



**APPROVED 03/22/2016**  
**Unanimously 4-0**

## **VALENCIA COUNTY PLANNING & ZONING COMMISSION**

### **M-I-N-U-T-E-S**

February 23, 2016

4:00 PM

Valencia County Courthouse Commission Chambers

444 Luna Ave, Los Lunas, NM 87031

### **Present**

Chairman LeRoy Baca

Vice-Chairman Robert Q. Louie

Commissioner Frank A. Gurule

Commissioner Michael McCartney

Commissioner Sue Moran

Jacobo Martinez, Community Development Director (not Voting)

1) The meeting was called to order by Chairman Baca at 4:00 P.M.

2) Commissioner Moran led the Pledge of Allegiance.

3) Approval of Agenda

Mr. Martinez read the Agenda. Mr. Martinez requested item B be tabled per applicant.

4) Approval of Minutes: January 26, 2016

Commissioner Moran motioned for approval of minutes. Seconded Commissioner Louie  
Motion passed unanimously.

5) Chairman Baca swore in participants.

### **6) Action Item (s):**

#### **A) Re-organization of Planning & Zoning Commission**

- Elect Chair and Vice-Chair

#### **Chairman**

Commissioner Gurule nominated Commissioner McCartney as Chairman.

Commissioner McCartney accepted the nomination.

There were no other nominations.

The Board voted unanimously to appoint Commissioner McCartney as Chairman.

#### **Vice-Chairman**

Chairman Louie nominated Commissioner Moran as Vice-Chairman.

Commissioner Moran respectfully declined the nomination.

Commissioner Baca nominated Commissioner Louie as Vice-Chairman.

Commissioner Louie declined the nomination.

Chairman McCartney nominated Commissioner Gurule as Vice-Chairman.

Commissioner Gurule declined the nomination.

Commissioner Moran nominated Commissioner Baca as Vice-Chairman.

Commissioner Baca accepted the nomination.

The Board voted unanimously to appoint Commissioner Baca as Vice-Chairman.



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52     ▪ Adopt Open Meetings Act for 2016-**Resolution 2016-01**

53         Mr. Martinez requested the meeting time be moved from 4:00 pm to 3:00 pm.

54         Commissioner Moran made a motion to adopt the Open Meetings Act with the condition  
55         that the meeting time be changed to the fourth Tuesday of every month at  
56         3:00 pm.

57         Commissioner Louie seconded the motion.

58         The Board voted unanimously to adopt the Open Meetings Act for 2016.  
59

60     ▪ Adopt Robert's Rules of Order-**Resolution-2016-02**

61         Commissioner Gurule made a motion to adopt the Robert's Rules of Order.

62         Commissioner Louie seconded the motion.

63         The Board voted unanimously to adopt the Roberts Rules of Order.  
64

65     ▪ Adopt Conference Call Resolution-**Resolution 2016-03**

66         Commissioner Louie made a motion to adopt the Conference Call Resolution.

67         Commissioner Moran seconded the motion.

68         The Board voted unanimously to adopt the Conference call resolution  
69

70     ▪ Adopt 2016 Planning & Zoning Commission Schedule-**Resolution 2016-04**

71         Commissioner Moran voted to adopt the 2016 Planning & Zoning Commission  
72         Schedule.

73         Commissioner Baca seconded the motion.

74         The Board voted unanimously to adopt the 2016 Planning & Zoning Commission  
75         Schedule.  
76

77 **B) Request for Zone Change from Rural Residential-1 (RR-1) to Suburban Residential**  
78 **(SR) with a conditional use for additional apartments.**  
79

80     Application:         ZC #2016037

81     Applicant:         Rey D. Garcia

82     Purpose:            To bring property up to compliance to allow for current upgrade of  
83                           existing apartments as well as construction of a new fourplex.  
84

85 **Legal Description:** T: 7N, R: 2E, Section: 25, Map 71, NMPM; Tracts 30B1 (2.07 AC),  
86 30B2 (0.95 AC), and 30B3 (0.89 AC); Zoned RR-1; Filed in Plat Packet 43, Page 79, in the  
87 office of the Valencia County Clerk; also known as 75 El Cerro Loop, Los Lunas, NM.  
88

89     *This property is located approximately 0.77 mile NE of Highway 47 off El Cerro Loop*

90     *This property falls with District II*

91     *County Commissioner Jhonathan Aragon ♦ P&Z Commissioner Robert Q. Louie*  
92

93     **TABLED PER APPLICANT'S REQUEST**  
94

95     Commissioner Gurule made a motion to table the item per the applicant's request.

96     Commissioner Moran seconded the motion.

97     The Board voted unanimously to table the item as per the applicant's request.



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### **C) Request for Preliminary Plat Review Recommendation**

Application: #2015223

Applicant: John Whisenant & Elias Barela

Purpose: Request for a recommendation by the Planning & Zoning Commission to the Board of County Commissioners regarding the Type 3 Subdivision Preliminary Plat Review for Rancho De Los Chavez Subdivision.

**Legal Description:** T6N, R2E, Section 30, Map 90, N.M.P.M.; Land Division of Franklin & Whisenant: Tracts A & B; Consisting of 17.98 acres & 11.36 acres respectively; Zoned AP; Land of Dale Jones, Tract C-2; MRGCD Map 90; Consisting of 10.31 acres: Zoned AP; Valencia County, NM.

*This property is located in Los Chavez off of John Road*

*This property falls within District IV*

*County Commissioner Charles Eaton ♦ P&Z Commissioner LeRoy Baca*

Mr. Martinez: The Commissioners were provided a preliminary plat application for the Rancho De Los Chavez Subdivision, a proposed Typed 3 Subdivision encompassing 15 residential lots, located between John Rd. & Campbell Farms Rd. & Edmundo Rd. & Los Chavez Drain. The review by the County Planning & Zoning Commission is defined by § 151.042 of the Subdivision rules in which it does state that (B) the Planning & Zoning Commission may in its discretion review the subdivision. They have discretion to review this plat proposal and they have discretion to make recommendations; (C) If the recommendations are negative, then the negative recommendations shall refer to rules, regulations, ordinance, section, guideline, standard or policy that the preliminary plat is deficient in, and shall be supported by findings of fact and conclusions which are sufficient for meaningful review; and (D) that the Planning & Zoning Commission does not have to make a recommendation. If the Board of County Commissioners does not receive a recommendation from the County Planning and Zoning Commission, it shall proceed with the required public hearing. § 151.042 does provide the discretionary review for the Planning & Zoning Commission. The Planning & Zoning Commission's recommendation must be approved by majority vote of the Planning & Zoning Commission. Whatever recommendations are made the Planning & Zoning Commission must be approved by majority vote and that shall be provided to the County Commission no more than three days before the Public Hearing. Right now we are in the process. We have been provided with the application and the plat book which we have provided to the Planning & Zoning Board. We have received five letters from state agencies with recommendations from those state agencies. We have passed on those recommendations to the applicant and they are working on responding to those recommendations. Once they respond to those recommendations then we will get another letter back from the state agency, being either a positive letter or saying there are no negative recommendations by each state agency. The applicant is here if the Planning & Zoning Board would like to hear about the project and the subdivision that is being proposed to the County Commission for approval.

Chairman McCartney: We would like to hear the presentation and then have you come back and explain the reactions to the negative opinions from the state agencies.

Mr. Garcia: My name is Martin Garcia and I am with Anchor Engineering 1035 Southwest Loop, Bosque Farms. I am here to present to you the proposed Rancho De Los Chavez Subdivision. This case has been going through the Commission, Planning & Zoning, County Commission and also the courts and through the zoning process the zoning was approved for RR for this property and we are now going through the formal process of getting the subdivision approved itself. There has been a lot of discussion that went through previously on the size of the lots, decisions that were made and conditions and we believe that through our submittal of the subdivision we have complied with the conditions the courts require for the subdivision.



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Commissioner Baca: Could you briefly tell us what was in question so we I can understand as I was not here for the last meeting and I am a little bit behind.

Mr. Garcia: The property itself is a total of 40 Acres. It is owned by Mr. John Whisenant & Elias Barela and it was agricultural property. The request was to develop it into an RR-2 property, 2 acre minimum lots. It went through different processes and for one reason or another it ended it up in the court system. There was a court officer that was appointed and a decision was made on whether the zoning should go forward or not and the decision made was that it should.

Chairman McCartney: If I may, just one question right there sir. Was that through mediation or through and actual decision by a judge?

Mr. Garcia: It was through mediation and there was a hearing officer that was appointed, Mr. John Myers, who was appointed by the courts.

Chairman McCartney: When did all of this start?

Mr. Garcia: Back in December of 2013. After the zoning had been approved Mr. Whisenant approached us to help him with the design of the subdivision and the platting and everything else and that is where Anchor Engineering became involved in the project about a year ago and has been working with staff on preparation of the documents required through the Valencia County Ordinance for Subdivision. The construction plans are about fifty percent completed and we went through that level just to be able to make sure the submission we made through the preliminary plat process afforded the different agencies reviewing the plat the opportunity to look at it from full perspective and not just preliminary document sketch. We are in receipt of those letters that Mr. Martinez has indicated and I would like to expand a little bit about the comments we received on the letters. There is a letter from the Soil and Water Conservation District and that letter states fact of the type of soils. We have been in contact with their staff and they are aiding us in development and restoration of the soils. There is a portion of the property that has very high alkaline soils toward the southwest corner of the subdivision and it is our intent to have that in farming production now as well as in the future and they are working with us on how to establish that soil back into production. We also received a letter from the State Historic Preservation Office. The Ordinance requires that an archeological survey be done to identify if there are any archeological sites or burial sites on the property. I have talked to Ms. Ensey from the State Historic Preservation Office and we are working with an archeologist right now to send the letters. Their review of the property has not shown any archeological or burial sites on the record. We do need to get a letter of formality back to them so they can concur with that. We also received a letter from the State Engineers Office regarding the restrictive covenants that have been included as part of the package in the homeowner's association. In the water budget that we identified we failed to include some exterior irrigation for plants and flowers and those types of things and are in the process of amending our water budget and working with them to receive a favorable response. That is the only negative we have received. The Conservancy District also submitted a letter and their concern and interest is to make sure that when the subdivision goes through they have a record of the property owners for each individual lot so they can do their assessments in their taxes. It will also have the record of who is going to be irrigating the property and such as the lots are sold. The last letter was from the New Mexico Environment Department. We have been coordinating with the Environment Department to make sure the septic systems we are proposing to install comply with the regulations. They are in favor of the conditional septic systems that we are proposing for the property and as the lots begin to develop and we come to that point we will be going through the right permitting process to get those permits in place. Let me talk about the subdivision itself and what the courts required. There is an average of 2.12 acres per lot indicated by the court order, of which only six thousand square feet can be impervious-asphalt, roof-top whatever you want to call it of the lot. There is only a portion of the lot-averaging about three tenths of an acre that can actually be developed with a yard, house or accessory buildings. The remainder of the lot has to be in agricultural use. As we look at the plat, the proposed roadway that is there are the building areas. (Mr. Garcia showed the Commission a poster size photo of the subdivision) The checkered area is the building lot area per the court decision.



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What we had proposed is actually a smaller area initially for each one of these lots, enough to get a twenty-four hundred square foot building pad, a driveway and maybe a little space for a carport or something of that nature. That is what the developer is going to provide. The only reason we minimized it to that is to make sure that the rest of it is in green-scape. We have agriculture and grass growing so it doesn't become unsightly as we are developing the project and selling lots. We want to make sure the lots and subdivision are very attractive and is a benefit to the neighborhood and not a detriment. The other part we are proposing to do is along the entire right of way for the roadway, the corridor, is construction of a Kentucky type three-rail fence or something similar to that. The roadway into the subdivision will be paved. As far as terrain management, the property is within the one hundred year flood plain so we are going to be elevating the building pads up about three feet to be outside of the flood plain. The roadway itself will be elevated about two feet on the average so that it too is outside the flood zone and gives us an opportunity to flood irrigate the properties and keep the properties in production. There is a small trail that will access the Los Chavez drain for equestrian use also. In the covenants we have restricted a lot of the type of animals and the type of uses for those animals in that area so that it is an attraction and benefit to the neighborhood. There are a lot of controls if one is going to have animals on the property and what the individuals that are buying these lots are required to do. There will be access off Edmundo Road and there is proposed to have gated access and we are working with the fire department on preliminary on what is required so they can go in and help if there should be a fire in the neighborhood, but it will be a secure environment and our goal is to make this as attractive a subdivision as possible.

Commissioner Baca: Did I hear you say that the courts actually determined the amount of greenery that is there?

Mr. Garcia: Yes sir. As part of the document that was prepared the court identified how much of the area could be developed as yard and how much green-scape was going to be and it required that out of the thirty-six acres twenty acres be left in farming production.

Commissioner Baca: Are you in agreement with them or did you want to recommend a smaller area?

Mr. Garcia: We are in agreement with that. Initially, the developer was going to develop a smaller area than the footprint allowed. There are a couple of these lots that have a huge footprint that we feel could be unsightly due to the potential for weeds and those things if the lots are not developed. So we provided enough space to get a house and accessory area and if the purchaser at that point and time wants to expand that there is that flexibility to do so.

Commissioner Moran: I have questions regarding the covenants. Are you going to amend the covenants to address the additional water savings as recommended by the Water Use and Conservation Bureau?

Mr. Garcia: Yes we are.

Commissioner Moran: Have you already filed these covenants with the County?

Mr. Garcia: We have not. We have to go through the subdivision approval process and once it is approved I believe at that point and time we file the covenants.

Commissioner Moran: In the lot size and dwelling, it states the dwelling shall be no less than two-thousand square feet. Are you saying two-thousand heated square feet or roofed square feet? It might be something for you to consider.

Mr. Garcia: It is our intent to have that as heated square feet.





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Commissioner Moran: I think you need to note it in the covenants and clarify it. Also, I see you have a trash ordinance in here in A-23 and there is going to be a new trash ordinance approved by the County so you may want to know a little bit about that. Also, regarding your funds assessment and collections-you have a cap on the increase. How is that calculated per year? How are you going to increase it? I know there is something stating that you can increase it, but I am wondering-if I were an owner, I would want to know how you are going to do it- consumer price index, the need, etc.?

Mr. Garcia: Our intent is to see what the improvements are, amortize it over the service life and then try and find a balance so that as the service life of the road way is starting to deteriorate that there is enough money in the fund. A lot of this is based on what rate those lots do sell because as long as Mr. Whisenant and Barela own the properties, obviously they are funding the maintenance on there. So it is only as the properties are being sold and the third party or the fourth party that purchase those come into play that we start looking at that assessment so I don't think there has been a determination made at this point and time but we have had that discussion on how to try to amortize that so that there is a fund for the maintenance and upkeep of the infrastructure so that it remains in that kind of condition through its life, not necessarily just through the inception and sale.

Commissioner Moran: So will you be building spec homes or if I bought a lot would there be a period of time for which I would be expected to build?

Mr. Garcia: There has not been a decision made, I think it is more that there are some architectural styles through a committee that would be acceptable. We want to try to keep some type of control over the lots, but it's more allowing the customer to have a custom home to be constructed. What we are doing though is setting up the location of the house on that pad that can be set so that we have uniformity.

Commissioner Gurule: Are you going to be selling the lots in phases?

Mr. Garcia: I don't know the answer to your question. I know they are working with a realtor on that aspect of things but my focus has been trying to get everything to this point and then build as we go along.

Commissioner Gurule: How long will it take you to comply with all these requests?

Mr. Garcia: We have been working on this (inaudible) to get to this point. Before we submitted the full package to your staff, we tried to make sure we met with all the different state agencies that would be reviewing it so that they are familiar with what had been going on and then what we proposed is compliant with the regulations so that as the review came about it was something they had seen before and hopefully got a favorable response from.

Commissioner Baca: For my own knowledge, I was reading how they are going to organize and who is going to be overseeing the whole process and there are two people that are actually the ACC Committee members and as time goes on I guess some members will be elected to it and there is also a home owners association and there is also the P&Z. There are a lot of people that are overseeing this. Could you elaborate a little bit in terms of how it is going to work because I am not totally in tune with what is going to happen as soon as they sell all the lots? Is the homeowners association going to take over, the P&Z, or who is going to be controlling the area?

Mr. Garcia: The intent is obviously when two people own the property they are everything. As the lots sell, you are automatically a member of the homeowners association and as the base is developing then officers for the home owner association will be elected and then it takes its own strength. The Architectural Controls Committee is for the same reason. We don't want to sell a lot and somebody comes trying to do something that is very out of the norm for



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the subdivision. It is just a matter of trying to keep a quality of the type of construction, home, look, architectural style for that area.

Mr. Martinez: If I may clarify a little from the Planning & Zoning perspective. It is within the unincorporated jurisdiction of the County which means that they would be an RR-2 district which means the land owners would still have to abide by our rules and regulations. That includes home occupations and anything like that. Not unlike other neighborhoods where they have a covenant, if the covenant is stricter then the HOA can go ahead and have jurisdiction over that covenant and the P&Z administration would not have jurisdiction over it, but their covenants cannot be more lax than our rules and regulations.

Commissioner Louie: Regarding the monthly dues, you are collecting for upkeep of the road? Is that one of the areas you will be looking at to spend money?

Mr. Garcia: Yes, for the common areas and the conservancies

Commissioner Louie: I assume the fence line going into the development would fall into that as well?

Mr. Garcia: The access up to where the lots begin, yes.

Commissioner Louie: Would the security gate also come into it?

Mr. Garcia: Yes sir.

Commissioner Louie: Is there a perimeter fence around the subdivision?

Mr. Garcia: There is an existing perimeter fence and we are working with the property owners currently to see if...it is in very good shape except on the north west side of it there is actually some encroachment into this property and we are in the process of working with that property owner to remove that encroachment because it will affect the irrigation we will be putting in to serve the two southern lots.

Commissioner Louie: Are you putting in piping for irrigation?

Mr. Garcia: Yes.

Commissioner Louie: Will that fall under that monthly fee?

Mr. Garcia: No sir. That irrigation line will be the responsibility of those owners. We have an easement going through the northern lot to allow those two properties a chance to irrigate but the responsibility of those will be theirs.

Commissioner Louie: Is that the easement for lots eleven and twelve?

Mr. Garcia: I believe so. No it is for lots one and two. It goes through lot three on the west end. There will also be an easement across the roadway for lots thirteen, fourteen and fifteen. There is an existing concrete ditch between lot eight and lot nine that goes north to south and will essentially stop at the roadway and from that point we will be going underground to serve lots eleven through fifteen and on the west side we will run a line through lot three to serve lots one and two.

Commissioner Louie: So the gating of the irrigation ditch and all of that is the responsibility of the homeowner?

Mr. Garcia: Yes that is correct.



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Commissioner Louie: Is the perimeter fence the responsibility of the developer or not?

Mr. Garcia: It would be the responsibility of the lot owners that share the properties.

Commissioner Moran: It is my understanding that roads within a gated community cannot be accepted by county for maintenance, so this will always be a private road is that correct?

Mr. Garcia: Yes.

Chairman McCartney: Did Mr. Whisenant or Mr. Barela meet with the other neighbors through this mediation process? I recall when this item came up before and there was a packed house here and obviously there have been some concessions made on both sides.

Mr. Garcia: Yes that is correct. Mr. Whisenant has been in discussion with the neighbors for the last forty years that he has owned the property and is finally at the point where he wants to retire and this is his retirement essentially but I do believe there has been a lot of discussion.

Chairman McCartney: Will this gated community have their own separate covenants from the rest of the community?

Mr. Garcia: Yes that is correct.

Chairman McCartney: Mr. Martinez, in regards to the negative comments from the State Engineers Office, we can go either one of three ways correct? We could table it, recommend it, or not recommend it.

Mr. Martinez: That is correct.

Commissioner Baca made a motion to recommended approval of the preliminary plat of Rancho De Los Chavez.

Commissioner Louie seconded the recommendation.

Roll Call Vote:

Commissioner Moran-Yes

Commissioner Baca-Yes

Commissioner Gurule-Yes

Commissioner Louie-Yes

Chairman McCartney-Yes

7. DISCUSSION

8. NEXT MEETING

Tuesday March 22, 2016 @ 3:00 pm

9. ADJOURNMENT

Motioned by Commissioner Moran

Seconded by Commissioner Baca

Unanimously approved