



Approved May 24, 2016

## VALENCIA COUNTY PLANNING & ZONING COMMISSION

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

April 26, 2016 @ 3:00 p.m.

### AGENDA

Valencia County Courthouse Commission Chambers  
444 Luna Ave, Los Lunas, NM 87031

**1) Call the meeting to order**

Chairman McCartney

**2) Pledge of Allegiance**

Commissioner Louie

**3) Approval of Agenda**

Motioned by Commissioner Baca

Seconded by Commissioner Gurule

**4) Approval of Minutes-Tabled**

March 22, 2016 (Tabled)

Motioned by Commissioner Baca

Seconded by Commissioner Gurule

**5) Swearing in of participants**

Chairman McCartney

**6) Action Item(s)**

(Mr. Martinez informed the Commission that items A & B are being requested by the same petitioner and would like to know if the wishes of the Commission is to hear the applications separately or together. The Commission voted to hear each request separately)

**A) Request for Zone Change from Neighborhood Commercial (C-1) to Community Commercial (C-2)**

**Application:** ZC #2016090

**Applicant:** Mike Mechenbier

**Purpose:** To allow property to match zoning of adjacent C-2 properties.

**Legal Description:** T6N, R2E, Section: 2, Map 79, NMPM; Lands of Bobsons LLC; Lot 1; Zoned Neighborhood Commercial (C-1); Filed in Plat Book N, Page 258, in the office of the Valencia County Clerk, Los Lunas, NM. 87031.

*This property is located on the SW corner of Highway 47 and Elias Road*

*This property falls within District II*

*County Commissioner Alicia Aguilar ♦ P&Z Commissioner Michael McCartney*



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Mr. Martinez: Item 6(A) is an application for a Zone Change from Neighborhood Commercial (C-1) to Community Commercial (C-2) application number ZC 2016190, applicant Mike Mechenbier T6N, R2E, Section: 2, Map 79, NMPM; Lands Of Bobsons LLC; Lot 1; Zoned Neighborhood Commercial (C-1); Filed in Plat Book N, Page 258, in the office of the Valencia County Clerk, Los Lunas, NM. 87031. The property is located off of South El Cerro Loop and Highway 47. (Mr. Martinez showed the property on the projector so the Commission could see the aerial view of the location). You will see that there are two lots that are close to each other and each lot is Zoned C-1 and owned by the applicant and both are the lots in question for this Zone Change. We will discuss the piece to the North here first and then we will discuss the second Zone Change.

Commissioner Baca: Which is the second lot?

Mr. Martinez: The lot to the South. Again this is Highway 47 and this is the old JJ's and on either side is a lot, so there are three lots that make up the applicant ownership. The middle lot is zoned C-2, Community Commercial, and on either side the lots are zoned C-1 and the applicant is coming in for a zone change on the C-1 lots to change the zoning from C-1 to C-2 and as the Commission wishes I will discuss this one first and the second next.

Chairman McCartney: Does Mr. Mechenbier own the one where JJ's was?

Mr. Martinez: Yes Mr. Mechenbier owns all three of those lots. His intent is to develop those three lots into office space and to develop some storage. This is a Quasi-Judicial Zone Change for review and the review by which the Commission should meet the test is that the condition meet the following: that the proposed change is consistent with the goals and policies of the Comprehensive Plan and other applicable provisions of the Comprehensive Plan, if the request is appropriate considering the other surrounding land uses, the density of the pattern of development in the area, any changes which may have occurred in the area to support the proposed amendment and the availability of utilities and services that might be needed and the proposed change enhances the health, safety and welfare of Valencia County.

We have talked with the applicant and he has provided us with information on his intent of the development of the office space and the applicant can speak more towards what his intent is on that development. I know the applicant has also been in contact with the New Mexico Department of Transportation in order to receive...there was the JJ's on this site so we can assume there was a permit for a commercial drive way, but we did ask the applicant to talk to the NMDOT to ensure no other criteria would be needed by NMDOT if they wanted to develop this site and to make sure they wouldn't need a new drive way permit. The applicant has been in contact with NMDOT and can update you on that. I will stand for any questions that you may have and the applicant is here to answer any questions the Commission might have as well.

Commissioner Baca: Mr. Martinez, on the left side, adjacent to road 263, what is that right next to that red area (referring the projection on the screen)? Is that a house or what is it that is there? .

Mr. Martinez: I believe there was a house there but it has been since knocked down, and the applicant can give you more information on that.

Commissioner Gurule: Mr. Martinez how many acres are we talking about?

Mr. Martinez: One lot is one acre and the other lot is close to one acre and all together it is about three acres of land, but this one we are discussing is one acre.

Mr. Mechenbier: My name is Mike Mechenbier and I am the applicant. We are combining all three acres. There was an abandoned house on the corner there that we removed and then also removed the rest of JJ's there in the middle. There



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was a remediation project that went on there and it is clean now from underground storage tanks that JJ's had there previously.

Chairman McCartney: Your intent is to build an office space?

Mr. Mechenbier: Yes sir. I do have a set of plans that I believe was provided in the packet. Mr. Martinez was there a set of plans in the packet?

Mr. Martinez: Yes there is a set of plans in the packets that were provided to the commissioners.

Mr. Mechenbier: We want to put in an office area and shop area for Four Daughters and also for the children's home that we have. It's an all block building with a metal roof and I think it's an amenity to the surrounding area.

Chairman McCartney: Do you plan on re-platting these lots into one lot?

Mr. Mechenbier: No. We had them separated.

Chairman McCartney: One lot that you have is C-2 zoning, and the C-1 zoning for the others will not fit with what your intentions are?

Mr. Mechenbier: No sir.

Chairman Baca: Where are the offices going to be located? I see lot one here and lot two here. And how big is the building you said?

Mr. Mechenbier: Eleven thousand square feet. The office area is forty-five hundred and the shop area is about...

Commissioner Baca: And where is the access going to go through? Off of Highway 47?

Mr. Mechenbier: There is one access off the front of where JJ's used to be, and here is one for the office site.

Commissioner Louie: What is the purpose of this facility as it sits now?

Mr. Mechenbier: It will be for Four Daughter's farm and ranching operation. It will have a large conference room for Four Daughters and a conference room for El Ranchito De Los Ninos children's home as well as some cold storage for the pecans in the back of it, and maybe somewhere down the road a retail shop for the pecans, but that is just a thought, but it is primarily Four Daughters land and cattle and the children's home facility.

Commissioner Baca: How big is the parking lot? How many people will be there? Is this going to be high volume sales?

Mr. Mechenbier: No. There is more than ample parking to meet the criteria. I believe there are ten single offices. One for our bookkeeping, one for our farm manager, etc. It will all be for the company.

Commissioner Baca: I believe there are already some lights there is that correct?

Mr. Mechenbier: No sir. The three acres are totally vacated now. There may be a street light just north of here.

Commissioner Baca: Will you be putting some lighting there?



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Mr. Mechenbier: There will be some security lighting but not parking lot lighting.

Commissioner Gurule: What is the projected time from start to finish of this project?

Mr. Mechenbier: About one hundred and fifty days. We are waiting to hear back from NMDOT on the driveway permits. The center is already C-2 so we may start work on that already. We would like to get going by June.

Commissioner Louie: This is firm correct and not just a proposal?

Mr. Mechenbier: Yes sir. We have spent a little over a year designing this and have several meetings with Jacobo on it.

Commissioner Gurule: How many people will be employed there?

Mr. Mechenbier: About fifteen all together. Most of these operations occur just south of here on the feed lot and at the children's home so this is to just consolidate everyone into one place.

Commissioner Louie: What is the elevation of the buildings and the pole barns.

Mr. Mechenbier: (asking Mr. Martinez) Were the elevations submitted Jacobo?

Mr. Martinez: No sir.

Commissioner Louie: Are they over twenty feet?

Mr. Mechenbier: Yes.

Chairman McCartney: Are there any more questions from the Commissioners? (There were none)

Chairman McCartney: Is there anybody who would like to speak in favor of this application? (There was nobody). Is there anybody opposed to this application? (There was nobody)

Chairman Baca: I make a motion that we recommend approval of the request for a Zone Change from C-1 to C-2.

Commissioner Moran: I second the motion.

Mr. Martinez: There has been a recommendation and a second of that recommendation for approval for a Zone Change to the Board of the County Commission for application number ZC 2016090 and I will call for a vote on that.

Commissioner Moran: Yes                      Commissioner Baca: Yes                      Commissioner Gurule: Yes

Commissioner Louie: Yes                      Commissioner McCartney: Yes

Mr. Martinez: Thank you Commissioners. That would be the first one. Would you like to go straight into the second one to make the discussion and have a discussion concerning it?

Chairman McCartney: Commissioner Baca wanted to do these separately to see if there was any opposition. So if there is no opposition to the second request we can have a motion on the other lot. The intent is the same.

Mr. Martinez: The next application is for this next lot just south so if I may I will read the application request and let the Commission make the recommendation from there.



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### B) Request for Zone Change from Neighborhood Commercial (C-1) to Community Commercial (C-2)

**Application:** ZC #2016091

**Applicant:** Mike Mechenbier

**Purpose:** To allow property to match zoning of adjacent C-2 properties.

**Legal Description:** T6N, R2E, Section: 2, Map 79, N.M.P.M.; Lands of Bobsons LLC; Tract(s) 12-A-3-A (0.97 AC) and 12-A-2-B (0.03 AC); Zoned Neighborhood Commercial (C-1); Filed in Plat Book N, Page 258, in the office of the Valencia County Clerk; also known as 3209 Highway 47, Los Lunas, NM. 87031.

*This property is located on the NE corner of Highway 47 & South El Cerro Loop*

*This property falls within District II*

*County Commissioner Alicia Aguilar ♦ P&Z Commissioner Michael McCartney*

Mr. Martinez: (Mr. Martinez read the legal description of the request.) I will stand for any questions.

Chairman McCartney: Do the Commissioners have any questions regarding this lot?

Commissioner Moran made a motion to recommend approval to the County Commission for the Zone Change. Commissioner Gurule seconded the motion.

Mr. Martinez: There has been a motion to recommend approval for a Zone Change from Neighborhood Commercial C-1 to Community Commercial C-2 and a second on that motion. I will call for a vote on that motion.

Commissioner Moran:	Yes	Commissioner Baca:	Yes	Commissioner Gurule:	Yes
Commissioner Louie:	Yes	Commissioner McCartney:	Yes		

Mr. Martinez: Mr. Mechenbier, your application for a Zone Change has been recommended for approval by the Planning & Zoning Commission and we will take it in front of the County Commission in June for final consideration.

### C) Request for Zone Change from Rural Residential-1 (RR-1) to Suburban Residential (SR) with a conditional use for additional apartments.

**Application:** ZC #2016037

**Applicant:** Rey D. Garcia

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

**Legal Description:** T:7N, R2E, Section: 25, Map 71, NMPM; Tracts 30B1 (2.07 AC), 30B2 (0.95 AC), and 30B3 (0.89 AC); Zoned RR-1; Filed in Plat Packet 43, Page 79, in the office of the Valencia County Clerk; also known as 75 El Cerro Loop, Los Lunas, NM.

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

*This property falls within District V*

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



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Mr. Martinez: (Read legal description and showed property on screen). This property is zoned RR-1 and the lot equals about 3.7 acres of land. There is a house here on the far North end. Towards the Southern part by El Cerro Loop you have a fourplex and there is also a house in this corner and two small homes here. So right now there is a total of eight households. The applicant would like to tear down two of these households and develop another fourplex which would then make it a total of ten households. As of right now there is a total of eight households because these are grandfathered in-they have been here for more than ten years before the 2000 zone change came about so now there is eight, the applicant would like to tear down two that would make it six but then add a fourplex which would make it ten. Because he wants to add additional dwelling units to the current grandfathered in eight he does need a zone change for this process. So the applicant is here to ask for a Zone Change from and RR-1 to and SR-Suburban Residential. Suburban Residential is our residential zone that would allow for multi-family housing. Suburban Residential can only be established on a parcel that is three acres or more and this does meet that requirement. Suburban Residential also has a dwelling density of twenty dwelling units per acre of land and this is well within that twenty dwelling units of acre per land. The applicant is here to request a zone change from RR-1 to an SR-Suburban Residential in order to meet the requirements to add the two extra dwelling units and to make another fourplex on this side as well. I will stand for any questions and the applicant is here to answer any questions as well.

Chairman McCartney: Back in 2001 when the Comprehensive Plan was done it was still a violation to have multiple dwellings on one lot.

Commissioner Baca: In RR-1 it think it was.

Chairman McCartney: Yes, and that was still a violation.

Mr. Martinez: I would agree that was a violation but if the applicant was to come in for a Conditional Use currently today, no I am sorry not a Conditional Use a Non-Conforming Use, I would allow the Non-Conforming use because under a Non-Conforming Use it would state under 154-059 that a request to verify that a use or structure is legally Non-Conforming pursuant to this section may be approved by the department subject to the type A application procedure set forth and provide that the applicant submits evidence of the following: that the nature and extent of the use for at least ten years from the adoption of this chapter prior to the date of application for verification of Non-Conformity; the use or structure was in existence at least ten years prior to the date of the application for verification of Non-Conformance; and the use continues uninterrupted or a structure has been occupied continuously at least ten years prior to the date of application. Because of those three requirements, I would sign off on a Non-Conforming application on this for the current dwelling densities.

Chairman McCartney: If the zone change was approved to add the additional fourplex, would he need a Conditional Use?

Mr. Martinez: I believe that we discussed that he wouldn't and I want to look at the Suburban Residential...

Chairman McCartney: (inaudible) Conditional Use request for additional apartments?

Mr. Martinez: Correct.

Chairman McCartney: So that would require a Conditional Use after the Zone Change?

Mr. Martinez: As I understand it the multi-family housing would be a Conditional Use within an SR Zone so what we are asking today is for the Zone Change with a Conditional Use.





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Chairman McCartney: The fourplex or apartments exists on more than three acres correct?

Mr. Martinez: That is correct.

Chairman McCartney: In this packet they have been approved informally by the Environmental Department?

Mr. Martinez: The applicant has talked with NMED and they have asked that he put in another septic system and because he has three acres there is the ability to put that additional septic system in.

Chairman McCartney: So that information will be available at the Conditional Use hearing?

Mr. Martinez: He should have that information available today.

Chairman McCartney: So is there still another process to go through even if the zone change is approved?

Mr. Martinez: I think it would be up to the Commission. We did put on the application Zone Change with a Conditional Use. You can hear both of those or you can decide just the zone change today and then have them come back for a Conditional Use on that Zone Change.

Chairman McCartney: I think that would be better for all of us. I would like to see the approval of the Environmental Department.

Mr. Martinez: That would be up to the Commission.

Chairman McCartney: So all we are doing right now is a request for a Zone Change?

Mr. Martinez: We are asking for a request for Zone Change but we did it with a Conditional Use so you can hear both of them today. But it would be up to the Commission if you want to hear it separately.

Chairman McCartney: Personally speaking, and I don't know how the other Commissioners feel I think the Zone Change should be the request for today and until we have documentation that the Environmental Department concurs, that Conditional Use permit should be heard at a different date. Do you all agree?

Commissioner Moran: I do but I have some other questions.

Chairman McCartney: Ok. But is everybody else in agreement in regards to that? We can recommend a Zone Change but I think we should approve a Conditional Use permit without any documentation.

Mr. Martinez: There are different ways you might be able to approach it. You can hear it separately, you can say that the Conditional Use could be approved on the condition that the zone change is approved and that the applicant does have documentation from the Environmental Department. There are different ways you can structure your decision.

Chairman McCartney: That will be up to you Commissioner Louie.

Commissioner Louie: I think we will hear one part now and the Conditional Use later.



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Commissioner Baca: I would agree with you Mr. Chairman, providing nobody is out there in opposition to this proposal. If there is opposition then I would like to change it to one at a time.

Commissioner Moran: There seems to be several concerns from Code Enforcement particularly. They are not in favor of this and I would like to understand their concerns a little bit better. I also have questions on the approvals from the DOT and the point specifically is should ownership of the property change or land use change the access permit is no longer valid. So are we not changing the land use and would it not invalidate this if we are changing the land use and how do we track when ownership changes and that you then say that access is no longer valid.

Mr. Martinez: Let's take this one at a time. The first being the concerns of Code Enforcement. I have been talking to the applicant for a while now to discuss this. When we first started discussing this, the applicant wanted to split off just the apartment area and make a separate subdivision of 0.63 acres in order to have the front part as SR and the back part to remain RR-1. When we sent this out to the Code Enforcement Officers for review, they smartly noticed that in our zoning regulations it states that you cannot have, um, in case of a multifamily planned development the minimum parcel size shall be three acres. The Code Enforcement officers took notice of that and said with the 0.63 acres they cannot ask for a SR multifamily housing because you need at least three acres. We talked with the applicant about that and since then the application has changed and he is not subdividing that parcel anymore, he wants to now do a zone change for a suburban residential for all three acres not.

Commissioner Moran: Can we then have a new review by Code Enforcement?

Mr. Martinez: I had some notes and I guess the notes did not take on there but we can provide a new review concerning that. Now when Code Enforcement did their review, they smartly noticed that in our zoning regulations it states that you cannot have, um, in case of a multifamily planned development the minimum parcel size shall be three acres. The Code Enforcement officers took notice of that and said with the 0.63 acres they cannot ask for a SR multifamily housing because you need at least three acres. We talked with the applicant about that and since then the application has changed and he is not subdividing that parcel anymore, he wants to now do a zone change for a suburban residential for all three acres not.

Commissioner Moran: Can we then have a new review by Code Enforcement?

Mr. Martinez: I had some notes and I guess the notes did not take on there but we can provide a new review concerning that. Now concerning NMDOT is concerned, and I will look at the letter with you...

Commissioner Moran: It is under tab 9 and it is the fifth bullet down.

Mr. Martinez: It looks like the applicant has talked to the NMDOT. The NMDOT does say the access is for residential and that has not changed, this is still for residential. Suburban Residential multifamily housing is just as residential as RR-1/RR-2 single family housing. I think what NMDOT is stating there is if that land use changes to commercial or something that is not residential then it would make this invalid. We would know that the use has changed because the applicant would have to come in front of the Planning & Zoning Commission for that request.

Commissioner Moran: Ok. What about ownership? If the ownership of the property changes the permit is no longer valid.





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Mr. Martinez: As of right now Commissioner Moran that is a good question. As of right now ownership would go straight to the Clerk's Office and there would not be a flag to Planning & Zoning saying that the access is no longer valid. I don't know how the NMDOT would plan on being notified if ownership did change so they could do the invalidation of the driveway. As of right now we couldn't do the invalidation of the driveway because that is not our jurisdiction. NMDOT would have to complete the invalidation of the driveway permit. We would have to talk to NMDOT or perhaps the applicant has talked to NMDOT and they have created some type of system to do that, we could ask the applicant.

Commissioner Moran: Would we be able to put that as a condition of the approval of the zone change so that if the property does change hands Planning & Zoning would have to be notified.

Mr. Martinez: If the Commission wishes to put that as a condition that if the land changes hands that information has to be provided to NMDOT or to the Planning & Zoning administration for NMDOT then we can make that condition.

Commissioner Moran: Essentially the plan is to remove the substandard housing and once that is demolished in its place he will build a new fourplex.

Mr. Martinez: That is essentially correct.

Commissioner Baca: I thought the letter that he wrote said that it has already been removed. Did he remove it?

Mr. Martinez: That is something to ask the applicant.

Commissioner Gurule: Will new addresses be needed?

Mr. Martinez: New addresses would have to be issued if the zone change and the conditional use go through.

Commissioner Louie: The Code Enforcement supervisor-as far as grading and drainage go...

Mr. Martinez: As far as any development would go, we would follow the site design review process and in that process there is criteria the applicant would have to bring to us and one of them is a grading and drainage plan and one is an elevation certificate, and a series of other processes. This is the first step for the Suburban Residential zone change, then the Conditional Use process and then a site design review process.

Mr. Garcia: My name is Rey Garcia and I own the property at 75 El Cerro Loop. Right now what we are trying to do is bring the property into conformity with the zone it is supposed to be and its current use. It is currently used as a multifamily property so we are trying to adequately zone the property to its current uses. The two substandard dwellings were knocked down. As far as the permit for solid waste, I spoke to Katina Wilson and she sees no problem with the solid waste or the septic as there is plenty of property to put that in so that would be addressed at the site plan hearing and it has to conform to all criteria.

Chairman McCartney: Your house is in the back of the property right?

Mr. Garcia: Yes sir. Another thing, the house in the front has been there since the 1960's, the fourplex has been there since the early 1990's as well as the double-wide in the back so it is more than twenty years since they have been there. I would also ask that we hear the conditional use today. I have been working on this with Jacobo for



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about four months now and I have been trying to do as much as I can and like I said Katina Wilson has looked at all the permits currently existing on the property and she sees no problem with them.

Chairman McCartney: You would just have to increase your septic system.

Mr. Garcia: That is an option to put another tank or set up a separate septic system for the new fourplex.

Commissioner Baca: What about the grading and the drainage? Is it pretty level?

Mr. Garcia: It is pretty level but we will have a drainage plan done by an engineer to meet the criteria as well and have ponding to recover the water on the property.

Commissioner Moran: Could you clarify for me-on the Agenda Request Form-it says, "currently there are five dwellings on the lot which includes a single family dwelling, a fourplex apartment and a single apartment", but you mentioned a double-wide.

Mr. Martinez: The Agenda Request Form, I made a mistake in writing that request form. As I described it today which is on record is how it exists. It is a single family dwelling, on the north-east end of the corner there is a fourplex on the lot and there are two other dwellings on there.

Mr. Garcia: There were five but two dwellings have been knocked down.

Mr. Martinez: There was a total of eight dwelling units, but two of them have been knocked down so currently there are six dwelling units.

Commissioner Moran: And one of those dwellings is the double-wide?

Mr. Garcia: Yes.

Commissioner Gurule: Will you have gravel parking?

Mr. Garcia: Yes sir and in the future hopefully paved.

Commissioner Gurule: What about a fence? Do you have a fence around there?

Mr. Garcia: It is all fenced off.

Commissioner Louie: Do you have nine parking spaces her for two fourplexes?

Mr. Garcia: Yes. I believe there is parking for twelve cars.

Commissioner Louie: And you are proposing another septic system in the back?

Mr. Garcia: Right, if needed or we can just add another tank to the current fourplex which Katina said would be another option.

Commissioner Louie: How many septic systems do you currently have?

Mr. Garcia: Three.



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485 Commissioner Louie: How many wells?

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487 Mr. Garcia: One. And I also spoke to State Engineers Office and the well is grandfathered in at three acre feet per  
488 year which is equal to three million gallons I believe a year so that is plenty of water for the units. I believe we  
489 only use about one hundred thousand a year.

490

491 Commissioner Baca: How many parking spaces will the new structure hold?

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493 Mr. Garcia: About six for the new one and there are currently five for the existing fourplex.

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495 Commissioner Baca: How many entrance and exits do you have?

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497 Mr. Garcia: It's the forty foot opening in the front permitted by the NMDOT and they said that was plenty.

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499 Commissioner Baca: Do you have an area already designated for ponding?

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501 Mr. Garcia: Yes it would be the south east side of the entrance.

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503 Commissioner Baca: Has it been approved or would that be in the future?

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505 Mr. Garcia: The engineers would look at it and if it has to be redesigned it will.

506

507 Commissioner Moran: I would just like to see an updated report from Code Enforcement with the amended  
508 change. They were so much against it on the initial proposal, I would like to see what they say.

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510 Chairman McCartney: I think for Code Enforcement it may be a little confusing because there are multiple  
511 dwellings on one lot which could have caused some confusion. What I think Mr. Garcia is trying to do is to try to  
512 bring everything into compliance.

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514 Mr. Garcia: That is correct. And I also spoke to Hoss Foster the Code Enforcement officer and before we were  
515 only going to split off 0.63 acres and that is why they were against it and that is why I had meeting with Jacobo  
516 and Hoss as well and he did explain that we had to do the whole three acres in order to rezone it to Suburban  
517 Residential in order to comply with the buildings there.

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519 Chairman McCartney: Are there any other questions for Mr. Garcia? (There were none) Mr. Garcia please have  
520 a seat. Is there anybody here in favor of this request? (There were none). Is there anybody here in opposition to  
521 this request? (There were none).

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523 Commissioner Louie: The Conditional Use was septic system and grading?

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525 Chairman McCartney: Correct.

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527 Commissioner Moran: And if he sells the land the access.

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530 Chairman McCartney: Now you know how government is government and we should leave that up to NMODT.

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532 Commissioner Moran: Ok.



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Commissioner Louie: Maybe we should put it together and wrap the Conditional Use in.

Chairman McCartney: Mr. Martinez, correct me if I am wrong. On Mr. Louie's motion he can put in a certain condition that what he is concerned about is part of the approval process correct?

Mr. Martinez: Yes he can put in those conditions. I might also suggest that if you want to make it a package with the conditional use, that you are not just voting yes on a conditional use without a zone change, but you make the condition that the conditional use would be approved on the condition that the zone change is approved by the County Commission.

Commissioner Louie: That sounds good.

Commissioner Louie made a motion to recommend approval to the County Commission with the condition that the conditional use would only be approved if the SR change goes through.

Commissioner Baca seconded the motion.

Mr. Martinez: There has been a motion made to recommend approval for a Zone Change from and RR-1 to Suburban Residential with the Conditional Use on the condition that the SR Zone Change is approved. I will call for a vote on that.

Commissioner Gurule: Yes	Commissioner Louie: Yes	Commissioner Moran: Yes
Commissioner Baca: Yes	Commissioner McCartney: Yes	

Mr. Martinez: Mr. Garcia there has been a recommended approval of the Conditional Use and the Zone Change for approval by the County Commission. We will go in front of the County Commission for final approval. Please note that conditional use is contingent upon that approval of the zone change. We will let you know when that zone change goes in front of the County Commission.

### D) Request for Variance on Setbacks

**Application:** V #2016089

**Applicant:** Monica Acosta; Agent-Gabriel Acosta

**Purpose:** Allow for zero setback for horse stable, farm building, garage and carport

**Legal Description:** T7N, R3E, Section 25, N.M.P.M.; Subdivision: High Mesa Estates: Lot 98; Zoned Rural Residential-1 (RR-1); Filed in Plat Book F, Page 65 in the office of the Valencia County Clerk; also known as 4 Hopi Dr., Los Lunas, NM 87031.

*This property is the second property on the east side of Hopi Dr. off of Meadowlake Rd.*

*This property falls within District II*

*County Commissioner Alicia Aguilar ♦ P&Z Commissioner Michael McCartney*

Mr. Martinez: (Showed the Commission where the property is on the screen). The property is in Meadowlake and is zoned RR-1 in this whole subdivision. The applicant does own the property and has a Real Estate Contract on the other property so the applicant does own two pieces of property. They had started to create some auxiliary units, garages, porches and horse stables here towards the back end of the property and they built them right at a zero lot line and as you are aware RR-1 requires a setback of fifteen feet from the back and side and thirty feet



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from the front. The applicant did not get a building permit and was red tagged by Code Enforcement and that's how we found the violation. The applicant has since then come in to get the applications for a building permit and is asking the Commission on a Variance on a zero lot line for the auxiliary units. I will stand for any questions.

Commissioner Moran: On the Planning & Zoning Agenda Request form under analysis it states, "The applicant has built accessory buildings right next to each other across two parcels of land. This could potentially be an issue in the future".

Mr. Martinez: Yes and that is only said because if there is a building, as I understood it there is a building across two lot lines, it doesn't stop at the lot line so you might want to ask the applicant if the buildings actually stop at the lot line or if they actually cross the lot line, and that could be an issue in the future of course, possession of ownership if another person takes ownership of the real estate contract or they default on the real estate contract then there is a potential issue with the buildings on that side.

Commissioner Moran: As long as they are on a real estate contract they couldn't try to re-plot it and combine it into one lot?

Mr. Martinez: Yes they could and that would take care of the side yard setback, but the back yard setback would still need a variance.

Commissioner Moran: My thing is that building that crosses the two. On the second page of the application he talked about "the Variance is not needed to allow the establishment or expansion of a use otherwise prohibited or subject to conditional use procedures. This variance will not have the effect of re-zoning the property and this variance is not needed to create a parcel that is substandard to the minimum parcel size requirements of the particular zoning districts". They are not asking for a re-zone only for a variance is that correct?

Mr. Martinez: Yes and how I read this statement is that the variance first of all runs with the land itself so if the variance does exist and they sell the property then that variance would exist with the new owner. Also by going through a variance process they are not re-zoning it for a different type of land use and we are not authorizing that now they can do commercial activity or anything of that nature, we are just authorizing the variance on the setback for the structures themselves. The variance does not expand the use either. All it says is yes auxiliary buildings are allowed as permissive uses within RR-1/RR-2, we are just providing the variance from the setback.

Commissioner Moran: So these buildings that were put up, they weren't inspected by the County or the State? We don't care about that?

Mr. Martinez: Yes we do and that is why we did red tag them. When we red tagged them they came in to start the building permit application process and through that process is when we found the setbacks were not met and therefore this would be the first step in their building permit application.

Commissioner Moran: If the State finds the actual structures meet standard then that would be a whole different issue?

Mr. Martinez: That is correct.

Commissioner Baca: Right now they don't meet the standards because I think the structures are on the line.



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Mr. Martinez: They don't meet the zoning standards of our set back requirements and that is why they have to come in front of the Board if they want to move forward with their building permit. The setback requirements right now do not meet the standards, they still have to get that taken care of. If they get that taken care of then they move on to the next step in getting a building permit and getting the actual buildings looked at. As Commissioner Moran has suggested, if there is a structure that crosses over the boundary line then I think the best idea is for the applicant to re-plat that so that it is not two separate parcels of land but only one parcel of land, but they still need a variance for the back setback because they are on a zero set back on the back as well.

Commissioner Moran: There were some issues under the departmental reviews that referenced the infringing structures and the Sheriff's Department also had a concern that there would be problems with neighbor disputes due to the setbacks. If we granted a variance then would the neighbors have no recourse? Let's say you have a neighbor who comes in and then?

Chairman McCartney: That would be the obligation of the seller of the property to disclose that.

Commissioner Moran: Ok. So when a property is under real estate contract, should the contract holder be aware of these changes?

Chairman McCartney: I would hope so.

Commissioner Moran: We don't have any responsibility to do that? Have they been notified?

Chairman McCartney: Not as a Board we don't.

Mr. Martinez: As of right now the owner/title holder...they own the property through a real estate contract and therefore (inaudible) require that the owner needs to come in for the application.

Commissioner Moran: If I were the owner I would want you to notify me because now all of a sudden someone defaulted on a real estate contract and its now back and something has changed and I think it would create a whole mess of the things.

Mr. Martinez: If you do move forward with the approval of the variance with the re-plat then the re-plat will require all owners on record to sign the re-plat.

Chairman McCartney: The variance in regards to the property line, do you know if those structures cross that property line?

Mr. Martinez: Mr. Chairman I do not know.

Chairman McCartney: I didn't know there were two properties because I saw lot 98 and I saw lot 97 so there is two lots?

Mr. Martinez: Yes there are two lots and Ms. Maes who has helped with this variance process she might clarify as well. Is the variance for two properties or for one property?

Chairman McCartney: The way I read it, it is one. Does it cross the property line? Because you can't have a structure that crosses a property line because then you are talking about a mandatory re-plat.





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Commissioner Baca: It says “buildings that are on the property line”.

Mr. Martinez: I believe there is an existing building on the north side and then they are building a structure on the south side on the property line.

Commissioner Baca: According to the picture it looks like one of the houses is on the other side of the property line.

Mr. Martinez: I recommend that we get the applicant up here so we can get some clarification.

Mr. Acosta: My name is Gabriel Acosta. Did you have any questions?

Chairman McCartney: I have a question for you sir. You have heard some of the discussion. Can you state for the record that your structures do not cross the property lines.

Mr. Acosta: The horse stable does, the garage is on the side of 6 Hopi but about a foot of the horse stable does cross into the property.

Chairman McCartney: I think with all due respect, and I am just thinking for myself, I think you clear up a lot of this by doing a re-plat. I understand you are on a real estate contract. But you cannot have a structure that crosses the property lines, and we couldn't even grant the variance the way I understand the legalities of it when a structure is on two different properties. Do you understand what I am saying?

Mr. Acosta: Yes sir.

Chairman McCartney: Do you think the person that holds your contract would be-because you're paying for both properties-if you were to do a re-plat and consolidate it into one piece of land, you wouldn't have a problem with your setbacks. That would be a solution to all your problems without having to tear anything down.

Mr. Acosta: I wasn't aware of a lot of these things so it has been a learning process and we are trying to fix things.

Chairman McCartney: Do you agree to do that?

Mr. Acosta: Yes.

Chairman McCartney: Mr. Martinez do you agree?

Mr. Martinez: I think that would be wise.

Chairman McCartney: I cannot make a motion but I make a recommendation that we table this item and give Mr. Acosta and his family a chance to talk to the holder of the contract to see if they can't re-plat and take this all away.

Commissioner Baca: I make a motion stated by the Chairman.

Commissioner Moran seconded the motion.



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Mr. Martinez: Just to clarify, the re-plat will take care of the side setback but he will need to come in front of the Commission for the back setback.

Chairman McCartney: It gives him more of an advantage and makes it easier for us to help him out and more compliant in case he wants to sell.

Mr. Martinez: There has been a motion made and a second to table this item for further investigation and discussion to re-plat the existing lots to make them one lot and then come back in front of the Planning & Zoning Board for a back setback variance. I will call for a vote on that motion.

Commissioner Moran:	Yes	Commissioner Baca:	Yes	Commissioner Gurule:	Yes
Commissioner Louie:	Yes	Chairman McCartney:	Yes		

### E) Request for CU Home Occupation

**Application:** CUHO #2016118  
**Applicant:** Luis and Deborah Tellez  
**Purpose:** Used Car Sales

**Legal Description:** T7N, R3E, Section 28, N.M.P.M.; Subdivision: Mesa View Addition: Block: 1; Tract: 8E3; Consisting of 1.125 AC: Zoned Rural Residential -1 (RR-1); Filed in Plat Book D-4, Page Number 20 in the office of the Valencia County Clerk; Also Known as 221 Meadow Lake Road, Los Lunas, NM. 87031.

*This property is located in approximately 1 mile NE of Manzano Expressway and Meadow Lake Road  
This property is the first property on the NE side of Meadow Lake Road after the Manzano Expressway*

*This property falls within District II  
County Commissioner Alicia Aguilar ♦ P&Z Commissioner Michael McCartney*

Mr. Martinez: If you remember Mr. and Mrs. Tellez came in front of the Board last month for this same request but they came in front of the Board for a Zone Change request and they weren't sure what they wanted to do, whether it would be a mechanic shop or a small used car shop. At that time the Board suggested to Mr. Tellez that they consider all their options and table the item until they can re-evaluate what would be the best land use to bring up in front of the Board. Since then, Mr. and Mrs. Tellez have come in to my office and we have talked and have agreed that they would like start something small on that lot in order to potentially grow, maybe not on that site but on another site, and they would like to just sell a couple of cars for the time being. We have had an application similar to this in Jarales, as you will recall in late 2015. We provided a Conditional Use Home Occupation for a gentleman in Jarales who wanted to do the same thing. They have a home on the site and just want to sell a couple of cars off that lot to see how things could progress in the future and may decide to come in for a zone change or move somewhere else for a new commercial venture. As of right now I believe this is the most appropriate land use ask for their application and I will stand for any questions. Also, one of the big questions last month was the traffic impact study and how much traffic would it generate if it was changed to a commercial zone. With it now being moved to a Conditional Use Home Occupation, it does not change the zoning, it is still an RR-1 zone, they just want to do something small so there will not be a traffic impact analysis needed.



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774 Chairman McCartney: I would like to thank you and the Tellez family for coming to this decision. I think it is  
775 the right decision. The Conditional Use permit gives you guys a chance to reflect after a year or two years to see  
776 what the impact is. They may not like it after a year or two and I think it is the right way to go. I commend you.  
777  
778 Mr. Martinez: Thank you.  
779  
780 Commissioner Moran: On the department review it states “applicants are working to correct violations”. Have  
781 those violations been taken care of?  
782  
783 Chairman McCartney: If I may. These folks live in Belen and the mobile home has been vandalized and this will  
784 give them a chance to get it fixed up and have someone there at all times.  
785  
786 Commissioner Moran: Has the mobile home gotten the permit from the County and State CID?  
787  
788 Mr. Martinez: I believe so, yes.  
789  
790 Commissioner Moran: In the initial application the person said they wanted to sell about 6 cars per year and then  
791 the file notes state that Mr. Martinez asked Kerrie to call Mr. Tellez to see if he would be interested in a  
792 Conditional Use and Mr. Tellez stated no because he wants to be able to sell more than 6 six cars and wants the  
793 property to be commercial.  
794  
795 Mr. Martinez: Since then Mr. Tellez has decided that the conditional use small operation would be more  
796 beneficial to him.  
797  
798  
799 Mr. Tellez: My name is Luis Tellez and to answer your question Commissioner Moran, they stole everything that  
800 was in the home up there. We are trying to change and better the community up there and for us. Yes I would  
801 like to sell more than six cars, I would like to sell six hundred. My wife talked sense to me and said “To whom?”  
802 so that is why we spoke to Mr. Martinez and we can use the money we were going to use for asphalt and  
803 everything else to bring everything that was taken out and bring it up to code.  
804  
805 Commissioner Moran: I do want to applaud your efforts and respect you for wanting to help in the community. I  
806 do have a question. What if he does have a good customer base and gets to sell 600 cars, does anything change  
807 for him?  
808  
809 Chairman McCartney: He would have to have a commercial zone. One concern that I have heard from many  
810 people is that during this time of the year it gets dark by 8:00 pm. So what about the winter time? Could we have  
811 your cut to 8-5 or 8-4? That corner is very dark.  
812  
813 Mr. Tellez: Yes we could. We want to put out ground lights.  
814  
815 Mrs. Tellez: We will be putting up some lighting and security cameras and we are hoping one of our sons will  
816 say up there with. It will take a while to even get this started because we just bought the wiring to re-wire it.  
817  
818 Commissioner Gurule: I think it is a tremendous opportunity and you have a great chance to flourish.  
819  
820 Commissioner Gurule motioned to approve the application for two years.  
821 Commissioner Baca seconded the motion.  
822



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Chairman McCartney: Is there anybody in favor or against this application? (There was nobody).

Mr. Martinez: There has been a motion of approval for the conditional use and a second on that motion. I will call for a vote on that motion.

Commissioner Gurule: Yes	Commissioner Louie: Yes	Commissioner Baca: Yes
Commissioner Moran: Yes	Chairman McCartney: Yes	

Mr. Martinez: Mr. and Mrs. Tellez, your application for a Conditional Use Home Occupation for a small car sales has been approved. Please note there is an appeals process that someone would have to appeal the application within fifteen days of the date of the decision. We will be sending you a letter and the date on that letter will be the date of the decision.

### F) Request for CU Home Occupation

**Application:** CUHO #2016109  
**Applicant:** JK Gunsmithing, LLC, Agent Kent Harvey  
**Purpose:** Gunsmithing services

**Legal Description:** T7N, R2E, Section 16, Map 68, N.M.P.M.; Subdivision: Mesa Bonita Addition; Lot 11, (0.50 AC); Zoned Rural Residential-2 (RR-2); Filed in Plat Book A, Page 51 in the office of the Valencia County Clerk; also known as 4 Mesa Bonita Place, Los Lunas, NM. 87031.

*This property is second property on the south side of Mesa Bonita Place which is located off of Don Pasqual Rd.*

*This property falls within District I*

*County Commissioner Helen Cole ♦ P&Z Commissioner Frank A. Gurule*

Mr. Martinez: (Showed the Commission where the property is located on the screen). The property is surrounded by the Municipality off of Highway 314 and is at the end of a cul-de-sac, is about 0.45 acres in an RR-2 zone. The applicant is asking for a Condition Use Home Occupation to do some gunsmithing work. The primary focus will be the restoration of antique or classic fire arms to bring them back the original specification. There may be some small fire arms sales that occur periodically but there will not be any walk in service for this home occupation. I will stand for any questions the Commission may have.

Commissioner Moran: Under the conditional use request application-brief description-“perform gunsmithing services in dedicated addition”. Is it an existing addition or a new addition.

Mr. Martinez: There is an existing addition on the site.

Commissioner Moran: My last question is about the Sheriff’s Department regarding the possibility should the criminal element discover the inventory. Are there any special requirements for this particular level of business?

Mr. Martinez: I believe the applicant is still required to go through some more steps for the state licensing. I think it would be good to ask the applicant.

Chairman McCartney: This is his first stop. He has to get federal and state approval. He cannot go any further until he gets this and then he can submit his applications.



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Mr. Martinez: You will see he does have his Federal Fire Arms Application in the packet.

Commissioner Gurule: I was out there a couple of days ago and viewed the property and it is very well clean and up to date. Also, the majority of items will be shipped by UPS correct?

Chairman McCartney: Let's get the applicant up here.

Mr. Harvey: My name is Kent Harvey, I am the land owner. We have applied for the FFL and is still another four to eight weeks out and by FFL standards you have to have a visible safe that is dedicated to that license. In addition to that there is also a house alarm that is monitored. We plan on getting some contract services, mostly with Ron Peterson's to do their antique fire arms and their vintage fire arms restoration. We will probably also work with the Valencia County Sheriff's and Los Lunas Police Department and the Socorro Police Department to do contract services. We are by appointment only. You have to have one day a week that you are open for the FFL inspectors and that will be a Saturday.

Commissioner Louie: Do you require a propelled storage area by the ATF?

Mr. Harvey: If we were selling live ammunition.

Commissioner Louie: You're not going to do any live fire there?

Mr. Harvey: No there will not be any live fire at all. By ATF rules you have to have storage for 40 pounds or more, so if we have an odd box of ammo for sale it is fine, it does not have to be separate.

Commissioner Baca: I thought I read if there was any shooting they would be taking them out of town.

Mr. Kent: That is correct we will use the local gun range.

Chairman McCartney: When you refer to the safe, that safe is inspected by ATF correct?

Mr. Kent: Yes we will go through the full ATF inspection once they grant our license and the safe will be dedicated to the business.

Commissioner Louie: What will be most of your work? Will it be stock refinishing?

Mr. Kent: Yes it will be more restoration for vintage type like grandpa's old gun. Just making the old ones work again.

Commissioner Baca: Will you have any signs? How are you going to advertise?

Mr. Kent: Mostly on the internet. I don't want everybody just driving in. They can call and make an appointment if they need work.

Chairman McCartney: Is there anybody to speak on behalf of Mr. Harvey?

Mr. Markell: My name is Johnathan and I am Mr. Harvey's business partner and a certified gunsmith. Do you have any other questions about the business?

Chairman McCartney: You will be working with Mr. Harvey?



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Mr. Markell: I have been to school and am a certified gunsmith. That's what I am bringing to it. Kent has the location to do the work.

Commissioner Louie: I would assume you are going to be doing the gunsmithing?

Mr. Markell: We both will. Being a certified gunsmith allows me to do work on law enforcement fire arms so if it goes to a court hearing for some reason and the officer has to use the weapon and there is a question as to who did the weapon, having a certified gunsmith on staff holds up in court better than saying I took it to a gunsmith who has not certifications could get your police departments in trouble as where having someone certified work on your weapons means they were up to snuff and met the manufacturers standards for those weapons when they are issued to the police officers. So it does provide additional legal protection to your law enforcement officials.

Commissioner Louie: Will you be doing any warranty work?

Mr. Markell: That depends. There is a process to go through with the manufacturer.

Chairman McCartney: Is there anybody in opposition to this request? (There was nobody).

Commissioner Gurule made a motion to approve the Conditional Use Home Occupation.

Commissioner Moran seconded the motion.

Mr. Martinez: There has been a motion for approval of the Conditional Use Home Occupation and a second on that motion. I will call for a vote.

Commissioner Gurule: Yes

Commissioner Louie: Yes

Commissioner Moran: Yes

Commissioner Baca: Yes

Chairman McCartney: Yes

Mr. Martinez: Mr. Harvey, your application for a Conditional Use Home Occupation for a gunsmithing services has been approved. Please note there is an appeals process that someone would have to appeal the application within fifteen days of the date of the decision. We will be sending you a letter and the date on that letter will be the date of the decision.

### 7) Discussion

### 8) Next Meeting

May 24, 2016 @ 3:00 pm

### 9) Adjournment

Moved by Commissioner Gurule

Seconded by Commissioner Louie