



**VALENCIA COUNTY PLANNING & ZONING COMMISSION
MINUTES**

DECEMBER 18, 2014 4:00 PM

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

1. CALL THE MEETING TO ORDER

Chairwoman Artiaga

2. PLEDGE OF ALLIGANCE

Virginia

3. APPROVAL OF AGENDA

Item 6A-Applicant withdrew petition for Zone Change.

Item 6C-Tabled for the January, 2015 meeting to reflect appropriate wording- "Sector Development Plan"

Action: Approve
Moved By: Commissioner Gaudette
Seconded By: Commissioner Garcia-Shaffner
Motion passed: Unanimously

4. APPROVAL OF MINUTES

Action: Approve
Moved By: Commissioner Garcia-Shaffner
Seconded By: Commissioner Louie
Motion passed: Unanimously

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.

Applicant Withdrew Petition for Zone Change and will be applying for a Conditional Use-Home Occupation in January, 2015.

B. REQUEST FOR A ZONE CHANGE FROM OD TO C-2

Applicant: Rudy R. Marquez
Purpose: Rezone Vacant Land from OD Zoning to C-2 Zoning

Legal Description: T7N, R1E, Section 21, N.M.P.M.; Land of Peggy Huber; Tract A, Zoned OD; Filed in the office of the Valencia County Clerk; Also known as Lot 38, Los Lunas, NM 87031.

This property is located approximately .45 miles NE of Dallies Rd. off Highway 6



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Mr. Martinez: I will give you a little more context about where it is. (Mr. Martinez presented slideshow of area via projector). The blue dots represent activity centers as defined by the Comprehensive Plan and I'll just give you a quick reminder of what that means. Our Comprehensive Plan does define spaces in Valencia County for future intensive development such as commercial, mixed used commercial, residential. The five spots indicated here are where the Comprehensive Plan has indicated those would be the best spots for future economic development, or at least intensive economic development. In red is the location of the zone change application so as we move forward with this note it is on the NW side of the county west of Los Lunas Hill off of Highway 6. And as we move farther in you'll notice this is where the Los Lunas Transfer station is and the sale barn is here as well. The lot in question is around here. This is the railroad line and this is a country road that exists today. Again as I said to the SE is the sale barn. The applicant today is in front of you in order to change from OD to a C-2 property. Highway 6 runs EW, the sale barn is right here, 1.45 acres off of main street. The proposal states that the owner of the property would like to transfer a liquor license to this area so the Village of Los Lunas can annex and move the license within the Village. Currently there is not any infrastructure out there. There is this country road that is out there but that is actually on the proper easement itself. It's just an old country road that has been out there for a very long time. There is no water or septic. The owner of the liquor license who is the applicant of this zone change first came to the Planning & Zoning Department and asked to move the liquor license. What the liquor license board needed was a letter from planning and zoning stating the liquor license could be moved onto this site or the land use allows for that. In an OD, Outland District zoned property land use does not allow for the sale of liquor. The sale of liquor can only be done in a C-1, C-2 or above zone such as an I-1, I-2, or I-3. Therefore it was a recommendation of the planning and zoning department if the applicant did want to move a liquor license to this site to go through the public hearing process for the zone change in order to move this process forward. Again this is a quasi-judicial zone change application, there are three requirements for a quasi-judicial zone change that the Commission must review the process by; (1) Does this business fit within the surrounding area, (2) are there other areas in this zone or in this area that would allow this type of zone change to occur and (3) does it meet in harmony with the Comprehensive Plan. The annexation part, I'm not an expert on annexation; I do not know the full range of what annexation entails. I know there is some process by the City Council that needs to occur before the annexation happens by the city. I am also not an expert on state liquor laws and don't really have a lot of answers around state liquor so I do think that this zone change should be treated as a quasi-judicial zone change, does this meet the three criteria as defined in our process for a quasi-judicial zone change? As you can see Highway 6, there is a shoestring annexation of Highway 6 by the Village of Los Lunas. That's why you see in this grey area it says "Village of Los Lunas". The Village of Los Lunas did a shoestring annexation back a while ago, and I don't know the history of how or when that was annexed. So there is some city owned property just off Highway 6, other than that it is all county owned around there as well.

Chairwoman Artiaga: That blue area, the highlighted area that shows the Village of Los Lunas shoestring annexation, how much property is on either side of the highway included there, or is it just the highway right of way?

Mr. Martinez: I believe it's just the highway road itself, just the right away, that's not real property.

Chairwoman Artiaga: So this property is adjacent to the state highway property?

Mr. Martinez: Yes, including the right of way. The applicant is here as well if you have any questions for him or me as well.

Commissioner Louie: Road access to this property?



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Mr. Martinez: There is country road access that leads to a corner of that property however that is not the legal road access. The legal road access has actually been defined by easements that were part of the plat way back in the 90's when they re-platted the entire west mesa area. So the actual easement that would go to this section is to the west of the subject property and down to Highway 6. So you can see a highlighted easement I have here is actually the easement that should go to the subject property. As stated before there is a country road that meanders through this property. I don't know how long that country road has been in existence or if it is treated as a prescribed easement either. I do know that the actual easement to get into this property is not directly off this road, it is a little bit more west of that road. The applicant would like to provide access to his property through the legal easement that has been established. They would have to utilize this section here in order to put the road onto that property.

Commissioner Baca: This is within the area for Valencia County correct?

Mr. Martinez: It is within the unincorporated Valencia County jurisdiction.

Commissioner Baca: But it would have to be incorporated into the city?

Mr. Martinez: I will let the applicant answer more specifically what he would like to do but what I understand from the application, the applicant would like to move it here so that the liquor license can be annexed into the city. However, annexation has not been completed by the City of Los Lunas as of to date.

Chairwoman Artiaga: Ok let's hear from the applicant.

Mr. Marquez: My name is Rudy and I am the applicant. Mr. Martinez did a great job. This here is Highway 6, my property is the one as he stated. There is a road with a gate that comes through here and shows an easement all the way to the top of the property. On this side of Highway 6 at the very bottom there is also an access road. On this side next to the railroad track there is also an access road. So there is access to the property probably on three sides but the most practical one is this one right here because this is called Upper Levy Rd. and it is paved. This shows it coming in through here and it goes into my property and then from right here from where my stake is at right to about here at that easement and that road back there is 20 feet inside my property. And this is (inaudible) but there is one that comes right along Highway 6 on the north side right here which is not particularly accessible to commercial use I would say. I think have qualified through all the information I have gathered with plans and drawings, I left the big maps in my truck I forgot to bring them in. But they do show all this platted easement down here everything that is Los Lunas that comes through and shows all the easements that have come through and all the properties that have been sold so they all have some kind of easement to them. But in my particular case this would be the best if that's acceptable. I have spoken with the land owner and they own the land that is around that easement. Nancy Schubacker, something like that, said it's a private easement or something of that sort. It is city zoned and what that does for me is that I can annex that into the city limits and my intention; honestly that piece of property is not a great property to put a business but I happen to be in the liquor business. And the liquor license that I bought is in the County of Valencia and that license has been closed down for approximately 8 to 10 years so it hasn't been in use. I bought it and want to move it into the Village of Los Lunas and put it to use and open up a restaurant or club but the only way I can do it is through annexation so I had to find a piece of property that meets the criteria for annexation. And that criteria is (1) it has to be adjacent to city zoning which I do on two sides and (2) I have to have an easement for health and public welfare and access for ambulances and fire trucks. I actually did this many years ago and they asked for utility easements and stuff like that which I'm sure there's utility easements there. But even if there isn't, the power lines are only about 50 feet away from the property because my property borders the railroad right here and then of course (inaudible) always do a well or septic tank. But my actual intention, this is a temporary move that I need to do to get my license into the



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Village and that's what I want to do. I'm being upfront with that. I'm not pulling any strings or tricks here, it's legal. So that's my intention.

Chairwoman Artiaga: I'm sure the other Commissioners have some questions. I have a few questions. Just correct me if I'm wrong, I used to be County Clerk and we used to issue the liquor license so I know that each entity has a certain amount of licenses, or certain licenses that are for that entity and you are saying that you bought a Valencia County license and you can't transfer a Valencia County license into the city of Los Lunas because they have a set number of licenses for the Village of Los Lunas. So the only way you can do that is to transfer it onto a piece of county property and have the county annex that property and that way they assume one more liquor license into their Village. And then once you have the license in the Village of Los Lunas you can build a club somewhere else. Is that what you're saying?

Mr. Marquez: Correct.

Chairwoman Artiaga: So you want to change the zoning on this property which will keep this property change zone. That zone change is going to stay with the land just so you can get the license on the property and then once it's annexed you can move it to somewhere else in the city which will give the Village one more liquor license and one less for the County, right.

Mr. Marquez: Correct.

Chairwoman Artiaga: I just wanted to make that clear for all you. As far as the annexation goes, how positive are you that the Village is going to annex you once you have done this transfer?

Mr. Marquez: Well there are a couple of things that make me real positive. Number one, I meet all the criteria, and that is a state statute, and the state statute rules over County or anybody else. I also talked with Mr. Gallegos, the Mayor, and the Planner...oh what is his name?

Mr. Martinez: Madam Chair, I believe that would be Mr. Ralph Mimms.

Mr. Marquez: Yes, Ralph Mimms. I spoke with Mr. Ralph Mimms and he said "Yea bro, let's do it. We need it. We have some other chains that are coming in, big chains, and they need a license and da-da-da." So they didn't seem to be too opposed of it. One choice is I can open up a place, do what I want to do with it. Choice two is sell to a bigger entity that is going to benefit more people. Right now the license is dead and hasn't been used, so I have a couple of options. If you're concerned about the property being aC-2 zoning, once I leave...I have spoken to Nancy Schmerebach and I know she had some concerns but we talked about that she might buy me out, she might not, or we can change it back. I see progress going that way. I see expansion going that way. I don't have a problem keeping it at C-2 because eventually I believe that property is going to be worth some money.

Chairwoman Artiaga: We have a copy of the deed here in our packet here that shows that you just purchased this property in November.

Mr. Marquez: Yes ma'am.

Chairwoman Artiaga: So you have only had it a few weeks?

Mr. Marquez: Yes.

Commissioner Baca: You stated that there is a limitation in terms of how many licenses we can have in Valencia County. How many do we have and is it permissible to have one more? I don't really know how many we have right now and can we add one more. Did you actually inquire about that?

Mr. Marquez: I don't know how many, but yes, there is availability for one more license in the city limits. Is that what you are asking?



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Commissioner Baca: Yes.

Mr. Marquez: Because the license is already in the County and this is a County meeting so I didn't know what you were talking about. But there is availability in the Los Lunas city limits.

Commissioner Baca: You also stated that you are going to look at the easement. Do you have an easement right now or are going to look into it.

Mr. Marquez: I have done some research and I have spoken with Nancy, and we discussed it. But like my maps, my plans are exactly like those, and those show an easement. So, for the sake of arguing, you're looking at it. That is an easement. If I get my license annexed in and everything goes well, no harm, no damage is done. Putting a C-2 on the map, nothing changes. It's just commercial and one of these days, if it becomes commercial-it becomes commercial. Nancy mentioned maybe they would buy it from me. Maybe we could trade. We discussed that. To be honest she said she didn't think that would work for us. But I think everything is negotiable. Just putting a C-2 stamp on a piece of property isn't going to affect anything. I don't want to be there. I'm doing this just as a political move that I have to do to qualify and I have to go through zoning, I have to go through the County, and then I have to go through the city and then alcohol and gaming. This isn't an easy process but I'm doing it legally and I'm being honest with you and putting myself out there. I'm not pulling any strings.

Commissioner Baca: Do you have a specific plan already in place or are you only speculating what you can legally have later on. Maybe a bar, what are going to have?

Mr. Marquez: I have been in the bar business 35 years. I have had night clubs, restaurants, package stores, I have had them all. I have seen a couple of locations in Los Lunas that I like. I have been trying to keep it silent so as not to get anybody too excited that I want to buy their property to move a liquor license in and out because then the price goes up. I have found several locations that I like that would fit to my benefit. I don't have an actual plan or building. I do have a plan in my mind what I want.

Commissioner Baca: So in essence what your saying is that you don't really speculate but you might want to have a restaurant with a license.

Mr. Marquez: If I do open up I am going to have a liquor license with a restaurant.

Commissioner Baca: Is it going to be a dancing theme? Is it going to be a strip club? What is it going to be?

Mr. Marquez: It's not going to be a strip club but I want a restaurant and more than likely a nightclub restaurant type ambiance. Also the license permits for sales of package. Depending on where I can get and the prices...My dream has always been to do a package store, a pub with a restaurant and have a night club. But it's not always that easy because of the cost of the land and building are expensive so it depends on what I can find and what I can do. I guarantee it is going to be honorable and just maybe I'll get lucky and double my money and sell it to one of the chain stores. Then I won't have to do anything. That is a very strong potential.

Chairwoman Artiaga: I am not familiar with the price of a liquor license right now, I was twenty years ago, but is a Los Lunas liquor license more valuable than a County liquor license?

Mr. Marquez: Definitely.

Chairwoman Artiaga: That's what I thought. So if you could get it transferred within the jurisdiction of Los Lunas it would more valuable.

Mr. Marquez: It's a business deal so I can either do that or...

Commissioner Garcia-Shaffner: Mr. Marquez, are there any buildings or family homes around that property that you want to have rezoned?

Mr. Marquez: The closest I have seen is approximately .09 miles.



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Mr. Martinez: Madam Chair, Commissioner, I would like to mention that there is the San Clemente Neighborhood Association and I believe their boundary includes this.

Commissioner Garcia-Shaffner: Do you know what their feelings are in regards to this?

Chairwoman Artiaga: They are here.

Commissioner Garcia-Shaffner: Are they going to testify?

Chairwoman Artiaga: I'm sure they are.

Mr. Marquez: Mr. Chavez with the sale barn is closer to residential than I am. Actually, he is within a few hundred feet of residential. To me, somewhere on this side down here, there is an RV Park. On this other side there is a gravel pit. Up in here somewhere is the transfer station. There are other zonings in this area so it is not like it is practically new.

Commissioner Gaudette: You stated you have been in the restaurant business, liquor business before. Anything here in Valencia County?

Commissioner Gaudette: So if I understand the process correctly, you purchased from Valencia County a liquor license and now you have to establish a location for this liquor license to sit. Correct?

Mr. Marquez: Yes. Right now the license is within the County and I could move it within the County and I suppose I would still have to come before you for a zone change.

Commissioner Gaudette: So you purchased this license and it is good for the County of Valencia and right now this license is not associated with any property within Valencia County?

Mr. Marquez: It is associated with a piece of property but is no longer operable in that building.

Commissioner Gaudette: And where is this building?

Mr. Marquez: It's on 314 and it's the Silver Creek or Little Creek Saloon. And that thing has been closed down for approximately 10 years but the building has now transferred to an antiques shop.

Commissioner Gaudette: So now what you are looking to do is find a piece of land you can take this liquor license to, or have it associated with, and then you're hoping that the Village of Los Lunas will annex this land that we are talking about and hoping that Los Lunas will then recognize this liquor license and allow this business to continue on this property?

Mr. Marquez: Yes Sir.

Commissioner Gaudette: So you are looking to actually develop this piece of property into an establishment that serves alcohol.

Mr. Marquez: Yes Sir.

Commissioner Gaudette: So you're not looking to take this license and then move it somewhere else in the Village? It's going to be used on this property?

Mr. Marquez: No.

Commissioner Gaudette: I don't understand that. So once the Village of Los Lunas, assuming that they do, annexes this property away from the County, what is your intention with the property now that it becomes part of the Village of Los Lunas?

Mr. Marquez: I don't really have any intentions for it. I mean it's mine and been sitting there for a hundred years so really nothing changes except a C-2 zone.

Commissioner Gaudette: But you don't intend on establishing a place that serves alcohol on that property?



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Mr. Marquez: Not necessarily but not technically, no.

Commissioner Gaudette: You understand if the approval went to a C-2 and the Village doesn't accept, doesn't annex the property, it's now C-2 and you could do what you want with it as long as it fits within the definition of C-2.

Mr. Marquez: I suppose I could.

Commissioner Gaudette: I am just trying to think this through because there are a lot of variables and the big one is whether or not the Village will accept the property and if they do accept the property, is the Village bound by what we do?

Mr. Martinez: Madam Chair, Commissioner Gaudette, like I said I don't exactly know the rules of annexation and I couldn't tell you if they would (inaudible) if they are bound by our zoning.

Chairwoman Artiaga: I am aware of that. I used to do a lot of work.

Commissioner Gaudette: And the answer would be?

Chairwoman Artiaga: The answer would be no. They can establish their own. They are not bound by our decisions and our zoning. They can establish their own zoning once they annex it in. If they annex it in that will become a Los Lunas liquor license and it can be transferred anywhere within the boundary of the Village of Los Lunas.

Mr. Marquez: I didn't quite get the question. Did I answer it? Would you ask it again?

Commissioner Gaudette: The Chairwoman has answered it. So once it's changed to C-2 and the Village does not annex the property, it is C-2 for us for all eternity to so to speak until further change.

Mr. Marquez: Exactly. Unless you want to change it.

Commissioner Gaudette: On the other hand, if the Village accepts the property, annexes it in, depending on how they want to use the property for whatever purpose; they may say they will take it in but it's going to be residential, or we are going to annex it in and it's going to be C-1 or whatever.

Mr. Marquez: Once you annex it, it becomes part of the Village right?

Commissioner Gaudette: Right and I would assume that the Village wouldn't annex it unless they already had a plan to identify how the property is going to be zoned.

Chairwoman Artiaga: Or if they want the liquor license for example.

Commissioner Gaudette: I suppose they could but they can't determine how I can use my liquor license.

Chairwoman Artiaga: No.

Mr. Marquez: Just on the property itself.

Commissioner Gaudette: They could say "We will annex this property but you have to understand we are going to annex it to be residential" and that's the way it would be. I am just wondering if the idea is to take this property...I am wondering if this is premature and right for us to consider whether to make a change to C-2 with the idea that the Village is going to annex this property. The Village may not want to annex the property and now we have changed your property from Outland District to C-2.

Mr. Marquez: Either way it's C-2.

Commissioner Gaudette: Exactly. If the Village says we are not going to annex it, it's C-2 and what would be your plan if the Village did not annex the property?

Mr. Marquez: Let me think about this. I got lost.



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Commissioner Gaudette: So if the Village says “Mr. Marquez, we appreciate your offer to have this property annexed” and then they say “we decline”, what are you planning on doing with the property?

Mr. Marquez: I would probably have to look for another location to move the liquor license to.

Commissioner Gaudette: Another location because?

Mr. Marquez: Within the County. Because that property is not suitable for the type of business that I need.

Commissioner Gaudette: Is your intention then to use your liquor license to go somewhere else in the Village?

Mr. Marquez: It is.

Commissioner Gaudette: Now I see the picture.

Mr. Marquez: If you saw the piece of property there is nothing there. It is just something that I have to do to be legal and do it properly and follow the procedures like I said earlier.

Commissioner Gaudette: I understand all of that. Thank you.

Chairwoman Artiaga: Do any of you Commissioners have any questions?

Commissioner Louie: So he is not really building on the property?

Chairwoman Artiaga: No.

Commissioner Louie: So you’re just using it as an anchor for your liquor license?

Mr. Marquez: Yes. If it makes you feel any better I had done this many years ago, in the 70’s and opened a restaurant in Grants and had a liquor license in Milan. The mayor postponed my liquor license for three years and by being adamant or stubborn about things, I found out what the state statutes were and they allow, the ones now and I looked it up, you have to be adjacent to the city limits and you have to have access to emergency vehicles. Those are the only two now as there used to be three. And honestly I meet those criteria because I border the city on both sides. I feel confident that I will win it. That’s why I took a chance and bought the land and the license. I feel strongly and hope I can get your approval. There are no tricks here, just business.

Chairwoman Artiaga: Thank you Mr. Marquez. Please have a seat. Just for clarification before we ask for anyone else to come forward, could you read off what could happen on this property once it’s C-2.

Mr. Martinez: Madam Chair, Commission, C-2 is defined by Community Commercial District 154.121 the permitted uses within the C-2 include 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; (13) Dwelling in conjunction with a commercial use; Accessory uses; Retail stores, in which, incidental to the retail operation products may be manufactured, compounded, processed, assembled, or distributed to retail; Automobile, truck, trailer sales, Auto, trailer and truck rental, Public facilities and storage centers as well.

Chairwoman Artiaga: Thank you. Is there anyone here who would like to speak in favor of this request? (No one came forward). Would anyone like to come forward and speak in opposition to this request? Please come forward and sign your name and address for the record.

Mrs. Smith: My name is Virginia Smith and I live at 430 Highway 6 in San Clemente, and Mr. Marquez says there is nothing out there and it is not going to make difference whether the property is zoned Outland District, C-1 or C-2. But I can tell you that to 165 families that live in San Clemente it is going to make a difference. For 20 years the members of the San Clemente Community Association have appeared before



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you and the County Commission to oppose opportunistic zone changes within our community. Our community is a rural residential community and we are committed to maintaining the nature of that community. I know that Mr. Martinez knows because we have spoken about it over the past year and a half that San Clemente is eager to become the second community in the County to develop a Community Development plan and get it approved by the Commission. We stated our interest in...we aggregated to the extent that we can the sub-divided and fractured lands in San Clement and preserving those lands through a formal easement process for range land and grazing use in perpetuity. I met Mr. Marquez about the time he purchased the property from Peggy Huber. I was driving home and found a truck blocking access to my drive-way so I pulled up and it was Mr. Marquez and I asked what I could do for him. He first told me he was looking to buy property where he could park an RV so he could visit his sick mother in Los Lunas when he came through to visit. Later in the conversation he told me he was interested in a piece of property maybe along the road so he could establish a trailer sales operation and I encouraged him to talk to Denis Chavez who is already zoned for that type of use and has said he might like to do something like that in the future. He never mentioned anything about wanting to buy the property and change the zoning to C-2 and never mentioned anything about a liquor license so it doesn't leave me feeling confident that the community knows exactly what his intentions are for the future. The San Clemente Community would prefer to not see any kind of zone changes be approved at this point and time for commercial zoning until we have opportunity to develop our own community plan and get it formalized by Valencia County. Thank you very much.

Commissioner Gaudette: Do you have any petitions to present today regarding San Clemente Communities opposition to this change?

Mrs. Smith: I do not.

Commissioner Gaudette: Mrs. Smith what time table do you have to present a plan like Tome is trying to do your own community planning?

Mrs. Smith: If the Tome Plan had already been approved we would already have our plan in the works. We were hoping to benefit from the lessons of the Tome Plan and understand what is acceptable to the County and tailor it accordingly.

Commissioner Gaudette: But you understand the future cannot wait on good intentions to create a plan.

Mrs. Smith: We do.

Commissioner Gaudette: I just see that eventually there is going to be growth in this County and it is just a question of how it is going to grow and I can see growth going out on Route 6 and I would just suggest that sooner than later might be a good idea to get that plan in place.

Mrs. Smith: Your point is well taken.

Commissioner Garcia-Shaffner: Where is your home with regards to that piece of property there?

Mrs. Smith: The eastern boundary is here, southern boundary the western boundary is here.

Commissioner Garcia-Shaffner: There are other people living in and around the area, so is it 5, 10, 20 acres per family your thinking?

Mrs. Smith: Its typical 10 acres per family with some properties subdivided down to 2 ½ acres.

Commissioner Garcia-Shaffner: Do you have any other C-1 or C-2 designations out there?

Mrs. Smith: We do. Southwest Livestock I believe is C-2 and they applied for and were granted a liquor license a couple of years ago and the community opposed that but legally the Commission wasn't able to deny that. But a zone change to C-2 for a liquor license that may or may not be used in the community...and really with its location right by the railroad tracks, there is an over pass here that gives access to that property from Highway 6 inherently dangerous. It's not far from the east where a motorcyclist was killed by a speeding vehicle.

Commissioner Garcia-Shaffner: Do you know if the school district has any plans for building out there?



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Mrs. Smith: The community is very sparse and is served by the Sundance Elementary School right now.

Commissioner Baca: Can you give us an idea where San Clemente boundaries are pleased.

Mrs. Smith: It goes both to the east and west of this particular map. Roughly I would say it starts at Los Lunas and goes to the west maybe 6 miles and to the south almost to the escarpment down to Belen and encompasses about 165 families.

Chairwoman Artiaga: Doesn't the grant area go up to the Nicholas Duran Grant?

Mrs. Smith: Yes it does.

Mrs. Schmeirbach: My name is Nancy with Hunning Partnership and we own the land adjacent to this site where Upper Levy Road is. Upper Levy Road is actually owned by Hunning Partnership and an easement was granted to the Village of Los Lunas with the purpose being to serve the drainage project that was built north of the railway tracks. We have cattle in that area actively grazing in that area and having an additional person with access to that road poses a hazard for the cattle getting out onto the roadway and as Virginia stated that area is right at the bottom of where the western ramp of the overpass comes down and visibility would be very limited. I'm not sure where the north/south easement would hit on the incline of the ramp but I imagine it to be pretty close. I don't object to Mr. Marquez transferring the liquor license. I appreciate his desire for the business opportunity of transferring a business license but if he were to try and have an establishment there I think it would be a dangerous location.

Commissioner Garcia-Shaffner: Would you object to that parcel being zoned C-2?

Mrs. Schmeirbach: Only if it would allow him to have an establishment in that area.

Commissioner Garcia-Shaffner: So if he decides to sell that it would remain C-2 so somebody else would have the right to build whatever was listed. Would you have any objections to that?

Mrs. Schmeirbach: The access is very challenging and currently the concern we have is with the cattle getting out on the highway and people can be negligent on closing gates. We experience challenges with that on another business that is further west that leaves the gate open.

Chairwoman Artiaga: How much property does Hunning Partnership have adjacent to this location?

Mrs. Schmeirbach: We have quite a bit of solid property as opposed to the ten acres here and ten acres there.

Chairwoman Artiaga: How many approximately?

Mrs. Schmeirbach: North of there? It's a lot and I don't know the exact total but I think it's about 3,000 acres and it might include some of the solid owned east of the railroad.

Commissioner Baca: Do you know if the San Clement sub-division is already annexed to the City of Los Lunas?

Mrs. Schmeirbach: As far as I have seen from the Village maps the only areas that annexed is the easement along State Road 6 and the only reason it was annexed is because it had to go far enough up to meet Upper Levy Road when the drainage project was built. I don't think it would have ever really been annexed if it weren't for the construction of the drainage project because the ponds were annexed to the Village too.

Chairwoman Artiaga: Thank you. Is there anyone else who would like to speak in opposition? Please come forward and state your name.

Mrs. Chavez: My name is Tamara and I am Denis Chavez's wife and we own the property located at 14 Dalies Road, 22 and 24 Dalies Road and just purchased a property located at 438 West Highway 6 and now became Virginia Smith's neighbor. So we own the entire corner of Dalies Road and Highway 6. This roughly encompasses about 40 acres. We have operated the livestock auction for about 20 years. We also have a rodeo arena and hold rodeo based events there at least two weekends out of the month. We hold a liquor license housed in this building right here and it is a full scale liquor license but we do not use it as such. Let me make that very clear. He acquired this liquor license from Little Creek while up until we purchased our own liquor license which was not even 5 years ago, we leased a canopy from Little Creek. But I do not want to see any kind of liquor establishment located on this property and the reason is



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because we have tried very hard with our neighborhood association and the 165 homes; and they get very personal with what goes on in our neighborhood and we have tried for 20 years to give them that respect. I would like you the Commission to give my Neighborhood Association that respect and don't feel that this man is being very clear as to exactly what will happen with this zone change and I would like it to be much clearer. We have never operated past 11 o'clock at night and most of our events are strictly rodeo based with the rodeo being over at 5 o'clock and then we are done. So if anybody tries to come back and say we are a "bar-bar", we don't run a bar. We haven't had an event since November, so over 30 days.

Chairwoman Artiaga: Mr. Marquez please come forward and addresses any concerns that were brought up.

Mr. Marquez: I do remember talking to Mrs. Smith and I was trying to use my GPS when she walked up very abruptly and said "May I help you?" and I said "No ma'am, thank you I'm fine". I wasn't blocking her driveway I was looking at mailboxes to get address numbers so I could find where I was at. In reference to getting land for a motor home to visit my mother that is not true either. I stay with my mother every night seven nights a week she lives right next to Walgreens and I have been staying there the last two years. I did brush her off and was not trying to lie to her or misinform her but I did not think it was any of her business what I was doing. She later identified who she was and I don't remember exactly what I told her. She keeps talking about this dangerous stuff. Mrs. Chavez just admitted to living within 200 to 300 yards away from an existing full service liquor license and they can sell package, have a bar and do anything a bar wants to do. I have been to their place and drank with Denis Chavez and actually tried to buy a license from him. So the only thing I can say is that they do not want the completion but once again I am here to clarify any questions they may ask me and my intentions are moving the license away from there so I am not any risk to them. I discussed the entrance way with Mrs. Smierbach and the cattle getting out and it would be very easy to fence off my property and keep the cattle out. It would be easier than any place now. As I said this is just a process that I have to do.

Commissioner Baca: You don't have a single clue where you would like to place this liquor license?

Mr. Chavez: In Los Lunas yes I do. I have looked at a couple of pieces of land. And I would rather not say because the minute I do I give away my secrets. I have looked a couple of 5 acre lots and even some of the Hunning properties. There are quite a few on Main Street that look attractive and I may even be able to sell it to one of the chain stores or restaurants.

Chairwoman Artiaga: Thank you Mr. Marquez. Now is the time for us to do discussion before we entertain a motion. I would just like to make a comment that our job is not to judge on the quality of a liquor license or liquor establishment but our job is to look at the zoning and to look at whether or not the zoning is applicable for this site and this neighborhood and I think the idea that you have for transferring the liquor license so that you can transfer it into the Village is right spot on. However, once you do that the property is then going to be zoned C-2 and once it's zoned C-2 it can be used for any of those uses and the concerns that the people brought up when they testified would then be very valid. What we do here is permanent so although I understand technically this is what you need to do in order to get your liquor license into Los Lunas I wouldn't recommend the Commission recommend approval to the County Commission as they make the ultimate decision on this. But I don't think it's a good idea to change the zoning on a piece of property in residential area or and Outland District. This is spot zoning and I just don't think it's appropriate.

Commissioner Gaudette: You said at the beginning of our meeting there are three criteria for this zone change. Could you please refresh our memory as to what those three criteria are?

Mr. Martinez: Madam Chair, Commissioner Gaudette. The review criteria for a quasi-judicial zone change is found under 154.061 and the three criteria are (1) The proposed change is consistent with the goals, policies and any other applicable provisions of the comprehensive plan; (2) The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district; and (3) The proposed change enhances the county's protection of the public health, safety and welfare of Valencia County.

Commissioner Gaudette: Those are the three criteria that we should use in determining whether or not we should have a zone change.

Mr. Martinez: Madam Chair, Commissioner Gaudette, correct.



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Commissioner Gaudette: So getting at the second one, the area in which it wants to go to, how is it zoned now?

Mr. Martinez: Madam Chair, Commissioner Gaudette it is primarily zoned OD which is Outland District which is used for cattle ranching and single family housing.

Commissioner Gaudette: In that area it doesn't seem to have a need for, and this is my opinion and not a discussion question for Mr. Martinez, a need for another establishment whether it be a gas station or a bar or a hospital at this time. And you talk about is it compatible with the comprehensive plan which in this case the San Clemente Community talks about wanting to have one much like what Tome is working on and I know they would like to learn from others errors but in light of the fact that they are looking for a special plan for their area I am not sure a C-2 would be compatible with the San Clemente vision that I know that they have since they have come before many times, for instance not having a race track out in that area because there were concerns as to how it was going to be operated, the roads and the traffic and other regulations and such. I think Mr. Marquez's approach is pretty clever and pretty smart from a business stand point but I'm not sure it's appropriate for this community. I don't think we should put this community at risk for other C-2 type developments just so Mr. Marquez can then use the land for his sole profit to get his license into the Village of Los Lunas, which may or may not ever even happen. This is my Commissioners area and we are still open for discussion but my opinion at this point in time before a motion is made is that I don't see where this fits within the community and the comprehensive plan.

Commissioner Baca: The actual acreage is 1.15, right? Which is about 400 square feet? So really you can't put anything that big in there, maybe a service station which to me is really a small area to make it into something that will really affect the community and the area. Again it's a smart move that he is trying to go about for business. However, I would hate to put this as a C-2 without even having any idea if it will be annexed. Nothing is really definitive as to what he wants to do with that so I have a problem with that.

Chairwoman Artiaga: If there is not any more discussion I will entertain a motion.

Commissioner Gaudette: As I stated this is in my Commissioner's District I believe, Mrs. Andersen's, and as our rules go it would be to me to propose a motion. Appropriate because this will be my last Planning & Zoning meeting and my motion would be to deny the application for the zone change as requested.

Mr. Martinez: Again Madam Chair and Commissioner Gaudette we are making a recommendation to the County Commission.

Commissioner Gaudette: My motion would be to make a recommendation to the Commissioners that the application be denied.

Commissioner Garcia-Shaffner: I second.

Motion passed: Unanimously

Action: Approve recommendation to County Commission to deny Zone Change Application

Moved By: Commissioner Gaudette

Seconded By: Commissioner Garcia-Shaffner

Roll Call Vote:

Commissioner Garcia-Shaffner: Yes

Commissioner Gaudette: Yes

Commissioner Baca: Yes

Commissioner Louie: Yes

Commissioner Artiaga: Yes

Mr. Martinez: Mr. Marquez there has been a motion and a vote on that motion to recommend denial of the zone change to the County Commission. This will go to the County Commission as the next step. Under the type C process they are the final voting board for this type of application. We will get in touch with you and let you know when that meeting will be.

C. TOME ADELINO COMMUNITY DEVELOPMENT PLAN

Tabled until January, 2015 to reflect appropriate wording



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7. **DISCUSSION**
8. **NEXT MEETING: Wednesday, January 28, 2015**
9. **ADJOURNMENT**
Moted by Commissioner Garcia-Shaffner
Second by Commissioner Louie