



VALENCIA COUNTY PLANNING & ZONING COMMISSION

MINUTES

Thursday-November 20, 2014

4:00 PM

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

- 1. CALL THE MEETING TO ORDER**
- 2. PLEDGE OF ALLIGANCE**
Hoss Foster
- 3. APPROVAL OF AGENDA**
Motioned by Commissioner Garcia Schaffner
Seconded by Commissioner Gaudette
- 4. APPROVAL OF MINUTES**
Tabled
Motioned by Commissioner Garcia-Schaffner
Seconded by Vice Chair Gaudette
- 5. SWEARING IN OF PARTICIPANTS**
Chairwoman Artiaga
- 6. ACTION ITEM(S):**

A. REQUEST FOR A ZONE CHANGE FROM RR-2 TO C-1:

Applicant: George Michael Conant

Purpose: Allow for Wholesale Coffee Distribution

Legal Description: T6N, R2E, Section 21 & 22, Map 88, N.M.P.M.; Land of John Carlberg; Tract 1-A, Zoned RR-2; Filed in the office of the Valencia County Clerk; Also known as 2847 Highway 47, Los Lunas, NM. 87031.

This property is located .77 miles SE of Patricio Rd.

Mr. Martinez: The general location of the subject property is the Tome/Adelino area. The Tome Plaza is right here. This is Highway 47, this is Tome Hill and the subject property is located just south of the Tome Plaza. The subject property is made up of three different tracts and the tracts we are currently discussing for a zone change is the upper front tract and that's tract 1A from the legal description. Mr. Conant has had a business license on this piece of property since 2003 for Tome Coffee, which is a coffee distribution center. On the site Mr. Conant also cultivates berries and the land is also known as Tome Berry Farm. Again the property is currently zoned as RR-2 and the properties surrounding the subject property are mostly RR-2 as well. You can see the yellow on the map shows that most of the yellow is RR-2 zones. There is a commercial zone south of this property and there are some C-1 properties to the north of this property as well across from Tome Plaza and where the post office is. Planning and Zoning has found that this site has been utilized as a commercial land use through their license as a distribution center since 2003 and they do have a non-conforming use for that on this property. Mr. Conant has suggested that they would like to continue their coffee distribution in the same capacity and not grow that in any way, and possibly open up a small retail for the berry farm in the future and because they do want to open up a small retail in the future a non-conforming use would not allow for that because a non-conforming use would only allow for what is existing as of today, they couldn't grow that non-conforming use, so they would have to come in for a zone change in order to create a small café or a small retail space for the raspberries that they are growing. That it is why they are today to ask for that C-1 zone change to potentially grow into that type of



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business in the future. There have been questions from other departments as to how this re-zone may impact future traffic in the area. There isn't any specific site plans or a site development yet as to how this would impact traffic. Currently there is no real impact from the current use as a coffee distribution center. There is a truck that does maybe once a week and other than that it is a family residential use. If they do move further and create a coffee shop or a café, something that specific, then at that point we can determine the traffic impacts. What would happen is if they do move into a C-1 property and they are allowed to create a development of a commercial development in the future, then they would have to go through a site development plan at that process. Then we would evaluate the site impacts of the specific development that they want to do at that point. So currently today what we are deciding on and what this Commission is recommending is, is this a good fit for a zone change for the future of this community. Having said that I will stand for any questions and I do have Mr. Conant here to answer any questions that the Commission may have as well.

Commissioner Gaudette: If the zone change was to go through and it becomes a C-1, the use of that property would be able to be anything that is used within C-1?

Mr. Martinez: That is correct.

Commissioner Gaudette: And what kind of uses would C-1 be authorized for?

Mr. Martinez: Under § 154.120 NEIGHBORHOOD COMMERCIAL DISTRICT (C-1) zone, (B) *Permitted uses*. In the C-1 District, the following uses shall be permitted subject to the standards and limitations set forth in division (F) below and pursuant to §§ [154.035](#) through [154.040](#) for site design review: (1) Restaurant (with or without a liquor license) or refreshment stand; (2) Retail stores not exceeding 5,000 square feet of floor space; (3) General or professional offices; (4) Convenience food store, maximum floor area of 5,000 square feet of floor space; (5) Business services offices; (6)(a) Dwelling in conjunction with a permitted use; (7) Accessory uses; (8) Temporary structures as may be required during construction of an authorized permanent structure. The temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector; (9) Community or municipal water supply system; (10) Community or municipal sewer system; (11) Public facilities; (12) Flea markets, subject to site design review; (13) Churches, subject to site design review; (14) Signs, pursuant to the sign provisions set forth in § [154.166](#); (15) Permitted uses allowed in RR Districts; and (16) Similar uses, similar in character, scale and performance, or with similar noise, odor, traffic, air and water quality impacts on neighboring properties.

Commissioner Baca: Could you give us the uses for C-2 as a comparison please.

Mr. Martinez: C-2 would be *Permitted uses*. In the C-2 District, the following uses shall be permitted subject to the standards and limitations set forth in division (F) and pursuant to §§ [154.035](#) through [154.040](#) for site design review: (1) All uses permitted in the C-1 District; (2) Shopping centers; (3) Hotel or motel; (4) Tavern bar or lounge; (5) Farm equipment sales; (6) Greenhouses, plant nurseries, or landscaping; (7) Indoor recreational facilities; (8) Veterinary hospitals with outdoor facilities; (9) Lumber sales; (10) Gas stations and repair; (11) Animal feed stores; without side storage facilities; (12) Essential public utility structures; (a) Dwelling in conjunction with a commercial use, (15) Retail stores, in which, incidental to the retail operation products may be manufactured, compounded, processed, assembled, or distributed to retail, including carpentry, ceramics, fabric cutting and sewing, furniture making, upholstering, sign making, decorating, catering, baking, confectionary making, 1. Automobile, truck, trailer sales provided that a solid wall or fence 6 feet high, 2. Auto, trailer and truck rental, service, sales, storage, provided the lot is graded and surfaced with paving or other pervious material. Similar uses similar in character, scale and performance, or with similar noise, odor, traffic, air and water quality impacts on neighboring properties.



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Commissioner Garcia-Schaffner: In the letter Mr. Conant submitted to us it states that during the 2012 property refinance the zoning was changed from Farmland to Rural Residential-2. Was that brought before the Planning and Zoning Commission and done that way or how was the change done?

Mr. Martinez: That is unsubstantiated. As far as I have known this zone has been an RR-2 zone since our zoning was established in 2000. So in 2000 when they redid our zoning maps this land was established as an RR-2 property.

Commissioner Garcia-Schaffner: So it's a coffee distribution company. Can that take place on an RR-2 rather than a C-1? I am surprised. I thought since it was a business, a business would have to operate on a C-1.

Mr. Martinez: Usually the case would be if it is a business it should be on a commercial property, however, and as we have seen it plenty of times in front of this Commission, when they did the zone change in 2008, most likely they did a blanket zone change in the area and didn't really understand the land uses at the time. Usually what would have happened is that the zone change would have happened with a business on it and then they can apply for a conditional use, but since the business started after the zone change, they still can apply for a non-conforming use because under § 154.059 Non-Conforming Uses, under review criteria 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 in [§ 154.075](#), and provided that the applicant submits evidence of the following: 1. The nature and extent of the use for at least 10 years from the adoption of this chapter prior to the date of application for verification of non-conformity; 2. The use or structure was in existence at least 10 years prior to the date the application for verification of non-conformity is submitted; and 3. The use has continued uninterrupted, or the structure has been occupied continuously, for at least 10 years prior to the date the application for verification of non-conformity is submitted.

Commissioner Garcia-Schaffner: Without having to change it from RR-2 to C-1.

Mr. Martinez: Correct. Now having said that what this does is as we move forward with the zone change is it actually cleans that up a little better since we are moving from an RR-2 to a C-1, that type of business would now be in compliance with the zoning category.

Commissioner Garcia-Schaffner: In your application it says "Zone Change which will allow for a wholesale coffee and distribution company to operate in conjunction with our raspberry farm. Can you clear it up for me? So it's an RR-2 and they can operate the raspberry farm but then the coffee distribution and they want to start a coffee shop there?

Mr. Martinez: As I understand it, any type of agricultural use is permitted within an RR-2/RR-1 Zone, and that includes the sales of agricultural products, so a person growing alfalfa on their land has the right to sell that alfalfa and is exempt from the commercial laws in our book. So, the raspberry farm is in compliance with an RR-2 Zone. As I understand from Mr. Conant what they want to potentially do in the future is create a small café or a small ice cream shop to feature their raspberries, maybe sell jams and add value to their product. When they add value to their product they want people to come and sit down and drink a cup of coffee and eat some ice cream or maybe eat some jam or order a sandwich. At that point it becomes a restaurant and it would only be allowed in a C-1 Zone not in an RR-2 Zone.

Commissioner Garcia-Shaffner: So how does that fit into their wholesale coffee distribution, because they want to operate in conjunction? So are they going to combine the two businesses?

Mr. Martinez: I am not here to speak about the business model. Mr. Conant can answer those questions.

Commissioner Garcia-Shaffner: So they want to get this going for a future shop there and they don't know when it is going to start, but they just want to have a C-1 there in case they want to have a shop or restaurant?



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Mr. Martinez: As I understand it, yes.

Commissioner Garcia-Shaffner: So how does this fit in with the Tome Plan?

Mr. Martinez: I think the view of a small café or small ice cream shop does fit in with the Tome Plan. I know that Mr. Conant has actually made contact with some of the Tome residents, the ones that have been involved in creating that plan. They have verbally stated and written to me that they would support a C-1 for this type of change.

Commissioner Gaudette: Could the applicant continue to be a wholesale coffee distributor as they are now without the zone change? Just be a non-conforming.

Mr. Martinez: Yes they would continue to be a wholesale coffee distributor without the zone change as a non-conforming use.

Commissioner Gaudette: If they were to want to open up a restaurant in the future and it was changed to C-1 today they can do that as long as they comply with all the other regulatory requirements?

Mr. Martinez: Yes they can.

Commissioner Gaudette: So they could say “Hey I am C-1 now”, the property would be in compliance with the zoning to have a restaurant, they would then have to comply with again all the regulatory requirements of parking and sanitation and setbacks.

Mr. Martinez: That would be correct. Again whatever new site development they would want to create on there they would have to go through a site development process in which we would make sure that they are regulated to be in correspondence with any state or federal regulations.

Commissioner Gaudette: So they would not be coming back to Planning and Zoning to get permission to run a restaurant?

Mr. Martinez: That is correct. If they meet the requirements of a restaurant that is less than five thousand square feet and it is a C-1 zone then they can administratively go through a site design review process.

Commissioner Gaudette: And it doesn’t necessarily have to be a restaurant, it could be anything within C-1?

Mr. Martinez: That is correct.

Chairwoman Artiaga: If we recommend approval of the zone change, it goes through the County Commission and is approved then they wouldn’t come back to us for a site plan?

Mr. Martinez: That is correct.

Chairwoman Artiaga: There were several comments in our packets from different departments about the site plan, so we don’t need to review that at this time since we are just talking about the zone change?

Mr. Martinez: That is correct. The quasi-judicial zone change should be evaluated not on the specific site development plan, especially this one, but whether this zone fits within the surrounding neighborhood.

Commissioner Baca: If this land is sold does this zone change go in perpetuity with the land?

Mr. Martinez: Yes. The zone change would be established with the land.



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Chairwoman Artiaga: Are there any other questions for Mr. Martinez? Can we please have the petitioners come forward and tell us what it is you would like to do? Please state your name for the record and sign in and put your address down.

Mr. Conant: My name is Michael and this is my wife Vanda. I would like to thank you for allowing me and my wife Vanda to share a little bit about hopes and dreams and desires. First of all I can give you a little history to fill in where Mr. Martinez has explained several things. In 2003 we began operating a coffee distribution company and have continued to do so since that time and we have seven and a half acres and had cattle and the area we are applying for the zone change is a little over three and half acres, so it is separate from that. It was used for grazing for cattle for a good number of years and I purchased the property in 2002 and my wife and I were married in 2007. To get back to the plight at hand-are you familiar with the Salmon Ranch up in Mora? What we are doing is patterning our operation a little bit after theirs. They have been in operation for forty or fifty years, and they sell raspberry related products in their retail store and other raspberry related products that you can purchase. They have a little separate building that they use as a restaurant, a little café with deserts, sandwiches, soups and so on. In conjunction with this they also have a coffee distribution company. They operate with the same business name on the same property. I don't know if you are familiar with what my property looks like but when you drive by you see the sign that says "Berry Farm" and "Raspberries-you pick or we pick". We have been blessed to have school day trips from three to five year olds come out and pick raspberries, and they seem to love it. What we are trying to do with the property is that there is an old house on the property that we have wanted to remodel, but restoration is very expensive. We thought about a mother in law house and then took a trip up to Mora and saw their operation and that is what we are intending to do with that property. As far as parking we have the parking area in the front that used to be the cattle pen and we can utilize that same area for parking and there would not be any new buildings being constructed. The old brick house up front was built, to the best of my knowledge, in the late 1800's and if we don't do something with it, it is going to fall apart and we thought to ourselves how can we justify spending money on it and we thought we could justify doing that if it can become a part of something that we could operate as a business. So we want to restore that house more than anything. We know that the Green Belt and the Tome Group has specific ideas about what that area should be developed for and we met with several of the people as Mr. Martinez had indicated and all of them said that it sounds great. As far as the neighbors are concerned, we have been operating our coffee distribution business since 2003 and we have never, ever had a complaint from the neighbors about what is going on regarding trucks and too much traffic or anything like that. What we intent to do is provide a gourmet soup/salad sandwich operation as well as coffee shop and open from between five and six in the morning and close at about two o'clock in the afternoon, at least the café part. During raspberry season the remainder of the retail part would remain open until about six o'clock. The amount of traffic we have generated has never been, and I can't foresee, any indication how it would be a problem in the future since we are not trying to become a huge operation.

Mrs. Conant: With the adobe house, I really think it is a beautiful place that we have there. We have gotten information from neighbors that have relatives that actually lived there, and we talked to them about restoring the house and they feel it would be a wonderful idea to keep it there since there are not too many of the old adobe houses left and I would hate to see it continue to fall apart and I feel if we could restore it and save it, it would be a real blessing to our area. We talked about names for the little shop and we wanted to call it the "Raspberry Patch Café". Other people I have talked to really think it would be a wonderful place to be able to come and have a salad at lunch, especially the women at the school, and not have to drive into Belen or Los Lunas and not spend their whole hour being gone, but being able to just down and enjoy a nice meal. I don't intend to do any type of frying, just some basic baked goods, soups and salads and a lot more organic type foods and even get vegetables from the neighbors if they have them to sell as it will help support our community. We need to do more for our community in our area and not have so much stuff coming from out of area; we want to do more for our local people.

Commissioner Baca: How long before you would begin the process of renovating and starting the restaurant?



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Mr. Conant: Everything is a function of finances and needless to say, it takes a fair amount of money to do that. We hope that we can begin the process this winter, as soon as the freeze gets off in early spring. This will have to be done in phases and the first thing we really need to do is shore up the foundation so the building has integrity. The windows and doors need to be filled in and shored up as well. The next step would be the roof that needs to be replaced. Once all of that is done we can begin the process of building on the inside of the structure and refurbishing it. We hope to begin that process over the next couple of months.

Chairwoman Artiaga: So if you did get your zoning in place then it would be easier for you to get the financing you are going to need for this project.

Mr. Conant: Absolutely.

Chairwoman Artiaga: So you need the zoning because they are not going to loan you on residential.

Mr. Conant: Not on an RR-2. It's been our pleasure to have our home based business and we have been able to have that variance, but we can't go any farther with the current zoning.

Commissioner Garcia-Shaffner: You said in your letter you haven't had any complaints from your neighbors regarding delivery trucks. How many trucks come into your place and what are the sizes of the deliveries?

Mr. Conant: Most of them are the bob-tail type of trucks, five ton trucks. Some of them are short semis and on an average we have two or three a month.

Commissioner Garcia-Shaffner: How do you distribute your coffee?

Mr. Conant: We have half-ton and three-quarter ton delivery vans. Also a good percentage of our products are not delivered to us by a main land freight company, but we actually go to Albuquerque, sometimes two, three, four or five times a week.

Commissioner Louie: Under C-1 zoning there are standards and limitations, a list of compliances. Are you within those compliances?

Mr. Conant: I believe we are. The RR-2 that we are currently zoned under, and if we changed it to C-1, I believe everything would be under compliance.

Chairwoman Artiaga: Is there anyone here who would like to speak in favor of this request? (There was none).

Chairwoman Artiaga: Is there anyone who would like to speak in opposition of this request? Please come forward and state your name for the record.

Mr. Bevington: My name is Rob Bevington, I live on Vista Solano Dr. which is probably one hundred feet south of this couples property and I have an opposing point of view. I am sure this couple is sincere and I think it's great that they are growing raspberries. I have seen that raspberry patch, and I drive by twice a day every single day. But I don't believe the impact is going to be slight as they say. They say the traffic is minimal-and yes it is probably minimal because they have few deliveries I guess. But when you have a concentration of people there is going to be an impact. Vista Solano Drive is the only entry and exit to that subdivision, so we have no choice-we have to go out in that fashion. There are probably twenty families that are living in that sub-division and we will all be impacted. There is going to be more traffic and congestion. There are already venues for people to sell produce. There is an official farmers market just right up the road at the intersection of Highway 47 and Highway 6. The Tome Dominguez Community Center also hosts a farmers market I believe throughout the year or throughout the growing season anyway.



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There is also precedence, there was a business called Los Kings Pizza just south of there and that business failed. Before

that it was a convenience store and that store also failed. And the reason being is that people want a tranquil, quiet part of the county where you can have residential properties and do a little farming. And I do not believe that having more C-1's is necessary. What also concerns me is despite peoples best efforts, businesses fail, they go south sometimes. That property is not an insignificant piece of property, its three and a half acres that are going to be rezoned. Anything could be done with that parcel after the fact, even something as undesirable as a waste treatment plant and as far as I am concerned it is not an appropriate use of the land. I think this Planning & Zoning Commission has an obligation and a responsibility to try and retain what's left of the green belt and I do not believe for a minute that this fits into the Tome Plan either. There was a comment that there were verbal and written comments. Where are they? I don't believe that for a minute. People are trying to keep what is left of the agricultural heritage that is here and adding another commercial property is certainly not the way to do it.

Commissioner Baca: Did you speak to anybody in that are?

Mr. Bevington: Sure, my neighbors are opposed to it. I have a neighbor who grows a lot of produce and he has to go to a farmers market. Again, this is not the best use of this land. This land should be used for growing things if possible and not a small restaurant. I am sure these people are sincere and I applaud them but it is too risky. I wouldn't have bought that property where I am at if there was a C-1 property on the corner. I think that a lot of people would feel the same way. So there is all this support-well that has not been my conversations with my neighbors.

Chairwoman Artiaga: Is there anyone else who would like to speak in opposition?

Mr. Romo: My name is Pat Romo and I am here with my mother whose trust owns a parcel of land just south of the road, and I am here on behalf of my mother's estate and trust. We have a long tie to that community. I grew up there as a child, my father was the County Agent for Valencia County for years and this whole green belt issue and preserving the rural culture of that quarter was his dream when he first landed here after getting out of Agricultural School at New Mexico State University. It met with a lot of resistance and unfortunately the community...that quarter has changed radically and my fondness for the community in that corridor is less today than what it was back then because of how that corridor has changed radically. I applaud these folks...it appears that they are great stewards of the land, they are entrepreneurs. I will tell you that we as a family have no problem with enterprise, we are pro-business and we encourage that within our own ranks and with other folks. We kind of support this. My concern is that we are going from a non-conforming rural residential use to a C-1. That seems like a great leap. Because I am not a resident of the community I am perplexed that perhaps there is not a special use zone, maybe there is, that this could go into. I am not concerned about what these folks are going to do, I am concerned about what happens when they meet with their untimely demise or things happen in all of our lives that take us away from our passions or what we do, so I am concerned about the broad spectrum of the C-1 zone allowance. Again, I am not concerned about elementary students, grade school students going and experiencing the rural aspect of farming, I think it's pretty cool. What I am concerned about is what if something happens to these folks for a myriad of reasons, out of beyond their control. Like the gentleman that just spoke, the C-1 zoning concerns me because it was pretty broad and I am not sure you could open a rendering facility there but somebody could do something that is not compatible in the community. I think what these folks are wanting to do is compatible. I am not going to get into what I think are the economics of the enterprise, but I think it's a pretty novel of a concept. We are not worried about them we are worried about what happens to them but what happens to the site when they move on. So therein lays my concern. I do not know if there is a special use zoning that would allow for what they want to do, but if it ceases to operate as a gentleman farm or gentlemen commercial enterprise... I don't mean to be gentlemen owned, but the enterprise that they are proposing I am concerned and scared for my mother's piece of property and for the rest of the surrounding community and for that green belt. We are not anti-business, we encourage it but we are just concerned about the next use. I think it's a great use personally. I am worried about what happens when they open a truck sales barn or something.



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Chairwoman Artiaga: Thank you.

Mr. Romo: Thank Madam Chair and Commissioners.

Chairwoman Artiaga: Is there anyone else who would like to speak in opposition?

Commissioner Gaudette: If I may before we hear from the applicants, Mr. Martinez there were a few references to the Tome Plan. I know we have met in the past, we tabled an overlay or special use area and I missed September's meeting. Is there a Tome Plan that is official and on the books that maybe I am missing?

Mr. Martinez: Madam Chair...Commissioner Gaudette there is no official Tome Plan established for our ordinances.

Commissioner Gaudette: There is no Tome Plan?

Mr. Martinez: No official Tome Plan established for our ordinances. We are still moving forward to try to get the groups to move forward and get one passed. But as of today there is not one.

Commissioner Gaudette: Ok, thank you.

Chairwoman Artiaga: Would you like to refute anything the two people...?

Mr. Conant: Well as to the people who were actually a part of the Tome group and society, the Vice-Chair person as well as three of the members came down, we invited them down and we toured them through the facility and we showed them what we are currently doing, we showed them what we had hoped to do and pretty much as we had explained today and every one of them were onboard with the fact that it would fit perfectly with what their vision of the green belt in that Tome area would be. And then several other people who were non-associated with the green belt expressed that they...residents up and down on 47 expressed that their feeling would be that it would be a marvelous addition to the Tome area.

Chairwoman Artiaga: Mr. Martinez did you receive anything in writing after the publication of this request in favor of this?

Mr. Martinez: Madam Chair the Vice-President of the Tome Group that is working towards getting their plan passed indicated in an e-mail that she would be acceptable with a C-1 zone change per this land use.

Commissioner Garcia-Shaffner: And the name of this person is?

Mr. Martinez: Geri Rhodes. I know there has been discussion with other group members that verbally had supported it, but didn't put anything in writing and did talk about coming to support, that is what they told me, but they are not here to substantiate that.

Commissioner Garcia-Shaffner: Mr. Martinez would you once again review the C-1, what is allowable under C-1 just real quickly for me?

Mr. Martinez: Of course. Madam Chair...Commissioner Garcia Shaffner the permitted uses in the C-1 and the purpose of the C-1 district is to provide limited convenience commercial services for special residential market areas so it is developed for small commercial basically and that includes (1) Restaurant (with or without a liquor license) or refreshment stand; (2) Retail stores not exceeding 5,000 square feet of floor space; (3) General or professional offices; (4) Convenience food store, maximum floor area of 5,000 square feet of floor space; (5) Business services offices; (6)(a) Dwelling in conjunction with a permitted use.(7) Accessory uses; (8) Temporary structures as may be required during construction of an authorized permanent structure. The temporary structure shall be removed upon final inspection of the permanent



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structure by the Building Inspector; (9) Community or municipal water supply system; (10) Community or municipal sewer system; (11) Public facilities; (12) Flea markets, subject to site design review; (13)

Churches, subject to site design review; (14) Signs, pursuant to the sign provisions set forth in § [154.166](#); (15) Permitted uses allowed in RR Districts; and (16) Similar uses, similar in character, scale and performance, or with similar noise, odor, traffic, air and water quality impacts on neighboring properties. So those are the permitted uses and again there are permitted and conditional uses. Conditional uses would have to come back in front of the Planning & Zoning Board for permission.

Commissioner Garcia-Shaffner: Ok, Thank you.

Commissioner Gaudette: Mr. Martinez as it is currently zoned RR-2 is there any way that these applicant's could accomplish what they are seeking to do without changing it to a C-1?

Mr. Martinez: Madam Chair... Commissioner Gaudette RR-2 allows for what we call a Home-Occupation process. A home-occupation process has a ... listed by which the Commission would have to ... upon in order to determine if it meets those causalities, so under § 154.168 Home Occupations there is a list of criteria's, um, (A) *Standards and limitations*. The following standards and limitations shall apply to home occupations. (1) The home occupation will be operated by a resident of the property on which the business is located. (2) The home occupation will employ on the site no more than 2 full or part-time employees, other than the applicant. (3) The home occupation will be operated substantially in the dwelling or in other buildings normally associated with uses permitted in the zone in which the property is located. (4) The home occupation will not unreasonably interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located. (5) No more than 1 home occupation shall be permitted in conjunction with any dwelling or parcel. Activities which are substantially different in nature shall be considered separate home occupations. (6) A home occupation shall not be used to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is established, nor shall a home occupation be used as justification for a zone change. (7) The total area used for outdoor storage shall not exceed the allowable parcel coverage in the zone in which the home occupation is established. (8) There shall be no visible evidence of the conduct of a home occupation from any road or adjacent property, other than permitted signs. Any outdoor storage or outdoor work areas shall be effectively screened by vegetation or by a sight obscuring fence. (9) A home occupation shall not generate noise, vibration, glare, fumes, odor, electrical interference or other disturbance beyond what normally occurs in the applicable zoning district. (10) The applicant shall provide evidence of New Mexico Environmental Department review and approval of the liquid waste disposal system for the home occupation. So on and so on. There is a whole list of them and so some of the questions that this Commission would have if these applicants did come in front for a home occupation is does this meet criteria (A)(8) There shall be no visible evidence of the conduct of a home occupation from any road or adjacent property, other than permitted signs. Any outdoor storage or outdoor work areas shall be effectively screened by vegetation or by a sight obscuring fence.

Commissioner Gaudette: And you mentioned that they would only be able to have one home occupation that's non consistent with RR-2, they could still have a raspberry picking field, they could still have the non-conforming use for the storage of coffee and such.

Mr. Martinez: I think that what we have to contemplate is if they could still have the coffee distribution and the restaurant. Would those be two different home occupations on the same parcel of land? So that would have to be debated.

Commissioner Gaudette: That would have to be debated but right now it's just a non-conforming use not a home occupation to store the coffees?

Mr. Martinez: Correct.



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Commissioner Gaudette: I would like to throw this out there for discussion. I don't know if you want to sit or stand there.

Chairwoman Artiaga: You have had an opportunity to refute so go ahead and have a seat. So what the commissioners are going to do now is discuss this information we have before we decide.

Commissioner Gaudette: What I was going to say is despite the fact there is no Tome Plan, and there isn't and I understand the general concept of what would like to be accomplished in this historical Tome area I am concerned, as Mr. Romo had mentioned I think what these applicant want to accomplish probably would fit within a Tome plan as it was drafted and brought before us earlier, again even though one does not exist. But as Mr. Romo mentioned, my concern is if you make this a C-1 and Family Dollar who has tried to come into the Tome area and has been rebuffed by the residents of Tome, decide to buy out the Conant's and put up a Family Dollar because it is now consistent with C-1, they offer an ungodly amount of money you just can't walk away from, or as Mr. Bevington mentioned that there is a change in their situation such as they get divorced or move or sell the land or what have you, making it a C-1 would probably not be consistent with what I am hearing the Tome Historical Society envisions because once we allow it to become a C-1 I think that whoever owns the land is free to do what they want with it as a C-1 and despite what the vice-president of that organization has stated, I think somebody has to think long and hard about approving it. On the other hand, I love the idea. I can see myself pulling in and having a sandwich and enjoying some raspberries and baked goods. My thought is and it is up to the applicants and the rest of the board here as to what we are going to do but maybe exploring a home use occupation I could see for myself to be more practical. As I said I have concerns about this being labeled C-1 and in the future who knows what C-1 is going to look like.

Chairwoman Artiaga: Just as a matter of discussion I was part of the committee, part of the original group that did the original zoning back in the 70's and then again I was County Clerk back in the 80's when we did a zoning law and at that time the corridor along Highway 47 and Highway 85, those were marked in as proposed commercial property, and zones change, but I remember when we did it in the 70's everything along 47 was going to be allowed to be commercial and then again back in the 80's there was just a yellow line drawn along either side of 47 and that was supposed to be commercial, but then they changed it again in the 80's and the 90's and 2000. So zones change and people change and commissioner's change and commissions. I read the Tome Plan in depth and I have gone through it and this commercial enterprise that they are discussing is exactly what is described in the Tome Plan as the kind of commercial property and enterprise. So as a matter of discussion I don't think that residents should be worried about the term commercial because it doesn't automatically mean that it is going to degrade the neighborhood. There are a lot of commercial properties in our towns and in the county that don't deter from the rest of the property. Then there are other ways, if you have a problem you have a nuisance complaint, there are other ways of dealing with that but just as a matter of discussion, my own personal feeling, this sounds like the kind of commercial enterprise that would be appropriate for Tome and for this area. I used to own the property just south of Santiago Estates and I developed that back in the 80's so I am really familiar with the area and this sound exactly like the kind of commercial enterprise that is envisioned in the Tome Plan.

Mr. Martinez: Madam Chair if I may and to clarify one difference between the home occupation and the C-1 is that the C-1 will run in perpetuity with the land, a home occupation a home occupation shall be deemed personal to the applicant themselves.

Commissioner Baca: The land in question is adjacent to my property. I have known Mike and his wife for many, many years and I know he has the best intentions; however, my concern is what happens after Mike. And I think as you stated he could achieve what he wants to with an RR-2 instead of a C-1 and I think it would a lot of sense for me and I know my wife wanted to be here and I convinced her please don't and I don't know if I should be saying all this because I know Mike and I don't know if it is appropriate for me to be saying this but I know there is some development that goes adjacent to Mikes house and I know



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the area might need some drastic changes if this so happens to be a real successful business otherwise it will be a disaster but I do agree that Mike can accomplish what he needs to accomplish with an RR-2.

Chairwoman Artiaga: Commissioner Louie would you like to add anything to the discussion before we entertain a motion.

Commissioner Louie: No

Commissioner Garcia-Shaffner: I have a question for Jacobo. Under C-1 can there be a...my understanding is that a Dollar General store cannot be built on a C-1 zone.

Mr. Martinez: Madam Chair, Commissioner Garcia-Shaffner what the C-1 specifies is that you cannot have a retail more than 5,000 square feet and usually Dollar Generals are more than 5,000 square feet and that is why they have to go into a C-2, however, there is no telling what the future will hold. They might make a Dollar General that is 4,999 square feet one day and that would be allowed in a C-1 zone.

Commissioner Garcia-Shaffner: On the Tome Plan they say anything can be built on less than 5,000 square feet. Correct?

Mr. Martinez: Madam Chair, Commissioner Garcia-Shaffner they have laid out pretty specific types of uses that can be utilized. But again that is yet to be determined and yet to be approved.

Commissioner Garcia-Shaffner: I agree but at least they have given us some sort of guidance as to what they want to see in their community which I hope other communities will do the same.

Commissioner Gaudette: We keep referencing a Tome Plan but there is no official Tome Plan for us to rely upon so I am only looking at that a C-1 says you can have these types of enterprises. Regardless, I won't around when the Tome Plan comes up for review I would hate to have somebody argue that while they are C-1 and now they are grand-fathered in that they don't have to comply with this Tome Plan that has not been formalized. I am pro-business and pro-enterprise and believe people should be able to use their property to their fullest. However, I am concerned that if we give them the stamp of C-1 now that very well could impact Tome's plan in the future because then this property is grandfathered and you cannot now change or put restrictions on it that didn't exist at the time. I am not the county lawyer but that would be one of my concerns. Maybe you want to ask the applicants if they want to hold off on a vote.

Chairwoman Artiaga: What we have to do first is vote on this request and then give them some advice after we do this.

Mr. Martinez: You can do that or ask them to come up and be part of the discussion and see how they fit into this.

Chairwoman Artiaga: Please come forward and be part of this discussion.

Mr. Conant: I guess one of the main concerns continuing with an RR-2 brings to my mind, let's assume that in the restoration of this old house, and the only way we are able to justify its restoration, is the hopeful income that we might derive from it. So let's just say for practical purposes we spend \$75, 000 and we go out on a limb for this money and we get the house fixed up and going along fine and dandy and let's say something does happen to me or my wife, if we are zoned RR-2 it is my understanding that when I go away so does that conditional use. So it seems very unfair that if the Tome Committee has seen fit to approve with several numbers, for us to consider spending that kind of money to bring this thing backup to its potential and then the next person who comes along and wants to buy the property based on that little café, then they couldn't operate without going before the commission and it is very risky for us.



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Chairwoman Artiaga: And I don't believe that you could get any financing to restore the house as a café unless you have the zone changed.

Commissioner Baca: I know that is not true because I have an old house in Belen and it is not even a farm and I was able to get some financial aid from it.

Chairwoman Artiaga: To turn it into a café?

Commissioner Baca: We actually were going to turn it into a café and we went through the whole process but it didn't go through.

Chairwoman Artiaga: From my experience if you are going to renovate an old building for a specific use like a café or restaurant they won't loan you money on a restoration to convert a house into a restaurant you have to have all kinds of upgrades and that kind of thing.

Commissioner Baca: Is your house in the Historical Register?

Mr. Conant: Not to my knowledge.

Commissioner Baca: Would you be ready to operate the café if we should so decide you could do it with RR-2?

Mr. Conant: I think it's too risky and I think you are taking our hands and tying them and I think that it is an unfair thing to do especially based on what the Tome Green Belt Society would like to see. And I don't think a C-1, whether or not the green belt is ever brought into being and there is actually a plan developed and signed off by the County Commissioners, nobody knows that for sure. My guess is this is going to happen no matter what because these folks that have been graceful enough to approve of us doing this project are very avid to, for a lack of a better word, mess up that green belt area of Highway 47 and that Tome land grant area. So I think it would be unfair. I think the commission would find itself going against what I believe to be right and wrong at this point.

Commissioner Garcia-Shaffner: Mr. Martinez, have you received any letters from the neighbors that were notified of this either pro or con to this?

Mr. Martinez: Madam Chair, Commissioners that is correct.

Mr. Conant: Up until half an hour ago with this gentleman I had never had anybody say anything derogatory other than complimenting the idea or for the past 10 years of what we have done there. I think it would be fair to recommend that we be allowed to send this up to the County Commission to make that decision.

Chairwoman Artiaga: What we will be deciding now is whether or not to recommend to the County Commission. The County Commission makes the final decision on zone changes. But we will be passing a motion now either to recommend approval or disapproval of this request.

Commissioner Gaudette: Whose district is this in?

Commissioner Garcia-Shaffner: Leroy's.

Commissioner Baca: I am not going to make the motion. I don't really want to make the motion. Do I have to make the motion?



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Chairwoman Artiaga: No, you don't have to. Marie would you like to make the motion?

Commissioner Garcia-Shaffner: No I am torn with this one. I think that people with property especially along Highway 47 need to be allowed to develop it. I am pro-business; I think this fits in nicely with the Tome Plan. I have been to the berry farm and a little restaurant with a little coffee and things like that would be very nice. But I am fearful that this will turn into another Dollar General store, a box store, so I am so torn. I wish there was a way that we could help them develop their business. So you are the Chairwoman, what do you suggest we do?

Chairwoman Artiaga: I am open for a motion.

Commissioner Gaudette: As the rules go the Chairman is not allowed to make a motion. And I am going to echo Marie's concerns. I am torn, I think it is a wonderful business idea and I wish there was a way it could be done, and at the same time there is no Tome Plan. I don't care what everybody keeps saying, there is no Tome Plan. But I understand having been on this Commission now for four years the sentiment of the people now in Tome and they are not here tonight. Though we have the representations by Mr. Martinez and the applicant, I too am torn. I would like to see this business go and it is something I could see taking my wife and kids to.

Commissioner Garcia-Shaffner: I have a motion. I would like to table this until next month and ask representatives from the "un-Tome Plan" and if they have any concerns they can express them to us and then we can make that decision. Because what I see here, we still have time for the plan for the restaurant since it won't be till February or March.

Chairwoman Artiaga: Wasn't this tabled last month?

Commissioner Garcia-Shaffner: It was at the Conant's request.

Chairwoman Artiaga: Ok is that a motion?

Commissioner Garcia-Shaffner: That is a motion.

Commissioner Baca: I will second.

Chairwoman Artiaga: We have a motion and a second to table the item for a month and to contact the people in the Tome area and see if they would come forward and give us their opinion on this proposal. Mr. Martinez will you read the motion back and call for a roll call vote.

Mr. Martinez: There has been a motion made to table the recommendation for the zone change from a RR-2 to a C-1 on the subject property. There has been a second on that motion and I will call for a roll call vote on that motion.

Roll Call Vote:

Commissioner Garcia-Shaffner	Yes
Commissioner Gaudette	Yes
Commissioner Louie	Yes
Commissioner Baca	Yes
Commissioner Artiaga	No

Action: Table request until December meeting.
Moved by: Commissioner Garcia-Shaffner



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Seconded by: Commissioner Baca

Motion Passed: 4-1

7. DISCUSSION

8. NEXT MEETING: Thursday December 18, 2014 @ 4:00 P.M.

9. ADJOURNMENT

Moved by: Commissioner Gaudette

Seconded by: Commissioner Garcia-Shaffner