



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

**March 27, 2013**

**4:00 PM**

**Valencia County Courthouse Commission Chambers  
444 Luna Ave, Los Lunas, NM**

- 1. CALL TO ORDER**  
**Commissioner Artiaga**
- 2. PLEDGE OF ALLEGIANCE**  
**Valencia County resident Jerry** (last name not provided)
- 3. APPROVAL OF AGENDA**  
**Commissioner Artiaga** stated that there was a request by the petitioner that items B&C on the agenda be switched around.  
**Commissioner Milam** motioned to approve the amended agenda.  
**Commissioner Jarmillo** seconds the motion.
- 4. APPROVAL OF MINUTES: February 27, 2013**  
**Commissioner Milam** motioned to approve minutes as written.  
**Commissioner Baca** seconds the motion.
- 5. SWEARING IN OF PARTICIIPANTS**  
**Commissioner Artiaga**
- 6. ACTION ITEMS**
  - A. REQUEST FOR A CONDITIONAL USE COMMERCIAL/INDUSTRIAL FOR AN EQUINE THERAPUETIC PROGRAM: Legal Description: T7N, R2E, Section 36, Map 77; Berryhill Farms; Block 1, Lot 38 & 39; Zoned RR-2; Filed in Book 366, Page 13132, of the office of the Valencia County Clerk; Also known as 1 Berry Hill Farms Rd., Los Lunas, NM 87031.**

The petitioner stated that her name is Sydney Tool and that she is the Executive director of the program. After explaining the program and the traffic congestion it could cause, as well as several neighbors speaking in opposition to the request, the petitioner withdrew the application.

**Commissioner Artiaga** called for a 5 minute recess.
  - B. REQUEST FOR A ZONE CHANGE FROM C-1 TO C-2: The Broadway Group, LLC: Legal Description: T6N, R2E, Section 20; Map 87; Lands of Marlin Frettem; Parcel F; Zoned C-1; Filed in Book 344, Page 4552 of the office of the Valencia County Clerk; Also known as 19720 Highway 314, Los Chavez, NM. 87002.**

**Mr. Skarsgard** stated his name is Josh and his address is 8220 San Pedro Dr. NE, Suite 500, Albuquerque, NM. 87113 and that he is the land use attorney representing the Broadway Group, LLC., and proceeded to introduce the teammates in attendance, Brittney Whittley from Alabama, Bernadette Barron, Samantha Walker and Matt Reeds.

**Mr. Skarsgard** stated that this is a zone map amendment, a zone change request which is governed by 4.7.2 in the Valencia County Zoning Code. The criteria for a zone change are: is the change consistent with the goals and policies of the comprehensive plan, we believe this change from C-1 to C-2 is a minimal change and the only reason they are before the commission is because in the C-1 section of the zoning code it allows for general retail of up to 5,000 square feet and the proposed store is 9,000 square feet and would have been allowed in the C-1 zone but for that it is 4000 square feet bigger than was typically allowed. **Mr. Skarsgard** stated that the character of the neighborhood surrounding this property is commercial, there are a couple of surrounding properties zoned C-2 and does not feel this is a dramatic zone change. Section 4.7.2 (B) asks for the surrounding land uses, the densities and the pattern



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of development in the area, again-commercial and does not feel the zone change would be counter to the health and safety and welfare to Valencia County.

**Mr. Skarsgard** stated his client engaged Lee Engineering to do a traffic study and these variety retail stores do not generate a lot of traffic. They generate about 40-50 trips per day, so one of the criteria in the zone change is 'does this adversely impact the community', we do not believe there will be an adverse traffic impact if this property is zoned from C-1 to C-2. **Mr. Skarsgard** stated that he does not believe there is any noise or odor problems that would result from this variety of retail store due to the fact that Dollar General will most likely be the tenant and Dollar General does not sell wet goods, they sell dry goods and some freezer goods, and the only noise implication would be the 40 or 50 cars that enter the building daily, so there would not be a dramatic impact on that as well. The hours of operation is 8 a.m. to 9 p.m., they close strictly at 9, and there are 7 to 10 employees, pretty high paying jobs that would be good employment opportunities for some of the younger citizens in the community. We are in a recession and there are young people in our community that cannot find a job and this would be a needed job opportunity for some residents in this community. The anticipated traffic we said was 40 to 50. It is a general retail store. They sell name brand goods, you will see some Doritos, Colgate some name brands, some general retail goods. Sometimes Dollar General will have their own brand on the products, you will see a DG on there. The spirit behind Dollar General is to be high quality retail products closely located to communities that do not have access to great retail. One of the big things on these stores is that often times folks in small or rural communities have to travel large distances to go to a Target or a Wal-Mart or a Smith's or an Albertson's. What the Dollar General will do is get you the same name brand products just closer to your house. It is very convenient and reduces trip counts to a Wal-Mart and therefore reduces green-house gas emissions. It provides a convenient place for people to shop. **Mr. Skarsgard** stated that the Zone Change from C-1 to C-2 is very minimal and would not have been before the Commission if it had been 4,000 square feet smaller. The operator is good, the company that builds the building is reputable, they want to use local contractors, be good citizens, and feels it would be a welcome addition to this community, and based on section 4.7.2 which is the Zone Change criteria it meets A,B, & C. **Mr. Skarsgard** stated that Brittney Whitley and he would stand for questions and that Ms. Whitley had copies of the site plan to be distributed to those who would like one. **Mr. Skarsgard** also stated that he was not aware that there would be so much neighborhood and community interest in this because it was C-1 to C-2, and he would like to give out his telephone number and e-mail address and set up a meeting with interested members of the neighborhood to go over the site plan, etc. to assuage any concerns regarding parking, design and other issues. **Mr. Skarsgard** stated he would now stand for questions.

**Commissioner Gaudette** stated that **Mr. Skarsgard** stated that there would be 9-10 employees but on the application he stated there would be 3-4 employees, did he mean on site at one time?

**Mr. Skarsgard** stated yes.

**Commissioner Baca** stated that **Mr. Skarsgard** did mention that they were going to be high paying jobs, and asked **Mr. Skarsgard** to define high paying.

**Mr. Skarsgard** stated that typically this type of retail store hires younger members of the community and pays them...**Mr. Skarsgard** stated that he is not there on behalf on Dollar General, and represents the Broadway Group, and should not speak for Dollar General, but these of retailers do bring jobs into the area. **Mr. Skarsgard** stated that these types of variety retail stores do bring in between 1.8 and 2 million dollars in gross sales, which translate into about \$140,000 in additional tax dollars, and both employment and tax revenues are an important element to consider.

**Commissioner Jaramillo** stated you said you would like to talk to the community about your plan here and it appears here that your entrance is off of a private road, can you kind of give us some...

**Mr. Skarsgard** stated that that road is shared with a private property owner and that his client is purchasing the property from the private property owner that owns the adjacent tract, so that private road would be a contractual obligation that is spelled out in the purchase agreement but it would be paved by his client, the Broadway Group, that provides easy access into the property. It comes off of



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State Highway 314, it's only one curb cut, there is a septic area, and they are going to have to drill a well, so it will be paved and paid for by his client.

**Commissioner Jaramillo** stated that on 314 it is a highway but people drive on it like a freeway and he does not see any deceleration lane or acceleration lane out of there into there and did they have any concerns about that or have they spoken to DOT about that.

**Mr. Skarsgard** stated that Lee Engineering has done a comprehensive traffic impact that suggested no deceleration lane was required, and would be able to provide a copy of the e-mail.

**Commissioner Jaramillo** asked what the findings of the study were and if DOT accepted the findings of that study.

**Mr. Skarsgard** stated that the finding has not been submitted to the DOT yet but the traffic engineer has been in constant contact with the NMDOT, and would keep the Commission abreast of the discussion, but knows the finding was that no deceleration lane was required. Mr. Skarsgard asked Ms. Whitley if that was correct, and then stated that the DOT has not reviewed it and should be careful, and that until the DOT reviews the finding Lee Engineering was of the opinion that a deceleration lane was not required off of 314, and whether NMDOT agrees with that we will see, but the traffic study suggests... you know these variety retail stores are about 40-50 trips per day, it's not a dramatic...

**Commissioner Jaramillo** stated but it is only one trip of somebody going at a high rate of speed that can cause an issue so, I've been down that road a couple of times and cars do seem to drive faster than the speed limit believe it or not there, and just somebody turning in could be an issue, so he is asking since the commission was not presented with those findings.

**Ms. Whitley** stated that the traffic engineer has done a traffic impact study already and it will be submitted to DOT and if they require a deceleration to be put in they will do it to be in compliance for their permit.

**Commissioner Milam** asked who's expense would the crossover to the North bound lane be and would there be a deceleration and acceleration lanes on that side as well.

**Ms. Whitley** stated it would depend on what NMDOT requires them to do.

**Commissioner Milam** asked when she expects the traffic study.

**Ms. Whitley** stated she believes the traffic study is almost complete and should be able to be submitted to DOT any time.

**Commissioner Milam** asked if this is why it wasn't in the package.

**Ms. Whitley** stated yes.

**Commissioner Milam** stated he did not see a drainage study in the package either.

**Commissioner Artiaga** asked if there was a drainage study.

**Commissioner Jaramillo** stated a grating and drainage plan.

**Mr. Martinez** stated it would be in the section labeled site plan.

**Ms. Whitley** stated that if the drainage plan does not meet the approval of the commission it can be revised by the engineers.

**Commissioner Milam** asked what the future expectations for the property to the North of the site were.



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**Ms. Whitley** stated that the property is land locked, will not be utilized for the project and is extra land on the parcel, possibly a flag lot in the future.

**Commissioner Artiaga** asked if the only purpose of the septic is for restroom use and not for a kitchen.

**Ms. Whitley** stated yes and for disposing of water for cleaning.

**Commissioner Jaramillo** stated could you please tell us the process. You're the attorney, you're the developer.

**Ms. Whitley** stated she is the representative for the developer.

**Commissioner Jaramillo** asked how the process works.

**Ms. Whitley** stated her company leases the building to the retailer.

**Commissioner Artiaga** asked if there was anybody in attendance who is in favor of the project.

**Commissioner Artiaga** stated let the record show there is nobody is here in favor of the project.

**Commissioner Artiaga** asked if there was anybody here is opposition to the project.

**Mrs. Goode** stated her name is Delia Eileen and is a member manager of the Berlier Farms, LLC just north of this property on Highway 314 and she is in opposition to this type of retail business in this area and understands there are other commercial operations and they fit in well with the community but is opposed to this type of a variety retail store and thinks going into any area where this type of commercial enterprise exists there is a lot of additional trash, the plastic bags, the additional things that impact the neighborhood and she is in opposition to it for that reason. Some of the property that she owns according to the map sent with the public notice letter, is zoned C-1, and that is understandable because it is right on Highway 314, but she is there for agricultural use and knows that it is a ways for people to drive to either Belen or Los Lunas for Wal-Mart but there are plenty of options for people to do their retail shopping and she is really concerned about it being in this neighborhood. **Mrs. Goode** stated that she is very concerned about the traffic pulling out onto Highway 314. In her 50 something years she has seen some really horrendous accidents on that highway and she is very concerned having acceleration and deceleration lanes.

**Commissioner Artiaga** asked **Mrs. Goode** if she lives right by this area.

**Mrs. Goode** stated she owns the Berlier Farm at 19740 Highway 314 and lives in Albuquerque.

**Commissioner Artiaga** stated it is the property near the proposed site and asked if it was right across from Toby's doors.

**Mrs. Goode** stated a little farther North and across from Demacio Garcia's.

**Commissioner Artiaga** stated she was clear on the area and asked if Mrs. Goode owns an agricultural parcel or a rental.

**Mrs. Goode** stated they have a little over 50 acres a few houses north of the site.

**Commissioner Artiaga** thanked **Mrs. Goode** and asked if any of the other commissioners had any questions. There were none.

**Mr. Herrera** stated his name is Richard and he lives at 19715 Hwy 314 which is directly across the proposed site and he has several issues with this business moving in here. **Mr. Herrera** stated that first off all this is a farming community and because of the tractors, trailers and livestock personnel all day long up and down and the road, he knows they say they have done a traffic study but he knows what



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those traffic studies are, they are the little lines that go across the road and they don't check for the guys that are standing up on the back wheels of their motorcycle going 80 mph down that road 4 or 5 times a day as well as the tractors and livestock trailers going in and out and feels it is going to be dangerous.

**Mr. Herrera** stated they are pulling in on a 20 foot wide dirt road, taking up farm land, and going to eradicate a house that is already there in the middle of this property. **Mr. Herrera** stated the biggest issue that he and some of his neighbors have discussed is the Dollar General store's generate a lot of people who are not able to drive and is concerned with the potential foot traffic through the residential properties as well as the potential for vandalism. **Mr. Herrera** stated that the Wal-Mart in Belen is only 2 ½ miles from this site and people would be going down John Rd and Jose I. Garcia Rd. to get there and would not be going by the proposed site. **Mr. Herrera** stated that he has a small retail store across from the site and on a good day he gets about 20 cars stopping there and feels the traffic generated will be double the 40-50 stops anticipated by the petitioner, and could possibly hinder his business. **Mr. Herrera** also stated his concerns with the cross over across from the site and the acceleration and deceleration lanes on both sides of the highway.

**Commissioner Gaudette** asked **Mr. Herrera** what his retail business is.

**Mr. Herrera** stated he sells chili products and rents U-Haul trailers/trucks.

**Mr. Herrera** stated that the petitioner stated they will be building the building and leasing it out and using local contractors and would like to know who the local contractor will be.

**Mr. Skarsgard** stated they do not who the contractor will be.

**Commissioner Artiaga** thanked **Mr. Herrera** and stated that all questions such as these will be noted, and after everybody has spoken the applicant will be recalled to answer and address these questions.

**Mr. Garcia** stated his name is Joseph and lives at 19738 Hwy 314, and his concern with this project is the devaluation of the property in which he resides, as well as the adjacent homes that dot the area and the increased traffic and potential traffic accidents, as well as the reduction of the green belt in the area.

**Commissioner Artiaga** asked Mr. Garcia if the petitioner would be in favor of the zone change if it was a smaller retailer store, siting that the only reason the petitioner is asking for a zone change from C-1 to C-2 is the size of the retail space.

**Mr. Garcia** stated no and his home is on a quarter acre lot and has been a family home since it was hand built by his grandparents, and his other concern is whether by allowing retail companies to start building within that area prompts him to wonder whether Planning & Zoning and the County Commission will also eventually use that to justify building a road that extends from Interstate 25 all the way across the river.

**Commissioner Artiaga** thanked **Mr. Garcia** and asked if the commission had any questions for him.

**Ms. Russo** stated her name is Stephanie and lives at 1055 Miller Rd. and is opposed to this change because this is an agricultural area and would like to see it remain as such as is one of the reasons she moved here. Ms. Russo also stated that she hauls livestock on 314 as well and when people pull out in front of these haulers it can cause a wreck. Ms. Russo stated that the petitioner stated that having a store more convenient in a rural area could reduce the green-house gas emissions, and would argue that building the property and the maintaining of that property would outweigh any of that in any general sense, as well as any agricultural property as many of the farmers do know that that can reduce green-house emissions as well by keeping it an agricultural based area. **Ms. Russo** thanked the commission.

**Commissioner Artiaga** asked if there were any questions for **Ms. Russo** and thanked her.

**Commissioner Artiaga** asked if there was anybody else who wanted to speak in opposition to the project and asked for a show of hands from residents living in Los Chavez and are opposed. There were a total of 9 hands raised.



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**Mrs. Padilla-Gutierrez** stated her name is Rita and that her presentation will be overlapping for both project coming before the commission.

**Commissioner Artiaga** stated that she wanted to clarify that **Mrs. Padilla-Gutierrez** would only be making this single presentation as there were many residents wishing to speak on the Tome project as well.

**Mrs. Padilla-Gutierrez** stated yes. **Mrs. Padilla-Gutierrez** stated she has done some research and the business concept models that these Dollar General stores have, and they have a sense that they think they have studied a community to do business analysis and buying practices and start to target communities that they think are poor, these being her words, so they bring in these stores with inferior products, in her opinion, and target these communities because they think they have done some analysis of the nature of the community, and she does not feel that these studies are accurate.

**Commissioner Jaramillo** asked how they are different and what is the error in the demographic study, and what is it about the community that they are not noticing?

**Mrs. Padilla-Gutierrez** stated she does not feel that they study the agricultural, cultural, traditional, and historic value of a particular community and feels they just want to build a store and sell products basically and does not feel that they are doing research enough that really looks at the community, and that Mr. Skarsgards offer to meet with the community should have come before the meeting.

**Commissioner Jaramillo** asked how it is that the people are different. Do they not eat Dorito's or shop at these stores?

**Mrs. Padilla-Gutierrez** stated she is not sure what Commissioner Jaramillo is asking.

**Commissioner Jaramillo** stated you say they do demographic studies and they say that there is a certain type of people that shop at our store. Can you tell us how the people of the communities you are speaking of are different than what they perceive them to be?

**Mrs. Padilla-Gutierrez** stated that she thinks the analysis looks at things like the income per capita, employment rate of younger citizens, non- graduation rate, or whatever it may be, and that this makes our community look different.

**Commissioner Gaudette** stated that the petitioner is going from a C-1 to C-2 simply because of the size of the building being put on the property, and asked if it would make a difference if it was say a feed store going in or is it the size of the building or the potential tenant that she is opposed to?

**Mrs. Padilla-Gutierrez** stated both.

**Commissioner Jaramillo** asked if the tenant was a local person that built a general store would make a difference to her.

**Mrs. Padilla-Gutierrez** stated depending on the size and what services they were going to provide and if it fit into the community, it would make a difference to her.

**Commissioner Jaramillo** stated so if it was 9,000 square feet, it was a local owner who gave similar services and products.....

**Mrs. Padilla-Gutierrez** stated again depending on what the community wanted or didn't want it would make a difference. Whether it is a local person building 9,000 square foot or 500,000 square foot store, to her it would make a difference. **Mrs. Padilla-Gutierrez** went on to site various dates and locations of Dollar Generals that had sustained armed robberies and that this relates the 2<sup>nd</sup> case as well and this is the kind of traffic that these kinds of stores in her opinion brings to a community that is supposed to be pristine, agricultural and historic, and both Los Chavez and Tome were established in 1739 coincidentally, and these stores do not fit with what they are about and thanked the commission.





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**Commissioner Artiaga** thanked **Mrs. Padilla-Gutierrez** and recalled the applicant. **Commissioner Artiaga** stated there were a few questions brought up by the people and the first one was have you hired a contractor or chosen one yet.

**Ms. Whitley** stated they are starting to get bids and have put bids on hold until after the Planning & Zoning meeting and has called one of the neighbors in Tome for the septic for that site and are trying to get as local as possible.

**Commissioner Artiaga** asked if they are trying to use local contractors as much as possible.

**Ms. Whitley** stated as much as possible.

**Commissioner Jaramillo** asked how the demographic studies are done, and wants to know when they look at a community how do they go about and say this community would fit us correctly, do you take into consideration not just what is on paper, maybe like **Mrs. Padilla** said, the characteristics of that unique community and how you fit in.

**Ms. Whitley** stated she could not speak specifically for Dollar General because they give her company points, a coordinate essentially of where they want or feel a store is more needed based on the proximity of other services.

**Commissioner Artiaga** stated so it is not based on demographics as much as the location of similar services.

**Ms. Whitley** stated she is sure demographics have something to do with it but that her company does not do that. Dollar General gives them a location and tells them to put a store as close to that point as possible, and it is more of a convenience factor.

**Commissioner Jaramillo** asked if they would make special concessions for a community that had unique characteristics to it, such as in Santa Fe where the building is designed more to the style of the area.

**Ms. Whitley** stated the they have in the past, architecturally worked with a city to get an architectural style that was more coherent to the area, and are willing to do that, and would also have to be approved by Dollar General.

**Commissioner Milam** stated that under the current zoning on C-1 it is for 5,000 square feet and would like to know if the petitioner would consider remaining a C-1 vs. trying to go to a larger store with the reason being that the population in that area being minimal.

**Ms. Whitley** stated that the 9,000 square foot store is the smallest they have and the sales floor itself is only 7,000 square feet.

**Commissioner Milam** stated he would like to know who is will be responsible for the acceleration/deceleration lane that DOT may/may not request.

**Ms. Whitley** stated either her company will be or it will be worked out with the seller of the land, and the and their parcel is owned by the entire...on both sides of that private drive and they will work with the seller of the land to see whether or not he is partially responsible, but they will work it out and if it is required by DOT they will make sure it gets done, and who is responsible for it.

**Commissioner Milam** stated that he was referring to the north bound traffic, and who will be paying for the cross over from the north bound lanes, as people will not always be coming in from the south.



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**Mr. Skarsgard** stated the answer to that question is that when Lee Engineering issues their report, they hand it to the NMDOT and any mitigation effects as a result of this retailer, will be borne upon the retailer.

**Commissioner Milan** stated he needed clarification on the statement that there will be X amount of dollars coming into the county, and would like to know what that figure is and what is it based on, referring to the gross receipts tax.

**Mr. Skarsgard** stated similar rural community located Dollar Generals are about \$1.7 to \$2 million on average, and that is a gross receipts number, and the gross receipts tax rate in Valencia County is 7%, more or less and equals \$140,000 annual in tax receipts. **Mr. Skarsgard** stated that on the point **Mr. Herrera** made about this being a farming community and a house would be eradicated, there is always a problem when a long strip of property is zoned commercial, and north and south of this property is C-1, and when there are homes located in this type of zone sometimes they don't want to be in C-1 because it is a commercial spirit because the zoning around it is commercial, so no one is trying to eradicate a house, they are trying to take a residential application, a home, and turn it into its underlying zoning which is C-1, granted it's 4,000 square feet bigger than the C-1 would allow which is why we are asking for C-2, and everyone respects that this is an agricultural community but this property is zoned commercial in an agricultural community and Dollar General does it's studies on where are communities underserved for access to good retail, that's it, whether you deny this or accept this this community will continue to be underserved. **Mr. Skarsgard** stated that the concerns regarding traffic and safety will be taken care of as they have to follow NMDOT regulations. **Mr. Skarsgard** stated the various permissive uses of C-1 zoning and stated that general variety retail is very mild for what could be done in a C-1 zone.

**Commissioner Artiaga** asked how long it takes to put in a permit to the state highway department and for them to come up with an idea of what needs to be done to make it safe.

**Mr. Skarsgard** stated about 2 to 4 weeks.

**Commissioner Artiaga** asked how long it takes to come up with finished traffic study to present to NMDOT and for the commission to look at in regards to the acceleration/deceleration and crossover lanes.

**Mr. Skarsgard** stated that it could take about 2 weeks after Lee Engineering finishes and turns it in to NMDOT, but did not have the study available as the petitioner did not know that was required for the zone change.

**Commissioner Artiaga** stated that apparently it is a big factor to the community, and that at the beginning of the meeting **Mr. Skarsgard** had offered to give his name, phone number and e-mail address to the people in the audience that were concerned about this, and wished he would have done this ahead of time to talk to them and explain all of this before coming before the commission, and would like to discuss this further with the P&Z commissioners in regards to their thoughts and comments and then will entertain a motion.

**Commissioner Gaudette** stated that if they are going to put up this building, they are either going to comply with NMDOT regulations as well as other agencies that will have to do inspections or they won't and will not be able to build.

**Commissioner Milam** asked if a drainage study had been provided for the site yet.

**Mr. Martinez** stated that it was included and will have to meet county requirements for the site plan.

**Commissioner Gaudette** stated it is the same issue with drainage, if the plan meets the requirements, it meets the requirements, if they are told to do something else, they are either going to comply or walk away from the project.

**Mr. Skarsgard** stated he would like to set a date and time before the County Commission meeting to meet with the public.





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**Commissioner Artiaga** asked Mr. Martinez to explain the procedure to the audience and the commission, if the commission made a motion to approve or not to approve the recommendation, what the next step would be.

**Mr. Martinez** stated that the applicant is going through a type C process for a quasi-judicial zone change and what the process states is that the applicant first goes in front of the Planning & Zoning Board, the Planning & Zoning Board at a public hearing, hears it, makes a recommendation, they don't make a vote, they make a recommendation, to the Commission. The Commission then hears it and the Commission makes the final determination on the zone change itself, and this is the first step in the type C process.

**Commissioner Artiaga** stated she would entertain a motion.

**Commissioner Jaramillo** made a motion to deny the petitioners request.

**Commissioner Milam** seconds the motion.

**Commissioner Artiaga** stated she would like Mr. Martinez to read the motion back.

**Mr. Martinez** stated there is a motion made for a recommendation to the commission to deny the zone change request, and called for a roll call vote on the motion.

The roll call vote is as follows: **Commissioner Milam** votes yes. **Commissioner Gaudette** votes no. **Commissioner Jaramillo** votes yes. **Commissioner Baca** votes yes. **Commissioner Artiaga** votes yes.

**Mr. Martinez** stated there has been a recommendation to the County Commission to deny the zone change request.

**Mr. Skarsgard** stated he would still like to set up a meeting with people from Los Chavez.

**Mr. Martinez** stated the appropriate arrangements would have to be made and interested parties should make available their names, addresses and phone numbers on the sign in sheet.

- C. REQUEST FOR A ZONE CHANGE FROM RR-2 TO C-2: The Broadway Group, LLC:** Legal Description: T6N, R2E, Section 21; Map 88; Tract C-1; Zoned RR-2; Filed in Book 364, Page 3889 of the office of the Valencia County Clerk; also known as Land of Russell and Jeanette Romero, Tome, NM. 87023

**Mr. Skarsgard** stated his name is Josh and his address is 8220 San Pedro Dr. NE, Suite 500, Albuquerque, NM. 87113. Mr. Skarsgard stated the use is the same as the previous case, same client and same tenant. It is 9,000 square foot variety retailer, and this request is a zone change from RR-2 to C-2, the property is about 2 acres with access off of Sedillo Dr. with 2 curb cuts to Sedillo Dr. Mr. Skarsgard also stated that there are site plans available for the audience. Mr. Skarsgard stated the property will be serviced with a septic system and a well for water, the proposed drainage plan is to retain the storm water on site and have it infiltrate and evaporate, with minimal impacts to the environment which are comparable to the previous case in regards to odor and noise, however he does have the traffic impact study available and the conclusions of the study...

**Commissioner Gaudette** stated to the audience to please keep the noise down and give the speaker the respect he deserves.

**Mr. Skarsgard** stated that the traffic impact study suggests 40-50 trips per day with an average of about 3 cars per hour, the store will be open from 8 a.m. to 9 p.m., and there are not any suggested mitigations such as traffic signals, acceleration/deceleration lanes or yields because of the summary from Lee Engineering which is as follows: Based on the collected



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peak hour data, traffic demands at all of the studied intersections are very light and therefore will not satisfy any traffic signal warrants at this time therefore traffic signal control is not needed at any of the studied intersections and current traffic control is recommended to remain. In other words the intersections don't need any changes. There are 220 cars that come from north bound, and 220 cars that go from south bound, a total of 440 cars that pass the subject property every day...

**Commissioner Artiaga** stated that she was going to stop the speaker for one moment as there was a lot of talking in the back of the room and it's difficult to hear the person speaking as well as being very rude and if anybody wanted to get up and speak they would be allowed to do so without interruption and if they feel they need to have discussion with others please take it outside to the hallway.

**Mr. Skarsgard** stated that 3.5 to 4 cars per hour are anticipated at this variety retail store, with 7-10 employees, as well as the gross receipts that would be brought in to Valencia County, and the zone change is justified based on 4.7.2 A,B & C which are the three criteria for a zone change, and what is important to note on this property is that there are two points of access to the parking lot both off of Sedillo, and the applicant, the Broadway Group has committed to pave that portion of Sedillo to accommodate the traffic and keep dust levels down on the property and will now stand for questions.

**Commissioner Milam** asked if the statement regarding acceleration/deceleration lane on highway 47 was correct.

**Ms. Whitley** stated they had met with the traffic engineer earlier that day and that north bound did not warrant a deceleration lane and south bound was just barely over the threshold and a right hand deceleration lane turning onto Sedillo Rd. could be considered however it encroaches on the art gallery, and would be hard to fit it in.

**Commissioner Jaramillo** asked if Ms. Whitley's group feels it warrants a deceleration lane.

**Ms. Whitley** stated the traffic engineer does, but because of the way the road comes to a point with the other two intersections and the art gallery being the traffic engineer did not recommend having one, and the traffic analysis had been submitted to NMDOT earlier that day and whatever stipulations NMDOT makes they will comply with.

**Commissioner Milam** asked Ms. Whitley was going to be done with the additional space on the property next to the drainage pond, and would it be for possible expansion.

**Ms. Whitley** stated there would not be any other expansion. .

**Commissioner Gaudette** stated he suspects there a lot of people in opposition to the store and was not going to speak for them, but seeing some of their material they believe this to be a rural area with great tradition, and would like to know what commercial buildings are nearby the site they would like to build on.

**Ms. Whitley** stated the Tome Art Gallery which is on the other side of Sedillo, and a veterinary clinic across the highway.

(Loud comments from the audience stating no)



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**Commissioner Gaudette** stated to the audience that the petitioner is going to go back their respective states and talk about Valencia County residents, and whether we are polite and respectful or rude and we should put on a good face for them.

**Commissioner Gaudette** asked if other than the art gallery it was residential and agricultural surrounding this property.

**Mr. Skarsgard** stated yes.

**Commissioner Gaudette** stated that being such a retail business in this type of area would kind of stick out and not be similar to what is in the neighborhood.

**Mr. Skarsgard** stated they feel that the Tome Art Gallery is a retail application on this intersection and feels that the roadways intersecting along with the art gallery give way to a commercial application, and that the art gallery is not a permissible use in the RR-2 zone and is guessing it was either grandfathered in or a successful zone change.

**Commissioner Artiaga** stated that would be addressed as the owner of the building of the art gallery would be speaking.

**Commissioner Artiaga** stated that the Tome area is so historic, very precious and a jewel of the whole county and one of the oldest settlements in New Mexico and probably in the new world, as well as the Tome Art Gallery being a historical building itself, why did they chose to want to do this kind of an enterprise so close to these historical buildings.

**Mr. Skarsgard** stated after speaking with his client they still feel this area of Tome off highway 47 is a dramatically underserved retail area, and the building as well as the property it would be built on are not in a historical overlay area, is not in a green belt, and not in a protected area according to his research, and residents have to travel a distance to purchase staple goods.

**Ms. Whitley** stated that again with Dollar General picking their points like that they knew Tome needed that convenience factor and this was one of the only parcels in the area that was not part of the land grant.

**Commissioner Artiaga** stated her daughter and grandchildren live in Pasitos and consider their home to be Tome, right up by the University, and it is true that they have to travel about 7 miles just to get a gallon of milk, and would like to know if the petitioner had considered putting their building higher up near the University near the large subdivision that is located in that area.

**Ms. Whitley** stated she was not part of the actual selection of this one particular site and believes it was closer to another similar store.

**Mr. Milam** stated he needed clarification as the petitioner stated that this would be dry goods store and recently stated that this store would have bread and milk and would like to know if there are going to be perishable goods.

**Ms. Whitley** stated there would be some freezer/refrigerated goods.

**Commissioner Artiaga** asked if there was anybody in favor of the petition. There were not.



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**Commissioner Gaudette** asked **Mr. Martinez** if he could please explain how the Tome Art Gallery is zoned and shed some light on that subject.

**Mr. Martinez** stated that the art gallery is zoned RR-2, and without doing any research feels it may be a non-conforming use that has been there for more than 10 years and therefore has continuing use.

**Commissioner Artiaga** asked for a show of hands in opposition.

**Mrs. Marie Gardner Schaffner** stated that she was speaking for many residents that could not be there due to work so could she hold up 20 fingers to represent those residents.

**Commissioner Artiaga** stated she was asking in order to gage how long to allow each resident to speak as the hour was already late, and it doesn't go by how many show up in opposition or in favor of something, it's what they have to say, so if the same people are saying the same thing over the point is understood, and all points will be taken in to regard on the subject. (There was a show of 22 hands from the audience who wanted to speak on the issue)

**Mr. Skarsgard** stated that in light of what has happened thus far he would like to set up a time to meet with the neighbors...

(Shouting from the audience)

**Commissioner Gaudette** stated what is up with these people.

**Commissioner Artiaga** state that there will not be any shouting from the back of the room, this gentleman came forward and is making a request to the commission and will listen to his request, and anybody who feels that they need to shout please go outside and not in this room, these are the rules from kindergarten, and we will obey them now.

**Mr. Skarsgard** stated that they are not trying to muzzle the comments, they want to meet with the community and hear them, and does feel this application is right for a 30 day deferral to be heard at the April Planning & Zoning Commission hearing to give them an opportunity to meet with the neighbors and understand their concerns.

**Commissioner Jaramillo** stated that one of the biggest issues has been the traffic, not just the study but the response from the NMDOT, and would it be expected soon because that may make a difference in this issue.

**Mr. Skarsgard** stated that he feels there will be comments returned from NMDOT in regards to the traffic study sent by Lee Engineering within 1 to 2 weeks.

**Commissioner Artiaga** asked the petitioner to clarify the fact that if NMDOT required a deceleration lane they would withdraw the application due to the location of the property.

**Ms. Whitley** stated that if NMDOT states they cannot get away with not having the deceleration lane, that it would be unsafe, if they cannot fulfill the requirements for NMDOT to obtain the proper permits, then yes they would withdraw their application.

**Commissioner Artiaga** stated that she would like a discussion with the commission whether they would like to table the application until the next P&Z commission meeting to allow the



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petitioner to get all of the needed information together as well as meeting with the Tome community or proceed as scheduled.

**Commissioner Gaudette** stated that there are many residents who took time off from work to attend this meeting and he feels it would be better to just hear all the testimony at one time vs. having to hear it at this meeting and then again at next month's meeting.

**Commissioner Milam** stated he agrees.

**Commissioner Jaramillo** stated he agrees.

**Commissioner Baca** stated he agrees.

**Commissioner Artiaga** stated she agrees as well and would like to hear the people who are opposed.

**Mr. Sanchez** stated his name is Ron from Adelino, NM and thanked the commission for allowing him to speak, and that he will be handing in a petition from the community and would also like to read a letter that the president of La Asociacion De La Merced De Clement which is Regina Smith, and if the chair pleases there are 4 people that would like to speak right away and then open it up for questions.

**Commissioner Artiaga** stated that the regular procedure will be followed and **Mr. Sanchez** will speak, the commission can ask questions, and then the next person will speak.

**Mr. Sanchez** stated that he is from Adelino, NM., a town named after his father who was born in 1896, just to let the commission know how far back they go, and to present the two petitions signed by residents of Adelino, Tome and surrounding areas. **Mr. Sanchez** stated the first petition is in opposition based on, but not limited to, increased safety and transportation insurance, proximity to historic sites, including the Tome church, the negative impact on greenbelt, agricultural, cultural and traditional lifestyles, and environmental and archeological issues are compromised. **Mr. Sanchez** stated the second petition is in opposition based on protest to the construction of any dollar store or any commercial enterprise located on the property of the west side of highway 47 just south of Most Anything Storage and north of Menard Rd. and contend that this decision was made administratively and permitted at an area/time period without adequate public notice to current property owners, that's lacking proper public discussion and transparency and therefore respectfully request that any current zoning or construction permits for this property be restrained and placed on hold until a full and open public hearing is held, and those are the two concerns. **Mr. Sanchez** stated he would like to read the letter from Virginia Smith and proceeded to do so.

**Commissioner Artiaga** stated that the issue of the second dollar store mentioned is not coming up before this commission and there is nothing they can do about that and the only item they can discuss is the case coming before them today.

**Commissioner Gaudette** asked Mr. Sanchez if he is opposed to any retail businesses coming into this location or is it just the Dollar General

**Mr. Sanchez** stated Dollar General as they are not compatible to anything in this historic area.

**Commissioner Gaudette** stated he was wondering if he just does not want any retail in there or if it was a different retailer would he be ok with it.



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**Mr. Sanchez** stated if it is agricultural he is fine with it, as they are an agricultural community.

**Commissioner Artiaga** stated that along highway 47, a lot that property is already zoned C-1, which is a separate issue, and if those people who own property zoned C-1 want to put in a store they should be able to put in a store, and feels that what **Commissioner Gaudette** was asking is if he would be opposed to any commercial enterprise in Tome, in the historic Tome, or just the Dollar General that he is opposed to.

**Mr. Sanchez** stated anything around the historical area.

**Commissioner Gaudette** asked if just specifically this site, not the greater Tome area, is he opposed to it being changed.

**Mr. Sanchez** stated yes, and offered the petition into evidence.

**Commissioner Artiaga** thanked **Mr. Sanchez** and accepted the petitions.

**Mr. Sanchez** stated that his name is Charlie Jr. and a resident of Tome and specifically live about 150 feet or so from the proposed zone change request. **Mr. Sanchez Jr.** stated that he has been asked to give the commission an overall perspective of what Tome is really like, what made Tome so historically important to our area, and also to let them know that first of all this specific site is a 6 point junction that consists of Sedillo Rd., Silva Rd., Romero Rd., Patricio Rd., and the north and south bound highway 47. **Mr. Sanchez Jr.** stated that he has lived there 30 years and can say that it is a danger zone and there is so much traffic there now that all he can see coming down the road for the future is more traffic, confusion, more accidents, fatalities and such and needs to be slowed down. From a historical perspective there are 4 sites in the Tome area that have been declared important historic sites on the New Mexico register, and include the Immaculate Conception Church that was built in 1753, the very first cemetery that is associated with the Immaculate Conception Church which is directly west of the proposed development, the Tome Hill which is also a historic site and in less than 2 days there will be the pilgrimage to the Tome Hill, which is important to many during this very important religious time, as well as the County Jail in which the County Seat was once held in the Tome Village, and most of these areas he is discussing are within 1/8 of a mile of the proposed site. **Mr. Sanchez Jr.** stated that he could not even imagine taking one of the most important historical sites in all of the Rio Abajo, which includes everything from Cochiti to Socorro and placing a dollar store right there in this historical area, that is recognized by a lot of people all over the world. The area was founded because of its agricultural values, the people valued their agricultural products and the agricultural community, it founded upon familia and fe, the church and the family, and what kept them going were agriculture and the faith, the Immaculate Conception Church. **Mr. Sanchez Jr.** stated that he also wanted to point out that there are several very important historical residents there that are either in the process of getting registered by the state of New Mexico or are currently registered and that includes his grandfather's house, Ramon B. Chavez, right on the corner of 47 and Patricio, that was built in 1889, and is currently owned by his brother, Dr. Antonio Sanchez, and there is the Zamora house owned by Delbert Chavez, that is also a very important historical resident that is right next door to the proposed entrance on Sedillo Rd., and in addition to that Jan Pacifico's residence was once the stop over for the Butterfield Stage Coach and that in itself is very significant historically, as well as the area of the Tome Community Center that has been rebuilt and restored for the community and for the children to play baseball out there in that area, and feels that all these things are very important but ultimately the residents of Tome are very proud people and have based their lives around agriculture and there is not a day that goes by in the spring and summer that he personally does not see tractors going back and forth on the aforementioned roads, they are very active and proud in their area and are old families that





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have kept their land intact and would submit to the commission that all they have to do is take a comparison and compare Tome to Corrales and in the village proper a Dollar General, Starbucks or Burger King will not be found, but you will find cottage industries, art galleries, small restaurants, and they will not allow these commercial ventures into their area. **Mr.**

**Sanchez Jr.** stated the Tome area itself he feels is even much more pristine than the Corrales area, and one last item...the Sedillo Rd. was once an entrada, or an artery from the Camino Real, it was once one of the arteries that came down into the Tome Plaza, and he has walked that road and seen pottery shards in that area, while it is not specifically affiliated with the Immaculate Conception Church, there was at one, it appears to have Indian ruins in that area and that the Tome area is a very historical site known throughout the state and United States. Mr. Sanchez Jr. thanked the commission.

**Commissioner Artiaga** asked if there were any questions.

**Commissioner Gaudette** stated he would like to acknowledge State Representative Kelly Fagardo and how nice it is to have a state representative attend the proceedings.

**Commissioner Artiaga** stated she would like acknowledge County Commissioner Mary Andersen for being present as well.

**Mrs. Padilla** stated her name is Andrea and lives less than a block away from the site, and would like to talk to about some historical aspect's, and stated the Santuario De Chimayo was established in 1810 and is historic national landmark, Yosemite National Park was first protected in 1864, the Loreto Chapel De Santa Fe was completed in 1878, Mount Rushmore the work began in 1927 and my question is would anybody in this building or room put a Dollar Store next to any one of those areas, probably not. Tome is older than all of those, and the Church was founded in 1750/1753 and it is being restored right now, and the community has put thousands of dollars and many hours of hard labor to protect that church so that it will last another 300 years. Mrs. Padilla stated the petitioner mentioned that Tome is an underserved area, but did they stop to think that that is the way the community wants it, they do not have a problem driving 10 miles to get her groceries and enjoys the drive, and if in fact they put the other dollar store 2 minutes away from this one do they really need 2 of them in the same area, she thinks not and she will be affected directly because it is going to be right next to her, and regarding the water issue-she has a shallow well and had to dig a new well because her well went dry, so there is already a water shortage in that area and cannot allow commercial entities to come in and use up all that water or they will all have dead wells.

**Commissioner Artiaga** thanked Mrs. Padilla.

**Mr. Romero** stated that his name is Phillip and lives at 3400 Prairie Sage SW in Los Lunas and his family is directly affected by this area because he was born and raised in his parents' home that is on the fence line and just north of this proposed site, and his reasons for the opposition is the traffic and the 6 intersections at the point where the roads come together, not to mention all the traffic going to the Valencia Campus in which hundreds of students use that road daily and has witnessed many accidents and one fatality on that road. **Mr. Romero** stated that there are several stores 5 miles south/north of the area so the need to service the area is not there, as well as the potential for crime due to the response time from the sheriff's department, and that it is an area that is known area for crime activity, as well as the pollution factor from the exhaust of vehicles and oil dripping from them also.

Other residents who also approached the commission to speak were: Mrs. Marie Garcia-Schaffner, Mr. Leroy Baca, State Representative Kelly Fagardo, and Mrs. Crystal Romero, Mr. Delbert Chavez, Mrs. Heidi Shell, Mrs. Karen Romero, the speakers all re-iterated the previous



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statements from the previous speakers in regards to the historical aspect of the area, agricultural aspect of the area, the potential traffic hazards as well as the increase in traffic, as well as the potential for an increase in crime. Mrs. Crystal Romero did ask for photos of semi-trucks bearing logos from various distributors such as Lay's, Creamland and Pepsi and asked these photos be submitted as evidence of the potential for traffic congestion as well as traffic hazards. (These photos will be available for viewing in the petitioners file and upon written request.)

**Commissioner Gaudette** stated he does not feel anything new will be said that will sway his decision and would like to know if any of the other commissioners feel the same.

**Commissioner Milam** stated the people of the public did come out to speak and would like to listen if anybody has anything different to say other than the historical aspect, traffic, etc.

**Commissioner Artiaga** stated she agrees and asked if anybody had anything different to add, and asked the petitioner to step forward.

**Mr. Skarsgard** reiterated why him and his client felt this would be a positive retail application and asked that the request for a deferral be dismissed, and thanked the commission.

**Commissioner Gaudette** stated that with regards to the other commercial property in regards to going from one commercial zone to another on 314 he supported their application and even though there has not been a motion made his concern for the development of this property is entirely different as this is a very historic and distinct piece of land in this county and can understand why the residents don't want a Dollar General there and thinks he would support them on that.

**Commissioner Artiaga** asked if any of the other commissioners had questions for the applicant or the audience. There were none.

**Commissioner Jaramillo** stated he would like to make a motion to deny the request.

**Commissioner Gaudette** seconds the motion.

**Commissioner Artiaga** stated she would like Mr. Martinez to read back the motion and call for a roll call vote.

**Mr. Martinez** stated there has been a motion made to deny the request for a, recommend denial of a request for a zone change to the county commission and a second on that request.

**Mr. Martinez** asked for a vote and stated that a yes means voting for the denial of the recommendation.

**Commissioner Milam** votes yes.

**Commissioner Gaudette** votes yes.

**Commissioner Baca** votes yes.

**Commissioner Jaramillo** votes yes.

**Commissioner Artiaga** votes yes.



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**Mr. Martinez** stated that again this is a recommendation to the county commission and the meetings that were requested by the petitioner will be set up.

**Commissioner Artiaga** stated there will be a brief recess before discussion of the commission.

**7. Discussion**

**8. Next Meeting:**

**April 24, 2013 5:00 pm**

**Commissioner Milam** made a motion to adjourn.  
**Commissioner Jaramillo** seconds.

**9. Adjourn**