa Fe Board of County Commissioners was called to order at 5:15 p.m. by Chairman Marcos Trujillo in the Santa Fe County Commission Chambers.

Roll Call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present	Members Absent
Commissioner Marcos Trujillo, Chairman	none
Commissioner Joe Griñé, Vice Chairman	
Commissioner Richard Anaya	
Commissioner Paul Duran	
Commissioner Javier Gonzales	

IV. INVOCATION

An invocation was given by the Reverend Herbert Adams of the Unitarian Church of Santa Fe.

V. APPROVAL OF AGENDA

DAVID WOLF (County Manager): Mr. Chairman, Commissioners, there are two amendments. Item VIII, A.1. is actually amended a second time and it will be amended to read: Resolution No. 1998-__. A resolution requesting a determination as to the census results of the area proposed to be incorporated pursuant to the community of Edgewood's petition for incorporation and calling for a special election.

The second amendment to the agenda is item VIII A.2 is added to read: Request authorization to accept and award a contract to the lowest responsive bidder for the purchase

1570220

of one truck chassis and cab with roll off/on body.

Mr. Chairman, there's a couple of items that we request to be tabled. It's item 6 under the Land Use Department items, so it would be Land Use Department G. 6, EZ Case #98-4340, item 8, CDRC Case #98-5580 and item 13. CDRC Case #98-5341.

CHAIRMAN TRUJILLO: Thank you, David.

Commissioner Anaya moved to approve the agenda as amended. The motion was seconded by Commissioner Duran and passed by unanimous voice vote.

V. APPROVAL OF MINUTES: September 29, 1998

Commissioner Griñé moved to approve the September 29, 1998 minutes and the motion was seconded by Commissioner Anaya. The motion passed by unanimous voice vote.

October 13, 1998

Commissioner Duran moved to approve as presented the October 13, 1998 minutes and his motion was seconded by Commissioner Anaya. The motion passed by unanimous voice vote.

October 20, 1998

Commissioner Gonzales moved to approve the October 20, 1998 minutes as presented and his motion was seconded by Commissioner Griñé. The motion passed by unanimous voice vote.

October 27, 1998

Commissioner Duran moved to approve the October 27, 1998 minutes as presented. Commissioner Griñé seconded the motion which passed by unanimous voice vote.

VII. ADMINISTRATIVE ITEMS

A. Committee appointments

1. Open Land and Trails Advisory Committee

JACK KOLKMEYER (Planning Director): Mr. Chairman, Commissioners, this is an item that was continued from our last meeting in regards to appointment of members to the committee to oversee the recent $12 million bond issue that was passed in

1570220

the recent election. You've been given a list of names that have been narrowed down from some fifty applicants that we received. A reminder that the resolution that was passed in September, September 29, was that you would appoint seven members from the northern part of the county, eleven from the central part of the county and seven from the southern part of the county.

Those names have been submitted to you and we would ask your direction in making appointments today.

CHAIRMAN TRUJILLO: Who's ready to identify -- we can start with Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, my understanding that in the central portion of this committee membership establishment that there are to be eleven as far as Commissioner Duran and I sharing eleven members I think in this committee. Is that correct, Jack? Does that sound like about the right number?

MR. KOLKMEYER: We didn't take into consideration necessarily how you would share them, because I believe the central portion includes four districts.

COMMISSIONER ANAYA: I just want to have some clarification whether there was eleven. Okay, I'm ready to name my five, Mr. Chairman. I'd like to nominate Eric Aaboe, from my district, Michael Larson, Cherie Scheick, Matt Scholder, and Mary Jane Vinella.

CHAIRMAN TRUJILLO: And those are in the central part?

COMMISSIONER ANAYA: Those are in the central part and in my district, Mr. Chairman.

COMMISSIONER GRIÑÉ: Mr. Chairman, my five will be Joseph Maestas, Eldon Reyer -- correct me, Jack, if I'm not pronouncing them right -- Joanne Grannemann, and Lucy Lippard and Marilyn Mizner. Those are mine.

CHAIRMAN TRUJILLO: Thank you, Commissioner.

COMMISSIONER DURAN: Mr. Chairman, I just have a question. Jack, so these people that are in the section designated north, central and south, are they residents of those areas?

MR. KOLKMEYER: Yes, that's correct.

CHAIRMAN TRUJILLO: Okay, I'll go ahead and name mine. I have Mike Finney from Tesuque, I've got Denise Lamb from Chimayo, I've got Chuck Pacheco from Cuyamungue, Mary Louse Williams from Pojoaque and Chuck Montano from Santa Fe.

COMMISSIONER DURAN: Okay, my five start with Edward Archuleta, Santa Fe, David Coss, Santa Fe, Richard Schrader, Santa Fe and Roy Stoesz, Santa Fe.

COMMISSIONER GONZALES: Mr. Chairman, I submit the names of Harold Grantham, from the Village of Cerrillos, Robert Romero, Village of La Cienega, Walter Wait from the San Marcos area, Liz Stefanics, Village of Madrid, and also asking the Commission to allow me to have an open seat reserved for a youth position to come from either Santa Fe High School or Capitol High, which I'll be working with the staff to try to

identify a high school student that could fill that role. Commissioner Anaya has already named one high school student from Santa Fe Prep.

MR. KOLKMEYER: From Santa Fe Prep, that's correct. Mr. Chairman, I believe then that we'll also have to have some additional names then from the north and from the south if we're to follow what the resolution asks for -- seven members from the north and seven from the south. So maybe what we ought to do here is adopt the names that you have recommended right now and then we could come back and finish these appointments at the next meeting and make sure that we have everybody's names that have been submitted. Because it looks like we're five short.

CHAIRMAN TRUJILLO: Five short, and then we are going to name some alternates.

MR. KOLKMEYER: We will need alternates too.

CHAIRMAN TRUJILLO: Beyond the 25 committee, right?

MR. KOLKMEYER: So what I'd like to suggest, is if you agree on these names we'll put these names together. We'll make sure that we have satisfied the requirement of the resolution for the 7-11-7 breakdown and then suggest, prepare a list of some of the other names that weren't selected as alternatives and bring that back at the next meeting.

COMMISSIONER DURAN: Jack, if you're short on some in the south, I would be willing to give up all mine except for Edward Archuleta. So if you need to replace some of the ones I appointed with ones that are in a different section, so that you would just have some room to fit these people in as specified in the resolution, I would be willing to do that.

MR. KOLKMEYER: I'm sure we can take that into account. It's kind of hard to look at this list right now because you did it by five individual votes rather than by north, central or south. We have to sit down and tally these up and see how it works out because it appears that, for example, with Commissioner Trujillo's five nominations, we're two short from the north.

What I'm suggesting is let us tally up -- if you vote to approve this list. Let us put the list together and make sure we got it right and if we're short in the north or south we can adjust that and then also talk about some alternate names. Will that work?

CHAIRMAN TRUJILLO: That will work.

MR. KOLKMEYER: This is a terrific start. This is most everybody. We just want to make sure we got it right.

CHAIRMAN TRUJILLO: Very good, that will work, and for next meeting then, we'll have -- all have my final two appointees and we'll decide on some alternates.

MR. KOLKMEYER: That would be great. Thank you.

COMMISSIONER ANAYA: Mr. Chairman, just a comment on this committee here. Just looking at the organization and experience of all the people that have applied, I think it looks really good quality for good decision making. I just wanted to state

1570220

that for the record, Mr. Chairman.

CHAIRMAN TRUJILLO: I'd just like to say also, and I want to commend Commissioner Gonzales for bringing this issue to the constituents and giving the community an opportunity to decide on the bond for open space. I think it's something that is important, that will have long lasting effects and that will be a legacy for this Commission and for the community. Thank you, Commissioner Gonzales.

VIII. STAFF AND ELECTED OFFICIALS

A. Matters from the County Manager

1. Resolution No. 1998-123. A resolution requesting a determination as to the census results of the area proposed to be incorporated pursuant to the community of Edgewood's petition for incorporation and calling for a special election

BECKY BUSTAMANTE (County Clerk): Mr. Chairman, members of the Commission, I'm going to yield to the attorney, Cheryl O'Connor. She's going to present it.

CHERYL O'CONNOR (Deputy Attorney): Chairman Trujillo and Commissioners, as you recall at the last time, at the last BCC meeting, you had requested the County Manager to have the Local Government Division review the census estimate that had been completed by the Edgewood committee. And the Local Government Division has completed that review. They have indicated by their letter to you dated, or to Mr. Wolf dated November 3, 1998, that the methodology used by the Eldorado group is equivalent methodology that was used by the Edgewood group. They used the same formula as the Eldorado group and it was the formula that was used in the methodology that is used as an acceptable practice by demographers in calculating population density.

Therefore the Local Government Division found that there is a probable estimate of 1.38 persons per acre in the Edgewood community. That meets the statutory requirement of at least one person per acre. At this point, what the Commission needs to do is to make a determination whether the density, statutory density of one person per acre was met and then call for a special election to be held on January 5, 1999, if you found that that density was met. Do you have any questions?

CHAIRMAN TRUJILLO: I have a question. Have the numbers been validated on the density?

MS. O'CONNOR: The Local Government Division did a review of the calculations and of the numbers that were submitted to them by the Edgewood group and they did find them to be both acceptable and to be accurate.

CHAIRMAN TRUJILLO: Are there any other questions?

1570220

Commissioner Griñé moved to approve Resolution No. 1998-123 and his motion was seconded by Commissioner Anaya. The motion passed by unanimous voice vote.

VIII. A. 2. Request authorization to accept and award a contract to the lowest responsive bidder (#99-24) for the purchase of one truck chassis and cab with roll off/on body

MR. WOLF: Mr. Chairman, Commissioners, this would normally be an administrative item. It was urgent in nature and that's why we request that you consider it under this agenda.

LARRY VELASQUEZ (Public Works Director): Mr. Chairman, Commissioners, we're requesting acceptance of a bid in response to IFB 99-24 and this is for a roll-off truck that's used to transport solid waste. We had a truck that was totalled in an accident and we're trying to replace that so we can resume our operations in an efficient manner. We had only one responsive bidder, in the amount of $89,345 and we're requesting your acceptance of this bid.

Commissioner Anaya moved to accept the bid and Commissioner Griñé seconded. The motion passed by unanimous voice vote.

COMMISSIONER GONZALES: Mr. Chairman, I just wanted to bring up one issue. David, I don't know if the Commissioners know this, that the County has recently received an unqualified audit opinion from Barraclough and Associates and I just want to commend the County Manager and all the staff for their efforts. As you all know, just a short period ago, we had a qualified opinion. It's very uncommon for county governments. It had to deal with some of the record keeping here at the County and when Mr. Wolf came in to take over as manager he put forward a plan and I believe that within a month or a couple of month's time we had our books in line with the auditors ready to start auditing them.

I just want to commend you, David. I know that the State Auditor was quoted in the local paper saying that there's no way that Santa Fe County would even be able to come close to having an unqualified audit in the same year that a qualified was issued. That's also uncommon and it's happened and it's certainly a mark of your leadership. I want to thank you for these efforts. I know the people of Santa Fe County appreciate the fact that our attention was focused on clearing up the books and making sure they were in a state that could be properly audited and verified as to the balances that exist. So you should be commended for that and please convey our thanks to Donna and her staff and all the staff that worked an unbelievable amount of overtime and spent a lot of weekends worrying about

1570220

putting this in line. But we appreciate all your help in that and congratulations.

MR. WOLF: Mr. Chairman, Commissioner Gonzales, thank you. It was quite an accomplishment. The Commission gave a clear direction to get the books straightened up and the Finance Department stepped up to the plate and got the job done. They did a very good job and I think the credit should go to them. Thank you though.

CHAIRMAN TRUJILLO: Thank you, David, and to staff.

COMMISSIONER GONZALES: It might be helpful, David, if during the future, during an administrative meeting we can hear from the auditors. I don't know if they can come forward and do some kind of presentation to the Commission. And also, what we have in place now -- and it doesn't have to be done tonight but at that presentation, what kind of controls you've put into place to make sure this doesn't happen again, that we don't fall into this type of similar situation and I think that that's equally as important as resolving the problem is making sure the problem doesn't happen again. If you can put that some time in the future, whenever it fits our administrative calendar. It doesn't have to be next month but just whenever you see a time. That way you can brief the Commission as to what measures you're going to take to assure that it doesn't happen any longer.

MR. WOLF: Okay, Mr. Chairman, Commissioner Gonzales. We'll do that.

CHAIRMAN TRUJILLO: Thank you, Commissioner Gonzales.

MR. WOLF: Mr. Chairman, one more item if I could bring up under Matters from the Manager. The City has requested that we consider a joint meeting, joint study session with the County Commission, City Council and the Highway Department to address concerns on the 285 corridor between Pojoaque and Santa Fe. And I think they've set out two dates in that letter for us to consider and I don't know if that fits within your schedule or how you'd like to proceed on that.

CHAIRMAN TRUJILLO: They've brought up the dates of December 7 and the 14th, and on those dates, Commissioner Gonzales reminded me that we're having the meeting with the hospital. So we need to decide on some other days when we can meet with the City.

MR. WOLF: Mr. Chairman, are there any other dates that you'd like to throw out that we could consider to take back to the City?

CHAIRMAN TRUJILLO: Does this need to happen, Juan, before the end of the year? Do they want to do it before the end of the year or can we do it the early part of next year?

JUAN RIOS (City Public Relations Officer): Mr. Chairman, Commissioners, good evening. I think that the Mayor and Council would be interested in moving forward with the meeting as soon as possible. Again, these dates were chosen because Sweeney Center was available and the Council felt that it would be able to accommodate the groups, the numbers that would probably come to this meeting. We will be open to any dates that we could accommodate the Commission on.

COMMISSIONER DURAN: How about a Sunday night?

1570220

MR. RIOS: Mr. Chairman, Commissioner Duran, if Sunday is a date that the Commission wishes to present to the Council, I will take that back to the Council.

CHAIRMAN TRUJILLO: I think because now we're starting to set up meetings of subcommittees with the City joint planning, regional planning and things like that so our schedules are pretty full.

COMMISSIONER GONZALES: I think it's great that we're being pro-active in dealing with the Pojoaque corridor issues and the things that are going to come up. Let me ask Larry this. Knowing what you know about the project, or Juan, if we had these meetings after the new year, is there going to be a problem in trying to offer recommendations to the Highway Department based on those public hearings, as opposed to if we were to have those meetings this year? Does that make sense? Will it hurt if we delay this to past the beginning of the year?

MR. VELASQUEZ: Mr. Chairman, Commissioner Gonzales, [inaudible] What they've done is they've defined some of those recommendations and want to have a hearing but before they go out to the public, what they were intending to do was to brief the Council and the Commission. This is a section that affects the Tano Road area, actually goes all the way to the interchange. And what they do is before people start coming to the Commissioners, they want to brief the Commissioners [inaudible] so you have an idea of what it was. Their schedule is somewhat ambitious, I would say. They have a time frame to get to construction, so I don't know that a month will affect it significantly but I do know that they're trying to get on it fairly rapidly.

COMMISSIONER GONZALES: Whatever the Commissioners would like, but if we could get this meeting after the first of the year it would be a lot easier because I know all the plates up here are pretty busy now, as for the Councilors. But as Commissioner Duran indicated, we'd be willing to do it on a Sunday, also.

MR. RIOS: Mr. Chairman, Commissioner Gonzales, Commissioners, I will be glad to work with your staff to nail down a date that will accommodate the Council and the Commission.

CHAIRMAN TRUJILLO: Thank you, Juan. Any other matters from the County Manager, David?

MR. WOLF: No, Mr. Chairman.

COMMISSIONER DURAN: Mr. Chairman, David, at the last BCC meeting, we had some discussion about the PNM Norton Line and I thought we were going to discuss it at this meeting, or have some update at this meeting. I know that there's some people out here from the community that were at that meeting and I don't see it on the agenda. Are we talking about that?

COMMISSIONER GRIÑÉ: We can get an update on that in Matters from the Commissioners?

COMMISSIONER DURAN: Is that where it's coming from?

COMMISSIONER GRIÑÉ: That's where I was going to bring it up.

1570220

COMMISSIONER DURAN: Because there was -- you have Rosanna with the PNM? Okay, I just wanted to make sure it didn't get away from us.

MR. WOLF: Mr. Chairman, Commissioner Duran, we can provide that now or later. However you want to handle that.

COMMISSIONER DURAN: We can do it when Joe's ready.

VIII. B. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS

CHAIRMAN TRUJILLO: Do we have anybody from the public that wants to address the Commission? Chris?

CHRIS LEIBMAN: Commissioner Trujillo, Commissioners, I wanted to come forward and share a few recommendations being brought forward to the Commission tonight regarding some land use decisions that are pending before you this evening. At the November 4 meeting at the Highway Corridor Planning Committee, we talked about some of the applications pending before you tonight, and I'd like to share those recommendations with you.

The committee moved forward and endorsed a motion that the Board of County Commissioners give consideration to the denial of GDP based on incompatibility with land use and the inappropriateness of this sort of development for the gateway corridor. The committee has been discussing these issues in earnest for the last several months and we believe that this proposed development will be inconsistent with the recommendations that we'll be bringing forward to this Commission. Hence the committee felt it was appropriate at this time, given your consideration of this development this evening, to share this recommendation with you.

Further, the committee discussed Vista Limited and Babcock, which are also pending this evening. We recommend that you table these until the January 12 meeting, at which point we hope to be able to come forward with specific design standards, which will be relevant to these applications and also the completion of our land use recommendations. I would like to point out that the committee's recommendation, as I've just discussed were unanimous with one abstention.

Further, I'd like to share with the Board of County Commissioners that the Highway Corridor Planning Committee recommends that Western Mobile and Leeder, which are also pending before the Commission tonight, and what we are proposing, or what we anticipate that these developments will be located within a proposed redevelopment zone, that you give consideration to table those items on the agenda as well, until such time that the committee can come forward with their recommendations in January. And I'd be happy to entertain any questions you may have regarding those matters.

COMMISSIONER DURAN: Mr. Chairman, I think that the appropriate thing to do here is to go through the agenda as we have it and if you would like to comment when

these items come up for our review, I think that that's the appropriate time for you to come up and discuss it. Most of these applicants were given the -- were tabled to this meeting because we were going to make -- this is the meeting that we were supposed to make some decisions on their applications. I just think it's more appropriate that we go through the public hearing process and we make those decisions whatever that might be at that time.

MR. LEIBMAN: Okay. And certainly, I think the committee is sensitive to the needs that some of these applicants have been tabled at subsequent meetings. The only thing I may point out is that GDP is a new application and hence I think that's one reason the Highway Corridor Committee felt that it would not necessarily be inappropriate to table them for just a couple of meetings.

COMMISSIONER DURAN: Again, I think to group them all at once isn't the appropriate thing. I understand what you're saying about GDP. I understand that. But I think that to group them all together isn't fair to the other people that have been in the process for the last several months and have been waiting for us to make a decision. And again, I think that we have made some progress at the Highway Corridor Committee that may be instrumental in this body making a decision whether or not the project is appropriate or not appropriate based on the facts and findings that have come out of the Highway Corridor Committee at this time.

MR. LEIBMAN: Okay. Certainly, my intent was only to share our general recommendation. I would like to, just on a passing note, share with the Commissioners that we are starting to make great progress towards coming up with the design standards and specific land use recommendations and are optimistic that we'll be able come forward with very specific recommendations in January.

CHAIRMAN TRUJILLO: Thank you, Chris. Anybody else, Matters from the Public? Yes, ma'am.

REBECCA FRANKEL: Good evening. Thank you, Commissioners, for this opportunity to speak to you. My name is Rebecca Frankel and I'm with the League of Women Voters of Santa Fe County. The League of Women Voters have had a long history of supporting the Indigent Fund. We've worked for the passage of the Indigent Fund since its inception. On the agenda this evening is a proposed ordinance amending the dedication of 1/8 of the County gross receipts tax that now goes to the Indigent Fund.

As you consider this ordinance, please be sure provisions are made to meet the needs of county residents for whom this fund is intended. It's important that the shifting of these funds to the general fund, there will continue to be sufficient funds to our county residents who apply for this assistance. Thank you.

CHAIRMAN TRUJILLO: I think our staff has looked at that issue and analyzed what the impact is on the residents of Santa Fe County regarding qualification and/or usage of the Indigent Fund. And David, would you like to --

MR. WOLF: Mr. Chairman, Commissioners, the ordinance that staff proposed to rededicate that portion of the gross receipts tax to the general fund is structured such

1570220

there'd be no detrimental impact to the Indigent Fund, Mr. Chairman, Commissioners. There is an annual surplus in that fund and there is a statute imposed by the legislature that would require those monies to be sent to the state on June 30, 2000. We're trying to at this point come up with a plan that's a win-win situation so these gross receipts taxes that are derived here in the county can continue to be spent here in the county and aren't lost to the state and at the same time, continue to provide the same level of service that we're providing in the Indigent Fund at this point. That's the way it's been presented and proposed, Mr. Chairman. Thank you.

CHAIRMAN TRUJILLO: Thank you, David.

RITA HORTON: [Ms. Horton's letter is attached as Exhibit 1.] I'm Rita Horton, from southern Santa Fe County and I have some definite worries. I have sent our Commissioner Joe Griñé a deposition from Mustafa Chudnoff concerning the rights of the people of southern Santa Fe County. Pardon me, Mr. Trujillo, I wish to commend you -- I'm like a little freight train. I don't get in line properly. Thank you for your invocation and I wish to address you as the chairman of the Commission. I have sent both Joe Griñé and your County Attorney the deposition of Mustafa Chudnoff in which he states that the residents of southern Santa Fe County have no protection against the total dewatering of the Estancia Basin in southern Santa Fe County.

On your third or fourth sheet, I believe, there is an article in the Albuquerque Journal concerning an attempt by speculative California interests, the entire state of Colorado has been in an uproar because of an attempt by a speculative California interest to export water from the upper Rio Grande River in the San Luis Valley to Denver 200 miles away over mountain passes and through tunnels for the benefit of a subdivision at Denver. This is the value of water in colorful Colorado.

Those of us in the Estancia underground water basin -- there being really two basins -- have only the desert hydrologic source of water. We have no other source. In 1965 administrative criteria for legalization of irrigated agricultural water mining rights is based upon basin filled storage with 40 vertical feet of water to be left in the basin fill storage of the aquifer for the setting of pumps, watering of cattle and some domestic uses. That legalizing protection seems to have been removed from southern Santa Fe County for whatever reason.

The residents of southern Santa Fe County need to know what are their rights. A mining right of whatever kind is self-extinguishing. When the mother lode is gone the people move on. Both Torrance and Santa Fe Counties water availability is the result of fracture flow systems created during the last collisions of the continents. Because of those collisions 250 plus or minus million years ago the geology of the two basins are totally different, yet they are interconnected vertically and horizontally. The tremendous crack up a narrow trench breaching a low Precambrian high northwest of Moriarty is draining Santa Fe County water into Torrance County. And you all have some maps there at the map which show that area of drainage and the trench in southern Santa Fe County where the

1570220

water is going into Torrance County.

There is also evidence of a collapsed limestone aquifer system that is draining water through the lakes there east of Moriarty. You have pictures of the Galisteo underground water basin and the Estancia underground water basin and can see where the Galisteo Basin has been pushed further west. It was a tremendous crack up. There is no new unappropriated water when these interconnected fracture flow systems have been allowed to be overappropriated by the neglect of the Office of the State Engineer by more than 100,000 acre-feet, greater than recharge to both basins.

There is already an overdraft to the basin of 45,000 acre-feet annually with a demand from the Playa lakes of between 25,000 and 35,000 acre-feet of evaporation, which no one can control. Recharge is estimated by Andy Core of the OSC to be between 70,000 and 80,000 acre-feet annually. The evaporation demand is paid for by both Santa Fe and Torrance Counties. The numbers do not balance. The State Engineer's database shows 194,000 acre-feet of approved water appropriation rights in the Estancia-Galisteo Basin. Most of the paper rights have never been placed to beneficial use.

The Estancia-Galisteo underground water basins have never been able to sustain irrigated agriculture and to legalize irrigation, agricultural water mining rights there had to be some kind of protection to the public. There is no protection to southern Santa Fe County. The numbers of approvals establish abusive action by the State Engineer in his lack of protection of the public in the Estancia Basin by granting an excessive number of permits to appropriate irrigation water mining rights in a sole source of water basin which has only the desert hydrologic cycle.

After reading the deposition testimony of Mustafa Chudnoff, subdivision review office of the State Engineer, I can find no protection to the public. State Engineer Tom Turney has invited Rita Horton to sue him because she does not like the way he is running his office. I think he should be hung. Perhaps a class action suit against the State Engineer individually and the office, both selectively and collectively, might get the attention of the governor. Recognizing the tremendous value of being able to guarantee the delivery of tens of thousands of acre-feet of water and the dewatering of the Estancia underground water basin in southern Santa Fe County, could it be that the State Engineer Tom Turney and Interstate Stream Commissioner Hal Engel past CEO of Entranosa Water Cooperative are both involved in this planned theft, exportation and dewatering of southern Santa Fe County to the money markets of both Bernalillo and Sandoval Counties -- could there not be a tremendous finder's fee? Yes, I'm being nasty, but I see no protection of those of us in southern Santa Fe County. We need to know what our legal rights are.

During Chudnoff's deposition testimony, he stated Entranosa's intent to take the customers and marketplace created by the Hortons' commitment of water in a cavernous limestone aquifer, reinforced by three-way contracts with Farm Home Administration for the guaranteeing and financing of the homes of the membership of Entranosa and now Entranosa itself, and attempt to replace them with their own water rights with advertisements to cover

1570220

the same areas which Entranosa had demanded Hortons to advertise for in 1988.

If Hortons are granted that 1988 advertisement, it would go straight to Entranosa with no strings attached. The Hortons would get nothing from it, nor do they plan to get anything from it. There are people in the east mountain area who need the water and the water is coming from Bernalillo County. But to have it exported with no type of guarantee of the protection of the people of southern Santa Fe County? No. Does the State Engineer have the power with his approval of questionable permits coupled with big pumps and big pipes to dewater the Estancia underground water basin in southern Santa Fe County for the benefit of big business and Entranosa's exportation of that water?

The wells acquired for the first exportation of water in the planned dewatering of the basin in southern Santa Fe County are in Section 4, 10 North, 8 East, and though they are adjacent to the King well field, they are no part of the King well field. The Kings have had to drill supplemental wells to keep irrigating. The aquifer is damaged. I question the State Engineer and Entranosa finding unappropriated water in a fracture system such as the axis of the basin in southern Santa Fe County. A deep aquifer that will give up water will also take water from higher sources.

The Kings will be damaged on the east. Fullingims and Hortons will be damaged on the west. Hortons will have history to show that damage. Kings have failed to put their own data loggers in the own wells for knowledge and protection of the future. They needed that. I tried to get them to do it. The only way to stop the exportation of water and total dewatering of the basin is to protest the pump station and storage tank of Entranosa, which used to be west of State Highway 344, south of Santa Fe County 16, Frost Road. I have seen no posting on that development. I thought there had to be posting for such development. We must have a legal opinion, other than from the State Engineer of the right of the public for the necessity of life in southern Santa Fe County and I will be here when this is heard. But will someone please find out what the rights are of the people of southern Santa Fe County.

In California, the Owens Valley was dewatered at the end of -- about 1898, Mulholland, who was the head of the Los Angeles Water Board went to Owens Valley and bought large water permits. He dewatered the river and left the people of the valley without water. It took over fifty years for those people to get some water back. With the Colorado project, Los Angeles pumps their water from the Colorado River over the mountains to Los Angeles. We have no source of water other than from the desert hydrologic cycle. I'm asking your attorney to please check into it. I've asked Governor Johnson to please check in to it. I would like the Estancia Basin in southern Santa Fe County to be declared a special sole source of water basin. Thank you, gentlemen.

CHAIRMAN TRUJILLO: Thank you, Ms. Horton.

COMMISSIONER GONZALES: Mr. Chairman, I just want to make a quick comment. I've heard several cellular phones going off. Please acknowledge the Commission rules when you're in here. Cellular phones are to be turned off. It's really

1570220

rude for people that are addressing the Commission, for the Commission when these phones go off. So if we can just ask those of you who have cellular phone including our own staff, I know that they already know, but please turn off your phones and if you need to use them you can go out. Thank you, Mr. Chairman.

Thank you, Ms. Horton for the information. It is something that I guess, David, that we've been talking about for the last couple of years, the exportation of water outside of the Estancia Basin in Santa Fe County out to Bernalillo and Torrance, especially with the growth pressures that are occurring in that area. I know it is a legal issue and it is something that we should look at as tonight we're preparing to have the first hearing of our water policy. Definitely there should be some statements of Santa Fe County as to how we view the exportation of water, especially out of the south county into some of these high pressure areas.

And Denice it would be real helpful if we could get some type of opinion. I know that the State Engineer's Office, they closely guard, obviously, what their domain is in deciding these issues and this may not be a local issue, but it may be something that we want to take on as a local issue when we have something as important as the Estancia Basin when you worry about the depletion of those aquifers.

MS. BROWN: Mr. Chairman, Commissioner Gonzales, if I may, I would just remind you all that we are actively participating in the State Engineer's hearing on the exportation of water from the Estancia Basin. It was scheduled to begin yesterday. In fact, the lawyer in my office who's handling the matter, Robert Kidd, had a death in his family so it's been postponed until January. But we are taking an active lead role in that new appropriation of water.

COMMISSIONER GONZALES: Thank you and if you could just keep us advised that would be great.

CHAIRMAN TRUJILLO: Thank you, Commissioner Gonzales, Denice. Any other matters of public concern?

VIII. C. MATTERS FROM THE COMMISSION

COMMISSIONER GRIÑÉ: Mr. Chairman, I'd like to ask Rosanna Vazquez, one of our County attorneys, to give us an update on PNM.

ROSANNA VAZQUEZ (Assistant County Attorney): Good evening, Mr. Chairman, Commissioners. At the last Board of County Commissioners meeting you requested that we meet with PNM to see if we could come to some sort of conclusion as to whether or not, one, they were going to submit to the permit process and to review some of the documents that they've already submitted for their environmental impact statement and see whether or not those documents and that information would satisfy the requirements of the County Code.

1570220

On Thursday of last week, Mr. Garcia, the Land Use Administrator and myself met with Wayne Pilz the project construction coordinator for PNM and reviewed, went through the requirements of the permitting process and the Code. We discussed some of the bigger issues, such as visual impacts, environmental impacts, and of course, undergrounding came up. We left that meeting still needing a little bit more information and Mr. Pilz did give us copies of their environmental impact statement and the work that has been done with respect to their permitting for the BLM as well as some of the information that they gave to the PUC.

The issue at that time was still left open as to whether or not PNM was going to submit to the permit process. We just received a letter today from PNM stating that they are not going to submit to the permit process. They believe that it is not something they need to do under the current law, but they will work with us in any way that they can outside of that permitting process. And that's where we are. I've got a copy of the letter for each of you. Does anybody have any questions?

COMMISSIONER GONZALES: Mr. Chairman, I guess, Rosanna, I don't know if this is the appropriate place or we need to do it in executive session, but does staff have the list of options for the Commission on how to respond to this? I know that we're moving forward as far as the ordinance goes, but have you come up with a list of options for the Commission?

MS. VAZQUEZ: Mr. Chairman, Commissioners, I would prefer to discuss those options in executive session, if that would be appropriate. And we are proceeding with the ordinance. We have done some modifications to that, but I'd prefer to discuss our plan of action in executive session.

COMMISSIONER GONZALES: Thank you.

CHAIRMAN TRUJILLO: Because we did meet with Rosanna and president Ben Montoya last Thursday morning and we impressed on the president and some of the staff that Santa Fe County would like to see PNM go through the permit process for the construction of this line. And at that time they said they would take that into consideration but I understand now that they decided that they didn't have to go through the permit process.

MS. VAZQUEZ: Mr. Chairman, Commissioners, that's correct. The letter that I've just handed you outlines their reasons why, which is basically they do not believe that the ordinance that Santa Fe County has in existence right now applies to them. They believe that Santa Fe County had an opportunity through the environmental impact statement to request additional information to request more compliance with our Code. They premise it on the fact that this is going to be a rate issue and that whether or not they come through the process, if they go through the process it will affect their rates and if it affects their rates they will need to go back to what will be in January the Public Regulation Committee.

COMMISSIONER DURAN: Mr. Chairman, I just find it an atrocity that PNM, who has pretty much a monopoly in providing us with electrical service or our

1570220

electrical needs, doesn't view this as an opportunity to preserve a view corridor that is precious to all of us. And I would just like to go public and state that I just find it amazing that they can't see this as an opportunity rather than the Commission trying to get in their business. Their statement that it would increase service to the public out there I think - they've made a fortune on the citizens of Santa Fe and the state of New Mexico and I just can't imagine that they would take this position.

CHAIRMAN TRUJILLO: Very good, Commissioner Duran. Anything else? Any other comments, questions? So we're going to proceed with finalizing the ordinance and giving impetus to terrain management plans, master plans for utility companies, PNM, US West, cellular towers and everything like that, right? When are we going to see that ordinance?

CHAIRMAN TRUJILLO: Mr. Chairman, the timing of that ordinance and the process that we take from here on is something that I would like to discuss with you all at executive session. We have some time during then some decisions to make from you.

CHAIRMAN TRUJILLO: Thank you, Rosanna. Okay, other Matters from the Commission.

COMMISSIONER DURAN: Mr. Chairman, Commissioner Gonzales and I have been talking about investigating the possibility of having some screens up here rather than all this paper that we seem to get every time we have a meeting. And in an effort to save some trees and actually become more computer friendly, I'd like for the County Manager to check into having some screens out here. It doesn't have to be individual laptop computers but you could have one central computer that we could access from here and we could save all this paper waste that we've been doing for so many years.

MR. WOLF: Mr. Chairman, Commissioner Duran, this is something that we've been thinking a little bit about and maybe we'll look at setting something up where we could have some screens. Maybe everything could be compiled through e-mail. I'll look at it with the MIS staff and we'll come up with --

COMMISSIONER DURAN: It might be nice to have it here on the podium or up here.

MR. WOLF: I understand. With the screen there for you to access the information, yes.

CHAIRMAN TRUJILLO: Anything else?

COMMISSIONER GONZALES: I wanted to issue, and just really concur with that David. This is a lot of paper times five times however many you've done that we're putting out on a bi-monthly basis so let's see what we can do about moving into the 21st century. The other thing is the Clerk is on her way to Spain, if I understand, and now that the clerk will be going to a reception at the ambassador's and I'd just ask the Clerk if you wouldn't mind representing Santa Fe County out there. I know that we don't have a delegation going but there are many people from the state of New Mexico that are going to Spain. It would be an honor if you could represent our County there. I know you're going

1570220

for another issue but if you could represent the County that would be great. I certainly would appreciate it.

MS. BUSTAMANTE: Mr. Chairman, members of the Commission. Thank you very much. I understand that there's 300 New Mexicans that will be at that function in Madrid on the 19th and I'll be very happy to represent the County. And I just wanted for the record to say I'm paying my own way.

COMMISSIONER GONZALES: Good point.

CHAIRMAN TRUJILLO: David, last meeting or two meetings ago, we talked about the Arterial Task Force and what the status of that is and the analysis that the City's supposed to be doing on and getting it off the shelf and seeing what we can do with that recommendation. Do you have a status for us on that?

MR. WOLF: Mr. Chairman, Commissioners, no, I don't. We need to coordinate a meeting with the City on that.

CHAIRMAN TRUJILLO: I think it's important. I think now with the bypass going through there and the closing of roads and more people moving in there, we need the appropriate distribution of traffic in that area. That task force study was done a long time ago. It's sitting on a shelf. The City's supposed to do an analysis. We're waiting for that. We need to get it off the back burner.

MR. WOLF: Mr. Chairman, I understand. There's a number of issues that we're including in a letter to the City that we're requesting that we coordinate with them to get them off the ground and get moving and hopefully we'll have this letter done by Friday. We'll run it by the Commissioners for their review also.

CHAIRMAN TRUJILLO: Okay. Can we move the matters from the County Attorney, executive hearing to after the public hearings?

IX. PUBLIC HEARINGS

A. Ordinance No. 1998-__. An ordinance establishing provisions for extension of sewer service; adopting operating and management procedures; setting rates; and establishing design standards for Santa Fe County wastewater utility

DOUGLAS SAYRE: Mr. Chairman, Commissioners, and also staff, my name is Douglas Sayre. I'm director of the water and wastewater systems for the Santa Fe County Utility Department. I think the issue here is for consideration of an ordinance or adoption of an ordinance which will establish provisions for an extension of sewer service adopting operating and management procedures, setting rates and establishing design standards for the Santa Fe County wastewater utility, and also defining an area which will provide jurisdiction and enforce priorities.

To give you a little background about this ordinance consideration, the Santa Fe

1570220

County Utilities Department took over the New Mexico State Penitentiary wastewater plant back in July 1 of this year. Presently we need an ordinance that governs provisions for discharging waste into this facility. Presently we only treat waste from the state prison facility, the New Mexico National Guard and the new County jail. But there's been a number of people that have come forward and asked if they could discharge into this facility that the County has which is basically south of I-25 near the prison, or just north of the prison.

We don't see a problem with that since there's excess capacity in that facility. That facility presently only handles about 200,000 gallons a day and there's probably about 400,000 to 500,000 gallons capacity. So it's certainly can be used to treat sewage from a vast area south of the interstate out to probably an extension of St. Francis and a little bit south of the prison and then west to say, La Cienega area if required. Or we could look at some satellite plants if necessary.

Just to give you an idea on the area we're considering, the area that's being considered on this sewer ordinance goes from roughly St. Francis interchange, along the interstate and then south of the city boundary, south of the airport and down to the La Cienega area and then east to take in the County jail complex and then back over to include the state land east of the prison and then back up to the St. Francis extension. It roughly coincides with the same area as the water service area. And that was established that we probably should keep that same boundary.

The ordinance has been reviewed by staff and also has been finalized by us and we appreciate all the staff input. To the extent possible we have tried to pattern this ordinance after the City of Santa Fe ordinance and some other area ordinances that deal with treatment and setting rates and also management and design of the wastewater service area. We hope this will help ensure some compatibility between what goes on with sewer service, not only for the city but also for the county. We tried to establish rates on the basis of cost of providing wastewater treatment service through our facility, and those were based on a rate analysis that we did.

Certainly the rates are going to be more than what the City charges, but we expect the rates to be reasonable with other facilities of similar size and capacity. We certainly know that in the beginning here we're going to subsidize this facility. We've only got really three customers: the state prison, the National Guard and the County jail. We'll probably subsidize this facility in the neighborhood of $90,000 to $100,000 a year, but as other people come on this facility in the future, this subsidy will go down substantially and we expect it to pay for itself in a short period of time provided some of the other planning facilities come into being that are being considered out in that area.

Basically, the rate structure that we've established would be a base rate of $6.54 for a minimum treatment of 2,000 gallons per residence. The variable charge for each 1,000 gallons above that would be $3.50. So roughly, a minimum charge would be about $6.54 for a small household only handling less than 2,000 gallons a day discharge. Above that,

for about 5,000 gallons it would $17.00 and for 6,000 it would be about $20.50.

We expect for large volume dischargers, such as the National Guard to be charged about $800 a month, and the new prison is expected to pay about $6,300 a month. We are establishing conditions for pretreatment for any industrial user, as well as certain requirements for connection on and also design standards for sewers that are developed in this area. I guess at this time I'd like to take some questions about the ordinance. We've tried to give people a pretty good idea of what's going on. The ordinance is fairly thick. It covers an awful lot of ground as far as what's being considered. Perhaps at this time could I answer some questions regarding the ordinance?

CHAIRMAN TRUJILLO: I'd just like to remind the Commission and the public that this is an ordinance and this would be the first of two public hearings. So this is the first of two public hearings. Do you have any questions of Doug?

COMMISSIONER DURAN: Mr. Chairman, what kind of infrastructure is in place right now? Do we have pipes that go to the jail complex at this point?

MR. SAYRE: Roughly, there is no collection system in place. The only system is that it collects wastewater from the prison complex, which is right in here, the entire existing prison complex, and then the new County prison, there's a line that goes across the road and has been set up so that all of this area basically east of the existing state prison can gravity feed into this County facility. There is a line that goes to the County jail complex which will handle the foreseeable County needs as well as some additional developments going on in that area.

COMMISSIONER DURAN: Do you have any initial projections where this system might extend to in the near future?

MR. SAYRE: Well, I think there's consideration, one, of the County development park, so it will extend into that area, which is directly east of I guess you'd call it the corral area out by the state prison. Also, I think there's consideration for some other developments up along Camino del Monte. I believe that road east of Allsups, as well as some state land that's being considered for development.

COMMISSIONER DURAN: And to hook up to the system, there would be a hook-up fee? The County wouldn't be expending funds to extend the system out to outerlying areas entirely on their own, would they?

MR. SAYRE: I think that would be a consideration for the Commission to consider at some point in time if there's some funds available from some source. We've established that that might be a case in some things. It could be a combination of developer funds as well as County extension funds, similar to what we do with the water system. In some cases a developer's paying part of the cost and the County is supplementing that to oversize for consideration for future uses.

COMMISSIONER DURAN: Does the ordinance provide for an impact fee of some sort if say a development wanted to hook up to it?

MR. SAYRE: I don't know that there's an impact fee. It depends on the type

1570220

of facility, I guess. If it's just residential, there's just a connection fee and then if you were I guess an industrial user there would be somewhat of an impact fee charged on that basis, but mostly on actual quantity and quality of wastewater that you're going to discharge is where the fee is.

COMMISSIONER DURAN: I guess my only concern is that the wastewater treatment plant doesn't become a liability for us or a drain of our resources so that the ordinance should be enacted so that it sustains itself and doesn't become a financial burden.

MR. SAYRE: I'm somewhat in agreement there, but of course one of the things for taking on this facility was that the County did not have to come up with upfront money to provide a wastewater treatment facility for the prison except for about $250,000 to connect the line over to the new County jail. So instead of having to fund roughly about a million dollars upfront, you only had to expend about $250,000 for sewer and you probably would have to do most of that cost anyway.

What we're trying to design in here is kind of a lease cost for buying out this facility two within these rates. And that's one reason why I think that we've looked at, there's a charge in there for what we call a lease back cost.

COMMISSIONER DURAN: Thank you, Doug.

CHAIRMAN TRUJILLO: I was just reminded by the County Attorney that this is not a land use item so the Commission can vote on this item tonight. We don't need to go through two public hearings.

MR. SAYRE: I wanted to bring that up for discussion whichever way you wanted to advise. I think the Utility Department staff doesn't consider a land use consideration but there has been some discussion about whether we should have maybe this as a first hearing on an ordinance and adopt it at some successive meeting. And I think we're open to that, whichever the Commission feels comfortable with.

COMMISSIONER DURAN: Doug, is there any reason to rush into this? Would another hearing get us behind schedule?

MR. SAYRE: I don't guess it's mandatory. I don't know if I want to defer it today, but we do have a facility mainly, what we consider the National Guard and we also have the new County jail, which we don't have anything in place to set rates to charge them.

COMMISSIONER ANAYA: Mr. Chairman, I think the question can be resolved tonight if we ask the audience as to how many would like to address the Commission on this particular issue. I think that in itself would be an indicator whether we can go ahead with a motion or not tonight.

CHAIRMAN TRUJILLO: That's true. Any other questions of Doug? Thank you, Doug. It's an ordinance so it goes for public input. We'll open it up for public input.

COMMISSIONER ANAYA: Before we go on, Mr. Chairman, I'd just like to state that I have met with Estevan and Doug Sayre both and to me, the proposal before us is exactly what I anticipated eight years ago when I first came on the Commission. In those days of course it was the water company along with the sewer concept of cleaning

1570220

water up for the La Cienega area, particularly, which was the area that actually initiated the thought of actually going forth with the water company. But anyway, I'd like to see it steer in this direction. I think it's good. I've always said that perhaps maybe this is one of the only times we can really put the cart before the horse, the sewer system before the water company in expansion for the mere fact and hopes of having some return flow credits attributed to our position.

I don't know, in talking with Doug there's a slight potential there, but I still think it's steering in the right direction. I think staff did a wonderful job with this particular issue. So I want to commend them on that. That's all, Mr. Chairman.

CHAIRMAN TRUJILLO: Thank you, Commissioner Anaya.

MR. SAYRE: Just one comment. This facility, of course, treats wastewater from three large entities and we also -- what it does is treat it to a certain level and then it puts it back in by irrigation to a field of alfalfa and fescue broom grasses. And there's also consideration of actually farming that and setting it up to where that's worked on an annual basis by somebody. The County has presently leased out to somebody to try to really make this a farming facility on that basis. We also looked at trying to be able to furnish water across to the east side of State Road 14 for consideration of say soccer fields or recreation areas that we could furnish water to those for irrigation. So we could apply that and also get reuse considerations on some of the water.

COMMISSIONER ANAYA: But the truth is, Doug, that this particular plant has the potential for collecting all kinds of effluent water from the entire area there to protect the groundwater all the way down to La Cienega basin.

MR. SAYRE: Agreed. A lot of it we're considering almost to the interstate as well as considerations to some on the west side of the interstate. The possibility exists because the water system is going across and now furnishing water to the west side of the interstate.

COMMISSIONER ANAYA: So in essence, Mr. Chairman, both entities work to enhance collectively the protection of the ground water, which was the initial intent of the establishment of the water company. So I like it.

CHAIRMAN TRUJILLO: Immediately, I see that it has added value and potentially, it will be self-sustaining and that area is experiencing rampant growth so I foresee that a lot of residences and many businesses will be using that facility. And then it will also add value from the return flow perspective.

COMMISSIONER ANAYA: This might be the pilot, Mr. Chairman, for Pojoaque Valley.

CHAIRMAN TRUJILLO: Any other questions, comments? Okay, it's a public hearing. Does anybody want to talk to this topic? Mr. Romero?

ROBERT ROMERO: Good evening, Commissioners. I would just like to state that this effort is highly admirable in the effect that it will be treating a lot of the wastewater in the area, considering there is a lot of development happening out in that area

1570220

and most of the wastewater now is going into septic tanks and leach fields of that nature What I didn't hear mentioned here was a lot of this water is being drawn from the aquife surrounding the La Cienega area. Just this summer our creek, La Cienega creek ran dry.

I guess what I'd like to address here is I think that these waters as they're treate should be made available to the community of La Cienega, not only to replenish the L Cienega creek, but also to supplement the acequias within the area. Right now as it is there's a limited water supply in the area. I feel that this would be a benefit if it wa directed to our community and that nature if the water is treated to an acceptable level b the community. Like I said once again, this was the first time in my lifetime that I've eve seen our creek run dry.

So if this would be taken into consideration to make these waters available for ou community it would be greatly appreciated. Thank you.

CHAIRMAN TRUJILLO: Thank you, Mr. Romero. Anybody else, for o against?

COMMISSIONER ANAYA: Mr. Chairman, I feel comfortable, Mr Chairman, with just one public hearing on this particular issue. I think it's a good issue an I think we should move forward with it and with that, Mr. Chairman, if I'm in order, I wil move for adoption of Ordinance No. 1998-13.

COMMISSIONER GRIÑÉ: Second.

CHAIRMAN TRUJILLO: We've got a motion, seconded by Commissione Griñé.

COMMISSIONER GONZALES: Mr. Chairman, just for discussion. I agree I think the staff has done a thorough job in trying to come up with an ordinance that seem to be fair and somewhat visionary in the boundaries that they've established. My concer is this is an ordinance that establishes rates and I don't think it's a good precedent for th Commission to only hold one public hearing whenever we're putting forward a rate tha people are going to be charged. And I would ask the Commission to hold two publi hearings, especially because it is a rate issue and allow the public who may not have bee here tonight a chance to come in. I just think it's a good pattern to establish that any tim we're dealing with a rate issue at the Commission level that we don't ever do it under jus one public hearing but rather a series of hearings so that the public has full opportunity t discuss whether they support or oppose the rates that we're offering.

COMMISSIONER ANAYA: Mr. Chairman, may I respond? Request ope dialogue with Commissioner Gonzales. I think all the work that has been set forth by Dou and Estevan both, basing the rates as far as the area, Valle Vista along with Sangre de Cristo rates. They've gone through all that work and they came down with some pretty logica standards on how to base these rates, indicating, as I mentioned earlier, the indication as t what kind of interest there was, even through publication of this first meeting tonight wit just Robert Romero coming up to speak is an indicator that we're steering in the righ direction, Commissioner Gonzales.

1570220

COMMISSIONER GONZALES: I absolutely agree with you Commissioner Anaya. We are and this is something that I've told Doug and Estevan that I support again. The County is moving to a whole new area of business. We're moving into the utility business in the area of water and the area of sewer and I just think that it's important that we make a commitment to the public that we'll never adopt a rate or a rate increase under just one public hearing. That we would do it through two public hearings at least, so that the public has full opportunity to be able to come forward and discuss whether they support or oppose the rates. But right now, I support this ordinance the way it is with the rates. I think they've done a great job in finding some comparabilities around it but I'm just concerned that just on whim that it could be perceived that through just one public hearing on one night that we've adopted a rate that has ramifications throughout Santa Fe County. I would just hope that as we move forward on this business, which is important to all of us, that we have at least two hearings that deal with rate issues.

COMMISSIONER GRIÑÉ: Mr. Chairman, I just wanted to add to that, it's just a rate pay to other governments and at this point, I think we're losing revenue if we don't move on the pace that we can start collecting now for this facility.

COMMISSIONER ANAYA: I think it's been collected information and come out in good, logical rate base. And the best comparable they have is Valle Vista, which is right in the vicinity. Now remember, these rates can be addressed in different parts of the county, depending on the different systems that are going to be established and hope is established in the future. So I think this is just a pilot program and we should move forward on my motion.

COMMISSIONER GONZALES: And I know we're going to go to the question real quick. But just so the Commissioners understand, it's not the ordinance itself, it's the process by which we're going about to vote on the ordinance. I would hope that we do through two public hearings as opposed to one public hearing any time we deal with rate issues that affect the county.

COMMISSIONER ANAYA: I think, Mr. Chairman, if the public doesn't like it we'll hear from them and we'll be forced to go to other public hearings.

CHAIRMAN TRUJILLO: Commissioner Anaya, I think I agree with Commissioner Gonzales that yes, I think the whole process has been fair. Staff has done a lot of work and has done a fair market analysis on the rates, but it's a window, it's an opportunity for the public to represent their position regarding the rates, regarding the ordinance. We're venturing into a new area, into a new realm and I think we need to give the public every opportunity to represent their position and I think this will afford the community of La Cienega and the surrounding community with the opportunity to represent their position in a clear, concise, egalitarian way.

COMMISSIONER DURAN: I agree with Commissioner Anaya and I also agree with Commissioner Gonzales and I wouldn't think that thirty days is going to make much of a difference. I'm sure that Estevan and Doug have done a great job establishing

1570220

these rates, but I agree with Commissioner Gonzales. I think that a thirty-day window here for more input doesn't set us back much at all and I think that it gives the public a little bit more time for input in the process.

COMMISSIONER ANAYA: I retract my motion, Mr. Chairman.

COMMISSIONER GRIÑÉ: I retract my second.

CHAIRMAN TRUJILLO: Thank you, gentlemen.

IX. B. Ordinance No. 1998-__. An ordinance establishing the Santa Fe County Water Resources Management Plan, and adopting policies and guidelines for the use, conservation and preservation of water resources within the county

COMMISSIONER DURAN: Mr. Chairman, I would just like to ask the Commission if they would consider tabling this. I just received a copy of the ordinance today and I have several questions I'd like to go over with staff and with Commissioner Gonzales. He was the one who pretty much put this policy together. And I would just like the time to become familiar and clear with the policies that we are going to adopt because they will have a major impact on the future of our community.

MS. BUSTAMANTE: Mr. Chairman, Commissioner, some of the audience says they can't hear you. If you can use your microphone, we'd appreciate it.

COMMISSIONER DURAN: Mr. Chairman, I'd like to ask for a table please.

COMMISSIONER GONZALES: Mr. Chairman, I would second. As the sponsor of the ordinance, I concur with Commissioner Duran.

CHAIRMAN TRUJILLO: Okay, we've got a motion, seconded by Commissioner Gonzales. All those in favor? [Unanimous.] Okay, then we'll table this item.

IX. C. Ordinance No. 1998-__. An ordinance amending the Santa Fe County Land Development Code, Article VII, Section 2, "Liquid Waste Disposal" for the purpose of modifying in what case a liquid waste system with nitrate removal is needed, and requiring system testing (first hearing)

ORALYNN GUERRERORTIZ (Subdivision Engineer): Good evening, Commissioner Trujillo, Commissioners. The CDRC actually recommended this ordinance modification. It says that we're lowering the standards for commercial development. Currently, a commercial development needs a nitrate system, nitrate removal regardless. And what we're doing is we're changing the requirements. It says if a commercial

development has typical domestic waste, like an office or many retail stores would have then they can just have a normal septic system. They don't need a fancy system, and we'll still have a safe environment.

It also says, that if for whatever reason, you have an inadequate soil because of shallow groundwater closer than four feet, or bedrock only at four feet, then in that case you do need an advance liquid waste system to protect our environment, so we're going to recommend a nitrate removal system in that case. And then also the nitrate removal systems would be tested annually to make sure that they're functioning properly. Those tests run about $30.

Again, this is just your first meeting on this proposed ordinance, so we're just asking that you take public comment. And this is coming from the CDRC so they're recommending approval of this.

CHAIRMAN TRUJILLO: Oralynn, in what areas is this going to apply? Will this apply in traditional communities? Just everywhere across the county? Because now, in northern Santa Fe County we're in the process of going through a liquid waste regional infrastructure, if you will, capital plan, and so hopefully, this will come to fruition and be made available in the near future. That being the case then, this ordinance will not apply in that area.

MS. GUERRERORTIZ: You're correct, Commissioner. If in fact we have adopted a different plan for that area, that would supersede this ordinance. But as proposed this ordinance would apply everywhere outside of the Extraterritorial Zone.

CHAIRMAN TRUJILLO: Have you -- did you give us a cost analysis of what something like this would cost?

MS. GUERRERORTIZ: Mr. Chairman, commercial developments, prices would go down. These nitrate systems start at about $6,500 and the fanciest ones are about $12,000. So a commercial development right now would save money of they're doing -- if they produce typical domestic waste because a conventional system runs about $1200 to $1500. So it would be a significant savings there, about $5,000 at least.

For people who have inadequate soils, our Code already says and the ED's code already says, if you don't have at least four feet of good soil, then you're going to have to use some other kind of system. And there are other opportunities. People can mound dirt in some cases, and that happens a lot in the Pojoaque Valley where there's very shallow groundwater. They do mounds so they get at least four feet of soil. So if for some reason if somebody doesn't want to do a mounding system, then they can go ahead and do a nitrate removal system, and that will at least meet our Code requirements. So in a situation where you have very little soil to treat the effluent as it leaves the leach field, it hopefully will be a much better quality than a conventional system, which really doesn't do much treatment at all.

So anyway, for people who have inadequate soil, their cost really isn't changing. They're already required by ED rule and our rule to do something other than a conventional

1570220

system. But our Code doesn't suggest what. So we're giving a suggestion of what. They always have the alternative of making a mound though, and then they could go that direction. The annual testing runs about $30 to probably $35.

CHAIRMAN TRUJILLO: What's driving this ordinance?

MS. GUERRERORTIZ: Commissioners, actually we had a new CDRC member, Gene Bassett, who has a lot of familiarity with liquid waste systems, and he thought it was inappropriate for us to do nitrate removal systems for commercial developments when they were producing waste that was very similar to what you and I produce in our home. And he didn't think that they could be spending the extra money, but he really was concerned about the Thunder Mountain area where several times conventional systems have gone in and they're right in bedrock and there's no treatment really occurring in the leach field and there's been some surfacing problems.

And he's encountered those problems and tried to solve them and he found it inappropriate that they would have allowed a conventional system to begin with. He thought that the checks and balances, or the checks that would normally have caught something like that weren't working. So he thought if we adopted something, there was another check and then hopefully between ED and us, again having the same rule we'll both catch it. One of us will catch it and make sure that somebody puts in an appropriate system.

CHAIRMAN TRUJILLO: Any other questions?

COMMISSIONER DURAN: Oralynn, does this have anything to do with a wetlands system?

MS. GUERRERORTIZ: No, sir.

COMMISSIONER DURAN: Thank you.

CHAIRMAN TRUJILLO: Any other questions of Oralynn? I know that in the Cuarteles area there -- it's a situation of individual septic tanks and individual wells in a very shallow water table. They just did some analysis in that area of the water table and the nitrate introduction or composition of the water and it's not bad. So you're saying it's not going to impact the cost, or the people's ability to put in place a septic tank with this ordinance.

MS. GUERRERORTIZ: Sir, if you do have shallow water, the Environment Department's code right now says you need to have at least four feet of soil in your leach field. You can't just have two feet before the groundwater. So the Environment Department usually require a mound system. People build up the dirt, haul dirt in and then put it -- if they can, put their house on the highest point so they can gravity feed to the mound. But in some cases, if your land was completely flat and you didn't have the ability to put a mound in for whatever reason, this system does cost more than a conventional system.

A conventional system is about $1500. This is a minimum of $6500. So that's a $5,000 increase. We're lucky in that they've found many areas without nitrogen contamination, but as you're well aware, there are areas where shallow groundwater has nitrogen contamination. And basically, a normal septic system doesn't really remove the

nitrogen. The stuff that comes out of your body makes it into the leach field and into the ground water. There's no treatment at all.

And that can have a negative impact to babies, actually, primarily, who can't deal with increased nitrogen. Actually, little babies when they're under three months old, their body can't really tell the difference between nitrogen, or nitrate and oxygen. So their body takes the nitrogen instead of the oxygen and they actually start turning blue and they can suffocate, as crazy as that seems, because of the high nitrate waters. And that's why the federal government regulates nitrates.

But we've been fairly lucky in many areas and I think that's partly because there's a flushing effect, because there's so much water coming through already, so we haven't seen a build up. But in other areas we've got problems.

CHAIRMAN TRUJILLO: If EID is already doing this, isn't this sort of like a double jeopardy for county residents. EID already mandates that they satisfy a certain specification, a certain code, and now Santa Fe County is duplicating that?

MS. GUERRERORTIZ: You're correct sir, in that ED requires four feet of good soil, or they require a different system than a conventional system. Mr. Bassett's position was that for whatever reason, he's finding that systems are being put into bedrock with inadequate soil and he feels that maybe there's not enough checks in the system and he was hoping to add another check in the system by having us have a requirement also. So that if somebody failed to do it, the County could also be involved and hopefully try to rectify the situation. That's again, the second part of this ordinance. The first part is related to commercial development which ED doesn't have any regulations with regards to that.

CHAIRMAN TRUJILLO: My concern is the impact on the community. Again, another layer of regulation. Another requirement to upgrade systems and an out of pocket expense.

MS. GUERRERORTIZ: It's not an inexpensive system.

COMMISSIONER DURAN: Mr. Chairman, I agree with you and I also have a lot of concerns that this ordinance is being driven by one individual. I think it would be appropriate to have a study done. If what this gentleman is claiming is true, I'd like to hear it from more than one individual, because the impact that this ordinance is going to have is going to be far-reaching. I'd like to make a motion to table this until further study and information has been provided to this Commission.

CHAIRMAN TRUJILLO: We've got a motion.

COMMISSIONER GONZALES: Second to table.

CHAIRMAN TRUJILLO: Motion to table. Seconded by Commissioner Gonzales. All those in favor? [Unanimous] All those opposed? Thank you, Oralynn.

MS. GUERRERORTIZ: Just clarification, gentlemen. I understand your concern is on the inadequate soil section, the four-feet discussion that we discussed. The commercial section about reducing the standards -- did you want that to move forward in the meantime while we're preparing that study? Again, that would make the standards lighter

1570220

on commercial developments that have typical domestic waste.

COMMISSIONER DURAN: Again, Mr. Chairman, if this ordinance is being driven by just one individual, I'd like to have some additional comment and review.

MS. GUERRERORTIZ: We do have many people who have commented on that portion of it, who have really questioned why we had that requirement. Again, because they usually -- it's like often an office may have a sink, a coffee pot and a toilet, and why would they have these advanced systems if they're no different from my house or your system. And we've had several people who have questioned that when they've had to put in a much more expensive system than what would normally be required.

COMMISSIONER DURAN: Mr. Chairman, could I offer the direction that we table all of it and just bring it all forward at the same time?

MS. GUERRERORTIZ: Yes, sir.

IX. D. Ordinance No. 1998-__. An ordinance placing a moratorium on the regulatory approval of and acceptance of new applications for master plans, development plans, subdivisions of five or more lots, and all non-residential uses in the La Cienega proposed planning boundary and providing for an expiration date of six months from time of adoption (first hearing)

KEN PIN (Planner): Mr. Chairman, Commissioners, the Land Use Department received authorization from the Board last month to publish title and general summary of this ordinance. There's been a slight wording change. The moratorium is still for the proposed planning boundary but it would apply to new applications for master plans, development plans, subdivisions and land divisions with five lots or greater. We've excluded the commercial uses or non-residential uses.

COMMISSIONER GONZALES: Could you repeat that? You've done what now?

MR. PIN: We've added subdivisions and land divisions with five lots or greater and we've excluded the wording of the commercial activity. In other words, non-residential --

COMMISSIONER GONZALES: Why's that?

MR. PIN: Because they would require master plans anyway.

COMMISSIONER GONZALES: Say it again.

MR. PIN: They would require a master plan anyway. So master plan is included. So those applications would require a master plan.

COMMISSIONER GONZALES: So you're saying that the commercial activity in the La Cienega boundary area would be excluded from the moratorium?

MR. PIN: It would be covered because they would require a master plan.

1570220

COMMISSIONER GONZALES: Oh. So it's covered under the new applications for master plans. Because that's commercial and non-commercial.

MR. PIN: That's correct.

COMMISSIONER GONZALES: Thank you.

MR. PIN: The reasons for this proposed moratorium are several and they include that the Valley Association has received authorization from the Commission to do a plan. There has been ongoing planning activity in the valley since January, 1997. The planning committee, which was formed by the association has been meeting on a regular basis to draft a plan. They have drafted parts of the plan and it's been reviewed by County Planning staff.

The primary focus behind this moratorium is the number of developments that continue to come forward and interrupt their planning process. So there's a perpetual delay in the completion of their plan. The Valley Association's ability to develop an effective land use plan had been impeded with developments in the area. The planning committee of La Cienega spends its time reviewing proposed developments. It has no time to finish their community plan. Therefore it is extremely difficult, if not impossible to plan while development continues.

Without safeguards, such as this proposed moratorium continued applications and subdivisions in the area will adversely affect, impact the health, safety and general welfare of the citizens of the valley and continue to inhibit the community's ability to complete their plan. There is no action required at this point. This is the first public hearing for this ordinance. I know there are people here to speak both in favor and against, so whatever the wish of the Commission is at this point.

CHAIRMAN TRUJILLO: Do you have any questions of Ken?

COMMISSIONER DURAN: Mr. Chairman, I just have a couple concerns. As you go to the background and summary here in our packet. The reasons for this proposed moratorium are as follows: The La Cienega Valley Association received authorization from the Board of County Commissioners to do a community plan. The community plan that is going to be pursued, in my opinion incorporates a large parcel of land. And I guess my question is, does the community plan and the moratorium area, the boundaries of the moratorium, are they identical? Will the community plan incorporate all the boundaries that are shown on this proposed moratorium?

MR. PIN: Their planning area and the moratorium area is the same.

COMMISSIONER DURAN: I'm sorry. Please start over.

MR. PIN: The moratorium area and the proposed planning boundary is the same area.

COMMISSIONER DURAN: Okay. Then that does cause me some concern because I know that SNAC is trying to do a community plan and Cañada de los Alamos was planning their village, and having such a large area just causes me to believe -- I'm not sure that all the property owners -- I'd like to see a method of how all the property owners are

1570220

going to be notified of the community plan. I know that there were some problems with the SNAC, the northwest quadrant community plan. The Village of Agua Fria tried to incorporate in their community plan a large tract of land that ultimately went to court because the traditional boundaries of the Agua Fria Village were nowhere near what they were trying to include in the plan. So my concern is, there just seems that there is too much area here that's being considered in this moratorium.

MR. PIN: Some people have said that the moratorium should apply to just the traditional community boundary, which is the 3/4-acre density area. The problem with that is if you just plan, or you just have a moratorium within that area, the community has no control as to what goes on around them. So part of the problem that planning staff has wrestled with is, how do you address what happens directly outside of your traditional community boundary.

Part of it would have to do with through the plan, if you're looking at density changes or land use changes which can then be incorporated into the plan, which would then become an amendment to the County Code. The moratorium area is large in some opinions, but there have been a number of landowners that have been contacted, and there was a fairly well populated public meeting in July where a lot of the people in the valley who never showed up to any of the Valley Association meetings showed up and actually came forward. And a lot of people were able to see what the planning boundary was for the very first time.

Now, they collected surveys, and I also collected surveys and some owners did object, but I think what the Valley Association wants to do is open up a dialogue with those landowners, including the large landowners like Mr. Alley and Mr. Cook. And that's part of this. I think that's what they want to use to join this public hearing process. If these boundaries need to be altered a little bit, I think the Valley Association is willing to listen to that, but altered in what way. And we can use this time for negotiation and discussion. I don't think the Valley Association is looking to exclude anybody or looking to stampede anything over anybody.

COMMISSIONER DURAN: Ken, provided that every property owner in the affected area is notified, I don't have a problem with the community plan. But when these community plans come forward and they haven't been able to prove that everyone in the affected area has been given the opportunity to voice their opinion, I'm not going to be too much in favor of passing a plan that hasn't included everyone that has the right to have an opinion.

MR. PIN: I think you need to separate the two issues. One is the moratorium issue. Another is the plan. They haven't finished the plan yet. They're probably at least half-way through.

COMMISSIONER DURAN: But the purpose for the moratorium it says right here, you stated that we have authorized the La Cienega Valley to create a community plan, or develop a community plan, so I can separate it, but it's not separated here. So I just wanted to bring that out. I've made my point. Thank you very much.

1570220

CHAIRMAN TRUJILLO: Commissioner Duran, would you agree that opening it up to public hearing and public input would satisfy your concern on what the people think about the boundaries?

COMMISSIONER DURAN: I think that would help.

CHAIRMAN TRUJILLO: Very good.

MR. PIN: I think that with the meeting during the summer and all the mailings and the phone calls that the association has done, they've tried to educate and communicate with the people in the valley as to what's going on and why they have chosen the boundaries as they have. This is not something that's been sprung on anybody. Certainly not for this first public meeting.

COMMISSIONER DURAN: I wasn't suggesting that at all, Ken.

CHAIRMAN TRUJILLO: So I guess we can open it up, unless we have any other comments or questions from the Commission for public input on the proposed moratorium in La Cienega. Those for the moratorium, you could stand in line and then we could proceed. And if we can limit our comments to about three minutes and prevent from duplicating comments.

MR. ROMERO: May I ask that those opposed would be allowed the privilege of going first so I may possibly address some of their concerns and their comments?

CHAIRMAN TRUJILLO: Okay. We can do that. Anybody that opposes the moratorium. Mr. Cook?

RICHARD COOK: Commissioners, I'm Richard Cook, and I own approximately 400 acres that is included in the La Cienega proposed planning boundary. I would like to be excluded from their planning group. Currently half of my land is being planned by the Highway Corridor Committee and half of it's being planned by the La Cienega group and I think I'm perfectly capable of planning for my own land and I'd be glad to consult with these gentlemen and ladies and their groups without any problems, but I would like to be excluded from this boundary. I request that you take me out of the boundary that they have proposed.

COMMISSIONER DURAN: Mr. Chairman, excuse me, Mr. Cook, have you had an opportunity to discuss some of the concerns that the moratorium people -- let me back up. Have you had an opportunity to discuss any of your concerns with the people behind the moratorium?

MR. COOK: We had a meeting last week with Mr. Romero and he was very courteous and I have a great deal of respect for the Romero family. I know the Romero family. He explained their positions and I can understand their positions quite well. However, they have not finished their complete plan, so they don't have anything to present to you at this point and we would just as soon do our own planning and not be included in a large group such as the La Cienega planning group and their boundary.

COMMISSIONER DURAN: Do you realize that even if they were to take you out of the moratorium that you would still be subject to scrutiny and input on the public

1570220

on anything you decided to do on your property there?

MR. COOK: Absolutely. We understand that and we fully intend to do that. We fully intend to consult with the La Cienega community and show them whatever we're going to do with that property without any question.

COMMISSIONER DURAN: Because not being included in the moratorium doesn't afford you -- it doesn't mean that you're not going to be under a lot of scrutiny in the future.

MR. COOK: We understand that.

COMMISSIONER GONZALES: Mr. Chairman, if you can help me understand a little bit of the history of the property also. This is before certainly my time on the Commission, at one point you had wanted the property to be zoned for sand and gravel. Is that correct? And basically the community opposed it and you concurred with the community at that time not to go forward with a large sand and gravel operation. Is that right?

MR. COOK: That's correct. We requested that we be able to mine that into our area because it has a substantial gravel source on it. When the La Cienega people objected strenuously to us putting a mining operation in there we withdrew the application and did not continue with it.

COMMISSIONER GONZALES: So you feel that within your mind you've already demonstrated that you've worked with that community in dealing with issues on that property, especially pertaining to the sand and gravel issue?

MR. COOK: That's correct sir.

COMMISSIONER GONZALES: Let me just ask you point blank, are you planning on coming back here for sand and gravel in that area?

MR. COOK: I'd like that very much but we decided that we're going to come before you with a plan for a affordable housing project in that area and we're just trying to put together all the pieces.

COMMISSIONER GONZALES: So it wouldn't be -- Thank you.

CHAIRMAN TRUJILLO: Mr. Cook, what is the proximity of your area, the land that you own to the traditional village of La Cienega?

MR. COOK: We're to the north of the traditional community. We border the airport on the -- see if I can get my directions correct -- on the north and on the east side of the airport. We're right behind the racetrack.

COMMISSIONER DURAN: Can you show us on the map here?

CHAIRMAN TRUJILLO: That would help. Okay, anybody else against the moratorium? Okay, then we'll continue with those for that moratorium. If you would stand in line and limit your comments to about three minutes without any repetition, for the moratorium in La Cienega.

MR. ROMERO: Well, sir, I have a fair amount of constituency that I represent behind me tonight and I think I can cover a lot of these matters and save a little

1570220

time. To address Commissioner Duran's question about the size of our boundaries, our boundaries are fairly large, but they do consist of a large amount of public lands, most of these being BLM lands. I came before you in September with this matter, stating our case and within that information I passed on to you was a letter from the BLM with their support for our community planning effort

A lot of those areas have been traditionally used for agriculture. There's a lot of historical and cultural sites within those BLM areas along with some of the lands that are private, particularly the land in La Cieneguilla, which Jim Alley is proposing to develop. Mr. Alley also has expressed a willingness to work with the community. I really can't speak for Mr. Alley himself but I didn't feel any opposition coming from him on his inclusion on being part of the community plan, although I can't really say how he feels about the moratorium.

I did meet with Mr. Alley and Mr. Cook and Mr. Warren Thompson, who also has a master plan, a preliminary approval on La Bajada Mesa. He expressed a concern of being included in the planning process as it goes along. He really didn't express any opposition to being included into the planning boundary. Most of the area that we have included affects La Cienega as a whole. If we were to impose a moratorium on the traditional community, I feel that would be a waste of our time and your time and the fact that most of the people there are not planning these large scale developments within the traditional boundaries. Most of the development that's occurring is right outside our boundaries, which affects our community greatly and the impact is being seen as we see it.

Our acequias are having to drill supplemental wells to supplement the acequias. Our creeks are running dry and the water in those creeks that is there is questionable about the contamination that is being put into the creeks. I think it would be in our best interest to included Mr. Cook's property for -- I have looked over his plan and what his plan calls for is approximately 675 dwellings on the property, which is high density, which would, I believe, require a variance to the County zoning.

Also, there is a considerable amount of commercial that he has planned in the area including an intersection that crosses over 599. There is already two dangerous intersections right in the La Cienega area that affect our community. There have been several members of our community hurt and killed on some of those intersections. That would be totally unacceptable to have another intersection go in as concerns our community.

It's not our intention to dictate to Mr. Cook to what he can do with his property. I feel his sincerity to work with the community is genuine in this point in time, but if he is so willing to work with our community, I would feel it would be in his best interest to be part -- maybe not in his best interest, but I think in the effort of working with us, it would be feasible for him to be part of our planning boundary. The development in question, and I guess I'm kind of focussing on Mr. Cook because he's the only individual that spoke up in opposition to this proposed moratorium and planning boundary, is that the Arroyo Chamiso lies directly -- it feeds into La Cienega and meets up with the Arroyo Hondo,

1570220

creating the La Cienega Creek.

An also he's proposing on having two roads connecting into La Cienega to County Road 54, I believe, which will also impact our community. What we're looking at is creating a central community facility rather than having separate entities in our community. As the planning process goes along I foresee it happening in this manner. What we hope to do is form some more committees within the planning boundary to include large scale developers such as Mr. Cook, Mr. Alley, possibly the owners of the race track, which I believe is the Pojoaque Pueblo at this point in time, to get their input and possibly maybe create a commercial area in that area as part of the community plan and get their input on that.

This is all tentative. This is all part of what we're asking for this time to do so, to create this process. And also to get residents from La Cieneguilla and create a committee there to see what they would like to see in their area in particular and from upper La Cienega and lower Cienega and incorporate this all into a general plan for La Cienega and our planning boundary as proposed.

CHAIRMAN TRUJILLO: Mr. Romero, Mr. Cook's property is right on the periphery of the proposed traditional boundary and overlaps into the corridor area. This looks to me like it's a unique situation whereby Mr. Cook, based on the master planning of the corridor committee, can develop that area and then abruptly, if he is included in the moratorium, is forced to stop development in the proposed moratorium area. So his property overlaps those two areas. My conjecture is he's placed in quite a precarious situation and again, I think his proposal is to develop that land for affordable housing, something that is needed in the community.

Not to say that he should not cooperate in open dialogue and communicate with the community planning process, but it seems to me like it's a unique sort of situation.

MR. ROMERO: I agree, Mr. Chairman. There's also the issue of the airport. His property lies right next to the airport. There has been -- I don't know if you have looked at what's been proposed as a noise abatement program. There's also a great concern of the residents of La Cieneguilla as to the noise and safety of the airport. In some prospective this area wouldn't seem a very logical place to put anything but affordable housing. Why is it not that other areas in Santa Fe County are not made more affordable for the people and the residents that live in Santa Fe County?

More and more, I'm seeing people displaced from their traditional neighborhoods such as the west side here and the people in Agua Fria and other communities in Santa Fe in the City of Santa Fe particularly. They're unable to afford to live in the places they were born, raised and grew up. So is the answer to move all this affordable housing? Although there is a need, and I'm not going to argue that. Is it fair to throw it all down towards La Cienega? La Cienega is a relatively traditional agricultural community and we've been seeing an influx of high density development being proposed in that area. I think it's our position to maintain some of that openness and those spaces in the La Cienega area.

1570220

I guess that may answer some of your concerns.

CHAIRMAN TRUJILLO: I'd like to see some of the affordable opportunity provided up north. If we could buy the Jacona Land Grant or part of the Jacona Land Grant for affordable housing to keep the youth of the community in that area, I'd be all for it. Or if there was other land available for affordable housing, that's something that this Commission is committed and is striving to accomplish.

COMMISSIONER DURAN: Mr. Chairman, Robert, I don't think it's a secret that Mr. Cook has been planning this affordable housing project around here for some time. And I think that we all agree that for a lot of residents in Santa Fe that are being displaced, and I've had the opportunity to review the plans he is working on and I think that with some fine tuning and with your input, the community's input, the Commission's input that he could provide a quality project. I think if you look at the project it has a lot of open space and I'm confident that he would work with you guys. I don't see him being able to do anything on this without your input, without our input and the community behind him. I really think that, based on what I know about the project that it really deals with a need that has not been met out there in the community.

Whether or not he is included or excluded in the moratorium area, I'd like to have you -- if it's not, be assured that your voice and your opinion will always be heard and taken into consideration.

MR. ROMERO: I kind of feel that if we make accommodations we may be setting a precedent for others to be excluded. I'm not sure that we would have that or not but I don't feel that this area is out of the question for affordable housing. But the densities proposed are a little high in my opinion. But if you look over at Mr. Alley's property, that area is of historical nature. We have the petroglyphs on one side. To get off Mr. Cook's development for a minute. And we have the Camino Real right in the middle and the Santa Fe River on the other side. And along it we have a little finger of ruin sites that Mr. Alley did make an effort to turn over to archaeological conservancy.

It is our feeling that maybe - or my feeling let me say -- I had proposed this to the board, possibly what I also understand the Mr. Cook has yet to obtain water rights for his project also. So does Mr. Alley. Mr. Alley is proposing drilling wells on his site. Mr. Cook is proposing hooking up to the County water utility. Whether that's good or bad is neither here nor there. But it may be feasible, if I can present this to the community in such a way that possibly the development rights from Mr. Alley's property can be transferred over to allow for higher densities in other areas with the acceptance of the community.

This would be all part of the community planning process that I would hope Mr. Cook and others would participate in and reconsider and be included in our planning efforts.

COMMISSIONER DURAN: Mr. Chairman, since this is just the first meeting of two, maybe by the time the next meeting we have you and Mr. Cook, your group and Mr. Cook could have some further discussion and at the next meeting, whenever we discuss it and a decision will be made then. It would afford you more time and Mr. Cook

1570220

more time to try to reach an accord on what would be best for all of you.

MR. ROMERO: I agree. We have a little bit of time between now and then and I think in six months we can accomplish quite a bit if we were all to sit down to the table. I think this is part of the planning process, is to allow this opportunity for all these diversified concerns and interests to come together and possibly look for alternatives and work to some sort of consensus rather than us coming up there as a community protesting this or not, and the other thing, every time we turn around and possibly them saving time and money in avoiding these circumstances.

CHAIRMAN TRUJILLO: Very good. Thank you, Mr. Romero.

MR. ROMERO: I do have a letter that was asked to give to you by one of the residents that couldn't hang around here so I'll go ahead and give you that. I'd like to say any other members of the community that feel they need to add something to what I have said, don't let me hold you back. Once again, thank you.

CHAIRMAN TRUJILLO: Thank you, sir. Anybody else for the moratorium. Again, limit your comments to about three minutes and get away from being redundant.

CAMILLE BUSTAMANTE: I'm Camille Bustamante and I am the secretary of the La Cienega Valley Association. I'm also the upper La Cienega representative. And I wanted to speak to the communication that we have made with the landowners. As secretary and the message that Kenny Pin delivered with regard to a meeting that we had in July we sent out about 500 -- I always want to call it a survey of sorts that describe the plan that gave information where the maps were posted around the community.

We had a large meeting and actually provided, I believe it was about six signs across the entire boundary area to include every entrance to La Cienega and surrounding areas and information was put into the newspaper. We mailed many of those out. Kenny received information but it was important for me to let you know that we had made communication attempts with everyone in that proposed boundary.

Also as representative of that upper La Cienega area, there are individuals in the upper La Cienega area that extend outside of the traditional boundary that are up against Mr. Cook's property as well as near the race track area and the residents in that area very much feel that they are part of the La Cienega Valley and we have members who are in the La Cienega Valley Association who are in that boundary, and I think it was important to say that. I hope that you'll consider the moratorium specifically because of the large amount of growth that we have had in that upper La Cienega boundary as well. The people up in that area are just as concerned about their water quality, the density in the area as everyone in the traditional boundary as well. Thank you.

JOHN SANDOVAL: Hello, my name is John Sandoval from La Cienega and I'd like to state that I'm in agreement with everything that Robert has to say and the main thing I'd like to say is they've really reached out to the community to try to bring everybody in and anybody that wanted to come in could come in. There's plenty of opportunity and they've made plenty of notice for everybody. And also I'd just like to state that this is just

1570220

a moratorium for six months. And I think that six months is not that long a period just to let the people get together and I think nobody should be excluded from this, because it's just a six month time period. And that's all I have to say. Thank you.

CHAIRMAN TRUJILLO: Thank you. Anybody else?

JULIE WEINBERG: Mr. Chairperson, Commissioners, my name is Julie Weinberg. I'm from La Cieneguilla. I also want to say I agree with everything that Robert said. I believe that everyone should be, the whole area should be included in the moratorium. One thing that wasn't brought up was traffic. Even outside the traditional areas when large developments happened, we have lots of winding, narrow roads with cows running across them. This affects -- the development on the outskirts of this area affects all of us as far as traffic goes. Plus water. It's really important that a proposed development like Mr. Cook's does affect water flow, as Robert said. So I just want to say I also agree that it's only six months. It gives us an opportunity to solidify it, and that I was notified about three or four times, various meetings. There's been probably more than adequate notification of what's going on. Thank you.

CHAIRMAN TRUJILLO: Thank you. Is there anybody else who wants to talk for the moratorium? Jim?

JIM SIEBERT: Mr. Chairman, Commissioners, my name is Jim Siebert. I'm representing Meghan Hill, who is the owner of Sunrise Springs and we not, certainly not opposed to the moratorium but we're well along in the process of mending the master plan. Sunrise Springs is a facility that's been in La Cienega since the late 1980's. She's requesting an expansion. We would request consideration. We have gone to the CDRC and the CDRC has recommended a use that referred to as the arts building that's considered an adjunct to what's taking place on the site right now.

We would hope that you would consider an exclusion of the arts building. We would not request consideration of any other portion of the master plan other than the arts building, but request that you simply consider that as an exclusion. We would wait until the moratorium is lifted to come back with the remainder of the master plan. We have discussed this with Robert and the association. Thank you.

CHAIRMAN TRUJILLO: Thank you, Jim.

TOM DIXON: My name is Tom Dixon and I've organized some of the meetings for the planning group over the past two years. And in the interest of the word community I think that I can make a plea to some of those large landowners to lend some of their support in organizing the community's plan. As Mr. Cook stated, he's perfectly capable of planning his own parcel. That's because he has the resources. But I think that these large landowners are a part of the community and I think by definition they should lend some support to the community. Thank you.

CHAIRMAN TRUJILLO: Thank you. Do we have anybody else?

CARL DICKENS: My name is Carl Dickens. I've been a member of the planning process since its inception and I've also been a member of the group that's been

1570220

trying to deal with the great amount of development that's been headed in our direction. I wanted to -- Ben Montalbano, who was the previous president of the association was unable to stay and he wanted me to let you know that when we did the mail-out -- and I really think we've done a sincere and genuine effort to contact as many people as we can in the community. We have a newsletter that we send out periodically which costs us a substantial amount of money, but we continue to do that because we feel that it's important to inform and keep the community aware of what we're doing.

Ben said that when we did the mail-out through the county, we were assure that Mr. Cook was contacted and he chose not to respond in regard to the boundaries of the proposed community plan. Ben also wanted to say that after this mail-out he received over 75 calls and not one call objected to the boundaries for the community plan. Thank you.

CHAIRMAN TRUJILLO: Thank you. Is there anybody else that wants to come forward? Okay, this is the first of two public hearings. We will schedule the next public hearing at the discretion of the staff in the next probably month or so, couple weeks. And we will continue with this process.

IX. E. Ordinance No. 1998-13. An ordinance amending the dedication of the third one-eighth of the County gross receipts tax and Resolution No. 1998-124, a resolution calling for an election to amend the dedication of the third one-eighth of the County gross receipts tax

MR. WOLF: Mr. Chairman, Commissioners, we request approval of an ordinance amending the dedication of the third one-eighth of the County gross receipts tax, and approval of a resolution calling for an election of the amended dedication. Currently Santa Fe County dedicates all of the second one-eighth of the County gross receipts tax, and 50% of the third one-eighth of the County gross receipts tax to the Indigent Fund. The Indigent Fund continues to be an important tool for assisting indigent residents with health care needs. The County also recognized the need to address other County priorities, such as emergency medical services, fire protection and law enforcement.

Under state law, the County is permitted to amend the dedication of 50% of the third one-eighth of the County gross receipts tax from the Indigent Fund to be used for these purposes that I just mentioned. Mr. Chairman, this proposal, staff believes is a win-win situation. We've got a surplus cash balance in the Indigent Fund that was derived from gross receipts taxes that were generated here in the county. The County stands to lose those based on statutory requirement of any reserves in excess of $200,000, having to revert to the state on July 30, 2000.

What we've proposed here is that there would be no detrimental impact in the Indigent Fund, and we would only pull out the surplus of the Indigent Fund that is being generated on an annual basis to use for these other purposes like I mentioned, the emergency

1570220

medical services, law enforcement and fire protection. There would be no detrimental impact to the Indigent Fund. It would be able to continue at the same level of service that it is today with the benefit of also increasing on an annual basis based on increased gross receipts taxes.

So we would not take out the whole amount that would be allowed by the statutory requirement which could provide -- if this goes to the election, the second half of the third one-eight generates about $1.5 million. The surplus that we're talking about in the Indigent Fund is only about $700,000 on an annual basis. So we would keep the Indigent Fund at the same level by only taking out that portion that is a surplus. Are there any questions?

COMMISSIONER GONZALES: Mr. Chairman, David, it all seems very complicated but to me the bottom line is with this new statute that comes into place, we have the choice of -- it's actually the voters who have a choice of deciding whether the surplus that is created on an annual basis by the Indigent, and that surplus is created by more revenue coming in than we're paying to the community hospitals. Their decision is whether that surplus should be used to put back into County government, or whether that surplus should go to state government. Is that correct?

MR. WOLF: Mr. Chairman, Commissioner Gonzales, that is correct.

COMMISSIONER GONZALES: And so the idea is that if they allow that to happen, if they vote for us to be able to manage the surplus, what you're saying is because the indigent will never suffer that that will always be taken care of first and will never be in jeopardy of going defunct, basically, because that will be the priority before anything else will in allocating the annual budget. Is that right?

MR. WOLF: Mr. Chairman, Commissioner Gonzales, that's correct also.

COMMISSIONER GONZALES: I just remind the Commissioners because annually what we do when we do our budget is we do a forecast for the revenues that are going to be generated. We do a budget on that. We budget for indigent monies based on those revenues and based on the needs. And anything above and beyond that we would be able to if the voters allow us to use back into County government. If they don't allow it anything above and beyond that goes straight to the state, that the state could take into other communities to use for other purposes.

MR. WOLF: Mr. Chairman, Commissioner Gonzales, that is correct. At the end of this fiscal year we would probably have a surplus in the Indigent Fund of about $3 million. The statute that provides for the reserve requirements would only allow us to keep about $200,000. So we would lose to the state under the statutory provision the difference of about $2.8 million.

COMMISSIONER GONZALES: So just what we have today, if the voters don't go to approve this, $2.8 million that they've put into this fund that could go back into County government to deal with roads or health and safety issues would go into the state general fund. Is that right?

MR. WOLF: Mr. Chairman, Commissioner Gonzales, that's right and I think

1570220

that's a real important factor that we need to keep in mind, because what we're recommending to the Commission is that we're not going to use -- we're not recommending to the Commission to take this to the voters to use this money just for any purpose. We're actually requesting that we be able to use this for health and safety initiatives within the general fund, such as the phase-in plan that the Commission has approved for the paramedic program that was started in the northern part of the county. That's costing a significant amount of money. Probably to the extent of a quarter of a million dollars a year. And we still have two more phases of this program to implement to the next two to three years.

So there's pretty healthy annual requirements for funds that we don't have that are still of a health and safety nature. That's why I think this is a win-win proposal.

COMMISSIONER GONZALES: In addition to the deputies as well, to fund deputy positions with this freed up money.

MR. WOLF: Mr. Chairman, Commissioner Gonzales, that's correct. I just use that as an example. The proposal is that the excess money would be used for health and safety initiatives and law enforcement, fire protection, EMS medical services.

COMMISSIONER GONZALES: So it's not like we would just be using it to blow up County government in other areas, it would be that we'd actually focus it on tangible areas of County government like law enforcement and fire.

MR. WOLF: It would be a strict focus on that, Mr. Chairman. The fact is in the packet we even have a proposed question that would be presented to the voters. I could read that too if it would be helpful. It says "Shall Santa Fe County amend the dedication of the third one-eighth of one percent of the County gross receipts tax pursuant to Santa Fe County Ordinance No. 1998-__ to dedicate all the third one-eighth to be used for emergency medical services, fire protection, law enforcement or other general purposes, to become effective July 1, 1999."

CHAIRMAN TRUJILLO: Very good. Any other questions or comments?

COMMISSIONER ANAYA: Just a question, Mr. Chairman. In the event that the Indigent Fund should become inundated with mandates of service, are there any provisions of this that will revert this tax back into the Indigent Fund to where the original intent was established by statute?

MR. WOLF: Mr. Chairman, Commissioner Anaya, there isn't any specific provision --

COMMISSIONER ANAYA: There is or there is not?

MR. WOLF: There is not. But the Commission has that authority. Because you approve the annual budget through the appropriation process. So when, like Commissioner Gonzales was saying earlier, when staff comes forward with what the projected revenues and expenses are, that would be a time when you can say, well, we need to take some money now from the general fund and put it back in the Indigent Fund. The problem is, once the money goes into the Indigent Fund, it can't go out for any other purpose. We can pull money for other types of purposes and put it in the Indigent Fund and

1570220

not the other way around.

COMMISSIONER ANAYA: The thought and the request here on both proposals, this one and the next ordinance, is to put it up before the voting public for their scrutiny to see if what we're doing as far as our anticipation is a wise decision, they still have the ultimate vote?

MR. WOLF: Mr. Chairman, Commissioner Anaya, yes. This -- you would adopt an ordinance that would then -- and a resolution that would call for an election for the voters to consider this question. And it wouldn't be a tax increase, it would be a rededication of a tax with money that we stand to lose to the state and we would use it for the health and safety initiatives of the county.

COMMISSIONER ANAYA: So in essence, Mr. Chairman, Dave, all the monies coming from DFA that have been appropriated to Santa Fe County through the indigent provision would stay in Santa Fe County, unlike one year I recall that the state took back, so much back to Medicaid because they kind of penalized us for being prudent as far as the Indigent Fund was concerned.

MR. WOLF: Mr. Chairman, Commissioner Anaya, that's correct. The money that goes into the Indigent Fund is generated from gross receipts taxes so from sales that are made throughout the county. And what we're proposing is taking the question to the voters. If it's approved, the money could continue to be spent in the county for the health and safety type issues instead of going to the state.

COMMISSIONER ANAYA: And I think the main point to remember here is that the entire funding of the Indigent Fund is, originated within our own Santa Fe County tax system, so I think the Commission should take that into good consideration. My only concern is that we don't step on the initial intent of what the Indigent Fund is supposed to be and put those people out on a limb. I really think that this Commission and any potential Commission should this come to fruition, we definitely take this into consideration that that is the primary purpose of the Indigent Fund. I can see the flexibility and I kind of like it that we would be allowed to have that kind of flexibility to put it into particularly emergency medical funding. I think that's critical. Fire, I think that's a health factor. I like that. But I don't think that we should keep it entrenched in that direction. I think the flexibility should be coming forth to this Commission and future Commissions that it doesn't fall into that particular line of fire, so to speak as a tax-producing revenue.

COMMISSIONER GONZALES: Mr. Chairman, I just remind the Commission and Commissioner Anaya also that we're not asking the voters to allow us to do this with all the indigent money. There's still revenues that are generated through the gross receipts tax that will continue to go into the Indigent Fund.

COMMISSIONER ANAYA: Understood.

COMMISSIONER GONZALES: We're talking about just a small portion. And the question again is that it's not that we stand to lose it, if the voters don't allow this to happen, we will lose it. And the bottom line, the state statute says that we will lose it

1570220

COMMISSIONER ANAYA: Understood.

COMMISSIONER GONZALES: By doing that reallocation, it just gives us as you said, the flexibility. And you're absolutely right, Commissioner Anaya, we shoul always, all of us, every Commissioner, make that commitment that that indigent is a priorit and will never, ever be compromised regardless of our best wishes for promoting health an safety.

COMMISSIONER ANAYA: Absolutely.

COMMISSIONER GONZALES: It's important that on an annual basis w make sure that that doesn't happen with that additional amount. But continuously, and would say since I've been here and probably you've been, Commissioner Anaya, that tha indigent money has generated far more in revenues that what we are spending on an annua basis.

COMMISSIONER ANAYA: Okay. I agree.

CHAIRMAN TRUJILLO: Very good. I think that it's not only a win-wi situation but also has a semblance of serendipity in a time where we're having a hard tim providing the services we need to provide in the area of health, safety and welfare for th community residents. This augmentation in the general fund will help us provide the bes service to Santa Fe County residents that we can.

COMMISSIONER ANAYA: Well, let's see what the voters say.

CHAIRMAN TRUJILLO: This is an ordinance, so we'll open it up for publi input.

PAT SANCHEZ: Good evening Commissioners. Mr. Chairman Commissioners, I'm Pat Sanchez. I'm the deputy director for administration and finance a La Familia Medical Center. And we respectfully urge your consideration of this ordinance We understand what you're saying. The understanding is the rationale behind it is to avoi using that unused fund, the surplus back to the state Medicaid fund. This reversion proposa was included in the initial legislation several years ago and it has never happened. It alway has been extended. It was extended last legislative session to the year 2000.

It's about an iffy a question as whether the gross receipts will always continue to b wonderful or whether they will be flat, or whether they will go down. You just never reall know. But we have a very high level of confidence that the legislative session will continu to postpone that particular legislation. For a couple of reasons. Number one, we'r developing a track record for how to use Indigent Fund outside of the hospital setting. Th Indigent Fund always was, in fact it was called the Hospital Indigent Fund. And the changed it to allow for more -- for broader use.

We are learning how to use that as well. We started using it for basic primary care We've expanded it to add several categories, such as obstetrics, dentures, surgical procedure that are costly, and pharmaceuticals. In fact, in the last year probably a third of the Indigen Fund money that has come to La Familia Medical Center has been to subsidize the cost o pharmaceuticals to the residents who qualify for the Indigent Fund. Secondly, it's

1570220

recognition that local use of the funds recognizes the partnership between the federal, the state, the County and the City governments in meeting the needs of the indigent.

The federal funding has been flat. At La Familia Medical Center our federal funding has remained flat for the last six years, although our operating program has probably doubled, more than doubled. So without this Indigent Fund we probably would not be there at this point. We've been very, very grateful for having the Indigent Fund and we've grown from about a $175,000 from the Indigent Fund a couple of years ago to almost $500,000 last year. And all of that was based upon eligibility for the Indigent Fund with close scrutiny by your County staff as to whether they truly were eligible.

There are several patients who have applied for the Indigent Fund and will get denied because it ends up that they were property owners or they really weren't residents as they stated that they were. So it's a really good partnership between us and County staff in determining that it really is used prudently.

We've enrolled over the years, we've enrolled probably over 3,000 individuals into the Indigent Fund. Last year we generated probably 6,000 encounters just for Indigent Fund eligible patients. That's hospital encounters, pharmacy encounters and encounters at the clinic. We're fortunate to have this gross receipts tax. It sustains such a critical program. But it's important to acknowledge that the trends in health care have had a huge impact and they're not something that you can look at in a years down the road kind of focus. The Medicaid managed care, which is having such a huge impact now -- our Medicaid managed care has resulted in probably a 25% increase in our sliding fee indigent patient population because they're no longer eligible for Medicaid.

That is happening over the period of several years. This surplus that is in the Indigent Fund now is not always going to be there. If our rate of growth is any indication the rate of tapping into the Indigent Fund is going to grow just as significantly, and I urge you to not compromise this particular fund by, I respectfully say, shortsighted planning in the aspect of health care delivery. Thank you.

COMMISSIONER GONZALES: Mr. Chairman, Pat, I guess I don't understand. Are you saying that the legislature is going to have a change of heart and allow for two more years? I mean, to me it seems it's more shortsighted to count on that happening than to be pro-active in trying to generate some type of revenues to stay in this community. The last thing I want is for the people who have worked hard in this community to see this revenue continue to go to the state and it seems to me that by not planning, by just kind of waiting for the state to decide what they're going to do that that's a very real possibility.

I don't think any of us, if we go forward in this action, are turning our backs or trying to negate this. In fact, when it comes to La Familia, we've gone from a hundred and some thousand to half a million dollars and last year, I'd remind you that our commitment to La Familia extended you as an applicant in our CDBG where you're getting $400,000. So I think we've demonstrated a commitment in the past and been very cognizant of the

1570220

indigents and playing that kind of role and I don't think any of us here will compromise that indigent at all through shortsighted planning.

And I would hope that people in the medical community here would understand and help promote this issue with the voters that the money should stay in this community that's generated in this community. I'm concerned that if we go to the voters and we say, well, the legislature is going to give us another two years and we have Medicaid and Medicare that's going to start coming down and the health pressures are going to continue to increase, that's something that's a separate discussion from this indigent. The fact is that according to the law today, we're going to lose this surplus, so we're going to continue to lose surpluses if we don't act today.

I think this would be a devastating time for county residents and city residents to have them spend so much money on a tax that is going to go benefit someone else based on some political deal that the legislature is pulling off with the governor. And so I'm concerned when I hear you say that by having this shortsighted planning, that we're going to kind of short change the indigent people or shortchange the ability to deal with changes in the health industry. In fact, I think we've been pro-active by coming forward with the draft of the health care policy that will look into the future and dealing with the changes in Medicare and Medicaid and the increased population of the indigent people and trying to be proactive and plan for that.

So I would just ask that you go back also and reevaluate how the medical community is going to approach the situation as well. I hope we get your support on that and not put out all those issues out there that could potentially happen. But if they do happen, we have to deal with it whether we have the indigent or not. And the fact is today, as we stand, we stand to lose the indigent and $2.8 million in any surpluses, as opposed to trying to be proactive and at least keep it in Santa Fe even if we don't use it on an annual basis, maybe the Commission through a policy will say we're not going to use if for health and safety, we're just going to go in and set up a reserve that will allow it to continue to accumulate for potential problems that might occur in the future.

I think that would be an urging, something that you would want us to urge us to do as opposed to putting it into fire and law enforcement. But I think to go out there and don't go for this and be concerned, we should be concerned because this is shortsighted planning, creates some confusion in the community as to really what's happening with the state statute.

MS. SANCHEZ: Mr. Chairman, Commissioner Gonzales, I completely understand what you're saying and agree, but the real difficulty that we've got is that the legislature practically even didn't debate it this last session when they extended it to the year 2000 because the Medicaid program is achieving what they had hoped it would. A lot of people would disagree, but it is saving a lot of money and it is allowing for a much broader expansion. In fact for the children's health insurance program, it's sort of questionable whether they're going to be able to use all the money that is coming to this state for Medicaid programs, but we're working on it.

1570220

I understand because I've been working with the County Commission in the area of county health for several years now and I understand the dilemma that you've got in dealing with emergency services out in the county. And I understand what this is about. You really do need to have funds available to meet the needs of the people, especially in the outlying areas of the county. I see that, I completely understand it. I guess from my own personal perspective, if the ordinance were to say that it would be for emergency health care delivery services, ambulance services, etc., it would be a little bit more palatable.

We've been working very closely with the Santa Fe Fire Department to expand paramedics to be able to do primary care on site, to do diabetes education, etc. We're working on a lot of partnerships. And that's the kind of innovativeness that comes out of having funds to do those kinds of things. What I'm worried about is, at the rate that the Indigent Fund is growing and being tapped in the primary care delivery arena, this surplus is going to diminish rapidly, especially because it is being hit by the pressures of managed care and the federal government limitations.

That's my major concern. We just want to be able to know -- we totally appreciate the fact that you are allowing us to build the southside clinic -- and by the way we had the bid opening today for the architectural services so it's moving. Because we recognized that there's probably going to be another four or five thousand individuals going to be served at that site. It's critical that we be able to continue to provide those kinds of services. But I tell you what, it's getting very, very tough to meet the rigors of Medicaid eligibility and other third party eligibility, and that sort of is falling on the Indigent Fund.

COMMISSIONER DURAN: Mr. Chairman, David, it's my understanding that if the administrative Indigent Fund came to us and said that the Indigent Fund needed more revenue then we could use this money to put into the general funds to supplement the needs of the Indigent Fund. Is that correct?

MR. WOLF: Mr. Chairman, Commissioner Duran, that is the intent. It's to provide like Commissioner Anaya said earlier some flexibility. And I think we have to deal with what the known is today. The statute does say that we're going to lose this money June 30, 2000. And yes, it has been extended in the past, but how long will it continue to be extended. We have these known issues now. And the problem is if we lose the money, the surplus in the Indigent Fund and only are allowed to keep $200,000, that's nothing for our indigent budget.

Our indigent budget is over $4 million. And if we lose that money and don't have that money diverted to anywhere else where we have some flexibility, we won't have any mechanism to make any future shortfalls. So I think that's an important thing to remember also. Once the money's in the Indigent Fund it can't be used for any other purposes and if we lose it, it's gone. And then if we have the money in the general fund, we have some flexibility with it.

CHAIRMAN TRUJILLO: Thank you. I think we need to understand that our number one priority is to provide the appropriate health care to the community. It is not

our intent to compromise the health care but rather than reverting the monies back to the state, we need to keep them in the county and use them for Santa Fe County's health care and health care services.

MS. SANCHEZ: Mr. Chairman, I totally agree with you and I appreciate that sentiment, and I know that that is what is behind this. And I also know that is what is behind the initiative you have for the health care planning, etc. We want to address the needs of Santa Fe County residents in a much more planned, deliberate fashion. And I totally agree, we don't want to send our gross receipts tax money out into the state to be used wherever it's needed out there. I really agree with that. I just am very concerned with the trends that we are dealing with now, of whether we will be able to be assured that that kind of flexibility is not going to hurt the ability to provide the health care in the future.

COMMISSIONER ANAYA: Mr. Chairman, that kind of goes in line with what I said to be careful not to entrench this in this direction. I can see where emergency medical services and I wonder why fire protection and law enforcement or other general purposes would be in this particular ordinance. That's going back to the initial intent of the statute of the Indigent Fund. I think there's room for utilization of the entire Indigent Fund within our own community if we only go out and look, and justifiably so. So I'm kind of skeptical and that's probably the concern that I gave to the Commission, how we're going to take it.

One good provision in this particular, one good factor of this particular ordinance is that it does go out to the voting public. But there again is the problem to educate the public as to what our intents are as far as the Commission is concerned. Thank you, Mr. Chairman.

MS. SANCHEZ: Thank you, Commissioners.

CHAIRMAN TRUJILLO: Thank you. Any other --

STEPHANY BURROWES: Good evening. I'm Stephany Burrowes. I'm the administrator of the Ortiz Mountain Health Center in Cerrillos, which has been open for three years now and we have been working closely with the Indigent Fund office and we're very grateful for the opportunity to be able to use those funds to cooperate with the County to bring those funds to assist the people that we serve.

We're a much smaller facility than La Familia, but the funds that we receive still constitute about one quarter of our entire budget. Over 70% of the people that come to our clinic qualify for a sliding fee scale. Essentially that means that they are medically indigent. And only a portion of those are we able to qualify for the Indigent Fund.

Every week, we have people coming in that are new to the clinic that are medically indigent. There are many, many more people out there in the county who are not being served by the Indigent Fund and that is not the fault of the Indigent Fund folks or anyone else, it's an overall issue. I agree with everything that Pat Sanchez said, and I hope that you will really keep those things that she said in mind. One of the things that I really want to commend the County for is for having the wisdom to allow these funds to be used for things

1570220

like primary care. Primary care is significantly less expensive than emergency room care and reduces the number of emergency room cases that you pay for.

I don't want to repeat things that Pat said. I guess I have some other concerns such as again, leaving room for growth within the Indigent Fund. I'm very concerned about the money being moved out and then not being accessible again the following year just because that's sort of the nature of inertia and the way things happen. I feel that if this were passed, that it would be really essential that the flexibility that has been talked about be written into it in a very explicit way, that the way in which the money gets moved over and the way in which it can be brought back is very clear. Just because it's been moved over it's not impossible to move it back.

COMMISSIONER GONZALES: Stephany, can I just -- so we make sure that we understand that there's no money that's being moved over. Each year, there is a gross receipts that collects indigent money, but prior to any allocation of that money, the Commission creates a budget for you, for La Familia, for St. Vincents, and we fund that budget first and foremost. That always happens. And whatever we've projected as being a surplus, then that's potentially we can plan to use for other county health care needs or emergency medical.

So I want to be careful that, to say that we're moving it in and then we move it out and move it in and move it out is to say we're trying to commingle. The fact is that we will continue to set your budget first, St. Vincents, La Familia and all the rest of the providers that we've added first and foremost so that you have access to that indigent first. And then any surplus that is left would just stay basically in the general fund as opposed to coming in to the indigent monies.

MS. BURROWES: Okay. I hear you on that and I appreciate that. And I guess my concern would be that, for example, with the building of the southside clinic, which is desperately needed, that if they were allotted a certain budget and with -- due to some circumstance there was a significant need that was not being met, half or three-quarters through the year, would there be a way to respond to that?

COMMISSIONER GONZALES: Absolutely.

MS. BURROWES: Okay. Let's see.

CHAIRMAN TRUJILLO: Before we continue, David, would you like to address that, just to make sure that we understand that we're not compromising any services?

MR. WOLF: Mr. Chairman, I just wanted to comment. One thing that's probably important to keep in mind. We are bound by very strict parameters within the Indigent Fund and what the money can be used for. The Commission will actually have more flexibility if some of the money that you think of as a surplus in the Indigent Fund can be used for general purposes, we'd have more flexibility to use it with regards to the health policy that the Commission has given us a directive to pursue and other health type and safety issues.

MS. BURROWES: I guess I have a couple of other concerns. One is this

health policy. I heard rumors about it and so on, but it's not clear to me who is being asked to participate in that, and I hope that that is made broad enough to include everyone. I have a concern in relation to this in terms that there's been an emphasis that this is going to be put out to the voters. I want to emphasize what Commissioner Anaya was saying about education because the fact is, the services that you're talking about potentially diverting some of this money to, are services that generally, not totally, but generally are supported, serve people that are not indigent, and who generally, not always, generally, are better educated and more likely to vote.

And their desire for roads and more sheriffs and so on is going to be a lot more powerful and a lot more accessible than the people that are indigent, generally less educated and less likely to vote. If you're homeless, you probably don't vote.

COMMISSIONER ANAYA: Good point.

MS. BURROWES: And I think that's a very important thing to keep in mind. And I guess that's all that I'm going to say right now.

COMMISSIONER GONZALES: In this interest of moving along, Stephanie, I'll just keep it short, but please don't confuse the intent of this Commission. Our intent is not in any way a means to compromise this Indigent Fund. So whether it's the most affluent of Santa Fe or the least affluent that are voting, it doesn't change the intent of making sure that the monies that are generated in this county stay in this county. There's a statute that is going to say any surplus that you've generated is going to go to the state. So it's not like this statute doesn't exist and we're just going to go out there and ask the voters to move this surplus over, the reality is this surplus is going to leave Santa Fe County.

So whether you're the most indigent or the most wealthy in Santa Fe County, that is still a reality that remains in place. So you're right, there needs to be an educational process, but the educational process needs to occur that Santa Feans need to understand, the voters need to understand that they money that they worked to basically put into this government will stay to basically provide citizens of this county some services. I just want to make sure that we don't lose sight of what's going to happen in the year 2000 when the state takes the surplus of this indigent money.

MS. BURROWES: I hear you. And I've heard that several times tonight. And I just want to know that you have heard what I have said about my concerns about putting it to the voters and the education there and the nature of the voting population and the nature of the group that actually benefits from this directly. People that don't benefit directly don't tend to vote.

COMMISSIONER GONZALES: What if we change it to address Ms. Burrowes concern by deleting medical services and fire protection and adding "emergency service and other health care needs, law enforcement, etcetera.

COMMISSIONER ANAYA: Mr. Chairman, I think this meets the true intent of the Indigent Fund. So I agree with that type of amendment I could see this proceeding forward to the voting public.

1570220

COMMISSIONER GONZALES: Did you have a problem with that wording, David?

MR. WOLF: Mr. Chairman, Commissioner Gonzales, I think for the most part that's fine. It still gives us a lot of the flexibility we were talking about. My only concern would be -- my preference would be to see language in there that would say emergency services.

COMMISSIONER GONZALES: That's what I said.

MR. WOLF: Emergency services?

COMMISSIONER GONZALES: I said for health care needs and emergency medical services.

MR. WOLF: Well, I was going to take, Mr. Chairman, Commissioner Gonzales, my thoughts were just for health care needs and emergency services. That gives us a little bit more flexibility if there's an issue -- if we have a problem defining what "medical" is.

COMMISSIONER ANAYA: Okay. That sounds good.

COMMISSIONER GONZALES: Okay.

MS. BROWN: Mr. Chairman, just for clarification, we are looking at the ordinance first, so we need to amending Section 4, Dedication, of the ordinance before we move on to the resolution. The statute requires that you pass the ordinance first and then adopt a resolution to call for an election on the ordinance.

COMMISSIONER GONZALES: Move for approval of Ordinance No. 1998-13.

CHAIRMAN TRUJILLO: As amended?

COMMISSIONER GONZALES: We're not amending it. We'll be amending the question on the resolution.

COMMISSIONER ANAYA: You're amending the question on the resolution. Second, Mr. Chairman.

MS. BROWN: Mr. Chairman, you are amending the ordinance. If you turn to the ordinance, it's right before the resolution.

COMMISSIONER GONZALES: I don't see -- is there a question on that?

MS. BROWN: No, it's Section 4, Dedication: these are forms that are prescribed by Tax and Revenue.

COMMISSIONER GONZALES: We would amend it to say "revenue from the third one-eighth County gross receipts tax would be used for emergency services and other health care needs. And other health care purposes.

COMMISSIONER ANAYA: I'll second that, Mr. Chairman.

Upon unanimous roll call vote with Commissioners Griñé, Gonzales, Duran, Anaya and Trujillo voting "aye," Ordinance No. 1998-13 was approved.

1570220

COMMISSIONER GONZALES: Mr. Chairman, move for approval of Resolution 1998-124, also amending language to state on the question of the ballot, the last half of the question to read to dedicate all of the third one-eighth to be used for emergency services and other health care needs, to become effective July 1, 1999.

COMMISSIONER ANAYA: Second, Mr. Chairman.

MS. BUSTAMANTE: Mr. Chairman, members of the Commission, we need to also put in the date of the election, which I believe will be January 5, 1999.

COMMISSIONER GONZALES: So noted.

CHAIRMAN TRUJILLO: We've got a motion, seconded by Commissioner Anaya. All those in favor? [Unanimous] All those opposed?

IX. F. Ordinance No. 1998-14, An ordinance adopting a County infrastructure and gross receipts tax and Resolution No. 1998-125, a resolution calling for an election to adopt a County infrastructure gross receipts tax

MR. WOLF: Mr. Chairman, we request approval of an ordinance to adopt a new County infrastructure gross receipts tax and approval of a resolution calling for an election of the tax. The legislature recently, May 20, 1998, authorized counties in New Mexico to impose a County infrastructure gross receipts tax, to fund, among other things, the acquisition, construction, operation or maintenance of solid waste facilities and for County general purposes. We request that the Commission consider adopting this ordinance and resolution. I'd be happy to answer any questions. The staff's proposal is to use this money to help fund our solid waste programs throughout the county.

CHAIRMAN TRUJILLO: Very good. Do you have any questions of David?

COMMISSIONER ANAYA: I have no questions, Mr. Chairman. There's no input from the public needed?

CHAIRMAN TRUJILLO: No input?

COMMISSIONER ANAYA: If there's no input, Mr. Chairman, I move for approval.

COMMISSIONER GRIÑÉ: Second.

COMMISSIONER ANAYA: And with the effective date of going out to election January 5, bootstrapped on to the other. Would that be in order?

MS. BUSTAMANTE: I don't believe we're doing that on the ordinance right now. That will be on the resolution.

CHAIRMAN TRUJILLO: This is the ordinance.

Upon unanimous roll call vote with Commissioners Griñé, Gonzales, Duran, Anaya and Trujillo voting "aye," Ordinance No. 1998-14 was approved.

1570220

CHAIRMAN TRUJILLO: Now the resolution calling for a County infrastructure gross receipts tax linked together.

COMMISSIONER ANAYA: Linked together. Now's the time for that. So moved, Mr. Chairman.

COMMISSIONER GONZALES: Second.

CHAIRMAN TRUJILLO: We've got a motion, seconded by Commissioner Gonzales. All those in favor? [Unanimous] All those opposed.

COMMISSIONER GONZALES: And of course, real quick, this is what we had talked about during the solid waste issue. Dave brought it up. This would want voters to go and basically generate some revenues for solid waste and those areas so that they don't have such a permit in getting those permits.

MR. WOLF: Thank you, Commissioners.

CHAIRMAN TRUJILLO: I understand we're going to hear one land use item before we break for executive session, and that is the first one, CDRC Case MIS 98-5650.

X. G. LAND USE ITEMS

1. CDRC Case #MIS 98-5650. **Wild and Woolley Trailer Park. Mark Woolley, applicant, requests consideration of a zoning status. The property is located off County Road 54 within Sections 26 and 27, Township 16 North, Range 8 East**

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, Commissioners, the use in 1984 was for an RV park for temporary stays. In 1984 the Environment Department conducted an inspection of the property and stated in a letter to the County that there were 31 RVs spaces, three of which at that time were accommodating mobile homes. A current site plan of the property submitted by the applicant shows 19 mobile homes and 11 RV spaces and a stick-built house.

The applicant states that three or four of the RV spaces are actually occupied by small, older mobile homes. The applicant states that this was the situation when the purchased the property in 1992. The Land Development Code defines and RV park as a commercial development, whereas a mobile home park is considered to be a residential development which must meet density requirements. Conversion from an RV park to a mobile home requires zoning approval per Article IX of the Code.

To zone this property as a mobile home park Code requirements would need to be met for issues such as fire protection, water use and availability, liquid waste treatment through a central system, separation between homes, road design, stormwater detention, and traffic impacts.

The applicant states that the average stay in his park is over three years. May of the RVs have skirting and are permanently on the site. Ordinance No. 1996-11 added definitions

1570220

to the Code which include the statement that recreational vehicles do not qualify as dwelling units. The applicant is requesting that the Board recognize the current use on the property which is for 19 mobile homes and for 11 RVs, three or four of which are older, small mobile homes.

Recommendation: It is staff's position that this property has not been approved for a mobile home park and is recognized for temporary RVs only. If the applicant wishes to change the use of this property, a rezoning and development plan should be requested which meets Code requirements to be reviewed and approved by the CDRC and the Board.

CHAIRMAN TRUJILLO: Thank you, Penny. Any questions of Penny?

COMMISSIONER GONZALES: I have a question of Penny and staff. Penny, do we have any documentation in here by our code enforcement staff basically citing Mr. Woolley for being out of compliance with the Code?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Gonzales, no, we don't. It's my understanding that this property has had no code enforcement action taken place on it at that moment.

COMMISSIONER GONZALES: So basically it's been operating under a business license that we the County have issued them for a mobile home park.

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

COMMISSIONER GONZALES: And the staff is taking the position that it's only RV, it's only zoned for RVs?

MS. ELLIS-GREEN: Yes. I believe in 1992 the applicants got a business license, a name change on the business license through the County Clerk's Office. My understanding is it wasn't signed off on by Land Use and it does state on that that it's for a mobile home park.

COMMISSIONER GONZALES: Have we done any site visits at all since the applicant has brought this to our attention?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner, I believe that the Land Use Administrator has been to the site.

COMMISSIONER GONZALES: Can you assess the quality of the site, Rudy? I had a chance to go out there. It seemed very clean to me. I don't know if you saw the same.

RUDY GARCIA (Land Use Administrator): Mr. Chairman, Commissioner Gonzales, I'm sorry, I didn't hear the question.

COMMISSIONER GONZALES: You had a chance to visit Mr. Woolley's site?

MR. GARCIA: Yes, I have.

COMMISSIONER GONZALES: And as far as the condition of the site, is it basically a clean site?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, if you're asking – yes, it is a clean site.

1570220

COMMISSIONER GONZALES: Thank you.

CHAIRMAN TRUJILLO: Okay, is the applicant here? Could you step forward please?

[Duly sworn, Mark Woolley testified as follows:]

MARK WOOLLEY: Mark Woolley, 43 Los Pinos Road, Santa Fe, New Mexico.

CHAIRMAN TRUJILLO: Thank you, Mr. Woolley for being here. Is there anything that you want to add?

MR. WOOLLEY: I've submitted a lot of the information to Land Use over the last month or so in regards to the property. It came up because we have a contract on the property for sale. We've been operating actually, the business registration license that Ms. Ellis-Green mentioned predated us. The old owners at some point in the two or three years prior to our purchase, their business licenses started calling it a trailer park as well. So it wasn't the name change when we came in that changed it from an RV to a mobile home park. It had been prior to us as well. And we bought it under that assumption, so stipulated in the contracts that everything had to be legal and operating as current to the law. We continued in that regard since that time, with all licensing and EID and groundwater, etc., etc.

We just ask that we be recognized as it has been historically and to be able to continue the use as it has been. That's pretty much it. We aren't a fancy park by any means. We allow older mobile homes into the park and for a lot of people that otherwise could not go elsewhere. I know it's a concern of this Commission that affordable housing is big concern and I think we certainly do our part that way. As long as they keep their places clean and everybody's quiet and gets along then that's all that we ask.

CHAIRMAN TRUJILLO: There's a statement in here in the summary that in 1984 a business license was issued on the subject property for an RV park under the name of Goode's RV Park.

MR. WOOLLEY: Correct. Those were the previous owners, yes.

CHAIRMAN TRUJILLO: It was an RV park; it wasn't a mobile home park.

MR. WOOLLEY: Yes, I understand. IN maybe '89 or '90 their business registration started to reflect Goode's Trailer or Mobile Home Park. I don't recall. Land Use has copies of that. And I had them -- of course we looked at them when we were looking at the property.

MS. ELLIS-GREEN: Mr. Chairman, actually, in your packet there is a 1984 business license for the Goode's RV Park. Then that was changed in 1990 through a business name change with the County Clerk's Office to Goode's Trailer Spaces. In 1992 it was still Goode's Trailer Spaces. In 1993 it changed to Wild and Woolley Trailer Ranch. Those business licenses are I believe in Exhibit "B."

CHAIRMAN TRUJILLO: Okay. Thank you. Any questions?

COMMISSIONER DURAN: Mr. Chairman, Mr. Woolley, do you think your

property or this property would meet the Code requirements, such as fire protection, water use and availability, liquid waste treatment, separation requirement, road design and stormwater detention and traffic impacts?

MR. WOOLLEY: I don't know what the current rules are. I do know that all the roadwork, lighting, space, the water system that's tested regularly and the septic systems that are in the park that have been upgraded over the last couple years, all meet or had to have been approved by an agency or another, that we've always done and pulled permits etc.

COMMISSIONER DURAN: For the density that you have right now?

MR. WOOLLEY: Yes, exactly. We just recently had PNM pull permits for every space because they brought in all new primary power. So they put in individual meters for all the lots. This was completed at the end of this past year. It was a job that took some time. It went through the normal process. We had to grant an easement for the lines. They pulled all the permits. We had a licensed electrician in doing the hook-ups, etc. All done according to Code. We had all the inspectors out there etc. As we have on all the other projects.

COMMISSIONER DURAN: Have you ever had any complaints from your property owners?

MR. WOOLLEY: In the vicinity or other property owners? Never.

COMMISSIONER DURAN: For the use that you're currently under.

MR. WOOLLEY: No, I've spoken with all the property owners that are on all sides of ours -- our property, except for the race track, which is Pojoaque Pueblo. We did send registered letters to all the parties and had our posting out on the street as required by law, of this meeting. And I did speak with all of them and all of them are fine. Of course, I've known them all for a number of years now.

COMMISSIONER DURAN: So there really isn't anybody that you're aware of that is opposed to continued use of your property?

MR. WOOLLEY: Not at all. Not to my knowledge at all, no.

COMMISSIONER DURAN: Okay. I just have one question for Penny. Penny, have you analyzed the property or done any studies on the property relative to the requirements that it might have to meet as a mobile home park?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Duran, the property does have a discharge permit on it, which is regulated by the State Environment Department. As far as fire protection is concerned, this type of use would need to have some kind of fire hydrant system. I don't believe that that's available on the property. Water use and availability, we would need a water budget. We would need a hydrology report to prove that this kind of density can be sustained on this property. As far as the separation between homes, that's a Fire Marshal concern as well. And the road design and stormwater detention, I'm not sure that that would meet County Code.

COMMISSIONER DURAN: So they are basically one unit over the density,

1570220

by having a stick-built home?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Duran, the density in this area is one dwelling unit per 2.5 acres.

COMMISSIONER DURAN: But based on the approval that they received for an RV park, they have 31 units that were approved on a temporary basis, right?

MS. ELLIS-GREEN: That's correct, and that was a stick-built home at that time as well.

COMMISSIONER DURAN: So they have only one dwelling on there that's over the 31?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Duran, no. In 1984, there was the stick-built home on the property as well. The issue is moving or changing from the RV use to the mobile home use. The numbers are still the same.

COMMISSIONER DURAN: I realize that, but they were granted in 1984 31 RV spaces. Were they also granted three which were accommodating mobile homes? No. So the total RV spaces were 31.

MS. ELLIS-GREEN: That's correct.

COMMISSIONER DURAN: And right now, they have thirty spaces plus a stick-built house.

MS. ELLIS-GREEN: That's correct.

COMMISSIONER DURAN: So they're still basically -- if they had RVs there every day, they'd still have the same number of RVs there, the same number of inhabitants?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Duran, that would mean the same number of units would be there. The difference is between the RVs and the mobile homes.

COMMISSIONER DURAN: Okay. Thank you.

CHAIRMAN TRUJILLO: Any other questions of the applicant? Thank you, Mr. Woolley. This is a public hearing. Does anyone want to get up and talk for or against this project?

COMMISSIONER ANAYA: Mr. Chairman, just looking at it, there is actually comparability between an established RV and what they are requesting. It's been an established business for many, many years. And the request, just looking at the plan of the set-up there, the only type of mobile homes they could have there are probably the ones that are there. And if we were to not help them along in this endeavor right now, we may be displacing these homes, displacing families that are already there, Mr. Chairman. So I see very little change of effect, Mr. Chairman. I move for approval.

COMMISSIONER DURAN: Second.

CHAIRMAN TRUJILLO: We've got a motion seconded by Commissioner Duran. All those in favor? [Unanimous] All those opposed?

Very good. Then we'll break for executive session.

1570220

VIII. D. MATTERS FROM THE COUNTY ATTORNEY

1. Executive session
   a. Pending or threatened litigation
   b. Purchase of acquisition of real property or water rights

Commissioner Duran moved to go into executive session to discuss pending and threatened litigation and acquisition of water rights. Commissioner Griñé seconded the motion. Upon unanimous roll call vote, the Commission moved into executive session.

[The Commission met in executive session from 8:25 to 9:00 and reconvened with all members present.]

Commissioner Griñé moved to come out of executive session, having discussed pending and threatened litigation and purchase of acquisition of real property or water rights. Commissioner Duran seconded and the motion passed by unanimous voice vote.

IX. G. 2. **EZ Case #S 98-4610. The Village at Rancho Viejo, Unit 2. Rancho Viejo de Santa Fe, Inc., applicant is requesting final plat/development plan approval in accordance with the approved master plan for 184 residential lots/units on 179 acres. The property is located off Richards Avenue southwest of the Santa Fe Community College, within the Five-mile Extraterritorial District, Section 29, Township 16 North, Range 9 East**

JOE CATANACH (Review Specialist): Thank you, Mr. Chairman, Commissioners. This is the Unit 2 part of this subdivision phase. The Board granted approval of Unit 1 part on January 13 and that consisted of 150 residential units. The EZC recommended approval of this Unit 2 part of this subdivision phase on October 8, 1998. The EZC recommended approval of this Unit 2 part. Mr. Chairman, as mentioned in the agenda caption, this is 184 units on 179 acres. The Board is familiar with the Rancho Viejo master plan and the proposed subdivision phase, which is a variety of residential lots ranging in size from 4,000 square feet to 61,000 square feet.

This Unit 2 phase includes 25 affordable lots. There will be work-live studio units, and the commercial tracts were created in Unit 1 part of the subdivision. As you are familiar with the Rancho Viejo Subdivision access is off Richards Avenue. A road has also been constructed off State Road 14. The wastewater plant is in the process of being completed and Rancho Viejo is utilizing the County water system.

The subdivision phase incorporates the cluster-open space concept of development. Mr. Chairman, the EZC also recommended approval of several variances of the road

1570220

standards and I've listed that in my staff report, having to do with spacing between points of ingress and egress and road grades. Again, in coordination with the County Traffic Engineer, staff has come to agreement on those variances, and like I mentioned, EZC has recommended approval. At this point, I would like to enter the conditions into the record. The applicant is in agreement with the conditions, Mr. Chairman.

[The conditions are as follows:]

1. Finished road grades exceeding 3% for 100 feet from the intersection. The proposed road grades range from 3.3% to %5 for 11 intersections.
2. Road intersections shall maintain a 90 degree angel, and shall not be less than 70 degrees. One intersection is proposed with an angle of 45 degrees.
3. Minimum spacing between road intersections and driveways (points of ingress and egress) as follows:
   - Off-set intersections less than 125 feet.
   - Minimum of 200 feet between points of ingress/egress.
   - Roads/driveways less than 100 feet from intersections.
   - Separation between intersections along a minor arterial less than 1500 feet.

"The applicant has submitted a letter outlining the specific details of the variances as agreed upon with the County Traffic Engineer."

Mr. Catanach said staff recommends final plat and development plan approval subject to the following conditions:

1. Compliance with review comments from the following as applicable:
   a. State Engineer
   b. State Environment Department
   c. Soil and Water District
   d. State Highway Department
   e. Santa Fe County Water Company
   f. County Hydrologist
   g. County Subdivision Engineer
   h. County Fire Marshal
   i. County Public Works
   j. Santa Fe Public Schools
2. Submit development agreement to establish terms and conditions as applicable for the following:
   a. Marketing and sale of affordable lots/unit to eligible buyers in coordination with a community housing development organization
   b. Fire station site
   c. Conditional dedication of Avenida del Sur and Rancho Viejo Blvd. for maintenance by homeowners association until dedication is accepted for

1570220

ownership and maintenance by County
d. Phasing of affordable lots and commercial/community facilities
e. Solid waste transfer sites

3. Final plat to include but not be limited to the following:
   a. Permits for building construction will not be issued until road, fire protectio and drainage improvements are complete as required by staff
4. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosur statement) subject to approval by staff.
5. Maintain a minimum 50-foot open space setback for residential lots along Avenid del Sur (future arterial) and submit a landscape plan meeting minimum standards.
6. Submit solid waste fees in accordance with subdivision regulations.
7. Submit engineer's cost estimate and acceptable financial surety to guarante completion of required improvements (including street and traffic signs, street lights recreational facilities common area landscaping) include schedule of complianc projecting time period for completion. Upon completion, submit a certification fro a registered engineer that improvements have been completed in accordance with th approved development plan.
8. Development plans for non-residential uses shall be subject to approval by the Count Development Review Committee.
9. Compliance with mitigation measures regarding the variances for spacin requirements between points of ingress/egress as required by County Traffi Engineer.
10. Extend conditional dedication of right-of-way for Avenida del Sur to complet connection of future arterial road intersection with State Road 14, in accordance wit the Extraterritorial Road Plan as per applicant's letter of agreement.
11. Address tract E as open space on development plan sheet and plat, and delet reference as possible future parking lot for commercial uses.
12. Applicant shall submit fair share contribution for the Rodeo Road-Richards Avenu intersection improvements as per agreement with City staff, which was required a the time Rancho Viejo/College Heights exceeded 150 lots.

CHAIRMAN TRUJILLO: Thank you, Joe. Any questions of staff? If no then we'll have the applicant up.

KARL SOMMER: Mr. Chairman, members of the Commission, my name i Karl Sommer. My address is Post Office Box 1984, Santa Fe, New Mexico, 87504. W are in agreement of the conditions of staff. I'd like to make one minor clarification for Joe' sake. We have a change, which I'm going to follow up with a letter relating to a conditio on the preparation of a survey. And I'll follow up with Joe making that clarification, bu we're in full agreement.

The only other item we'd like to have to Board recognize is that it's a fairly technica

issue, minor. We are vacating a portion of a roadway and it's becoming open space on Hidden Valley Road. Our request is that you approve that vacation. It was a public easement, not a dedicated roadway. It is a public easement that you would be vacating and abandoning. It will go into open space as part of this development. It's been spelled out with Mr. Catanach and I don't think there's any disagreement about it, but we'd like the record to reflect and if you are inclined to approve this tonight, that you include in your motion that Hidden Valley Road be vacated and abandoned insofar as there's a public easement there.

Other than that, we're prepared to answer any of your questions. We've brought with us tonight Mr. Bob Taunton, whom you all know from Rancho Viejo, Mr. Mark Slofer from Rancho Viejo, and the infamous Cliff Walbridge, from Walbridge and Associates. We can answer any questions that you have, but I think that we're in full agreement with the conditions and we've worked out all the changes we needed.

CHAIRMAN TRUJILLO: Do we have any questions of the applicant?

COMMISSIONER DURAN: Mr. Chairman, Karl, when you talk about vacating a public easement, could you explain that a little bit further?

MR. SOMMER: There is a portion of a roadway that deadended on a particular tract and the tract had been set aside for use for a shelter for unwed mothers that had children and they were going to use that tract and their obligation to use that tract was contingent on getting financing. And so our development plan said if they don't get their financing, we'll take a portion of that tract and make it a part of the lots adjoining the tract and the other part open space. It's Hidden View. I said Hidden Valley; it's Hidden View. That little roadway went to that tract so there's no need for it anymore and that's basically what it's about.

COMMISSIONER DURAN: It's not being used right now by the public?

MR. SOMMER: No, no. It is not. There's nobody living out there and it's really just a modification to the plat and that's all there is.

COMMISSIONER DURAN: So nobody could come up and claim that we've vacated a public easement that was useful?

MR. SOMMER: No. It's not useful to anybody at this point and nobody's using it. It's not improved.

COMMISSIONER DURAN: It's within the confines of the project anyway.

MR. SOMMER: Definitely. Definitely.

COMMISSIONER DURAN: I mean the boundaries of the property.

MR. SOMMER: Correct.

CHAIRMAN TRUJILLO: Any other questions of the applicant? No other questions? This is a public hearing. Is there anyone in the public that wants to talk for or against this project.

COMMISSIONER GONZALES: Mr. Chairman, just a couple of comments before the motion. I wanted to publicly thank Rancho Viejo for coming forward with a

1570220

development that not only addresses open space but addresses lots of mixed use planning that hopefully will promote sustainable communities out in the county. I went to commend Bob and the Rancho Viejo team and thank you because this, Commissioners is remember, as we remember Rancho Viejo was waiting for us to come up with an affordable housing ordinance to deal with what was going to happen on the southside before they started submitting their plans and they were gracious in waiting and now they're finally submitting, continuing to submit these tangible plans that will show I think some sustainable communities that will be occurring in the county.

I also want to thank Rancho Viejo for offering that piece of land as a home for homeless pregnant teenagers. That really I think showed your commitment to open up this community to all aspects of the community. I think there are a lot of people out there that wouldn't have opened up those doors. You did. Unfortunately, they did not receive their financing. I would just ask that you continue to open up the doors of Rancho Viejo to community needs as you've already started to do so and I do want to thank you for that because I thought that was an important program and hopefully next year they'll be back before this Commission seeking financing. But thank you for bringing forward this and with that, Mr. Chairman, I'd move for approval of EZ Case #S 98-4610.

COMMISSIONER DURAN: Second.

CHAIRMAN TRUJILLO: We've got a motion seconded by Commissioner Duran. All those in favor? [Unanimous] All those opposed?

Thank you.

MR. SOMMER: Could you make a specific finding with respect to the abandonment so we don't have to come back on that portion of the roadway, if that's okay.

COMMISSIONER GONZALES: So moved, Mr. Chairman, as noted by the applicant.

COMMISSIONER DURAN: I accept it as my second.

CHAIRMAN TRUJILLO: All those in favor? [Unanimous] Opposed? Thank you.

1570220

IX. G. 3. CDRC Case #Z 98-5050. Joe Babcock. Joe Babcock, applicant, requests master plan zoning with preliminary and final development plan approval for the construction of an office with an adjoining warehouse and a detached separate warehouse. The use of this property will be for cabinetry, manufacturing and associated warehouse. The property is located at the southwest corner of the intersection of I-25 and State Road 599 on the west frontage road, within Section 26, Township 16 North, Range 8 East

VICKI LUCERO (Review Specialist): Thank you. Mr. Chairman, Commissioners, on August 11, 1998, the BCC met and acted on this case. The decision was to table this case to allow for discussion on the highway corridor. The applicant is requesting master plan, preliminary and final development plan approval for a 4,030 square foot warehouse with adjoining office and attached conference-computer room and a 2,400 square foot warehouse to be used for manufacturing and storage of cabinetry. The building is situated on 0.84 acres within an existing lot of the Capling Subdivision.

Recommendation: The decision of the CDRC was to recommend master plan zoning with preliminary and final development plan approval subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

CHAIRMAN TRUJILLO: Yes. Please do.

[The conditions are as follows:]

1. The applicant will obtain a driveway permit for required modifications from the State Highway Department prior to recording the master plan.
2. The master plan will be recorded with the County Clerk.
3. The applicant shall connect to the County water system when it may become available and shall install a fire hydrant subsequent to that connection. The minimum water main size shall be eight inches and shall be capable of providing 1000 gallons per minute (+) to the attached hydrant with a residual pressure of 20 psi.
4. The applicant must comply with Life Safety Code.
5. It shall be the responsibility of the developer to notify the Fire Prevention Division when the hydrant is read to be tested. Business licenses shall not be granted until the project has been inspected and approved by the Fire Marshal.
6. The applicant shall install a Knox type lock for emergency entrance during office hours.
7. Additional fire protection requirements, if any, shall be imposed at the time of application for building and/or construction permits.
8. Handicap spaces shall be labeled and building handicap access must be approved by the State Construction Industries Division.
9. All utilities must be underground.

1570220

10. The parking areas and driveways shall have six inches of compacted subgrade and at least four inches of compacted basecourse (95%).
11. As stated in the report, the applicant must pave driveway access from existing pavement edge to property line, to State Highway Department standards for asphalt pavement. He must construct minimum 25-foot radius at driveway for entry and exit radii and install a culvert with safety grate.
12. Prior to final approval, the applicant must submit an approved Environment Department permit for a wastewater system. The system shall serve the entire project and must reduce nitrogen per Article VII, Section 2.7.
13. The dumpster fence must be solid.
14. All property signs shall be approved and permitted by Land Use staff. Building colors shall be earthtone.
15. The applicant shall submit a financial guarantee for the landscaping, parking lot improvement and the well before acquiring permit.
16. Security lights shall be shielded. They shall be connected to motion/infrared detectors and shall not remain on when the business is closed.
17. This property is subject to the La Cienega Watershed conditions briefly described below (actual conditions presented in Exhibit E). They shall be noted on the master plan.
    a. Future connection to County water
    b. Encouragement for shared wells
    c. Water line design requirements
    d. Disconnection from domestic wells
    e. Utility easements
    f. Well design
18. The well design shall be approved by the County Hydrologist and it shall be inspected and approved by the County Hydrologist prior to the releasing of the financial guarantee.
19. Driveway runoff shall be directed into pond.
20. No more than one business shall be allowed on this lot. Prior to beginning operations, a County business license must be acquired.
21. No dwellings shall exist on this property.
22. Landscaping plan to be approved by staff. Drip irrigation is required.
23. Compliance with applicable review comments from the following:
    a. State Engineer
    b. State Environment Department
    c. State Highway
    d. County Subdivision Engineer
    e. County Hydrologist
    f. County Fire Marshal

1570220

g. County Public Works

CHAIRMAN TRUJILLO: Okay, do we have any questions of Vicki?

COMMISSIONER DURAN: Mr. Chairman, did the applicant at the last meeting -- at the last meeting the applicant was asked to bring forward a plan that showed parking behind the building. Did they provide that to you?

MS. LUCERO: Mr. Chairman, Commissioner Duran, no, I have not received any plan.

COMMISSIONER DURAN: Okay.

CHAIRMAN TRUJILLO: Any other questions? Is the applicant here?

[Duly sworn, John Midyette testified as follows:]

JOHN MIDYETTE: Good evening. I'm John Midyette, representing Joe Babcock. In question two --

CHAIRMAN TRUJILLO: Excuse me, John. You did give your name, what's your address?

MR. MIDYETTE: 1125 Canyon Road, Santa Fe. In response to Paul's question, we had talked several times with the corridor people and until there was a design standard and we had mentioned at the time that we'd be happy to work with them in any way, we haven't gotten a design standard on that. The only parking in the front of the building, or out there, would be for the occasional client that might come out there. The rest of the parking is in behind the fencing between the two warehouse buildings.

Do you still have the drawings and the packets up there? Do you want me to unroll these? Would it be easier?

COMMISSIONER DURAN: Mr. Chairman, John, you said the parking is behind the buildings?

[Mr. Midyette's comments were made away from the microphone.]

MR. MIDYETTE: We only have three places out front here that would be landscaped in, but the rest of the parking or any other parking for construction vehicles or full-time, it's going to be back in here.

COMMISSIONER DURAN: And there's a wall there?

MR. MIDYETTE: We can put a wall here. We've just shown this as an open area. We have to put a wall if we have a fence in here to secure this.

COMMISSIONER DURAN: So that whole area between the two buildings is parking?

MR. MIDYETTE: Yes.

COMMISSIONER DURAN: For what kind of --

MR. MIDYETTE: Trucks, construction trucks, or whatever vehicles that are left there during the day. The parking out here is really for the occasional client that would come in and that's most of the time they meet some place else.

COMMISSIONER DURAN: So it would basically be sort of a construction site?

1570220

MR. MIDYETTE: This in here?
COMMISSIONER DURAN: Right.
MR. MIDYETTE: Well, in terms of -- what do you mean a construction site, Paul?
COMMISSIONER DURAN: I guess what I'm trying to get to is this is a view corridor and being the chairman of the Highway View Corridor Committee, there has been some concern and some discussion about preserving those view corridors. And I'm a little concerned that this is going to be a use that is going to promote a lot of construction vehicles, that something be done to mitigate the impact of those vehicles being there because it's in the view corridor.
MR. MIDYETTE: We feel that it's back in here though. We've got the landscaping that we have to do out here. This, the two buildings are going to block this with the landscaping out here, plus we have this other building. If need be, we can build some kind of a coyote fence or something across there, if that's your concern. That's not a problem for us.
COMMISSIONER DURAN: Excuse me, sir, you haven't been recognized. You need to state your name for the record and your address please.
[Duly sworn, Steven Duran testified as follows:]
STEVEN DURAN: My name is Steven Duran, of Santa Fe. I think that the intent here of uses of the building is being misled. Because if you say, are there going to be construction trucks, the basic function of the building is going to be for the construction of manufacturing of cabinets. So per se it's not going to be construction trucks there, the only truck that will be there will be Joe's [inaudible] And as far as in the front, it will be an occasional client.
MR. MIDYETTE: It's not going to be a construction yard as like --
COMMISSIONER DURAN: But it's a parking lot.
MR. MIDYETTE: This area in here is a parking area, right.
CHAIRMAN TRUJILLO: For the workers.
COMMISSIONER DURAN: And I have since the first time you came up contended that I think that all the projects that come before us until this committee comes up with its recommendations and I think that they are getting to that point, that they're not predominantly parking lots. That they're shielded by buildings.
MS. BROWN: Could I interrupt just for a moment. We have to take minutes verbatim, so when both of you speak at the same time as Commissioner Duran it's really hard for us to get the minutes. So if you try to be careful and let someone finish.
MR. MIDYETTE: The parking that I'm seeing you were talking about is this out here. This in here is not -- he doesn't have a crew that shows up with 30 people and their 30 trucks in there.
COMMISSIONER DURAN: That was the area that I was talking about but I was misled. I didn't know that the area between the two buildings was going to be

additional parking.

MR. MIDYETTE: It's not parking. These buildings -- this is the cabinet shop in here and this is the warehouse over here. But this is the area in here where the trucks will pick up or deliver or do whatever. But there's no parking per so. In other words it's not a parking lot.

COMMISSIONER DURAN: Well, to make a long story short, would you be opposed to some kind of fencing or some kind of landscaping that would --

MR. MIDYETTE: We've got the landscaping here. We plant the landscaping in here and as coyote fencing or something, a practical matter or something across here, no. We've already got landscaping and stuff around this line and there's going to be very few here. If you look at the way the ground comes around, these buildings basically block what's going on in here. Because you're not over here. [inaudible] This road here comes in high and this is where the underpass comes through and I-25 goes over there. So really you can't see into this area.

But to answer your question, I have no problem with putting a coyote fence or some kind of fencing across there, five feet tall, six feet tall, whatever you figure would block that. And then you still might see some [inaudible]

COMMISSIONER DURAN: I think five or six is fine in my opinion. I'm only one vote here, but I do know that the efforts, all the work of the Highway Corridor Committee is -- where we've gotten today there has been some discussion about making sure that it's building oriented.

MR. MIDYETTE: And we've been willing to work with you all along. We just didn't know how it was. But to put a coyote fence across here would be fine. If you want some kind of -- this parking area here, if you wanted a road [inaudible] I think that's going to hide it more than the landscaping. But there again --

COMMISSIONER DURAN: I like the trees that you have there.

MR. MIDYETTE: This is going to block that more, particularly as there's not going to be anybody there. [inaudible]

COMMISSIONER DURAN: Okay. I don't have any more questions.

CHAIRMAN TRUJILLO: Any other questions? Any other questions of the applicant?

COMMISSIONER ANAYA: Just one, Mr. Chairman. Are you in agreement with all the conditions imposed by staff that are --

MR. MIDYETTE: Mr. Chairman, basically, of the 23 items that they've listed with, we've either met or don't have any problem with. The problem area is item 12, which was discussed a little bit earlier this evening on this nitrate removal from the wastewater system. In our discussions with staff and other places before this had come up, what we wanted to do is get the approval and then come back and get an exception for that. I believe that what's coming before you will mitigate that problem. But to take the residential use, if you will with the bathroom and a coffee bar, the waste that's coming out

1570220

of there is not producing the kind of nitrates that the Code was originally looking at and I think that's what staff and Oralynn was coming up with tonight was to address this kind of a project, to where the nitrate disposal is not significant, not as significant as a single-family residence.

That is an issue we would like to -- we don't have a problem working with that with staff to get that removed and I think that's an easy item. The only other one was item 15, and again, staff -- we had talked to them about that -- is putting up a financial guarantee or a bond for the landscaping. We didn't know what that bond, what amount that would be and staff said once we get our plan and get that, we can put a budget on that. And that's what they want the bond for. Without having that be an arbitrary number, we understand that now. But other than that, we don't have any issue with the conditions.

CHAIRMAN TRUJILLO: Steve, would you like to address the Commission? Mr. Babcock?

JOE BABCOCK: No, we just need to get this approved because we've worked pretty hard.

CHAIRMAN TRUJILLO: We understand.

MR. DURAN: Commissioner Trujillo, also I think that Mr. Babcock got work, personally myself into some water retention and I think that's a direction that the County needs to direct people towards to especially in those areas where we have problems with wells, water retention and use of that water for irrigation and stuff and Joe's willing to do that.

CHAIRMAN TRUJILLO: Thank you. This is a public hearing. Anybody want to talk for or against this project?

COMMISSIONER DURAN: Chris, are you coming?

CHAIRMAN TRUJILLO: So we'll let Chris come up and talk.

[Duly sworn, Chris Leibman testified as follows:]

MR. LEIBMAN: My name is Chris Leibman and I'm at 6 Cielo Rosado. As I mentioned earlier during the Matters of Public Concern, I wanted to reiterate the position of the Highway Corridor Committee. And the recommendation of the committee was that the Babcock application be tabled until the January 12 meeting. That is what we agreed upon unanimously as a committee. However, to digress a little bit from that, and try to explain or provide a little background behind that decision. I'll try to faithfully represent the discussions that we conducted at the November 4 meeting.

I think there was consensus that the land use that was being proposed was consistent with what we envisioned for the gateway corridor. It seems that the concerns related to not having design standards in place at this time, that you could apply to this applicant, and that's what was motivating us to recommend tabling until January 12. As Commissioner Duran pointed out, we are making great progress to coming up with what we feel are very reasonable design standards that will enhance the beauty of these corridors into our community. We would like to see those adopted.

The only thing I could suggest in the event that you feel unable to table this until the January 12 meeting, is that you consider making this application contingent on meeting those design standards that we'll be coming forth with very shortly. I realize that's something of a quandary in that we haven't fleshed those out yet. But I think we have fairly good consensus among the committee about the design standards and I think they're very reasonable.

COMMISSIONER DURAN: Mr. Chairman, I agree with Chris. I think that the design standards that the committee will ultimately bring forward as a recommendation to this body will be one which Mr. Babcock's project will conform to. I would even be willing to take out the -- to not require the fence, or the wall that we had talked about, and leave that decision up to the Highway Corridor Committee if the applicant would consider -- if you were approved tonight if you would agree to those design standards when they come forward.

MR. MIDYETTE: Mr. Chairman, Paul, I know you're saying we might meet it. We don't even have any preliminary on what those standards are. And we've been trying since we've been tabled, all along if there were some standards we could look at or something we could revise this to [inaudible] possibly we could do that. But I don't see how we could agree to meet some standards tonight if we don't even know what an outline is. I'm not saying that we wouldn't, but you say you are close to standards, you said you were close to standards three or four months ago, but we still don't have a preliminary outline of what heights you're thinking about, what colors you're thinking about, what set-backs [inaudible] I don't know if you're addressing all that. You probably are and that's good, but do we have a draft or something we could look at before we agree to that.

[inaudible] January 12 meeting, that puts us that much further behind and when we were postponed that last time we have waited and try to keep in touch with the task force to see if there were some outlines or guidelines coming in and we don't have copies of that. So philosophically, we don't have a problem. The reality of it is, to agree to something that we don't know what it is I think is kind of difficult.

COMMISSIONER GONZALES: Mr. Chairman, let me first, especially being the sponsor of the ordinance that created the Highway Corridor Committee, I really have a lot of high expectations from this committee hopefully creating a good ordinance that will in part preserve the scenic corridors and also make sure that the development that occurs along the corridors is aesthetically pleasing and concurs with the area around it. I was hoping that by this time that we would have something at least even in draft form and I'm concerned and I think that the Commission is always having to look at the balance, look at what's reasonable and look at what's fair. Not only to the community, and not only to committees that are working hard, but also to applicants who want to come through a process.

All the applicants that are here tonight that you'll speak either against or you'll want to see some modification, I think have not once lobbied any of us to -- or pressured any of

1570220

us up here to hear their developments early. They've stepped back and they've given what they felt was ample opportunity for this committee to come up with some kind of standards so that they can have their development. And I think that they've acted in good faith and they've been fair and reasonable and I think it's our responsibility to do that as well.

So I'm concerned about continuing to delay this for another two months. I do agree with you on the issue of the standards and I guess I would ask Mr. Babcock, when we talk about part of the design standards that occur along the corridor, I think we're talking a large part about the siting of your building, the architectural standards that the buildings are going to have around it, your landscape standards, those are all things that if you don't have the plan in front of you today, they're pretty reasonable things that are going to come forward.

To me I would think that Mr. Babcock would be willing to say, okay, we would like to concur with the architectural issues, assuming that they are reasonable. We would like to concur with setback issues. We would like to concur with some of the landscape issues that may be coming out that will help make the presentation of his workshop or of his building look a little bit better with these new design standards that will be coming forward. So I understand your concern when you say, well we don't know what these design standards are, but it's also going to take you a period of time before you meet a lot of these conditions. You may have already met some of them, but we're talking about two months here basically. So if you were allowed to continue to go forward, why wouldn't Mr. Babcock want to agree to architectural standards or landscape standards that would be coming out of the committee?

MR. MIDYETTE: I don't know that we wouldn't. There are already architectural standards. There are already landscape standards that we've met.

COMMISSIONER GONZALES: Of the current Code, but not of the committee as they're coming forward.

MR. MIDYETTE: To say to you that we don't want to meet the current Code is not right.

COMMISSIONER GONZALES: No, that's not what we're asking you.

MR. MIDYETTE: But for us to take approval pending what you come up with, to go ahead and proceed in the next ninety days with the construction documents -- the construction documents are basically done. It's a matter of getting this approval and submitting them for a permit process. The 23 items there, the majority of those have already been met [inaudible] So it's not a matter of going through and get approval for all that. Most of that is already in place. The Fire Marshall, the fire, the septic, the well, access in, we have letters there that we meet the access requirements of the State Highway Department.

COMMISSIONER GONZALES: But you're here asking the Commission for master plan approval and preliminary and final and usually we'll just go with master plan approval and require you to go back and do a whole bunch of other things, and then you come back for preliminary and final. If that was the route we were going to take, it would take a good two months for you to go back and meet those conditions before you could

submit back for preliminary and final. So I guess what we're asking, if you're asking the Commission, and again, we're trying to be fair and reasonable on this, to grant you your master plan, your preliminary and final development plan tonight when otherwise we would just be granting master plan approval, then what I'm asking you is would it be reasonable to ask Mr. Babcock to agree to landscape and architectural standards that will be coming out of the corridor committee, assuming that they're reasonable.

If he doesn't agree to them, he can always appeal that back to the Commission and say, you know what, I can't build a castle here the way they want me to build it. I can't put in shrubs, or whatever that they asking to do and he could appeal that back to us but I think that in the interests of time for all of us to meet this objective of establishing a nice viewshed or a nice corridor and to move forward so that you guys can continue to proceed without any further delay cannot Mr. Babcock agree to meeting the architect and landscape design standards so at least his site looks somewhat aesthetically pleasing and preserves and promotes that corridor.

MR. MIDYETTE: As long as we have the right to appeal. If we can come back and say look, we've agreed to meet this, but we feel this is unreasonable and --

COMMISSIONER GONZALES: That's perfectly fair. That is obviously a fair thing to do. If they come in and we impose unbelievable amounts of burdens on you to meet that architectural and landscape or whatever else it is, I think you're right in coming back and saying, hey we had good intentions but this just isn't going to cut it.

MR. MIDYETTE: And we cannot [inaudible] If those standards come in and say you want eight foot high masonry walls all the way around the property and you want 338 trees, obviously that's not reasonable. But with the landscape plan that we've got already [inaudible]

COMMISSIONER GONZALES: And you may already be there. But the fact is can you just agree to meet the architectural and landscape standards and if it's too burdensome, you do have that venue to come back.

MR. MIDYETTE: I don't see a problem with that. We don't have any problem with that.

COMMISSIONER GONZALES: Thank you.

MR. LEIBMAN: If I can say one thing to the Commissioners. I would like to point out that the design standards were developed by many development professionals within the community working with members of the community who may not have development interests, and I think the standards are very reasonable. But we're trying to develop a uniform standard for the corridor but we were very sensitive to the financial hardship that these burdens could impose so we tried to be very reasonable about these development standards if I can say that to allay the applicants' fears as wells.

So I would urge you to again, let us come forward with our design standards. They were part of the minutes, certainly of the last meeting, the November 4 meeting. So certainly they are available now for review. If the committee will be discussing these design

standards and hopefully adopting them at our next meeting, December 18 I believe is the date.

CHAIRMAN TRUJILLO: Along those lines I'd just like to say that this group of people, Mr. Babcock, Steve Duran and John, have been here twice before this Commission, and they have been reasonable regarding the design standards and what the project entails. In fact this Commission committed to them that by November they would make a determination or a recommendation on their project, and they've come back and they've represented a reasonable project that is conducive, I conjecture, with the design standards of the corridor committee. So they've been reasonable too, and now it's becoming a hardship for them.

COMMISSIONER ANAYA: Mr. Chairman, I'd just like to reflect on the property size itself. It's a little over 3/4 of an acre and perhaps maybe the imposition of the standards that are coming forth on this particular proposal, we're supposed to take it case by case will not be functional for this particular parcel. Again, this is a parcel I kind of made a comparison to the Pop's convenience store that was already sandwiched in and already established in trends in the area.

I mean, just looking at the plan and he's already got some landscaping conditions imposed. He's agreed to a coyote fence. Personally, I don't like coyote fences by maybe a lot of people do. But it's obvious that they've already addressed as adequate as they can for this particular little parcel of land to create a cabinet shop, which is not a high intense traffic business. So Chris did an honorable thing in being on the Highway Corridor but I think the major impact of the highway corridor will be on the big parcels of land along the corridor.

Setbacks, Commissioner Duran said earlier, he wants the parking in the back, no parking in front, and where's the setback balance. So this is one of those individual cases that we've been around now. It's the third time up here and I just feel that I'm compelled to make a motion for approval subject to the conditions imposed by staff, and leave it to the proponents to consider within reasonableness what the Highway Corridor Committee comes up with. They're just a small, little parcel of land, Mr. Chairman. So I would like to move for approval.

COMMISSIONER GONZALES: This is a public hearing.

CHAIRMAN TRUJILLO: Yes, we've got to open it up to the public.

COMMISSIONER ANAYA: If there's no one in the audience that would like to speak, either for or against.

CHAIRMAN TRUJILLO: Chris, thank you. Anybody else from the public?

MR. DURAN: Mr. Chairman, I would just like to say in brief, I've been listening to this and don't get me wrong, I think it's a great idea to have this corridor committee that's been established. But keep in mind, I know a couple of you, like myself and like Joe Babcock is in business for himself. So I think that the gentleman too, Chris, that you guys have to be very sensitive when you're thinking about all these restrictions or

1570220

impositions that you're going to make here. Unless you're not like me and Joe, even though people think that we're into the millions, that's not true. We're all hanging on the same string.

When we go and put up a shop like this, the more restrictions you impose, the harder it makes it for a small individual business like us. Every time that there's an election, I hear the same thing that the politicians [inaudible] If you guys put too may impositions on little businesses like this to build, us small businesses are the backbone of this country and we already have too much weight on our shoulders as it is. That's why I say be very sensitive. You can't impose more than we can take.

MR. MIDYETTE: I would just like to say that if you approve us tonight and we can get copies of that draft, we will do our damnedest to meet the design standards.

CHAIRMAN TRUJILLO: We had a motion, does you motion still stand?

COMMISSIONER ANAYA: It still stands.

COMMISSIONER GRIÑÉ: Second.

CHAIRMAN TRUJILLO: We've got a motion seconded by Commissioner Griñé.

COMMISSIONER GONZALES: Mr. Chairman, I'd offer a friendly amendment if I could just to ask the maker of the motion that the applicant, Mr. Babcock would comply with any design standards that would come forward, assuming that those design standards are in place before February 1. So that if Mr. Babcock, again, this is so that we don't delay you, and in fact tonight, we're not delaying you. You're going forward. But if by February 1 these standards haven't come out, then it's under the Code as it is. If they have come out and you can agree to do them, then you do them. If they're too burdensome then we would ask the staff to bring you back right away so that you can discuss it with the Commission, and Steve, you're absolutely right, we don't want to create more hardships than have already been created.

But if we can meet, and maybe you've already met it, if we can try and make the area aesthetically pleasing then that just takes us one step further, that will benefit the community. So I'd like to ask that if by February 1 the design standards aren't in place, that Mr. Babcock just be allowed to continue to go forward with where he is. If they are in place, he would follow them, unless it's burdensome, then he would be allowed to come back to the Commission.

COMMISSIONER ANAYA: Commissioner Gonzales, by the fact that you're doing this you're still holding him back to February 1.

COMMISSIONER GONZALES: There's no holding back, Commissioner Anaya. We're approving this tonight. He's going forward. They're moving forward, proceeding to get everything done. All we're saying is that by February 1, or if at the time that he's getting ready to go forward for a construction permit, if they're not in place then he could proceed forward. I don't want to hold him back, but if by February 1 he hasn't received his construction permit and they can comply with the design standards, I think that's

good. I think that's good for the corridor.

COMMISSIONER ANAYA: I don't understand the impact of your amendment, though.

COMMISSIONER DURAN: Mr. Chairman, I think Commissioners, that we owe it to the Highway Corridor Committee to respect the work that they have done. I believe along with Commissioner Gonzales that the guidelines that this committee is going to come forward with are probably going to fit within your project, fit into your project as it exists today. And again, if it's burdensome you can come back to us. I would be -- I think the Highway Corridor Committee could come up with something by the middle of January.

COMMISSIONER GONZALES: If by January 15, they don't have their standards in place, then you just go forward. Is that what you're saying.

COMMISSIONER DURAN: But we've given 25 people out there the authority to master plan those corridors for us. And to disregard all the work that they have done just because you don't want to get your project done a month or two later, I don't think is the right thing to do. So I'm in agreement with Commissioner Gonzales that an amendment to your motion is in order, Commissioner Anaya.

CHAIRMAN TRUJILLO: But Commissioner Duran, we afforded that courtesy to the committee in August. And we told these people here that by November we would make a recommendation and a determination on this project. Anything longer than that, I think is a hardship. I think the plan the design shows that they're totally sensitive to the corridor committee and the design standards that don't exist. I think that to prolong this any longer would be a disparate impact and a hardship for the applicant. I don't see what the motion will add. They've already told us that they will comply with any design standards within reason that the council or the committee puts in place. I don't know what else --

COMMISSIONER DURAN: What about thirty days? Why don't you give the committee thirty days to come up with specific guidelines for this specific project?

COMMISSIONER ANAYA: Mr. Chairman, again, just to emphasize that this is a small parcel, a little over 3/4 of an acre, less than an acre, and I just can't see where this would be that much of an impact as far as the Highway Corridor Study Committee. We mentioned that, Paul, you and I were there, and I said that to the committee there's just some instances where you can't impose the whole ball of wax on them. And with this amendment, it's like putting the racehorse in the stall, but you don't let him go.

CHAIRMAN TRUJILLO: We can use this project as a model of how this Commission can work with the community to make things -- to get things done. To comply with the standard that this Commission is thinking about that doesn't exist at this point.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Anaya, again, we are not proposing to hold this project up. And in fact, if as Mr. Babcock indicated, that they have gone the extent of providing the land use -- or I'm sorry, a design

1570220

plan that can be congruent, then as Commissioner Duran indicated, what is wrong with asking them to comply. Now, let me just --

COMMISSIONER ANAYA: I already did, Commissioner.

COMMISSIONER GONZALES: Commissioner Anaya, I have the floor, if I can. Tonight we're going to have before us several developments that are going to be coming forward and all I would ask is that we are equitable. If we make the decision tonight -- and let me just say, Mr. Babcock, thank you for your patience and this being your third time around. If we decide to go forward here tonight through this amendment, and say that Mr. Babcock is not required to comply with any of the design standards, I don't think that whether it's a 3/4 acre tract or whether it's a hundred acre tract tonight, we're going to have several developments along the corridor.

If he's not required to go through and meet the design standards that the committee will be coming with then, I think we need to be prepared to be consistent tonight all the way through, and that we don't pick and choose who on the corridor has to comply with the design standards and who does not. That means that tonight when we're dealing with Vista Mobile Batch plant, tonight when we're dealing with Vista Limited, GDP and R.L. Leeder, that through this amendment we just -- and I'll respect the Commission's amendment. That's the way we do things, but that we remain consistent all the way through that. None of them will be required to meet any of the design standards that will be coming out of the Highway Corridor Committee.

COMMISSIONER ANAYA: I would agree with that. They've been waiting in line for such a long time. I totally agree with that. Then there be no purpose for your amendment.

CHAIRMAN TRUJILLO: Can I ask does the applicant agree to satisfy the design standards within reason?

MR. BABCOCK: If it's within reason, yes we will.

CHAIRMAN TRUJILLO: So with a friendly amendment, can we do that, so we can be consistent with everybody?

COMMISSIONER ANAYA: If he agrees, I think they're going to be consistent. He's already mentioned that if the standards that come out of the Highway Corridor Committee aren't that -- how did he state it? Financially burdensome, where they have to put concrete walls all the way around and blah blah, for example.

CHAIRMAN TRUJILLO: I think that's been articulated. Can we add that as a friendly amendment so that we can be consistent?

COMMISSIONER GONZALES: I won't accept that for the amendment. Let's just go forward and decide whether we're going to require people to meet with the design standards or not. And Mr. Babcock, if you can do your best, that would be great. But I think to say, will you be reasonable, that's too ambiguous. What does reasonable mean? And let's not put that burden on him to try and figure out what we mean by reasonable.

So let me offer an amendment here and if I could get a second we could go for the vote. And if it dies, it dies, but I'm just asking the Commission that we remain consistent. So what I would offer as an amendment in the form of a motion, that we require the applicant to conform to the design standards, assuming the design standards are in place by January 15. That's my motion as an amendment.

MR. MIDYETTE: I thought you had said February.

COMMISSIONER GONZALES: Well, as Commissioner Duran has indicated, to try and get the Commission to go along with this, we're moving it up two weeks even more. So if it's not in place by the 15th then, you just -- business as usual. Okay? So it's actually better for you guys. So I'll move that in the form of a motion as an amendment.

CHAIRMAN TRUJILLO: We've got a motion for an amendment.

COMMISSIONER DURAN: Second.

CHAIRMAN TRUJILLO: We've got a second. All those in favor? [Commissioner Gonzales and Commissioner Duran voted against the amendment.] All those opposed? [Commissioner Anaya and Commissioner Duran vote in the negative.] I'm going to have go in favor of the amendment. I think the applicant has represented that they're willing to work within the design standards. They're almost there.

COMMISSIONER GONZALES: Are you for or against the amendment?

CHAIRMAN TRUJILLO: I'm in favor of the amendment.

MS. BROWN: Mr. Chairman, I think there's some confusion. When there's a friendly amendment proposed, it has to be accepted by the movant.

COMMISSIONER GONZALES: I didn't offer a friendly amendment. I was just offering a regular amendment, Mr. Chairman, that required them to comply with the design standards, but I hear you say something else.

MS. BROWN: But there's a motion on the floor that's been seconded. So any amendment would have to be an amendment to that motion and would have to be accepted by the movant.

COMMISSIONER ANAYA: I cannot accept that.

CHAIRMAN TRUJILLO: We have to vote on the first one.

MS. BROWN: You can vote on the first one.

CHAIRMAN TRUJILLO: We've got a motion on the first motion, not amendment. We've got a motion that was seconded by Commissioner Griñé. All those in favor?

COMMISSIONER ANAYA: That was merely with the conditions imposed --

CHAIRMAN TRUJILLO: With conditions imposed.

COMMISSIONER ANAYA: With the landscaping plan and everything that's been submitted.

CHAIRMAN TRUJILLO: We've got a motion by Commissioner Anaya

seconded by Commissioner Griñé on the proposed project, without any amendments. All those in favor? [Commissioner Anaya, Commissioner Griñé and Commissioner Gonzales voted in the affirmative.] All those opposed?

COMMISSIONER DURAN: Mr. Chairman, I have to qualify my no. I really believe as chairman of this committee that we have to oppose the standards that are going to come forward. We need to ask the applicant to agree to those design standards that are going to come forward. My vote is no.

COMMISSIONER GONZALES: And I'd like to explain my answer also and go ahead with the motion. I would have hoped that -- I don't want to oppose the project because I don't think it was right to Mr. Babcock for me to oppose your project just because of design standards. I think you've worked hard and you've suffered enough, for us to start opposing it. But I would hope that the Commission again, that we remain consistent tonight, and that if we didn't require the design standards for Mr. Babcock, that we remain consistent with all the other applicants in the issue of fairness. I'm going to continue bringing this up on the other applications and I know it's going to be uncomfortable but I think it's important that we do remain consistent. And thank you Mr. Babcock for your patience in all this and wanting to work and I would hope that your design standards come very close to what the Corridor Committee is doing because I think that's important for all of us that we have that consistency.

CHAIRMAN TRUJILLO: Well, let me understand from a consistency standpoint. Do we have agreement from the applicant that they will conform to the design standards that we don't have a copy of yet, that will come forth from the Corridor Committee? So that we can be --

MR. MIDYETTE: We have said that we will do our best if it's not imposed upon us, to meet the criteria that we can meet. If it's imposed on us, if we can't meet the criteria, we'll come back before this Board and try to explain why we feel as though we can't. If you give us approval tonight, we will give our word to you [inaudible] that basically we're close. That we will do our best to work with that criteria and meet that criteria if we can. Even though it's not imposed on us.

COMMISSIONER DURAN: Mr. Chairman, because the motion didn't include that.

MS. BUSTAMANTE: The motion's been approved, at least the way we heard it. So the motion was approved with the except of you voted no and you qualified it. That was the way we heard it.

MR. MIDYETTE: Even with the improvement, if we could get copies of the guidelines or whatever, as we move forward we will try to work with those and incorporate that. That's our word to you.

COMMISSIONER GONZALES: Thank you. We appreciate it. Thank you very much.

COMMISSIONER DURAN: I just want to say, I wasn't trying to be an

1570220

obstructionist on this. I just really think that we're trying to preserve those corridors, and I guess we're just going to leave it up to you. You're going to have to help us do that.

MR. MIDYETTE: We'll do our best.

COMMISSIONER GONZALES: Thank you, Mr. Babcock. We appreciate it.

IX. G. 4. <u>CDRC Case #DP 97-5552</u>. Smith's Preliminary Development Plan. Smith's Food and Drug Centers, Inc., applicant, Linda Tigges, agent, request master plan zoning amendment to establish two phases for the development with preliminary development plan approval for Phase 1 and Phase 2 (grocery store and retail/fast food). The property is located at the northeast corner of the intersection of State Road 344 and State Road 333 (Old 66) within the traditional community of Edgewood, within Section 27, Township 10 North, Range 7 East

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, on April 14, 1998 the BCC approved the master plan for a Smith's Grocery Store and a fast food restaurant. The applicant is now requesting a master plan amendment to allow these uses to be developed in two Phases. Phase 1 will be a Smith's store. Phase 2 will be either a retail or a restaurant use. The applicant is also requesting preliminary development plan approval for a 64,490 square foot grocery store to be open 24 hours and a 3,000 square foot fast food restaurant or retail store.

The recommendation: Staff's recommendation and the decision of the CDRC was to recommend approval of the master plan zoning amendment to allow this project to be developed in two phases and approval of the preliminary development plan approval for Phase 1 and Phase 2, subject to the following 19 conditions. And Mr. Chairman, can I enter the conditions into the record with an amendment to condition number 13 to read as follows: "The applicant will enter into an agreement with the State Highway Department which will be based on the letter from the Highway Department dated 10/26/98 to participate in the future signalization of the intersection at SR344, SR333 and CR7 on a fair share basis to be determined by staff and the State Highway Department prior to final approval." With the additional sentence: "The signal will be installed, or the fair share amount will be bonded prior to Phase 2 development." I've also handed out the CDRC minutes for this case.

[The conditions are as follows:]

1. The final development plan will be reviewed and approved administratively when all conditions of approval have been met.
2. All signs, including existing signs, will meet Code requirements.
3. Prior to any blasting on the site the applicant will obtain permits from the Land Use

1570220

Department.

4. The applicant will obtain Highway Department approval for the drainage plan.
5. The applicant will obtain a NMPES stormwater pollution protection permit prior to issuance of a grading permit.
6. The applicant will submit all off-site road improvement plans to be reviewed and approved by staff and the Highway Department prior to final approval.
7. The Highway Department landscape permit must be approved prior to final approval.
8. The grading plan and detention basin calculations are to be approved by the Subdivision Engineer and must indicate how finished grade will match existing grade.
9. All Subdivision Engineer redline comments will be addressed. Redlines will be returned with the preliminary development plan application.
10. The discharge permit must be approved prior to preliminary approval of this project.
11. A lot consolidation plat will be submitted with the final development plan. Existing roadway easements are to be vacated prior to issuance of a grading permit.
12. Additional landscaping is required on the west and south property boundaries to meet Code requirements.
13. The applicant will enter into an agreement with the State Highway Department which will be based on the letter from the Highway Department dated 10/26/98 to participate in the future signalization of the intersection at SR344, SR333 and CR7 on a fair share basis to be determined by staff and the State Highway Department prior to final approval. The signal will be installed, or the fair share amount will be bonded prior to Phase 2 development.
14. The development plan will be recorded.
15. The liquid waste system will incorporate the following:
    a. Hardwired alarm system with auto dialer
    b. Maintenance schedule and contract
    c. Contingency plans for system failure
    d. Sampling ports for testing
    e. Pipe inverts to be included in plans
    f. Address how dosing tank pump is serviced
    g. Access ways must be lockable
    h. Maximum effluent nitrogen concentration should not exceed 20 mg/l
    i. Quarterly maintenance reports should be sent to the Land Use Department
16. All hydrants must be installed, operable and tested prior to building construction.
17. A financial guarantee will be required for all improvements, including parking areas, access road, off-site improvements, landscaping, retention ponding and drainage prior to building permit issuance.
18. All improvements will be in place prior to business license issuance.
19. Any existing wells on property to be capped. The design is to be approved by the County Land Use Department prior to any approval.

1570220

CHAIRMAN TRUJILLO: Okay, do we have any questions of Penny and staff? Is the applicant here?

[Duly sworn, Linda Tigges testified as follows:]

LINDA TIGGES: Linda Tigges, 435 South Guadalupe. I would like to introduce Larry Hawker, representing the applicant, and also Frank Lasky is here from the Edgewood Homeowners Association to speak to the issue. We are here before you essentially because we wanted to amend the master plan. As you know, ordinarily preliminary development plans don't come before the Board of County Commissioners. And with the amendment in the master plan, which would separate the project into Phase 1 and Phase 2 then the preliminary development plan also came before you.

There are some changes since you last saw the plan for the Smith's Grocery Store. We've purchase additional land to the north and added parking, a leach field in the detention area. In that area we've added additional landscaping. The store has been enlarged somewhat. We've also reached agreement with the Edgewood Water Company for enlarging distribution lines. We've received a discharge permit for the septic tank, septic system, from the state and reached agreement with the Highway Department on road improvements. We agree with the conditions of approval and stand for questions.

CHAIRMAN TRUJILLO: Are there any questions of the applicant? No questions? This is a public hearing. Is there anybody for or against the project?

[Duly sworn, Frank Lasky testified as follows:]

FRANK LASKY: Frank Lasky, P.O. Box 752, Edgewood. Mr. Chairman, and fellow Commissioners, we've been working on this project about close to a little over two years now. And the Edgewood people are really excited about this project and I think that Smith has worked with staff and 99.9% of recommendations and I'd like to say out of my 18 years now in Edgewood, and with ECHO, this is the first company, first that has came to the people from the conceptual drawing to the preliminary and final. There has not been one company come to the people of Edgewood until the third or fourth phase and they're up against yea or nay with the Commissioners and the CDRC board.

So I'd like to thank Larry and Linda and Smith's corporation for coming forward to the Edgewood citizens out there and coming to us first and telling their plans. There has been no hidden agenda in anything. We have seen every plan from day one until now. And I thank you for that. Like I said before, we have four more other companies coming into Edgewood and this started a trend. Now they're starting to come to people and asking people do we want them there, instead of coming to the CDRC in Santa Fe first and then in the third phase say the people are against it and we never hear about it.

I think it's time to approve this after two and a half years and the people are willing and waiting for this store to come in. They really want it. Thank you.

CHAIRMAN TRUJILLO: Thank you. Anybody else from the public, for or against?

1570220

Commissioner Duran moved to approve CDRC Case #DP 97-5552 as submitted, with staff conditions and the amendment to condition 13. Commissioner Griñé seconded the motion, which passed by unanimous voice vote. [Commissioner Gonzales was not present for this vote.]

IX. G. 5. EZ Case #S 97-4670. Sundance Estates (formerly Tano High Ridge Estates). Richard Gorman, agent for the Welsh Family Limited Partnership requests a variance to Section 6.2.2 of the Santa Fe County Land Development Code which requires the submission of water rights for all Type II subdivisions. The property is located off Tano Road within Section 4, Township 17 North, Range 9 East

ROMAN ABEYTA (Review Specialist): Thank you, Mr. Chairman, Commissioners. The applicant is requesting a variance to Ordinance 1996-13. The applicant raises a concern regarding the purchasing of water rights within the Tesuque water basin, which are surface rights used for agricultural purposes. Exhibit "C" attached is the applicant's complete variance letter.

Required action: The BCC should consider if the following variance criteria, which is listed in the staff report 1 through 10 has been met. Action should be taken to approve or deny this request.

Recommendation: The BCC needs to determine if denying the requested variance would result in an adverse impact to the historical and cultural values of the Tesuque Basin, based on the assumption that the majority of water rights available are surface rights used for agricultural purposes. On October 8, 1998, the EZC recommended that the variance be granted.

CHAIRMAN TRUJILLO: Thank you. Any questions?

COMMISSIONER DURAN: Mr. Chairman, Roman, I was wondering if you could give me a little insight into how this works. We require a Type II subdivision to acquire water rights to meet the water needs for the development, and do they transfer those rights then into the Tesuque Basin? Or do they buy water rights? How does the water get underneath the project?

MR. ABEYTA: Mr. Chairman, Commissioner Duran, I'm not qualified to answer that question. I'm not familiar enough with water rights. Maybe Rudy or Oralynn could answer that. I don't know the answer.

COMMISSIONER DURAN: I just wanted you to give me a little insight into the water right issue in a Type II subdivision the requirement to acquire water rights -- I'm just wondering how that really gets to the aquifer that the property is in. Do you know what I'm saying? But there's no answer to it. I was just wondering -- I don't want to spend a

lot of time on this -- but a Type II subdivision is required to bring, to acquire water rights. The question I have is why do we have that requirement? What's the justification for that? If someone goes and buys water rights that are somewhere else, they physically never get to where the water is, to where the project is. So I'm just wondering why, what's the rationale?

MS. GUERRERORTIZ: Commissioners, when the state law, the state Subdivision Act was passed, they required that all developments with 20 or more lots, anyone of which was less than two acres had to have water rights other than a 72-12 well.

COMMISSIONER DURAN: Any one of which are less than 2.5 acres?

MS. GUERRERORTIZ: Right. And we ended up adopting that and then going through a modification to make it even a little stricter, that basically, any project that was either Type I or Type II which are our bigger projects would need water rights. And the concept was that you would go purchase the water rights and go through the process of transferring those water rights to your project location, so that you don't over use water in a given basin.

For example, this project is in the Tesuque Basin and the concept is there is a limited amount of water in that Tesuque Basin and for a large project, at least, the should have to bring water rights to the table for that kind of project so that in the end result somebody upstream or somebody downstream isn't hurting for water because all these big projects went in and didn't try to acquire any water and ended up sucking all the water up through the 72-12 wells. Did I answer your question?

COMMISSIONER DURAN: Yes. So this project has some lots that are less than 2.5 acres?

MS. GUERRERORTIZ: On the original state act it was less stringent. And we adopted something more stringent in the Subdivision Act. Our subdivision rules said all Type I and all Type II had to have water rights. And this is a Type II project. Type II is a project with 25 or more lots, any one of which is less than ten acres.

COMMISSIONER DURAN: So any projects out there in excess of 25 lots, they need to acquire water rights?

MS. GUERRERORTIZ: That's correct, sir. And if somebody is hooking up to a water company, then that's no problem; the water company has water rights. But this is I think the project that we've had come in that qualified, that was more than 25 -- or 25 or more lots that wasn't hooking up to a water company.

COMMISSIONER DURAN: That's the first one I've heard of too. That's why I'm a little confused.

MS. GUERRERORTIZ: Yes, this is the first time it's come up since July 1996. You're going to have one other and that's Caja del Rio Subdivision, which is Jim Alley's project. That's another one that's going to be required to have water rights. That's the only two that I know of that are in our system currently.

COMMISSIONER DURAN: And so CDRC is recommending approval of the

1570220

variance?

MS. GUERRERORTIZ: The EZC did recommend approval.

COMMISSIONER DURAN: On what basis?

MS. GUERRERORTIZ: Well, I think we should let Roman talk.

MR. ABEYTA: Mr. Chairman, Commissioner Duran, I believe that the EZC was concerned that requiring the applicant to purchase water rights from the Tesuque Aquifer may have some type of detrimental impact to the traditional farming lands that were in that area, so based on that they recommended that the variance be granted.

CHAIRMAN TRUJILLO: The initial water supply for this project would have been cluster wells?

MR. ABEYTA: Yes, Mr. Chairman.

CHAIRMAN TRUJILLO: One well serving four --

MR. ABEYTA: I believe up to four lots. One well per four lots.

CHAIRMAN TRUJILLO: Under State Engineer permit?

MR. ABEYTA: Yes, Mr. Chairman.

COMMISSIONER DURAN: And is that the recommendation? Is that the process they're going to go through now? Is that the procedure? That they'll have one well per four lots?

MR. ABEYTA: Yes.

COMMISSIONER DURAN: And will those be restricted to a quarter acre foot per lot?

MR. ABEYTA: Mr. Chairman, Commissioner Duran, they would be restricted to a quarter acre-foot and the applicants have already submitted a hydrology report which supports the project's water demands.

COMMISSIONER DURAN: So there has been hydrology done -- geo hydrology?

MR. ABEYTA: Yes, geo-hydrology.

COMMISSIONER DURAN: Okay, great. Thank you very much.

CHAIRMAN TRUJILLO: Any other questions of Roman? Is the applicant here?

[Duly sworn, Richard Gorman testified as follows:]

RICHARD GORMAN: My name is Richard Gorman. My address is P.O. Box 8841, Santa Fe, New Mexico, 87504. Mr. Chairman, members of the Commission, I think staff kind of laid out the dilemma that occurred here and probably gave you two cases good for comparison. In our situation, we're on the extreme north end of the Extraterritorial Zoning District, right up on Tano Ridge, which happens to be the southern edge of the Tesuque Water Basin. And as a result of that, this development, which is really associated with the City of Santa Fe, we're affecting the Tesuque aquifer.

The ordinance requires us then to buy water rights from somewhere in the Tesuque for this project. The State Engineer's Office does not require it as they stated; just this

1570220

ordinance requires it. We drove a well on the property and have done a full-blown geo-hydrologic report and showed that the water's physically there. All this requirement would force us to do is go buy water from the Tesuque, which we believe is not an appropriate thing to do for this particular project.

With the other case that was stated, which was Jim Alley's, that's probably a case where the ordinance might make sense, because that's clearly in the Santa Fe Basin, so they have to buy rights in the Santa Fe Basin. This is a situation where we'd have to go out to an area, which is probably inappropriate to buy the rights.

One of the other reasons that we're requesting this variance has been, in working with the neighbors of the area is this project cannot afford to buy these paper water rights, which are not required by any thing else but this ordinance, and at the same time, pay for all of the road improvements that the EZA had asked us to do. That included the improving, the upgrading, of County Road 85-A, and also we were required when we hit the 29th lot to connect to the south, which is Fin del Sendero.

The Welsh family has purchased an easement through property which will enable to connect to Fin del Sendero and the authority asked that we enter into a maintenance agreement with Los Amigos Homeowners Association for the maintenance of their roads. In dealing with Los Amigos we stated that if we're able to get this variance to purchase paper rights that we would commit, and in fact we would ask this Commission if it's appropriate to impose as a condition of approval. If we post a letter of credit in the amount of $120,000 plus 8% interest per annum in favor of the Los Amigos Homeowners Association for paving of Fin del Sendero and Lluvia del Oro from the Tano 25 property to proceed as far as possible, as they can towards Camino La Tierra with the money that we're provided.

Upon proof that our final plat, our final subdivision plat for Sundance Estate is recorded, the bank would then be instructed to release the $120,000 to Los Amigos, I think to use it for that effort. I think the president of that association is here to support our request. I'm available for any questions you may have.

CHAIRMAN TRUJILLO: Do you have any questions of Richard?

COMMISSIONER DURAN: I just have one. A real quick one. How does the County verify that they money will go to pay for roads?

MR. GORMAN: It's really quite simple, and the reason that we're even here is we have a condition of approval imposed on us that we must present the County a maintenance agreement, an agreement for the --

COMMISSIONER DURAN: But once the money goes to Los Amigos, how are we sure that Los Amigos is going to spend the money?

MR. GORMAN: That they're going to do it for paving? We're going to enter into an agreement with them that says the $120,000 must go to paving. And I'm not sure I understand other than that. We could also I suppose issue it in favor of the County.

COMMISSIONER DURAN: I'm just concerned that the money goes to Los

Amigos and -- I guess what I'm saying this, I would like for you guys, if you get approva to work that out, I just wanted some assurance that the money that your development i going to contribute to the pavement of that road, that the road gets paved. That's all wanted is that you assure our staff that --

CHAIRMAN TRUJILLO: I'd just like to say that working with Los Amigo and understanding what they are wanting to do about the infrastructure in that area, they'v been quite diligent in going out into the community and attracting and gaining monies jus to improve the existing road now. They're committed to using those monies to upgrade tha road.

COMMISSIONER DURAN: I know they are.

COMMISSIONER GONZALES: Richard, you were just talking about ther being a letter of credit that you were going to provide, in that letter of credit, would tha basically state what the purpose of that money would be for, so that's where you woul attach or bind the money to actually go to the physical paving of the road?

MR. GORMAN: Actually, we could see to it that that's done. What we wan to do, we want to make sure that it goes to pavement. Not only do we want to make sur it goes to pavement, we want to make sure it starts from our side of Fin del Sendero an works to the south, so that any residual that was necessary was generated by the rest of th association. So we're entering into a formal agreement. We want to start negotiating it afte this meeting, that will lead to the issuance of the letter of credit so that we can then give th County an agreement that shows that our maintenance responsibilities have been fulfilled.

COMMISSIONER GONZALES: But the letter of credit would explicitly stat that it is going to go for the physical paving of Fin del Sendero.

MR. GORMAN: Yes, sir. We'll see to it that that's done.

CHAIRMAN TRUJILLO: Any other questions of Richard? This is a publi hearing, for or against the project.

[Duly sworn, Dan Clint testified as follows:]

DAN CLINT: My name is Dan Clint. My address is Post Office Box 4790 That's the question, the correct question, as to how do we assure that this money does g for the paving. In truth, prior to paving there is basecourse and geo-density tests and othe things that are associated with paving. It's not just strictly for paving but it is certainly ou interest to try to get this road paved to the best of our ability and as much of it as possible And we don't want to be an entity that is out to do damage to Lee Welsh and his project We'd like to see this project advance, but we want to see it advance fairly and to see tha it advances with, where if he is using the roads in our area that he contributes the sam amount, or a comparable amount to other people in our area.

The difference on this one is the time delay. And the other people, when I hav approached them, some of these people in our area have been seeking subdivisions but othe people have not. So if there is a delay, I was concerned about the fairness to people wh immediately complied and donated money to Los Amigos for roads and this has been worke

1570220

out now. It looks like we're in agreement. As far as it does not necessarily have to be Los Amigos. If there is another entity that is interested in paving that, and if that became -- the County had an interest in that and they wanted to take over paving, I'd be happy to turn the money over to the County, or that's essentially where it goes, to contractors, but I can assure you, as the president of Los Amigos, we have no other interest in this money other than to improve the infrastructure here, and paving.

COMMISSIONER DURAN: Mr. Chairman, Dan, I was not questioning your integrity at all, so please don't take it like that. I just want to make sure that the road gets paved. Part of the problem is that because your group has acted so quickly in fixing that road and we have run into so many obstacles condemning the bottleneck, the road needs some maintenance right now. There's a lot -- we all want that road to be improved to service the residents out there and I just wanted to make sure that --

MR. CLINT: One of the things with paving, I've been getting paving bids and in the course of that I talked to Mr. Lee Hale, a contractor, and he informed me that on a paved road, the ultraviolet rays actually penetrate the snow and melt off faster and we've noticed that here in Santa Fe with this recent snow storm. Whereas a dirt road, the snow has a tendency to deteriorate it much faster because it doesn't go into the blacktop and melt it off as quickly. And that is a problem in our area. And that's one of the things that I'm facing also, is we'd like to get this done as quickly as possible

Unfortunately, they're in a kind of a double-bind situation. If they contribute this before they have gotten their approval of their lots, or their subdivision, then they potentially could have contributed this money for nothing. And I can understand their position. So that's the difficulty of it. So we're trying to work out an agreement that works so that they can get what they want; we can get what we want also.

MR. GORMAN: Mr. Chairman, if I may interject. That's something we agree on and we would ask this Commission to consider, is that if it would be possible for the Commission to instruct the staff to allow us to present you the preliminary and final subdivision materials all together and allow them to be reviewed and brought to the public bodies jointly, so as to expedite that process. The quicker we can get the money to them, the quicker we'll be able to undertake those improvements. We thought that would be a good idea. It's got to go through the entire public review process, but if we can combine preliminary and final, we'll make sure and have everything and go to order to bring it to you so as to expedite that process.

MR. CLINT: There's a real advantage to the County to do this. I've been informed that the road as it stands right now today is actually in kind of an optimum position to be paved. They have some -- Paul Kavanaugh inspected it and there area some things that need to be corrected, but when you have basecourse, six inches of basecourse and it's very solid, this is the time to be paved. But after a period of time, then that starts to deteriorate and then new basecourse has to be added at greater expense. So it's actually advantageous to get it done a quickly as possible.

1570220

CHAIRMAN TRUJILLO: Thank you, Dan. Anybody else from the public? Okay, then what is the desire of the Commission?

Commissioner Duran moved to approve EZ Case #S 97-4670 as submitted. Commissioner Anaya seconded.

CHAIRMAN TRUJILLO: Can I ask a question?

COMMISSIONER GONZALES: Mr. Chairman, I was going to ask Commissioner Duran as a friendly amendment if we could do what the applicant has asked, and that's basically in the conditions required, the $120,000 --

MR. GORMAN: We could read it if you like.

COMMISSIONER GONZALES: Yes, go ahead and offer it as a condition and see.

MR. GORMAN: That the Welsh family post a letter of credit in the amount of $120,000, plus 8% interest per annum in favor of Los Amigos Homeowners Association for paving Fin del Sendero and Lluvia del Oro from the Tano 25 property proceeding as far as possible with the money provided. Upon proof of plat recordation of Sundance Estates, the bank issuing the letter of credit, shall release the $120,000 plus interest to Los Amigos.

COMMISSIONER GONZALES: And Los Amigos is in agreement with that?

MR. CLINT: Yes, and the bids that we've gotten have indicated that paving is roughly $90,000 per mile.

COMMISSIONER GONZALES: So I would offer what the applicant has just read into the record as a friendly amendment.

COMMISSIONER ANAYA: Mr. Chairman, the second agrees with it.

COMMISSIONER GONZALES: Okay, the other thing would be that, I'm not sure if we have it in here, but Mr. Gorman had made the request that they be allowed to come back each time for a preliminary and final.

COMMISSIONER ANAYA: Simultaneously.

COMMISSIONER GONZALES: If there could be a friendly amendment to make sure that comes up. I think that's a good route to go on all developments, that we allow preliminary and final. It cuts back on time that the developers are basically having to pay for -- assuming that they meet all the conditions and requirements. So that's the only thing we ask is that the staff do watch it from that side. If conditions aren't met, that we closely monitor when you get to come on to the calendars.

COMMISSIONER ANAYA: Mr. Chairman, the second agrees with that.

COMMISSIONER DURAN: I accept that.

Upon voice vote, the motion to approve EZ Case #S 97-4670 passed unanimously.

1570220

IX. G. 7. CDRC Case #V 98-5540. Juan Romero Variance. Juan Romero, applicant, requests a variance of Article VII, Section 3.4 of the Land Development Code to allow for buildable areas on 30 percent slope and disturbance of more than 1,000 square feet of 30 percent slope and a variance of Article III, Section 2.4.2 of the Code to allow for a driveway slope greater than 10 percent. The property is located east of SR 591, in the traditional community of Tesuque, within Section 31, Township 18 North, Range 10 East

MR. ABEYTA: Thank you, Mr. Chairman, Commissioners, on October 29, the CDRC recommended that the access road down to the cul-de-sac must have a basecourse surface prior to the issuance of a building permit, and two, the building footprint and driveway location as depicted on Exhibit "B" must be recorded on the plat of survey. Thank you, Mr. Chairman.

CHAIRMAN TRUJILLO: Thank you. Any questions of Roman? Is the applicant here?

[Duly sworn, John Romero testified as follows:]

JOHN ROMERO: John Romero, P.O. Box 2209, Santa Fe, New Mexico. Good evening, gentlemen, Commissioner Trujillo. I'm the son of the applicant, actually, and it is my lot in question. My father has been in the process over the last ten years of trying to get a family lot split to all his kids. There's ten of us. The lot we're seeking a variance on is the lot that he's transferring to me. Based on that, we're here to seek your approval on this variance so that it can be approved and we can move forward in doing what we've applied to do.

CHAIRMAN TRUJILLO: Mr. Romero, are you saying, is there a buildable area on this lot?

MR. ROMERO: Yes there is, sir.

CHAIRMAN TRUJILLO: So it would require a variance of some of the grades to access that buildable area.

MR. ROMERO: That is correct. A driveway as well as a certain amount of the structure.

CHAIRMAN TRUJILLO: Okay. Any other questions?

COMMISSIONER ANAYA: Are you in agreement with the two conditions.

MR. ROMERO: Yes, we are, sir.

CHAIRMAN TRUJILLO: Any other questions? No questions? This is a public hearing, open for input for or against this project.

Commissioner Anaya moved to approve the variance request in support of the CDRC. Commissioner Griñé seconded the motion which passed by unanimous voice vote. [Commissioner Gonzales was not present for this vote.]

1570220

JUAN ROMERO: Excuse me. It's taken me ten years to transfer this property to my kids. I want to thank you people for it. I appreciate it and I hope that things are going to be the way you people and different committees have had to go through for ten years to get this property in line.

COMMISSIONER ANAYA: You're welcome, Mr. Romero. Good luck to you.

IX. G. 9. CDRC Case #Z 5451. R.L. Leeder Mine Zone. R.L. Leeder Company, applicant Jim Siebert agent, request approval for the creation of a mining district and master plan zoning approval of a mining area for construction materials (sand and gravel) with one crusher and one security trailer on 16.9 acres. The property is located off State Road 599, north of the intersection of Airport Road, within Section 2, Township 15 North, Range 8 East

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, R.L. Leeder has submitted an application for the creation of a mine zone in accordance with Article XI, Section 1.2. of the Land Development Code and is requesting master plan zoning approval for mining uses, one crusher, one security trailer. The proposal will create approximately 16.9 acres of mining area. The applicant's initial requested commercial uses. However, these uses require commercial zoning and this site lies outside of the existing major commercial district. Therefore, the applicant is only requesting approval for mining uses in two phases with one crusher, 15-feet in height, for initial processing and one security trailer.

Staff's recommendation and the decision of the CDRC was to recommend approval of the request for the creation of a mine zone with master plan approval for mining sand and gravel with one crusher for initial processing and one security trailer, subject to the nineteen conditions listed. Mr. Chairman, can I enter those into the record?

CHAIRMAN TRUJILLO: Yes please.

[The conditions are as follows:]

1. The applicant will either obtain approval from the City of Santa Fe for use of treated effluent for dust control and landscaping, or will submit a water availability report in accordance with Article VII, Section 6 of the Land Development Code prior to final approval of mining uses.
2. Mining on Phase 2 will not begin until either the applicant has an approved reclamation plan for Phase 1, which will include a financial guarantee, or the applicant has received final development plan approval for commercial uses on this site.
3. The applicant will receive access approval from the Highway Department's Access

1570220

Control Committee prior to final development plan approval.

4. The applicant will comply with fire protection requirements set by the County Fire Marshal.
5. The applicant will submit an approved septic tank permit for the security trailer with the preliminary submittal.
6. There will be no retail sales of mined material from this property.
7. All utilities will be underground. This will be noted on the master plan.
8. The master plan will be recorded with the County Clerk.
9. All lighting on the site will be shielded.
10. All trucks will have tarps completely covering and securing their loads as they leave the loading area.
11. The applicant will address all staff redline comments. Original redlines will be returned.
12. The applicant will keep the road, mine and operations areas watered to control dust as needed or daily in the absence of wet weather.
13. A permit will be required from the Land Use Department prior to any blasting.
14. All cut slopes will be no more than 2:1 slopes or will have stabilization plans approved by the Subdivision Engineer.
15. With the preliminary development plan the applicant will address hours of operation.
16. The applicant will submit a signage plan in accordance with Article VIII of the Land Development Code with the preliminary submittal.
17. The applicant will submit an approved NMDES stormwater pollution permit from the Environment Department prior to final development plan approval.
18. The applicant will submit a water budget for the approved uses only with the preliminary development plan application.
19. The applicant will request development plan approval from the CDRC and must complete all conditions of Phase 1 approval by May 1999 (one year from the date of original temporary permit approval).

CHAIRMAN TRUJILLO: Any questions of staff and Penny?

COMMISSIONER DURAN: I have one, Mr. Chairman. Penny, this has been reduced from the last time they've been in. Is that correct?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Duran, this is the first time this has come in front of you, I believe.

COMMISSIONER DURAN: Okay. I'm getting confused. Thank you.

CHAIRMAN TRUJILLO: Okay, is the applicant here?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer. If I can, I'd like to hand out some maps that will help elucidate this issue. Mr. Chairman, Commissioners, in addition to the fact that sand and gravel operations are kind of historic

1570220

to this area, what I'd like to do and point out with this map is that this project is located within the airport noise zone, kind of the tip of the airport noise zone. The first map indicates the relationship between this property and the overall airport noise zone.

The second map describes the impact of the airport noise zone on the property itself, indicating that the majority of it is in fact, within the airport noise zone. In fact, residential properties, by ordinance, are not permitted on this -- single family residential properties by ordinance are not permitted on this tract.

And the last one is the highway corridor and this tract's relationship to the highway corridor maps themselves. I think some of the confusion and Commissioner Duran said hasn't this project been before them. Originally what we've been working on is a commercial tract, and if you recall when Mr. Leeder had the property rezoned on Agua Fria at the South Meadows crossing there was a commitment on his part to relocate his operation to another tract of land that was more appropriate. We had hoped that this would be the first step in this process of relocation.

But what we're looking at tonight is a sand and gravel operation. He is sensitive to the issue of the highway corridor standards and is willing to wait until those are adopted before proceeding forward with the commercial aspect of his development. And I'll answer any questions you may have.

CHAIRMAN TRUJILLO: Are there any questions of the applicant? No questions? This is a public hearing. I'll open it up to public input, before or against.

MR. LEIBMAN: I should get a pogo stick. I just wanted to convey what the recommendation of the Highway Corridor Committee was regarding this development. It was the consensus of the committee and the November 4 meeting that this application be tabled until January to give us additional time to come up with design standards for the area. So I just wanted to say that. Any questions?

CHAIRMAN TRUJILLO: Do you have any questions of Chris? Does the Commission have any questions of Chris?

COMMISSIONER GONZALES: I just have one comment, Chris, and that's just to convey a message, and I've talked to Commissioner Duran to the Highway Corridor Committee to continue moving forward but please give us something eventually, even if it's in draft form. And I don't what to go into discussion on this but we've already talked about the interests of fairness and trying to have a balanced approach doing what we're doing here tonight. But I would hate to see March and April come around and the Corridor Committee still meeting.

Eventually we're going to get into the same thing with other developments and the pressures along the corridor and if you're still meeting it's going to be very difficult for the Commission to continue.

MR. LEIBMAN: I think certainly the committee recognizes that and we have established a time table under which we intend to complete our objectives, which are both the design standards, which will be decided at our December meeting, and then finalization

1570220

of our land use recommendation for a presentation in January. So we're committed to meeting that agenda.

CHAIRMAN TRUJILLO: Thank you, Chris. Anybody else from the public? If not, what is the desire of the Commission?

COMMISSIONER ANAYA: Mr. Chairman, with all respect to the Highway Corridor Committee, there's certain elements of business that are absolutely necessary in the community that we need to take into consideration. We need to take into consideration all the established areas that are already there. There's got to be some ugliness in every city, or some acceptable ugliness. We try to cover it as best we can but there's certain things that are necessary and this obviously is one of them. Mr. Leeder provides paving and gravel for just about everyone within our own community here and most of the services that are coming from that area are specifically designed and designated just for the Santa Fe community area, Mr. Chairman, and this is one of them.

With that, Mr. Chairman, I want to move approval. The trends have already been set down in that area for years. It's just too difficult to turn them around overnight. So I move approval.

COMMISSIONER GRIÑÉ: I second, and that's CDRC Case #Z 98-5451.

CHAIRMAN TRUJILLO: Discussion?

COMMISSIONER GONZALES: Commissioner Anaya, the applicant has voluntarily agreed to comply with the design standards. Is that part of your motion, or are you not asking the applicant to comply with the design standards that the corridor --

COMMISSIONER ANAYA: I would request perhaps coming down the line, some design standards, whether they be buffering, architectural designs, perhaps. I would accept that as a friendly amendment to my motion.

COMMISSIONER GONZALES: Could you do it by a certain date, Commissioner Anaya, so if the Corridor Committee has not been able to come forward with a design standard it won't prohibit the applicant from --

COMMISSIONER ANAYA: January 15 is what I heard, Commissioner.

COMMISSIONER GONZALES: How about February 1?

COMMISSIONER ANAYA: January 15 was the latest that everybody agreed to.

COMMISSIONER GONZALES: All right.

CHAIRMAN TRUJILLO: Okay, we've got a motion, seconded by Commissioner Griñé. All those in favor? [Unanimous] All those opposed?

Thank you.

1570220

IX. G. 10. CDRC Case #Z 97-5480. GDP Inc. Mobile Home Sales. GDP Inc., applicant, Bronson Duran, agent, request master plan zoning with preliminary and final development plan approval for a mobile home sales lot on 3.11 acres and a variance of Article VIII, Section 7.3, Santa Fe County Land Development Code, to allow for a 24-foot high sign located three feet from a property line. The property is located off the East Frontage Road within Section 25, Township 16 North, Range 8 East

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, the applicant's request is for master plan zoning with preliminary and final development plan approval for a mobile home sales lot. The CDRC recommended master plan approval only. The applicant is also requesting a variance of Article VIII, Section 7.3 of the Code to allow for a 24-foot high sign three feet from the property line and adoption of a use list. The use list includes uses such as light industrial, manufacturing, gas station, retail sales.

The recommendation: The recommendation of staff and the decision of CDRC was to recommend denial of the variance request. The recommendation of staff and the decision of the CDRC was to recommend master plan zoning approval subject to the following thirteen conditions, and Mr. Chairman, can I enter those into the record?

CHAIRMAN TRUJILLO: Please do.

1. Only one dwelling unit is allowed. This is to be used for a caretaker's residence.
2. The applicant must provide a fire protection plan meeting Code requirements to include a fire hydrant with the preliminary development plan submittal.
3. Lighting shall be limited to two pole mounted lights and porch lights on the office. Flood lights are prohibited. All lighting on the property will be shielded and meet Code requirements of no more than 0.5 foot-candles ten feet beyond the property line. A lighting analysis will be submitted with the preliminary development plan submittals.
4. The applicant will meet Code requirements for long term water availability with the preliminary development plan submittal.
5. All utilities will be underground. This will be noted on the master plan.
6. All signs will be permitted by the Land Use Department. No flags, pennants or banners will be allowed on the property.
7. The dumpster will be screened on all four sides.
8. The applicant will submit permits for all existing and proposed septic systems on the property.
9. Additional landscaping will be provided along the northern and southern boundaries to buffer this use from surrounding residential uses.
10. The master plan will be recorded with the County Clerk.

1570220

11. If uses on this property change from a mobile home sales lot the applicant will return to the CDRC for development plan approval and must prove at that time that all Code requirements for the new use can be met. This shall be noted on the master plan alongside the use list.
12. The number of mobile homes on this property shall not exceed 40 or whatever the Fire Marshal permits based on separation requirements, whichever is less.
13. Under this zoning the uses will be limited to a mobile home sales lot only.

MS. ELLIS-GREEN: Thank you, and I've also handed out CDRC minutes for this case.

CHAIRMAN TRUJILLO: Thank you. Any questions of Penny? If not, is the applicant here?

[Duly sworn, Dan Esquibel testified as follows:]

DAN ESQUIBEL: Dan Esquibel, 1106 Calle Florinda.

CARLOS GALLEGOS: Carlos Gallegos, 02 Tierra Road, Santa Fe, 87505.

COMMISSIONER ANAYA: Mr. Chairman, the first question is: you are in agreement with conditions imposed by CDRC and staff?

MR. ESQUIBEL: Mr. Chairman, Commissioner Anaya, we are in agreement with the conditions proposed by staff. I would like to discuss condition number three and ask if you would consider removing just the first sentence of that condition so that we can still meet the standards but have a little bit more of the ability to have for security lighting. Two lights in an area of that size, we feel is not enough and we can submit a lighting analysis and still meet those standards.

COMMISSIONER ANAYA: You are in agreement though with the shielding of any type of lighting material that you put up there for the sake of the neighbors?

MR. ESQUIBEL: Absolutely. Absolutely.

COMMISSIONER GONZALES: Now Dan, are you still going forward with your variance request for a 24-foot high sign?

MR. ESQUIBEL: Chairman Trujillo, Commissioner Gonzales, we would ask that you consider the variance because of the distance involved from public view. And I do have some pictures that we did take from I-25 to show what people would be looking at as they traveled I-25.

COMMISSIONER GONZALES: Do you intend to have people from I-25 visually see the sign?

MR. ESQUIBEL: Yes.

COMMISSIONER GONZALES: The Allsups across the roadway, do they have a sign on 14, right across the 14 roadway?

MR. ESQUIBEL: I'm not sure. I would assume so, that they do.

COMMISSIONER GONZALES: Do you know what the height is on that sign, Rudy? On the Allsups across the road on 14?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, I'm not too sure

1570220

exactly how high that sign is. I would say it's approximately 15 to 20 feet high. I can't give you a correct measurement. I don't know exactly how high it is?

COMMISSIONER GONZALES: Would the applicant agree to be at least consistent with the Allsups sign so we don't have a dispareness between what's happening on both sides?

MR. ESQUIBEL: Yes.

CHAIRMAN TRUJILLO: Proceed, Mr. Esquibel.

MR. ESQUIBEL: With regard to the variance of the application, one of the reasons we feel that the variance was needed was because in viewing the Code in all its rules and regulations, we feel that the sign regulations sometimes don't coincide with some of the commercial development which may lie deep within commercial districts that have been approved by the Board. And as a result, some of the developments that may lie within a commercial district may actually have a problem with advertising of that business, making it kind of hard for economic development or -- well, that's basically it.

As it relates to this particular project, when you're travelling down I-25, the road tends, the terrain tends to, the road goes in a downward direction and the terrain goes up, so you have maybe a couple, half a mile to a -- quarter mile to a half of mile of actual view space of that particular property. And if you're traveling at 75 miles an hour, that doesn't leave much for the eye to glimpse at it. I understand that the Code and the sign regs are necessary, but even if we had a five foot high sign, we wouldn't be able to be seen. We would basically look like a residential neighborhood out there.

COMMISSIONER GONZALES: What about the part of the Code then that allows for the 25 foot sign if the applicant were to set it back? Is there any place on the property they could do that and meet that so there wouldn't be a variance request and they could still reach the 25 foot?

MR. ESQUIBEL: We looked at that and due to the fact that the nature of this particular business is moving trailers in and out and arranging the trailers within the property, so that not only you can market them, but you can sell them as well, we felt that if we were to put the sign 25 feet back from the property, there's a very, very good chance that that sign would probably get damaged along with the mobile homes that were being moved in and out of the park. So if we had it in that one particular spot within the landscaping area, it would be a lot more safer, both for the sign and for the merchandise that is being sold.

COMMISSIONER GONZALES: So right now under our Code, we would allow for a 25 foot sign, or a 24 foot sign, it's just we would allow it under conditions that would require a set-back.

MR. ESQUIBEL: We're asking -- yes -- we're asking basically for a minimal easing of the regulations, but not to exceed the maximal height limit of that sign, that reg.

COMMISSIONER GONZALES: So, but I mean, it would be allowed, it's just that the siting of the sign wouldn't be conducive to the property because of the fact,

1570220

because of the need to move mobile homes from within the property, is that right?

MR. ESQUIBEL: That's correct.

COMMISSIONER GONZALES: No further questions.

COMMISSIONER DURAN: I guess this is a question for Penny. A project that is along the corridor right now that sells I guess they're travel trailers or something like that, it seems that the property that that business sits on is covered with the structures that they're selling and I'm wondering if we're going to see 3.1 acres of mobile homes on this 3.1 acres or is there a requirement for a maximum allowable lot coverage?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner, the applicant is asking for up to 40 homes. Staff recommended a condition of approval, which the CDRC recommended to you which says that the number of mobile homes on this property should not exceed forty or whatever the Fire Marshal permits based on separation requirements. So the applicant is asking for 40 homes. The 40 homes on 3.1 acres will I guess pretty much cover the acreage.

COMMISSIONER DURAN: It would cover the entire 3.1 acres?

MS. ELLIS-GREEN: Other than the rear of the property which is where the caretaker's residence would be.

COMMISSIONER DURAN: So we're going to have 3.1 acres of mobile homes, except for set-backs. Part of the problem with the project along 285 -- is it 285 or 25, is that that project is just nothing but travel trailers. And that's been the main objection that I've heard on that project. I'm just concerned that if we grant this use out there that we don't grant it in such a way that it's just 3.1 acres of mobile homes, no open space. I guess the open space is what I'm hoping --

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Duran, they do some mobile home lot sales. That's the idea of the lot is to have a number of mobile homes for sales and I'm not sure if we could achieve an objective of open space on that. Naturally, I understand what you're saying, they're coming in, they're asking us to zone a piece of property that they'll have 40 mobile homes to be able to sell to the public on. And so it will be, what they're asking, is it will be basically filled with mobile homes like we would see any other mobile home lot.

COMMISSIONER DURAN: I guess I'm concerned that that's not appropriate. I'm not sure -- in the city we have a 40% lot coverage allowed and I'm sure I'm not the only one that's had people call me to complain about the density that this one owner has achieved in that lot that sells campers. So I think we have an opportunity now to preserve some open space out there and I know that it's not going to be a permanent mobile home, but they're going to sell one, they're going to replace it with another one, so it is permanent based on the nature of the business.

CHAIRMAN TRUJILLO: I think the applicant can talk to how much of the lot will be occupied with mobile homes for sale.

MR. ESQUIBEL: Chairman Trujillo, Commissioner Duran, we will be

1570220

utilizing most of the property for the storage of those trailers, yes. But I'd like to talk a little bit more about how I feel we differ from the particular development in question that does sell RV units. I travel I-25 and I've seen it as well and it's just a patch of RV units. It looks -- it's ugly. But that is in an area that is right off the interstate. You cannot help but notice that particular property and it is actually in a sunken area so you can't help but looking at the roofs of those particular units where this project is actually on a higher level than the actual interstate.

It's basically centered within the district so it's very, very far back from I-25. If you'll allow me, I do have some pictures that I took to illustrate what a five foot high sign would look like at that particular location. And I took it standing behind the car I was in. Most cars, you're sitting down and you're not more than four feet high. So I was standing up, taking a standing up position look. You can see that from a distance, it will look like, at most, a mobile home park, a residential area. And I think that together with appropriate landscaping within the areas that would help buffer that even further, it would look like a residential area outside of perhaps a local, a sign that advertised the actual project.

If I can show you what it looks like and talk about these a little bit.

COMMISSIONER DURAN: So it is over the hill.

MR. ESQUIBEL: Yes. That little red dot with the arrow right under it, that is one of those orange construction signs which stood about a foot taller than I am and I'm 5'8 3/4" so it was maybe, six, seven feet tall at the top. As you can see, you can barely even see that. And the trees that are behind at all on the property it is of a distance that it's substantially away from the interstate. And I think if you look at this on a case by case basis, you're going to find a lot more of these properties that, again, with the topography in mind, are not really going to affect that highway corridor view.

But it may even be a hinderance to some of those businesses because they're so far off the beaten path. Unfortunately, the way the Code is developed and you have no choice but to develop within commercial nodes, you don't have the luxury of going right off the interstate and really getting your advertisement and that is again one of the reasons why we needed the variance for, just so that people would even know we were there.

COMMISSIONER DURAN: I just think that the ability that your client has to have practically 90% lot coverage is a flaw in our ordinance. I think we need to do something about that. And I think that to allow someone to have 90% lot coverage is inappropriate. Would you consider reducing it down to 30 mobile homes? You have to agree, I'm not the only one that lives here. You guys live here. You have to agree that 90, 95% lot coverage is a little extreme.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Duran, I mean whether it's 30 mobile homes or 40, the idea is if we're going to zone a piece of property for the sales of mobile homes, what difference does it make whether it's 30 or 40. The idea is that it's a mobile home lot sales. And I think that Mr. Gallegos here has demonstrated I think in good faith being a business owner in that area for the last five years

1570220

that they're willing to comply with all the County Codes and when you pass by his lot, it's a very clean lot and presented in a very good fashion. All I see this as an opportunity to allow them to continue to grow and to me whether you're at 30 or whether you're at 40, it's still a mobile home lot sales and we're not going to achieve open space objectives by the quantity that we're allowing there. We're not going to achieve any type of traffic issues or anything else that might impact it.

So I think it's unfair to try to negotiate down the number of mobile homes that the individual is willing to sell.

COMMISSIONER DURAN: I think that the applicant was going to agree to that. Isn't that correct? So there it is. We were able to preserve some open space there. I can't imagine you can't see that having 40 versus 30 is going to create some open space. Ninety percent of lot coverage is extreme. And again, and that's why this piece of property that's in the highway corridor looks so ugly. There is nothing in our ordinances that prevents people from getting 100% lot coverage.

MR. ESQUIBEL: Commissioner Trujillo, I'd like to further advise the Board that at the CDRC meeting, we did state and I'll state here just for the record, that we are not going to go with the community water system because of the associated problems. We are going to drill a well and we are going to go with the recommendations of the Fire Marshal for a storage tank and a fire hydrant where he wished to place it. All utilities associated with the project will be underground and my client, his wish is to have a business that is not only a success not only as it affects gross receipts and employment for Santa Fe, but he also wants to make his development as visually pleasing, because that is what attracts people to his development.

He's going to do his very best to achieve those goals so it isn't something that looks like a bunch of trailers out in the middle of nowhere for everybody to look at and say what a horrible place to put that. As a result, he's placed himself with standards that he's done on a previous project of his where the landscaping is there. And we feel that we can achieve a look that can be acceptable in a gateway area into Santa Fe.

CHAIRMAN TRUJILLO: Any questions of the applicant? The applicant does have a trailer sales park in that area, right?

MR. ESQUIBEL: That's correct. About two miles south.

CHAIRMAN TRUJILLO: South of that area, and I think that because it is a sales park for mobile homes the movement of open space is dynamic. If they're set up in the appropriate way, it's pleasing. So you can't say 30% open space or 20% open space, they're arranged in a given way and the open space is dynamic. It's a commercial area if you will. And if it's set up in the appropriate way it's conducive to complementing the aesthetics. It's pleasing to visual impact. So I think that to require open -- I can't conceive of open space in a development like this.

COMMISSIONER GONZALES: Mr. Chairman and Dan, did the applicant agree to the design standards that would come forward by the Corridor Committee as far as

1570220

the landscape issues and architectural issues?

MR. ESQUIBEL: Absolutely.

COMMISSIONER GONZALES: Whatever permanent structures that might be in place.

MR. ESQUIBEL: Absolutely.

CHAIRMAN TRUJILLO: Very good. Any other questions. This is a public hearing. Anybody for or against this project? Chris?

MR. LEIBMAN: Chairman Trujillo, Commissioners, I want to be very, very clear about what the Highway Corridor Committee's position is on this. It's crystal clear. It was a unanimous decision on the part of the committee. The committee very strongly feels that to allow this sort of land use is incompatible with the gateway to this community. We have studied this area very, very careful. We have done a very detailed study of this gateway and there was no disagreement on this matter. We feel that, it was the recommendation of the committee that this application be denied.

If, as a committee, we are to come forward with recommendations that will contribute to both the visual appearance of the corridor as well as the safety. We've taken many things into account. Speaking personally as a committee member, and I do also believe I reflect the opinion of other committee members, that to approve this development would be like spitting in the eye of the committee. I think some of us would feel that strongly. We would be strongly questioning our involvement in this committee. You gave us a task. We have been working very diligently to come forward with good recommendations.

There's no disagreement on this development. We think we are prepared to come forward with land use recommendations for this gateway that are good ones. However, this development is inconsistent with those. I also think that to approve this application would leave members of the community questioning why we even bothered to have a Highway Corridor Committee if when we come forward with recommendations for strict -- particularly as strong a recommendation as this one, that the Board of County Commissioners would choose to ignore it.

Further, this is a new application. This is the first time this has come before the Board of County Commissioners, so it isn't as if these applicants have been put off for a long period of time. So while again, I think if you cannot deny it, at least table it. But I do caution you, I think you'll leave many of us on the committee completely disillusioned. We've taken a hard look at this and I just, I want to be very clear on that. Again, we're trying to do the right thing and we just don't see how this fits in with our vision for this gateway. Further, it's not as if the applicants don't have an opportunity to sell mobile homes. One interchange away in La Cienega, they have Zia Mobile Home outlet.

So we're having trouble understanding how this represents a hardship to these individuals. I don't know what else I can say, but there will be significant impact associated with the decision you make tonight. I'd be happy to answer any questions you may have.

COMMISSIONER GONZALES: Mr. Chairman, Chris, I think it's highly

1570220

unfair to come up and say we're spitting in the committee's eye if we approve this development. The fact is, we have yet to see a draft of what the committee wants to do in that area. We have yet to have any type of public hearings of what the community wants to see happen in that area and to come here tonight and say on this particular issue for this particular client, that if we approve or deny this zoning, will decide whether we're going to support the efforts of the Highway Corridor Committee is unfair.

There hasn't been any type of public hearing to determine whether what the Corridor Committee wants to do for this area is right or it's not right. And so who's to say what the Commission does tonight is right? Who's to say what the Corridor Committee is recommending tonight is right, until we have a draft of the design standards and the zoning that should occur in that area, until we have the opportunity to go out to the communities and have public hearings on whether they accept this or not, I think it's unfair that the Commission -- I think it's unfair to say that the Commission is spitting in the Corridor Committee's eye, by approving something like this that you guys are opposed to.

MR. LEIBMAN: Okay, I think there are a few points for clarification. Certainly the design standards that we have come up with to date, and hopefully will adopt at the next Highway Corridor Committee meeting are inconsistent with this sort of development pattern. Our design standards really don't address the issue of how you make a mobile home fit into our vision of the committee. So I in part was reacting to your comments that maybe we could approve this so long as you met the design standards that we came forward with. I can tell you right now we don't have design standards for this.

The committee is very sensitive to this sort of land use pattern. We've heard over and over again from members of the public that they don't like Traveltown. Clearly when we were driving along the roadway, Traveltown stuck out like a sore thumb and we are concerned that this sort of development pattern will do the same thing. We're also concerned I think about the implications of allowing signs right up against I-25. If this sets the precedent that allows signs to be adjacent to the roadway, then do we face the prospect of a whole roadway full of signs.

It seems to the committee members that it would be irresponsible on our part not to say something and be very strong in that statement at this point.

COMMISSIONER GONZALES: And I can accept that, and I respect you for it, but the fact that we have yet to go to the public with your recommendations. We have yet to talk to you about why you believe that a mobile home sales lot should not go into this place or it should go and I don't think tonight's the night to do it. I think that we charged the committee six months ago to get working on this process. The fact is we're still two months away from even getting a draft in place. That puts us even two months more away from going out into a public hearing.

And if the committee is going to stand up and you're standing up for the committee and saying, hey, by the way Commission, be aware that if you go forward and approve developments before you have a chance to go out for a public hearing, we're going to take

1570220

that as a spit in the eye, I think that's unfair to ask us to do when this Commission has made the commitment to even go forward with this Highway Corridor Committee in the first place. And I just wanted it to be made perfectly clear that we have an expectation on that Highway Corridor Committee that it's going to be a balanced approach as to what happens but we've also made the commitment to the community that we're going to go out and hold a series of public hearings as to what the recommendations that you're going to come forward with. And that's the whole process that needs to take place, that people who have followed a Code that is in place who have waited, and I agreed with what you're saying, they haven't waited but other people have, that they should be allowed to continue to go forward.

I just have a fundamental difference in the fact that you would say that we're spitting in your eye by approving this tonight when we have yet to see any type of formal draft policy that even comes up here.

MR. LEIBMAN: Commissioner Gonzales, if I can please respond. I think what I'm trying to suggest is, don't be hasty on this application. If you cannot agree with the Highway Corridor Committee's recommendation to deny the applicant, at least give us the opportunity to come forward with our recommendations, and at a minimum, table this application. My belief is, however, that the recommendation of the Corridor Committee will be that this use is incompatible. Obviously, it's up to the Commission with input from the public to make that determination. But at this point, I'm asking you not to grant or approve this zoning request at this time.

COMMISSIONER DURAN: Mr. Chairman, I think that it's highly appropriate that we table this application. As chairman of the Highway Corridor Committee, this is -- I just found out about this, the mobile home sales lot this week. We had agreed to provide information on development along these corridors to the Highway Corridor Committee so that they had the opportunity to become aware of what was coming down the pike for this Commission to make a decision on. And I don't think that tabling this until January 15 is inappropriate. That gives the Highway Corridor time to review it and make the recommendations and then if this body believes that it's an appropriate use of the property, at least we've made that decision with the input from the Corridor Committee which we have given direction to make recommendations to this body. So if there's no further comment, I'd like to make a motion to table this.

CHAIRMAN TRUJILLO: Let's give the applicant some rebuttal comments to make.

MR. ESQUIBEL: Commissioner Trujillo, members of the Board, I think from some aspects I can understand where the Highway Corridor is coming from. Even we were made in a comparison with a trailer, and RV dealership that isn't very pleasing as you're coming into I-25. But I'd like to make a clarification that we are not RV parks and we do not have that particular look. We are homes. We are residences. Mobile homes right now are the only form of affordable housing for people who are just getting started.

1570220

Santa Fe is not a very easy place to buy a piece of property and build a home. Most of th vacant lots in the area start between $70,000 and $80,000 for a 3/4-acre lot.

And it almost sounds a little discriminatory that we're being looked at in this manner The fact that the Highway Corridor is coming up with guidelines for that corridor, there' still going to be more discussion on those guidelines and design standards because there wi have to be some form of an amendment to the zoning ordinance and the use list that i allowed for these major center districts. As a result, we would be denied based on a futur ordinance that hasn't even been adopted yet, when we're coming in under the presen ordinance.

So I think in terms of how we are looking visually, we would be more than happy to work with the Highway Corridor to meet architectural design standards that they come u with to help buffer areas that they feel is unpleasing to the eye. But then again, you hav to consider what it is. We are a house. And if he is saying, if the Corridor people ar saying that by looking at trailers, they're looking at something very displeasing, well, if yo come along I-35 you see many, many trailers. People who just bought their first home an are very proud of that house, because that's what they could afford. Most people are prou of their first home.

And that's what we offer. We offer to people, a community to buy their first home I don't consider -- I've been out there and I've seen some of the mobile homes that are ou there and they're very attractive homes. Very attractive. They don't look like the silve trailers that you see in the old days. They don't look like an RV dealership. They're ver pleasing to the eye. And I would hope that you would consider and vote for this project an consider the fact that we are doing our best to meet any visual and architectural desig standards to make the area and the corridor pleasing for incoming visitors.

My client is a very, very, very proud business owner and he's doing his very bes to make that particular development as beautiful as you can possibly make it for what it is Thank you.

CHAIRMAN TRUJILLO: Okay, thank you. We've got a motion on the floo to table this project. Is there a second? There's not a second. The motion dies for lack o a second.

COMMISSIONER GONZALES: Mr. Chairman, I'd like to move fo approval of CDRC Case #Z 97-5480 and just qualify my move by stating I'm supporting thi because we're not only looking at what's happened on the I-25 area, we're also, on Ne Mexico 14, along the corridor of New Mexico 14, the Commission, by our own actions hav created an industrial area with the approval of the Turquoise Business Trail Park, we hav Mesa Steel that's coming into play that's just right up the road. We're talking about issue along, or at least business, business developments along that area that are dealing with som type of light industrial.

I think that Mr. Gallegos and Zia Factory have shown that they have been committe to following our Code to being good business people in this community, to at least workin

1570220

with the community when it comes with issues of aesthetics and I would move in my motion that GDP, Incorporated, Mobile Home Sales, they are required to comply with the design standards, with the landscape and architectural standards of the Highway Corridor Committee.

COMMISSIONER ANAYA: Second, Mr. Chairman, discussion.

COMMISSIONER GONZALES: And that would include, the issue of the signage should be brought forward. I don't know if I want to -- I don't want to move for the 24-foot sign now. I think we need to see how the aesthetics come out with the committee. I'm concerned about a 24-foot sign going up in that area when I don't think we have any other 24-foot signs, other than Wolf Canyon, which I'm not sure how tall the Wolf Canyon sign is, but I want to wait to preserve that for the Highway Corridor. And I'm just concerned about seeing a 24-foot sign with lights on it.

COMMISSIONER ANAYA: Second, Mr. Chairman, for discussion.

MS. ELLIS-GREEN: Mr. Chairman, could I have clarification as to whether that's master plan zoning, which is what the CDRC recommended, or master plan with preliminary and final, which is what the applicant requested.

COMMISSIONER GONZALES: Well, how would we -- if we went with master plan with preliminary and final require the applicant to comply with the architectural and landscape standards. Could that still be down before the final plat is recorded? Do you know what I'm saying, Rudy?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, I'm sorry. I didn't hear the first initial question.

COMMISSIONER GONZALES: We go for master, preliminary and final tonight, if the Commission approves that, and we're placing the burden on the applicant to comply with the architectural and landscape standards of the Highway Corridor Committee -- how would we assure that that's done, or would we have to just go for master plan approval and wait for the Corridor Committee to come up with their recommendations?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, if you were to impose that on the applicant here, then they would need to comply with those requirements when they do come in for their business license or for their plan that addresses all of their conditions. That would be an added condition.

COMMISSIONER GONZALES: So prior to them recording the final plat, you would make sure that they had complied with the Corridor Committee's architectural and landscape standards?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, if that's the wishes of the Commission, that's what we will do.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I guess this is mostly addressed towards Chris, and I really respect the work that you've doing on the Highway Corridor Committee, but going back to my experience during the Mountain Ordinance when Ouida McGregor was City Councilor, Ouida McGregor led the Mountain

1570220

Ordinance from the City side and I led it from the County side and we got into all this exciting adventure of how we were going to change the Mountain Ordinance and went into it and we had our own little committees that went and observed the mountain areas, seeing how people would build on ridgetops, ridgetop ordinances were established and so forth and we came back with all kinds of brilliant ideas, that we thought were brilliant, but that's not what we liked to see.

Well, that was quite a long time ago and from what I've seen now, every time I turn to the mountains, I see even more houses coming up on the hill tops and wondering where our efforts went down the wayside or even if they did go down the wayside, I know Al Lilly's stand on one of the committees and I think what really materialized from there were the architectural and standard designs, set-backs and buffering and so forth as far as my recollection is concerned.

Now as far as this particular proposal before us, I agree with what Commissioner Gonzales has said that if we have to have some kind of industry of this type to allow low, rather affordable housing sales to people in our communities, otherwise we might be spitting in their eye, you see. So we have to be very flexible up here on this Commission. It's very difficult to try to meet everybody's eye to eye distinctions. We do our best judgement up here.

CHAIRMAN TRUJILLO: We've got a motion on the floor and it's seconded by Commissioner Anaya. All those in favor.

COMMISSIONER DURAN: Open for discussion please. I haven't been able to speak my mind. Thank you. I just want to make sure that your motion, Commissioner Gonzales, is one that is going to require the applicant to conform to the guidelines that we adopt that come before us by the Highway Corridor Committee. Their final approval is still subject to recommendations that we would impose, based on what we've adopted.

COMMISSIONER GRIÑÉ: Under landscape and architectural standards.

COMMISSIONER DURAN: And not necessarily the use. So if it turns out that the Highway Corridor Committee decides that they only thing they can do to preserve that view corridor is to require some landscaping, and they -- I think this is going to be a site-specific recommendation because we have discussed guidelines and architectural standards for a mobile home park, so it is going to be kind of site-specific for this particular project.

So if the Highway Corridor Committee comes up with those recommendations, your motion basically requires them to conform to those recommendations, provided that we have adopted them.

COMMISSIONER GONZALES: Right. Which would be landscape and architectural.

COMMISSIONER DURAN: Right.

CHAIRMAN TRUJILLO: Any other discussion? We've got a motion, seconded by Commissioner Anaya. All those in favor? [Unanimous] Opposed?

1570220

MR. ESQUIBEL: Thank you.

IX. G. 12. CDRC Case #V 98-5070. Western Mobile Batch Plant Variance. Western Mobile, applicant, Siebert & Associates, agent, request a variance of Article III, Section 4.4.4c (height requirements) of the Santa Fe County Land Development Code to allow for a 72-foot high batch plant. The property is located off Airport Road with the existing Western Mobile property. Sections 3 and 10, Township 16 North, Range 8 East

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, on March 26, 1998, the CDRC denied the request for this variance. On July 14, 1998, the Board of County Commissioners tabled this case to allow the Highway Corridor Committee to make recommendations to the Board. The applicant's request is for four 54-foot high silos with a 62.5-foot high conveyor. The hot mix plant will be a total of 62 feet in height with only a small portion of the structure exceeding 53 feet in height. And one 46-foot high lime silo.

The applicant proposes to sink the plant into the ground by three foot. Elevations are included in your packet. The property is located within a major center commercial district. Article III, Section 4.4.4c of the Land Development Code states that structures within this type of district shall be no higher than 36 feet.

The recommendation: The maximum allowable height in a major commercial district is 36 feet. The proposed structure would be seen from the majority of the surrounding area and definitely from the highway corridor, State Road 599. Staff's recommendation and the decision of the CDRC was to recommend denial of this variance.

COMMISSIONER GONZALES: Mr. Chairman, did we skip a case?

CHAIRMAN TRUJILLO: Yes, we skipped a case. Sorry about that. We'll do Vista Limited next. Sorry about that.

COMMISSIONER GONZALES: Sorry, Mr. Pearson.

CHAIRMAN TRUJILLO: Okay, any questions of Penny? No questions. Is the applicant here?

MR. SIEBERT: Mr. Chairman, Commissioners, my name's Jim Siebert. My address is 915 Mercer. I've been previously sworn in. Mr. Chairman, Commissioners, when we first presented this case it was presented as 72 feet high. We've made several changes since the original application. The silos that were 65 feet high have now been reduced to 45 feet, a reduction of 20 feet. The hot mix itself, the top of that has been reduced to 62 1/2 feet, and then in addition what we've done is taken the whole project and pushed it three feet in the ground, so the total height now has been reduced from 72 feet to 59 1/2 feet.

The number of silos has been reduced from six to three and the plant orientation has

1570220

actually been modified to rotate it 180 degrees, making it less visible from the road way. The actual height of the structure itself, what we have here is the two silos, and this is actually seen sideways if you were standing down at the river taking a look at it. In the silos, the top of the main structure is 38 feet. This structure here is actually a railing that's used for maintenance purposes. And the 59 1/2 feet, which would be this point here and then a section over here is the conveyor, the conveyor being approximately eight feet wide.

I have also with me tonight Bill Alexander, who is the manager for Western Mobile for asphalt operations in New Mexico who'd like to say a few words about the employment aspect of the company, and then I also have Earl Potter here who is the attorney representing Western Mobile in this particular case. Thank you.

[Duly sworn, Bill Alexander testified as follows:]

BILL ALEXANDER: My name is Bill Alexander. My address is 6211 Chapel Road. That's in Albuquerque.

COMMISSIONER GONZALES: Mr. Chairman, Mr. Alexander, you know a couple of months ago, we had heard about all the employment figures and everything, so if the chair allows, can you just offer testimony or information that's new to what you guys didn't offer the time before that you were before here.

MR. ALEXANDER: I don't have a problem with that because we have gone over all this before, so if everybody still remembers. Basically, I was prepared to come up and kind of reiterate the same information about how many people we employ and what our plans are and again, to reiterate why we're trying to put a hot plant there and what we intend to do.

CHAIRMAN TRUJILLO: We've heard that before and it's part of the record, so if you have anything else to add, we'll continue with the next speaker.

MR. SIEBERT: That terminates our presentation. We'll respond to any questions you may have.

CHAIRMAN TRUJILLO: Okay. Do you have any questions of the applicant? No questions? This is a public hearing. Anybody from the public wants to address the Commission, for or against?

COMMISSIONER GONZALES: Mr. Chairman, does the applicant agree to also follow the architectural and the -- whatever the architectural standards would be on that, the landscape standards so there could be some -- so that the Corridor Committee could possibly recommend some buffers that might exist to buffer the silos and everything else?

MR. SIEBERT: We can certainly comply with whatever landscape standards that the --

COMMISSIONER GONZALES: Architecturally it's tough.

MR. SIEBERT: Yes, architecturally, I think it would be very difficult. I guess the one thing I would like to point out is the fact that Western Mobile would like to be up and in operation for the '99 season, which is the spring, in order to begin laying asphalt. So in order to do that, they will have to begin the erection of the plan as quickly

1570220

as possible.

COMMISSIONER GONZALES: Well, landscaping is something that can be just a continuous process. It's not something that we'd ask you to hold up until they did those designs.

MR. SIEBERT: Certainly, we would be happy to work with the committee on that particular issue.

COMMISSIONER DURAN: Do you think you can find a 54-foot pinon? I think it's massive. Mr. Chairman, if I could have the floor?

CHAIRMAN TRUJILLO: Go ahead, Commissioner Duran.

COMMISSIONER DURAN: This is right along the corridor and four 54-foot towers, it's just not going to work for me. I'm sorry.

MR. SIEBERT: Well, the actuals, you have three silos and the perspective that you see from 599 is really one silo. The others are stacked in front of it. The actual height that you would see visually would be 38 feet. So we're only really, in terms of the silos, we're only two feet above the actual height limit. The rest of the structure is railings and thin apparatus.

CHAIRMAN TRUJILLO: Any other questions? Comments? What's the desire of the Commission?

COMMISSIONER DURAN: Mr. Chairman, I'd like to move for denial of CDRC Case #V 98-5070.

CHAIRMAN TRUJILLO: We've got a motion for denial. Do I hear a second? Motion dies for lack of a second.

COMMISSIONER GONZALES: Mr. Chairman, Jim, I know that there's going to be possibly an effort by the Highway Corridor Committee to rezone I guess a lot of these batch plants along the corridor. If there are areas that are available over a period of time, would the applicant agree to relocate, to do a type of rezoning where they could move out into heavier industrial areas?

MR. SIEBERT: Certainly. I guess the question is we would need some kind of a -- first of all, there would have to be a zone established where we could move the plant, and then secondly there would have to be some kind of reasonable time period to amortize the plant. My client is looking at spending a half million dollars to assemble and get geared up, assemble the plant and get geared up for production in Santa Fe. And we would need some reasonable time to amortize that cost.

COMMISSIONER GONZALES: Okay. So if there is approval tonight, then part of the condition is that if there's a rezoning effort and a place where they can be relocated that a reasonable time would be established for that relocation to occur at the time let's say, there is that effort. In other words, what I'm saying is, if there is not a rezoning effort, then we don't have to worry. If there is a rezoning effort and then there's some industrial land that is located, then maybe at that point it might be your task or the applicant to come in and negotiate a reasonable time period as opposed to setting a period here tonight

1570220

which may not be able to work. Would that be acceptable?

MR. SIEBERT: Could you give me one minute to consult our attorney on that?

COMMISSIONER GONZALES: Jim, would you agree to ten years?

MR. SIEBERT: Councilor, we would.

COMMISSIONER GONZALES: It's Commissioner. Don't ever -- now I'm moving for denial.

MR. SIEBERT: Commissioner, we do have -- I was at a Council meeting last night. I apologize.

MR. SIEBERT: We do have a condition prepared dealing with relocation. Let me read it to you and if you think this is in line with your thinking. "This variance for the asphalt hot-mix plant from the maximum height requirements of Section 4.4.4, subsection C of the Santa Fe County Land Development Code is granted for a period of ten years from the date of the final inspection of the plant by the County of Santa Fe, provided that if a zoning district, which defines an asphalt batch plant of a height of 63 feet is permitted as a permitted as a permitted use is not established by the County of Santa Fe within five miles of the site of the Western Mobile asphalt batch plant on the date of the termination of this variance, then this variance shall continue in effect permanently." Let me hand this out to you.

COMMISSIONER GONZALES: Looks like we're singing on the right sheet of music. Denice, I've never seen this where we've asked for an applicant to voluntarily agree to a rezoning if this comes into play. So if that's part of the conditions, is that a binding issue? Can an applicant voluntarily agree to give up their zoning if certain conditions are met? Is that basically what this applicant is doing?

MS. BROWN: Mr. Chairman, Commissioner Gonzales, the answer to your question is yes, but I haven't read this yet.

COMMISSIONER GONZALES: Can you look at it?

MS. BROWN: If I could have a moment?

COMMISSIONER GONZALES: Right. Thanks.

COMMISSIONER DURAN: Mr. Chairman, Jim, would you be willing to extend that five miles to maybe -- what's the reason for five?

MR. SIEBERT: Well, Councilor, the discussion has been --

COMMISSIONER GONZALES: That's okay. He's already voted.

MR. SIEBERT: I have nothing to lose, right? That will teach me to have -- what happened is that the City Council was Monday, normally it's on Wednesday. I'll get his thing straight. Commissioner, the reason we picked five miles is the discussion has been is that there will be an attempt to locate it perhaps around the regional landfill site. And the regional landfill site, if you look at the perimeter of it, all aspects of the perimeter are within five miles of this. So that's where that came from.

COMMISSIONER DURAN: The other thing is, in the Highway Corridor

Committee, one of our recommendations is to turn the Airport Road, or recommend that the Airport Road corridor or node be considered a redevelopment district. That's probably going to take at least ten to fifteen years to get people on board. It's a long range goal. Maybe even 25 years, but at some point we would like to have something in place that would promote a different kind of use.

MR. SIEBERT: We feel that this condition really is in compliance with the wishes and desires of the Highway Corridor Committee.

MS. BROWN: Mr. Chairman, Commissioner Gonzales, I think I understand what the applicant is trying to do but I can't agree that it's said very clearly because what it basically says is it's a ten-year variance except if we don't ever adopt a new Code provision that says you can have a 63-foot within five miles, then it lasts forever. What it doesn't answer is, if we do adopt that, if we do adopt a zoning district that defines an asphalt batch plant with a height of 63 feet within five miles, then how long does the variance last. So I think it's absent to clarify what they want. We could work on the language of this, but in a nutshell, I think they can agree to limit their variance term.

COMMISSIONER GONZALES: I think what I understood, Denice, is that the reason the applicant, on the ten years was to recover their investment on the property. So that even if within ten years, let's say within two or three years this new site becomes available I think the applicant is asking that the variance stay in place for ten years so that they can recoup their cost. Did I hear that right?

MS. BROWN: Commissioner, I think we could do that. We could say it's a ten-year variance and then you could add a second sentence that says, If Santa Fe County ever adopts a height limit of 63 feet, within five miles of the site, then they shall be required to comply after their variance expires, at the end of ten years.

COMMISSIONER DURAN: I don't think we want to say that if we adopt an ordinance that provides for 63 feet, why can't we cay something, because I don't want that to be the norm out there. Why can't we just say provided that the area would allow for the applicant to construct a batch plant 63 feet in height.

COMMISSIONER GONZALES: No, well, my concern on that, and I was going to ask the same is that, why -- I'm concerned about locking into a 63 foot designation now. I mean if the rezoning calls for 54 feet where you're at today, why wouldn't you agree to stay with your current heights in other areas? I can understand the concern that a new zone might require you to go down to 40 feet and you not be able to meet your business obligation, but if it was at least where you're at today --

MR. SIEBERT: I think we're getting hung up by the heights and the issue if more a land use issue, that it would be a district that would allow for batch plants to be permitted by right and we would comply with whatever standards that are adopted that would be applicable to the industry.

COMMISSIONER GONZALES: I feel a lot better using that language than putting a definitive height number.

MR. ALEXANDER: Excuse me, just to reiterate what Jim was just saying. The idea there was assuming this new area is zoned perhaps by the landfill.

MS. BUSTAMANTE: Excuse me, sir. Have you been sworn in?

MR. ALEXANDER: Yes. And the idea though is that we want to be able -- - certain equipment is built to certain sizes and as we well know in that area right now, all those plants and operations out there exceed the current zoning heights. That's why we're in here asking for variances. What we would like to see is in this new area, wherever it may be or whenever it may be is that those -- that it is kept in mind when those ordinances are drafted so that it wouldn't require special equipment or additional requests for variances ten years from now in the new area. So that's what size the plant is so that's why we specified it at that height. But maybe the language could be amended to something reasonable industry standard things, but like I said, most of the stuff out there is already that high, and that's because that's what the size of those things are normally, as they're manufactured. But we're not like stuck on that particular number.

COMMISSIONER GONZALES: Seems fair.

COMMISSIONER DURAN: Are you working on that Denice.

MS. BROWN: I'm giving it a shot.

MR. SIEBERT: Councilors, to give it a little rest here, Commissioners, sorry. I'll get this straight yet. I guess one thing that I would like clarified is the fact that if the expiration date takes place if a new district is established. If a new district that allows for hot-mix plants is not established then we would assume that this use would continue on. Is that your understanding as well?

CHAIRMAN TRUJILLO: I guess if it's approved, yes, that's right.

MS. BROWN: Mr. Chairman, Commissioners, the provision would read "This variance for the asphalt hot-mix plant from the maximum height requirements of Section 4.4.4c of the Santa Fe County Land Development Code is granted for a period of ten years from the date of the final inspection of the plant by the County of Santa Fe. If a zoning district which defines an asphalt batch plant as a permitted use is not established by the County of Santa Fe within five miles of the site of the Western Mobile asphalt batch plant, and in effect on the date of termination of this variance, then the variance shall continue in effect permanently. If a zoning district, which defines an asphalt batch plant as a permitted use is established by the County of Santa Fe within five miles of the site of the Western Mobile asphalt batch plant, and is in effect on the date of termination of this variance, then this project shall comply with the regulations in place for that district."

COMMISSIONER GONZALES: So if they comply, are we actually telling them they will move? Did you say that in there, that they will move?

MS. BROWN: They will have to comply with the district regulations, which would be locational. We can make that more specific if you'd like.

COMMISSIONER GONZALES: Somehow, if we could put in there that the applicant is agreeing that if the height is available and it's zoned for the proper use of a

1570220

batch plant and the zoning requirements are in concurrence with industry standards that they will move. Is that accomplished in this? Okay. So, Mr. Chairman, then I would move for approval of CDRC Case #V 98-5070, with the amendment we just talked about.

COMMISSIONER ANAYA: Second.

COMMISSIONER GONZALES: We need to clarify the amendment, we understand from the amendment from the minutes what we can pull from it. Right? Okay, thank you.

CHAIRMAN TRUJILLO: All those in favor? [Commissioner Gonzales, Commissioner Anaya and Commissioner Griñé voted in the affirmative.] All those opposed? [Commissioner Duran voted nay.]

IX. G. 11. CDRC Case #Z 97-5670. Vista Limited Commercial Zoning. Vista Ltd., applicant, Al Lilly agent, request master plan zoning for commercial uses on five existing lots. The uses will include 60,000 square feet of office space and 60,000 square feet of warehouse space with a use list to include retail, restaurant, educational institutions, service and repair establishments, private clubs and veterinary offices. The property is located northeast of the intersection of I-25 and State Road 599 within Section 25, Township 16 North, Range 8 East

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, on August 11, 1998, this case was tabled to allow the Highway Corridor Committee to make recommendations to the board. At their regularly scheduled meeting of June 9, the Board denied the request for Vista Limited zoning. The use at this time was for 55,000 square foot of office space, 60,000 square foot of warehouse space and a 150-room hotel. The applicant is now requesting master plan zoning approval to allow approval for 60,000 square foot of office, 60,000 square foot of warehouse space. The property is currently divided into five lots. The applicant is also requesting a use list, which I believe was in the caption.

Recommendation: Staff's recommendation and the CDRC was to recommend master plan approval subject to the following 19 conditions. And Mr. Chairman, if I can enter those into the record with a correction to condition number fifteen. That should read: The developer shall explore the feasibility of developing a single wastewater treatment plant in conjunction with the Komis Development. The proposed liquid waste system shall be subject to an ED discharge permit and must reduce nitrates to at least 14 mg/l. Thank you.

[The conditions are as follows:]

1. The applicant provide a landscaping plan and lighting plan in accordance with Article III, Section 4.4.4 at preliminary development plan application.

1570220

2. Applicant depict buffer zones and setbacks on the master plan in accordance with Article III Section 4.4.4b prior to recordation of the master plan.
3. Applicant provide a water budget for entire project to include landscaping to be reviewed and approved by the County Hydrologist prior to preliminary and final development plan submittal.
4. Applicant provide a signage plan according to Article VIII prior to preliminary development plan submittal.
5. Applicant to address all redline comments by the Subdivision Engineer prior to recording the master plan.
6. Applicant record master plan with the County Clerks Office. Acknowledge of the owner must be on the master plan.
7. Applicant submit a CLOMR to be reviewed and approved by FEMA prior to development plan application if the flood zone is to be altered.
8. Applicant provide a general description and plan of signage, lighting and sewage treatment facility to be approved by staff prior to master plan recordation.
9. The five lots must be consolidated, or master covenants must be recorded with the master plan to address common architectural style, landscaping, lighting, signage and visual integrity and infrastructure maintenance (roads, wastewater system, etc.)
10. Santa Fe County resolution 1998-13 Santa Fe County Water Utility Extension Policy must be complied with at the time of preliminary development plan submittal.
11. All lots are subject to using the proposed community wastewater treatment plant system. No individual systems will be allowed.
12. The developer proposes to use the County Water System. Wells are prohibited on this property. If the developer fails to acquire a water contract with the County with five years of BCC master plan approval, this master plan is automatically null and void. This shall be noted on the master plan.
13. There shall be no individual business logos/signs visible from the frontage road.
14. Comply with all reviewing agencies' review comments relevant to the master plan prior to recordation.
15. The developer shall explore the feasibility of developing a single wastewater treatment plant in conjunction with the Komis Development. The proposed liquid waste system shall be subject to an ED discharge permit and must reduce nitrates to at least 14 mg/l.
16. At the time of preliminary plat submittal a discharge permit application must be submitted.
17. All outside storage areas shall be screened by a solid six foot high stuccoed masonry wall or other means of screening as approved by County staff. [Underlined material agreed to by staff]
18. No more than 60 individual businesses shall be allowed in the entire project. This shall be noted on the master plan.

19. The actual square footage of each proposed land use and the actual land use is subject to review and approval at the time of development plan submittal and will be evaluated based on a current traffic study, the proposed water budget and the proposed liquid waste treatment facility, to be reviewed by staff and approved by the CDRC.

CHAIRMAN TRUJILLO: Thank you. Any questions of Penny? Is the applicant here? Al?

[Duly sworn, Al Lilly testified as follows:]

AL LILLY: My name is Al Lilly, Lilly Planning Associates, 109 North St. Francis Drive. I've been told to be brief, however, I just want to be as complete in order to answer any questions of the Commission.

COMMISSIONER GONZALES: Mr. Chairman, and I would just remind Al that we've gone through this before in a public hearing so if you would just add any new stuff, that would be great, unless we want to hear the whole development all over again, but we've seen the packet, so. I don't want you to have to go through it all over again.

CHAIRMAN TRUJILLO: Thank you, Al.

MR. LILLY: As I mentioned before, this is not a new project, therefore I will not go through the whole presentation. If you look at the second page on that submittal, you'll see that it shows the location of the project -- on the third page gives some basic facts about the project. Again, they're not new facts and we don't have to go through those. The last page gives you the reasons to approve and very briefly, the project does lie within the existing node. This has been identified by County staff as well as been identified by the Highway Corridor Committee as an approved node along the corridor.

If Chris was here tonight still, he would tell you that this project has been recognized as being compatible with the uses as proposed by the Highway Corridor Committee. I'd also like to point out that the applicant meets or exceeds all the requirements set forth by the County Land Use Development Code. This property is not suited for residential development. We feel it is best suited for commercial development. We've reduced the intensity of this development significantly since the last submittal. This reduces the water requirement by 80%. So we're looking at 20% of what we had originally proposed with the hotel.

And then again, we've looked at this design before. We have not changed the design concept but it represents good design. It's definitely compatible with the highway corridor and the gateway concept. And just one last comment, that we have also met on several occasions now with the La Cienega Valley Association, Mr. Romero, Robert Romero has reviewed it. The applicant has gotten back to him and has answered any of the concerns that he has expressed in the past. So we feel we're in complete compliance and look for your approval this evening.

CHAIRMAN TRUJILLO: Very good, thank you. Any questions?

COMMISSIONER GONZALES: Mr. Chairman, Al, just real quick. I know

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we had talked about this, being that this joins the Komis property and I know you're the planning agent for the Komis property, if we can just make sure that there's some concurrence with obviously the design standards will be in place, but with the uses. I think that's real important. I know it's not of issue to the Pearsons, but certainly as you begin to develop the issues on the Komis property that we do have some consistency in development patterns.

MR. LILLY: The two properties area separated by a large arroyo. And I think your intent, I assume this anyway, we had a little discussion about this before, was to make sure that the uses are compatible and that there's a blend in the uses as well as a blend in the architecture and we're definitely in agreement with that.

CHAIRMAN TRUJILLO: Any other questions? This is a public hearing. Do we have anybody from the public that wants to speak for or against this project? If not, then what is the desire of the Commission?

COMMISSIONER ANAYA: Mr. Chairman, move for approval of CDRC Case #Z 97-5650.

COMMISSIONER GRIÑÉ: Second.

CHAIRMAN TRUJILLO: There's a motion, seconded by Commissioner Griñé. All those in favor? [Unanimous] All those opposed?

ADJOURNMENT

Chairman Trujillo declared this meeting adjourned at approximately 11:50 p.m.

Approved by:

Marcos P. Trujillo

Board of County Commissioners
Marcos Trujillo, Chairman

Respectfully submitted:

Karen Farrell

Karen Farrell, Commission Reporter

1050 880 B

COUNTY OF SANTA FE)SS
STATE OF NEW MEXICO)

I hereby certify that this instrument was filed for record on the 25 day of Nov A.D. 19 98, at 8:22 o'clock A.M. and was duly recorded in book 1570, page 220 of the records of Santa Fe County.

Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.

Marcella M. Salazar
Deputy

ATTEST TO:

Marcella M. Salazar for:

REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK

COUNTY CLERK
REBECCA BUSTAMANTE
SANTA FE COUNTY NEW MEXICO

1570220

11/10/98

The entire State of Colorado have been in an uproar because of an attempt by speculative California interests to export water from the upper Rio Grande River in the San Luis Valley to Denver, 200 miles away over mountain passes and thru tunnels for the benefit of subdivisions at Denver. That is the value of water in colorful Colorado.

The 1965 Administrative Criteria for legalization of Irrigated Agricultural Water Mining Rights is based upon basin fill storage with 40 verticle feet of water to be left in the basin fill storage of the aquifer for the setting of pumps, watering of cattle, and some domestic uses. That legalizing protection seems to have been removed from southern Santa Fe County for what ever reason. The residents of southern Santa Fe County need to know their rights.

A mining right of what ever kind is self extinguishing. When the mother lode is gone, the people move on.

Both Torrance and Santa Fe Countie's water availability is the result of fracture flow systems created during the last collisions of the continents. Because of those collisions, 250± million years ago, the geology of the two basins are totally different, yet interconnected both horrizontally and vertically.

That was a tremendous crack-up. A narrow trench breaching a pre-Cambrian high northwest of Moriarty is draining Santa Fe County water into Torrance County.

There is no new un-appropriated water when these interconnected fracture flow systems have been allowed to be over appropriated by the neglect of the Office of the State Engineer by more than 100,000 acre feet greater than recharge to both basins.

There is already an overdraft to the basin of 45,000 acre feet annually, with a demand from the playa lakes of between 25,000 and 35,000 acre feet of evaporation, which no one can control.

Recharge is estimated by Andy Core of the OSE of between 70,000 and 80,000 acre feet annually. The evaporation demand is paid by both southern Santa Fe and Torrance Counties. The numbers do not balance.

The State Engineer's data base shows 194,000 acre feet of approved water appropriaton rights in the Estancia/Gallesteo Basins. Most of the paper rights have never been placed to beneficial use.

The Estancia/Gallesteo Undereground Water Basins have never been able to sustain irrigated agriculture, and to legalize Irrigation Water Mining Rights, there had to be some kind of protection to the public. There is no protection to southern Santa Fe County.

The numbers of approvals establish abusive actions by the State Engineer in his lack of protection of the public in the Estancia Valley in granting an excessive number of permits to appropriate Irrigation Water Mining Rights, in a "Sole Source of Water Basin" which has only a desert hydrologic cycle with which to survive.

After reading the deposition testimony of Mustafa Chudnoff, Subdivision Review Office of the State Engineer, I can find no protection for the public in southern Santa Fe County.

State Engineer, Tom Turney has invited Rita Horton to sue him because she does not like the way he is running his office. I think he should be hung. Perhaps a class action suit against the State Engineer individually and the Office both selectively and collectively might get the attention of the Governor.

Recognizing the tremendous value of being able to guarantee the delivery of tens of thousands of acre feet of water in the de-watering of the Estancia Underground Water Basin in southern Santa Fe County, could it be that State Engineer,Tom Turney, and Interstate Stream Commissioner, Hal Engle, past CEO of Entranosa Water Cooperative are both involved in the planned theft, exporation and de-watering of southern Santa Fe county to the money markets of both Bernalillo and Sandoval Counties?

Would there not be a tremendous finders fee for such an accomplishment?

Would it not also be a most convenient, and simple way for the State Engineer to extinguish the Horton existing domestic water rights by replacing them with Water Mining Rights for the benefit of Entranosa Water Cooperative? Extinguishment by denial of a right to place water rights to beneficial use.

During Chudnoff's deposition testimony he stated Entranosa's intent to take the customers and market place created by the Hortons committments of water in a cavernous limestone aquifer, reinforced by three-way contracts with Farm Home Administration for the guaranteeing of financing the homes of the membership of Entranosa, and now Entranosa itself, and attempt to replace them with their own water rights with advertisements to cover the same areas which Entranosa had demanded Hortons to advertise for in 1988.

Business as usual in the State Engineer's Office.

Does not the State Engineer have the power, with his approval of questionable permits, coupled with big pumps and big pipes to de-water the Estancia Underground Water Basin in southern Santa Fe County for the benefit of big business in Entranosa's exportation of that water?

The wells acquired for the first exportation of water in the planned de-watering of the basin in southern Santa Fe county are in Sec. 4/T10N/R8E, and tho adjacent to the King north well field, are no part of the King well field. Kings have had to drill supplimental wells to keep irrigating. The aquifer is damaged.

I question the State Engineer and Entranosa finding "un-appropriated water" in a fracture system such as the axis of the the basin in southern Santa Fe County.

A deep aquifer that will give up water will also take water from higher sources. The Kings will be damaged on the east and Fullingims and Hortons will be damaged on the west. Hortons will have history to show that damage.

Kings have failed to put in their own data loggers for their own knowledge and protection against this attempted theft.

The only way to stop the exportation of water and total de-watering of the basin is to protest the pump station and storage tank of Entranosa which is to be west of State Highway 344 and south of Santa Fe County Rd 16, Frost Rd. I have seen no posting of the development on the land.

We must have a legal opinion, other than from the State Engineer of the rights of the public to a necessity of life.

Rita S. Horton
294 Broken Arrow Trail
Edgewood, New Mexico

Rita S Horton

Farmers Snarl Water Developer's Plans

NOV. 2, 1998

The Associated Press

MONTE VISTA, Colo. — What started as a David-and-Goliath struggle between rancher and water developer Gary Boyce and southern Colorado farmers is reading more like "Gulliver's Travels."

San Francisco investors are backing Boyce's plan to export water from under his San Luis Valley ranch to Denver's growing suburbs. He is spending $1 million on two ballot measures designed to advance the project.

But Boyce, the heavyweight in this high-desert water war, is finding himself entangled in the ties that bind valley farmers, ranchers, merchants and residents.

People in the valley that is encircled by the snowy Sangre de Cristo and San Juan mountains and San Luis Hills fear they will be left high and dry while their water flows to Colorado's Front Range, Las Vegas, Nev., or Los Angeles. They have raised about $1 million to fight Amendments 15 and 16 on Tuesday's statewide ballot.

The money has come from community dinners, pie auctions, even a school kiss-a-pig contest. Farmers and ranchers borrowed money for television ads and fliers rather than tractors and well pumps.

Brochures by the anti-amendment Citizens for Colorado's Water are displayed in motel lobbies, next to cash registers in Monte Vista and Alamosa restaurants and in a coffee shop in tiny San Luis, the state's oldest town.

Polls show opposition growing to the initiatives as ca[illegible] both major political parti[illegible] 40 groups, including the [illegible]arm Bure[illegible]nd Colorado Environmental Coalition, denounce the proposals.

But valley residents won't be sure they have restrained Boyce and the proposals until votes are counted.

And even then, desig[illegible] on the water that has made the 40,000-pe[illegible]son San Luis Valley a fertile basin and among the country's top potato producers wi[illegible]st.

"This is one bat[illegible]the war, but who's going to give up [illegible]as[illegible]d Monte Vista farmer Doug Shr[illegible]long with wife, Karla, helped [illegible]ne opposition.

TRAFFIC WATCH Large pipeline over 200 miles long
Several pump stations

15702

Trench Stratigraphy Santa Fe Co.
Valley Fill, San Andres, Glorieta
eso, Abo, Madera

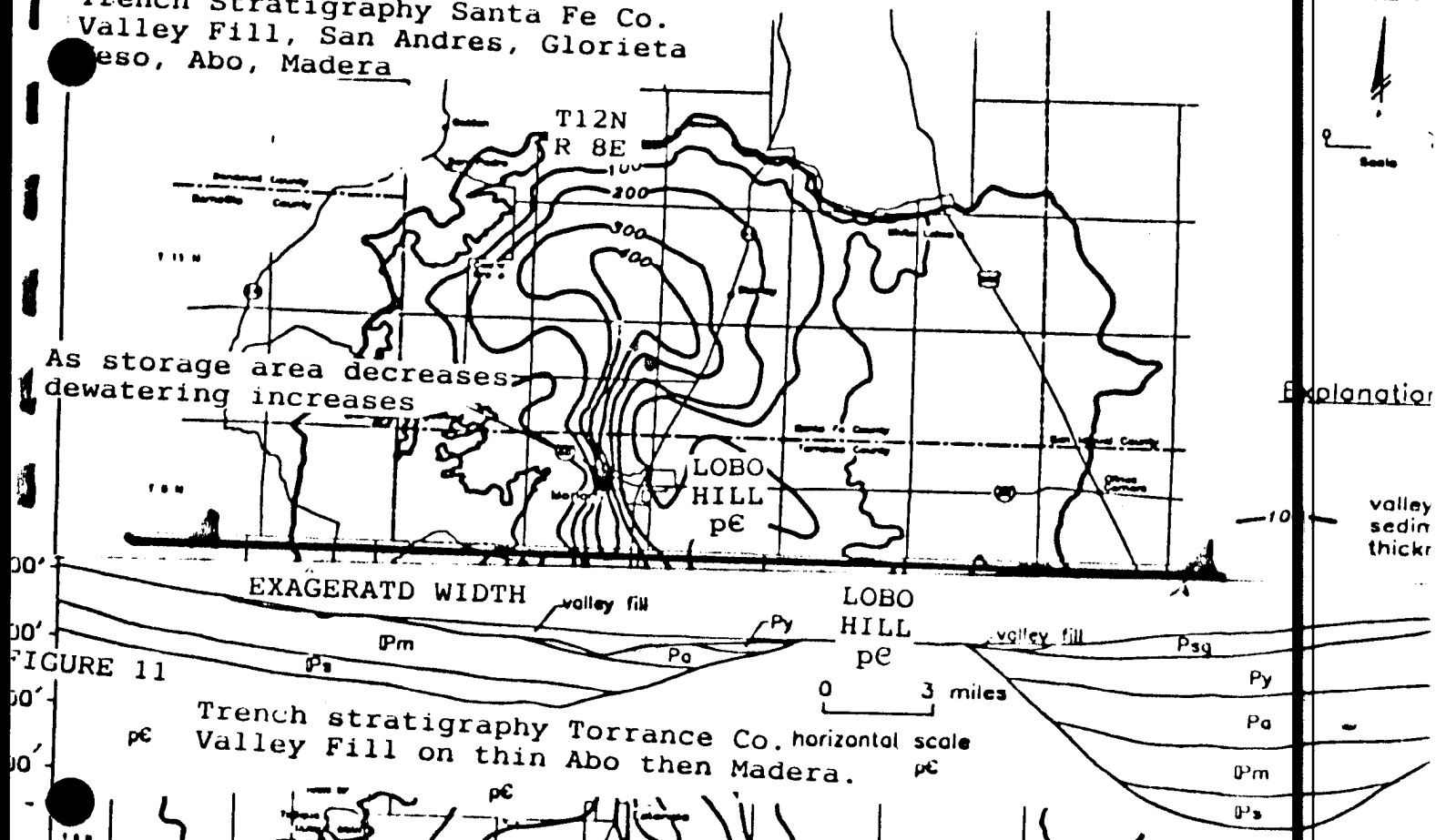
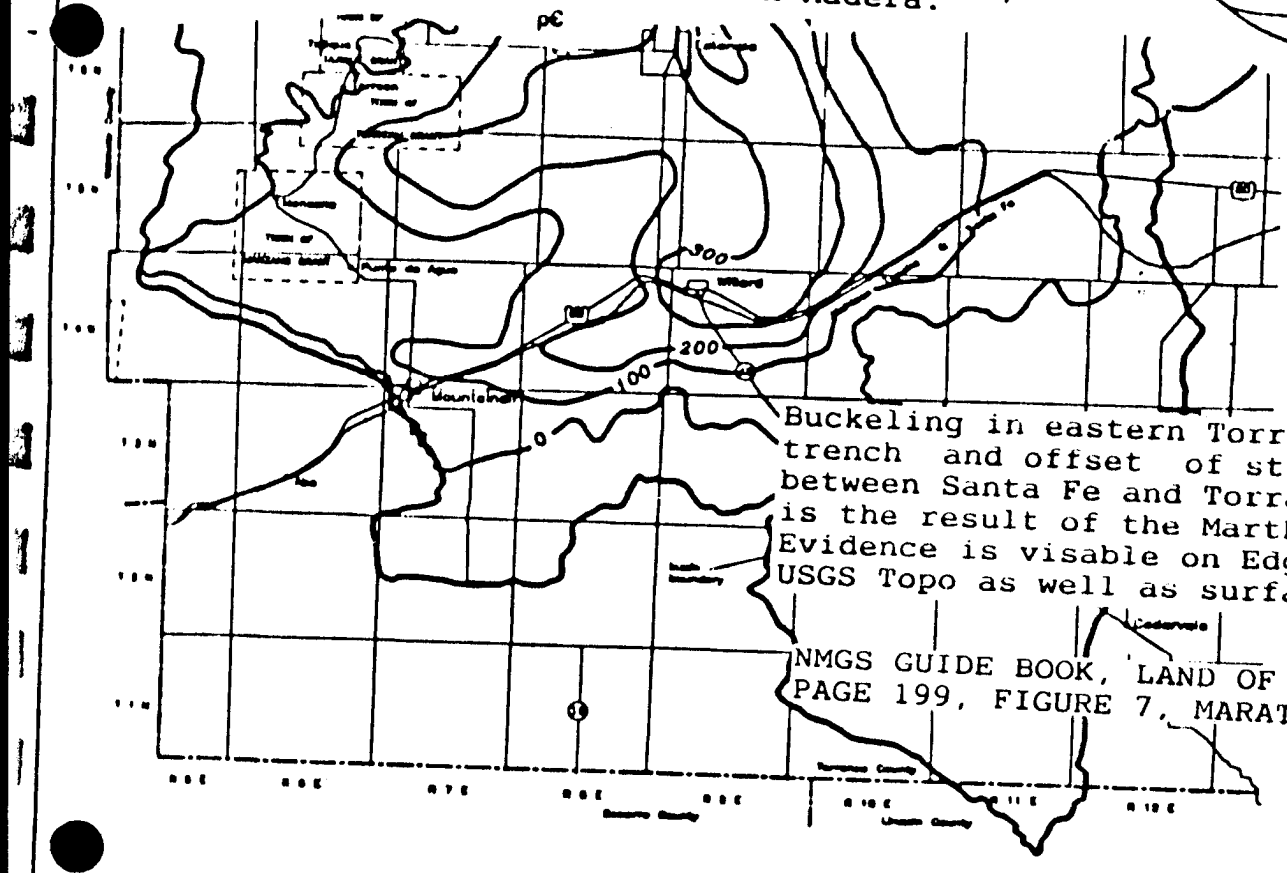


FIGURE 11

Trench stratigraphy Torrance Co.
Valley Fill on thin Abo then Madera.

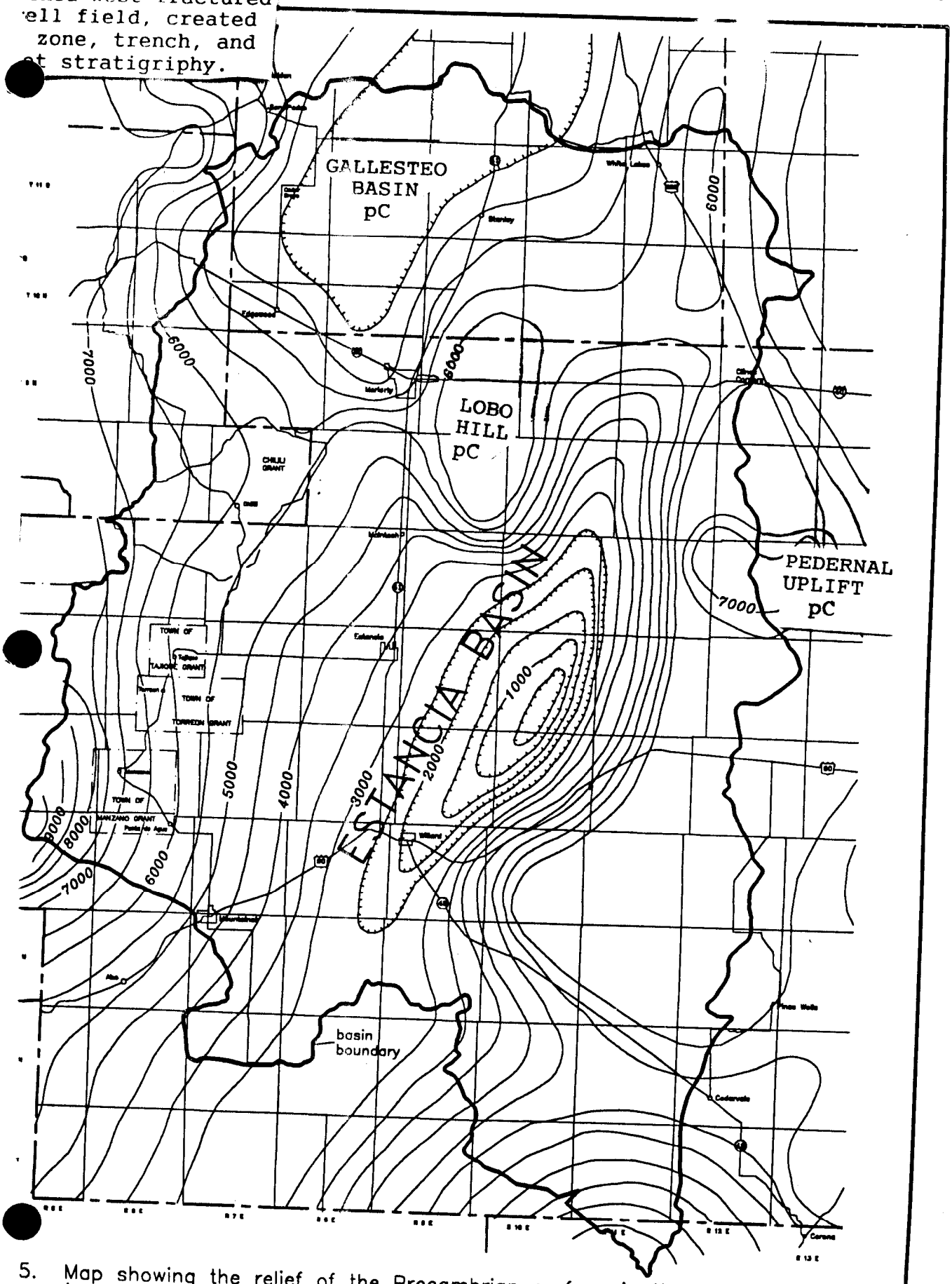


Buckeling in eastern Torrance Co., trench and offset of stratigiaphy between Santa Fe and Torrance Counties is the result of the Marthon Orogeny. Evidence is visable on Edgewood 15 min. USGS Topo as well as surfaced 11N/7E/28

NMGS GUIDE BOOK, LAND OF COCHISE, 1978
PAGE 199, FIGURE 7, MARATHON OROGENY

Figure 14. Map showing the extent and thickness of the valley fill sediments in the Estancia Underground Water Basin (modified from unpublished New Mexico State Engineer Office data).

st corner Gallesteo
ished west fractured
ell field, created
zone, trench, and
t stratigriphy.



5. Map showing the relief of the Precambrian surface in the Estancia Valley (modified from Foster and Stipp, 1961).