

VALENCIA COUNTY BOARD OF COMMISSIONERS

Public Meeting

August 10, 2005

PRESENT	ABSENT
Mary J. Andersen, Chairman	
Georgia Otero-Kirkham, Vice-Chairman	
Paul Edward Trujillo, Member	
Ron Gentry, Member	
Lynette Pinkston, Member	
Michael R. Trujillo County Manager	
Wimberly Law Firm, County Attorney	
Tina Gallegos, County Clerk	
Press and Public	

Chairman Mary Andersen called the meeting to order at 5:00 PM.

Chairman Andersen asked Ruben Chavez to lead the Pledge of Allegiance.

Approval of Agenda

Public Requests

Richard Stockton, Civil Engineer, a resident from Valencia County said he represents ASCG Inc., an architectural engineering firm. They do a lot of transportation projects. Mr. Stockton said he had some brochures to hand out to the Commission.

Discussion (Non-Action) Items:

Chairman Andersen handed out to each Commissioner a cut out model of the railroad train.

County Clerk, Tina Gallegos gave the oath to the person or persons who wished to give testimony to the items listed below.

Public Hearing Item:

Reporting results of Planning Process Transportation – Loretta Tollfson

Ms. Tollfson said they received 161 surveys giving their comments on the mobility plan and the main concern is congestion. That was the top concern and following was access to the interstate, river crossing and additional lane for NM 47. Ms. Tollfson said a resolution will need to be in place for this process.

Resolution 2005- ____, “Use of Jake Brake Prohibition” in designated locations, (Hwy 346 in Casa Colorado area and a portion of Meadow Lake Rd) – Mike Trujillo

Mr. Trujillo said for this resolution to be effective a public hearing is held per County Ordinance. At the next business meeting it can be adopted and considered prohibiting the use of engine retarders in designated locations. **EXHIBIT A**

Amend the zone maps from

RR2 to RR1 AKA 06 RJ Aragon Road, Los Lunas – Juan L Aragon/Ruben Chavez

Mr. Chavez requested this item be tabled because Mr. Aragon could not attend. Commissioner Trujillo moved to table until September 14, 2005. Seconded by Commissioner Gentry. Motion carried unanimously.

RR2 to RR1 AKA 04 Vista Hermosa Peralta (Tabled June 8, 2005) – David Sanchez/Ruben Chavez

Mr. Chavez said this item was a request for final action to amend the zone maps from RR2 to RR1. Mr. Sanchez would like to rezone his property so that he could split his property and create two lots. Mr. Chavez said on May 18, 2005 Planning and Zoning took testimony from both the applicant and public and recommended a denial with a vote of 4-0. On June 8, 2005 the County Commission solicited testimony from both the applicant and the public. The applicant’s attorney asked that this request be tabled. **EXHIBIT B**

Steven Chavez, Attorney, represented Mr. & Mrs. Sanchez. Mr. Chavez thanked the Commission for allowing the continuance but said the Commission did take testimony at the last public hearing and heard parties who opposed the request. Mr. Chavez had a map that he showed the Commission of where this property was located. Mr. Chavez said it is their position that they applied the ordinance improperly, inappropriately and unlawfully. In the P & Z findings they specifically looked at the site constructive homes versus mobile homes as a basis for not allowing the zone change. Mr. Chavez said one P & Z Commissioner said if this were a site constructive home, he would probably do something different. That is impermissible under the federal fair housing act, and is a violation of federal law to use mobile homes as a basis to deny a request. Another Commissioner asked Mr. Chavez if this application would meet an administrative adjustment under

the County ordinance and his answer was yes. He was also asked if there is precedence with this kind of zone change and his answer was yes. They ignored that and Mr. Chavez said that is very meaningful. Mr. Chavez stated that public hearing turned into a popularity contest as who spoke for and against it; there was testimony from folks that live in the area that are primarily site constructive homes and Mr. Chavez said he will show the Commission on the map that this is not true. There is a predominance of mobile homes in the area. Mr. Chavez discussed the zoning ordinance and stated it requires that you look into the surrounding land uses, density, patterns of development in the area, and the availability of the services. A petition was presented to Planning and Zoning Commission; Mr. Chavez said his clients never had an opportunity to review that petition. Mr. Chavez said that a property owner that objects to this issue never had an opportunity to sign it or see it and his name is not on there. Mr. Chavez said had the P & Z Commission looked at the ordinance it would have been different, they did not look at the analysis.

Alfred Baca said he owns the property south of David Sanchez's property, which is Tract 3. Mr. Baca said he has no problem with Mr. Sanchez's request split his lots. Two acres is too much of a yard to maintain, but yet too small to farm.

Commissioner Kirkham asked Mr. Baca if he lived on Tract 3 and he answered no and she asked if he lived in Valencia County and his answer was no.

Chairman Andersen asked if the map that Mr. Chavez was referring to be part of the record and who had prepared it? Mr. Chavez said Planning and Zoning Rural Addressor, Richard Chavez had prepared it. **SEE MAP ON FILE**

Commissioner Gentry asked about a map that was in the Commission's packets on a driveway, who did it belong to?

David Sanchez said that map is a rough drawing, if it is a driveway then that is what it is; the utilities are on the north end of the lot.

Chairman Andersen asked if there were two homes on that lot? Mr. Sanchez said there is only one. When it is split then it will require another well and septic tank, Mr. Sanchez said yes it would. Mr. Sanchez said the second lot does meet the criterion for the NM Environmental Dept.

Commissioner Kirkham asked Mr. Sanchez about the net acreage on the rough draft drawing? Ruben Chavez said the lots require a 40 ft road and a 50 ft cul-de-sac, when the rough draft was calculated it left a .75 and a .85 lot. There is a provision in the subdivision ordinance that allows for a lot to be created as long as the access is no less than 30 ft; these are called panhandle lots. Using that provision there is no roadway that becomes property, then that would become .94 net.

Commission Gentry said this hand drawn map is disproportional to the drawing to make the properties equal.

Steven Chavez said he would like to clarify what Ruben Chavez said under your pan handle exception you don't subtract out your gross acreage, the driveway, it goes with the land and it meets your net exclusive condition.

Commissioner Gentry asked Steven Chavez is there is more emphasis on the legality of which our Planning Board acted or on the justification for the split?

Steven Chavez said both, the motive for the split, which you can see for the record, was made a large issue which in his belief, it was an inappropriate basis to judge this criterion. You can't look at whether or not it is going to be for mobile homes versus site constructive homes. A P & Z Commissioner said if this was for family, he would do something else but he is trying to sell the lot. That did not make sense because there is no family exception in our laws.

Commissioner Gentry said his concern is placing our zoning commissioners under the scrutiny of a court case, if it gets that finite, it may become dysfunctional. It is worrisome that there is such emphasis on this. Commissioner Gentry asked in our packet are amended covenant to the land of Eduardo Maes, what is this?

Steven Chavez said there are no existing covenants that came from another individual. Commissioner Gentry asked did all neighbors get together to design this? Steven Chavez said if they did, he respectfully submits this is not an issue for this body to deal with. It is an issue only for the courts. Commissioner Gentry said he takes exception to that, we are a policy body trying to decide this issue and he doesn't want to be limited as a Commissioner that he can't hear something. He would appreciate that courtesy. Steven Chavez said there is case law.

Alfred Baca said the residents got together, the residents of the lands of Eduardo Maes, and they came to an agreement on what was important in order to do this split. These are the issues that Gene Salazar came up with. Mr. Salazar owns a lot on the east part of the property.

Commissioner Gentry said he had a concern with what Steven Chavez stated on the petition that they did not sign. Steven Chavez said Mr. Baca was not made a party to that petition.

Commissioner Trujillo asked on the covenants, were these signed and filed? Steven Chavez said to his knowledge no, not by Mr. Sanchez. The actions taken by Planning and Zoning what they state as their reasons is there is not enough land to create a one acre lot, a concern with lacking the criteria for substandard lots and inconstancy, with the pattern of development in this area.

Steven Chavez said to finalize this he would like to reject the Planning and Zoning Commission recommendation or rather than deny, remand it back to the P & Z Commission asking them to make a specific findings under the ordinance.

Gerald Salazar said he lives two lots over from David Sanchez. As far as the petition in question, Mr. Salazar said he has copies for the Commission. These are the same ones that were handed out last time, just with added signatures. To clear up the confusion, we did not coerce anyone to sign that did not want to. Mr. Salazar said he had copies for all the Commissioners. That area is predominantly big houses not mobile homes, there are about three in the area.

Steven Chavez stated he objects to the petition included as evidence.

Commissioner Gentry said he would like to include it because it alluded to Steven Chavez's opening statements.

RR2 to C1 AKA 09 El Cerro Road, Los Lunas, - David Bris/Steven Chavez, PC

Ruben Chavez said this request is to amend the zone maps from RR2 to C1 for Mr. Bris of Living Cross. His partner, Sam Ortega and he are in attendance tonight and they are represented by attorney, Steven Chavez. He is attempting to move his operation (Living Cross) to the above location. There is an existing home there and a paved parking lot; Living Cross can operate at this location with no modifications to the site. On July 20, 2005 Planning and Zoning took testimony and voted in favor of the zone change 4-0. **EXHIBIT C**

Steven Chavez said this is a very good record that was made before Planning and Zoning that needed analysis and accepted their analysis and did a good job. There was opposition to his proposal; the opposition was based on the noise that would occur from ambulances coming in and out of the driveway. There is a resident that is next door and he is in major opposition to this request. The P & Z Commission dwelt on how to mitigate the noise and essentially concluded that this is a public service that you cannot mitigate. This is something that is necessary, the good outweighs the bad; it is a necessary evil in our community. The purpose for this move is because this is the perfect location to cut response time for rescue. The criteria enhances the county's public, health, safety and welfare.

Commissioner Trujillo asked for better clarification of where this property is. Mr. Chavez said there is a map in the Commission's packet for review. It is just off Main Street on El Cerro Road.

Ray Mathias said he is the neighbor next door to the proposed ambulance service. He said he has nothing against them turning this into a C1; he only questions the placement of this business on this narrow road. Mr. Mathias said this road has no shoulder, no center lane for passing, and if you get off the road you are trespassing. There is a traffic jam on that road three times a day. He questions the feasibility of putting it there with the traffic situation.

Steven Chavez said the issues that were just brought before this Commission are the same issues that the P & Z Commission dealt with. They took into consideration the narrow road but this road will save lives for response time.

County Manager's Report

Mr. Trujillo said at the August 19, 2005 the Commission will be asked to adopt the ICIP for Valencia County. There is a copy for review in the Commission's packets. **EXHIBIT D**

The next Business Meeting of the Valencia County Board of County Commission will be held on August 19, 2005 at 9:00 AM in the Los Lunas Consolidated School Board Room.

Adjournment

Adjournment at 6:15 PM.

<p>NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the August 10, 2005 Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.</p>
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**ss/
MARY J. ANDERSEN, CHAIR**

**ss/
GEORGIA OTERO-KIRKHAM, VICE-CHAIR**

**ss/
PAUL EDWARD TRUJILLO, MEMBER**

**ss/
RON GENTRY, MEMBER**

**ss/
LYNETTE PINKSTON, MEMBER**

ATTEST: ss/

TINA GALLEGOS, COUNTY CLERK

DATE: August 19, 2005