

VALENCIA COUNTY BOARD OF COMMISSIONERS

Public Hearing Meeting

February 10, 2010

PRESENT	ABSENT
Donald E. Holliday, Chairman	
Georgia Otero-Kirkham Vice-Chair	
David R Medina, Member	
Pedro G. Rael, Member	
Ron Gentry, Member	
Eric Zamora, County Manager	
Adren Nance & Dave Pato, County Attorneys	
Sally Perea, County Clerk	
Press and Public	

1) The meeting was called to order by Chairman Donald Holliday at 5:00 P.M.

2) Commissioner Real led the Pledge of Allegiance.

3) Approval of Agenda

Chairman Holliday recommended placing Item (a), under Public Comments, to after item (e) also under Public Comments. Commissioner Gentry made the motion to approve the agenda with the recommendation. Commissioner Medina seconded. Motion carried.

4) **PUBLIC COMMENTS – At the Discretion of the Chair**

(For Information Only –limited to two minutes per person on subjects not on this published agenda).

Meadow Lake resident Bob Gostischa thanked Chairman Holliday, commissioner from his district, for all the items received at the Community Center which has made a big difference but also said there is still more work needed on Manzano Road.

Valencia County resident Mary Wood had comments on past articles that indicated that smaller counties had a hospital and Valencia County was spending money on repeated studies with the same findings. She also commented on the Indigent Fund money which should stay in Valencia County.

Valencia County resident Sue Moran expressed her concerns on the economy in Valencia County and the issues on the proposed hospital and suggested that the commission listen and fight for the 78% of the voters that voted for a hospital and asked that the county commission file a counter lawsuit against the nine plaintiffs who are trying to stop the hospital.

Member of the Hospital Advisory Board Mike Wood advised the commission that the hospital issue is going to be a hot issue once again. It's been a hot issue for the last two, three years. He has communicated with the Attorney Generals Office and they can't tell him anything more about the appeal. He wants you people to know that they haven't seen a fight yet. If the appeal is passed in favor of those that want the hospital, the commission is going to have a major fight on their hands because of whatever individuals among the five commissioners that wants to block the hospital. The truth will come out and he will say as he always has, if you're an honest person he'll call you an honest person but if you're deceitful and not telling the truth to the public and he would encourage the newspaper to start saying some of what the public is saying instead of just letting us preach to the choir and go no further. If you're not telling the truth, the definition of not telling the truth is a liar and he will label you as a liar.

William Dean who resides at 1206 John Road stated he hasn't said much about the hospital issue in the past but on February 1st, 2010 at 5:15 P.M. his wife had a heart attack. He gave a summary of the time frame that it took the ambulance to arrive and to the time the physician actually examined his wife at 10:45 P.M. This was a great concern to him.

5) **DISCUSSION (Non-Action) ITEMS**

Commissioner Otero-Kirkham informed the commission that on February 2, 2010 she and Commissioner Rael were invited to attend a meeting with Dr. Roth, head of UNM Hospital and Jim Hinton, head of Presbyterian Hospital. They wanted to know what the

commissioner's impression of the mill levy could be used for and how they could help them. They talked about what they wanted to see in a hospital in Valencia County and extended health services in Valencia County. They took all that information and said they would be in touch with the commissioners. At the next meeting she hopes two other commissioners can attend because it was a good meeting. They were anxious to know where the commission was with this, what the commission was looking for, what they needed and were anxious to help.

Chairman Holliday asked if there was a date scheduled for the next meeting. Commissioner Otero-Kirkham stated they just need to have the attorney's write a letter based on Judge Olguin's interpretation on what the mill levy can be used for.

Commissioner Rael reiterated on what Commissioner Otero-Kirkham stated. What was indicated by the two heads of hospitals was that they were interested in teaming up together to do as much as possible in order to enhance medical care in Valencia County. The most telling part of the meeting was that University of New Mexico Hospital and Presbyterian Hospital both showed a desire to team up to help them expand medical care in Valencia County. They are fully aware of the mill levy, the litigation, the status of that and the contract with Valencia Health Commons. The commission has not heard anything from Valencia Health Commons in months except that they have done nothing. Commissioner Rael feels this is a step in the right direction and is a significant breakthrough and he feels if they work it right and go in the right direction as a team, they will see some positive come out of the mill levy and a real benefit to Valencia County in terms of enhanced medical care. They were very clear that they were interested if any money that was being used by them, that it stay in the county and not be spent outside of the county for any services that they would provide.

Commissioner Otero-Kirkham also stated Dr. Robb indicated that they would be able to staff a hospital and participate in possibly managing a hospital. She knows staffing has always been a problem, they indicated that they graduated seventy doctors and forty three nurses in the last class which is a positive. The decision has to be made by the entire commission and encourages the commission to attend the next meeting if there's a next meeting.

Chairman Holliday asked Commissioner Otero-Kirkham, it's my understanding that you're just talking to the folks to see what they can do or we can do and still no action can be taken on anything until the lawsuit is settled before the commission can move on anything, is that correct?

The full jurisdiction of the mill levy is tied up with Valencia Health Commons, so until either there's a lawsuit or settlement of some kind, the commission can't move forward, was Commissioner Otero-Kirkham's response.

Commissioner Medina said as a pro hospital commissioner he asks that he attend the next meeting on this. This is just hearsay to him and as a strong proponent of the hospital; he would like to see that both he and Commissioner Gentry sit in at the next meeting to see what they are offering.

Commissioner Gentry stated If UNMH (University of New Mexico Hospital) and Presbyterian Hospital really wanted to talk about what they're going to do in Valencia County he would recommend that the commission send letters to the two parties asking them to attend a public workshop in the commission room, to listen to the commissioners, answer questions, have them ask the commission questions so everyone is on the same page along with the citizens. Invite the Health Commons People to seat in on that forum and get it all out on the table. Then everyone can find out exactly what they are after.

Commissioner Otero-Kirkham recommended that County Manager Eric Zamora send an invitation to Dr. Roth and Mr. Hidden and ask them to do a workshop for the county, they would be more than agreeable to that.

Commissioner Medina recommended that since we're going to do this; this should be as a public comment. Extend an invitation to all the public officials, all the municipalities, the schools and everyone that this is going to be affected in order to get a true understanding that the county does want a hospital. Maybe this can be a turn around and the county can move forward.

6) SWEARING IN OF PARTICIPANTS

County Clerk Sally Perea administered the oath to those wishing to speak at tonight's meeting.

7) DISCUSSION (Non-Action) ITEMS

b) Consideration of approval of Transfer of Liquor License #0168 from Renate Wilder dba Wild Pony to Ruben Baca, managing member, Flying Colors LLC.

County Clerk Sally Perea requested consideration of approval of transfer of liquor license #0168 from Renate Wilder dba Wild Pony to Ruben Baca, managing member, Flying Colors LLC.

Ms. Perea stated as per the Liquor Control Act within forty five days of receipt of notice from the Alcohol and Gaming Division the governing body shall hold a public hearing in the question on whether the department should approve the proposed transfer. The two weeks notice has been fulfilled and the applicant is requesting a transfer Ownership of Liquor License located 4555 South Highway 314 in Los Lunas.

There was no one in the audience to testify either for or against it.

Commissioner Gentry said this comes from the state and is just the formality, is this correct? Yes, this has been approved by the state, now it's up to the commission to approve or not approve, was Ms. Perea's response.

c) Appeal on a denied Variance on Parcel Size in a Suburban Residential (SR) Zoning District to Allow for the Parcel Size of the Subject Properties to be Less Than 6,500 Square Feet; Section 7N, T3E, NMPM; Lots 55B1-71B1-121B1. Lots 162C1-199B1, Lots 203A1-208A1, Lot 209B1 and Lots 211C1-21C1-217C1, Eastland Hills Subdivision, survey plat M-112 of the Office of the Valencia County Clerk, Valencia County, NM- Jacobo Martinez/ Mark Goodman.

County Planner Jacobo Martinez stated this request was originally heard on December 17, 2009 at the Planning and Zoning Commission Hearing. After hearing testimony from the applicants and taking public comments on the matter which included the appellant's comments, the Planning and Zoning Commission voted 3-1 to deny the variance request.

Mr. Martinez stated the commission can either do a request on record or listen to a review of de novo and as Mr. Martinez understands, in the past it has been done by de novo.

County Attorney Adren Nance stated according to the county ordinance it's up to the commission to decide whether they do a de novo or merely review the record. If the commission does a record review, the commission doesn't hear any testimony today, you just look at everything that happened in Planning and Zoning, you read the minutes and everything that is presented.

Commissioner Rael asked if Mr. Goodwin or the people in opposition have anything new to present to the commission.

Mr. Goodwin, the appellant in this case, stated he doesn't have any new evidence or discussion concerning his original request but he has tried to work out a compromise with the home owners association and has been unable to do so because they want things and we want things. He went on to say he's willing to allow the public at large to speak. He would like to reserve the right to respond to anything that is new. Chairman Holliday asked Mr. Goodwin for brief review of what he's requesting for Eastland Hills Subdivision. Mr. Goodwin said they applied for a lot size variance in which they were requesting a reduction of the 6500 sq. ft. minimum to lot sizes that were smaller and in his opinion this was the only way to finish the development of this property in a reasonable time frame. There would not be an adverse impact on the adjacent infrastructure with the initial phase of ninety seven lots which was going to equal what was previously approved and was under construction at the time of foreclosure. They did not feel this project would reduce adjacent property values and in fact they felt that it would enhance adjacent properties by allowing this project to move forward and to be finished.

Commissioner Otero-Kirkham was confused because at one time they were going to do townhouses, is that correct? Yes, his initial discussions were to construct duplex townhouse units on reconfigured lots. They withdrew that discussion almost immediately because of the opposition. These are single family homes with a minimum of 1056 sq. ft was Mr. Goodwin's reply.

Commissioner Rael stated he was handed what looks like a Google map in which there are area's marked Phase I and Phase II and it's in red. Are the outlines in red the new lot sizes and you'd do Phase I first in terms of building and if it works out you'll continue with Phase II, is that what you're planning on doing?

Mr. Goodwin said yes, the red outlined area's are the new lot sizes and would start with phase I. As far as phase II it's a bit more complicated then that, there are currently ninety seven lots platted that were foreclosed by the bank. The ninety seven lots were approved by this commission back in 2005 and then replatted in 2009. They proposed based on discussions with staff and looking at the infra structures to construct ninety seven lots in their first phase so they wouldn't exceed what was previously approved and what was under construction. The remainder of their proposal was to come in with a major subdivision request to the county under the typically county subdivision act for an additional forty three lots which would be phase II. At that time they would provide drainage studies, traffic studies, water and sewage studies that would go along with that request for the additional forty three lots. Mr. Goodwin's client has a contract with D.R. Horton to build out this subdivision.

Chairman Holliday asked if the homes were going to be single or two stories. Mr. Goodwin stated it will be a combination with a mix ranging from 1068 sq .ft. to about 1900 sq. ft. southwestern style with a two car garage. This will be green construction to the Nationally Energy Star requirements. The minimum lot size per restrictive covenants is 1058 and the covenants do not restrict the lot size.

Sherry Peralta Foust resides at 44 Cruz Loop, Eastland Hills Subdivision, is a member of the home owners association and represents the seventy eight existing home owners of the Eastland Hills Subdivision. The home owners do not oppose development of the empty land next to the existing homes in Eastland Hills. What they are opposed to is the design of the current plan and its specific details because it is a solution to a temporary condition that will create negative permanent impact for the existing home owners. The solution to the temporary condition represents short term immediate gains. However, the long term impact at the same time is of negative known and uncertain affects. They are also concerned with the safety and property values issues of this plan. Ms. Foust presented a packet to the commissioners with information regarding the long term affects of the current proposed development which included photos of the hillside and subdivision as well as a letter to the commission from the homeowners association. What the homeowners association asks is that the objective studies be done before any development begins so that they can ascertain objectively removing all ambiguous opinion, facetious argument and potential influence. They would like to have objective data from licensed experts regarding these issues, not only of the hill stability or viability but the fire chiefs concerns, the emergency service concerns, the traffic issues, the noise issues and the lowering of the existing homeowner's values. The original contract provisions between Cypress Estates Limited and Eastland Hills LLC needs to be recognized and no action implemented that would cause unnecessary lawsuits. Ms. Foust requests that in the commissions due diligences they review the data and photos in the package which is more extensive than her statement tonight which supports their position.

Mr. Goodwin said he feels very strongly that this project will not have an adverse impact which will be verified by the studies they will turn in with their Phase II, which has been made clear from day one.

Mike Mechenbier stated this is a difficult site because of the terrain. They had planned 80 ft. lots and the retaining walls are set up on 80 ft. segments. There's only two options, you can go to a 80 ft. lot or a 40 ft. lot and anything in between that, would require tearing out all of the retaining walls, regarding the site and tearing out a large portion of the curve and gutter to accommodate these new elevations. All of the lower lots, which are the majority of the lots, are backed up to the gravel pit. You've got a view of all the junk cars and the abandoned equipment. You can't construe that someone is going to come in and pay sixty five thousand dollars for one of these lots. There are basically three options with this subdivision 1) he gives up, FDIC takes over and it's sold. 2) Finish the subdivision out with seventy four lots. He doesn't intend to sell the lots, there's not a market for those lots at fifty, sixty thousand dollars which the lot price determines what the price on the final product is going to be. 3) They can go to the forty ft. lots, get a cohesive builder, D. R. Horton is a decent builder. Get them to build a product of a decent size on those lots. The price per square foot on these homes will actually cost more as they did a comparison with the MLS on both Cypress Gardens and Eastland Hills. With the amenities the price per foot is higher than what presently exists on the market in this area.

Ron Brown of Brown and Associates represented Charter Bank after Charter Bank foreclosed on the partially completed subdivision. He attended a meeting with Mr.

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Goodwin, Mr. Mecheniber and the home owners association and most of the discussion at the meeting was about the defective conditions of the existing subdivision that was developed by Pat Owens. Deficient streets, deficient drainage, the lack of acceptance of maintenance by the county because the streets were not done in conformity of county standards and in the discussion Mr. Mecheniber, if this transaction went through, would develop his portion in accordance with county standards and get county acceptance for maintenance of the subdivision which is usually appropriate in the development of a property.

Andrew Fuller, who resides at 45 Milton Loop, is president of the Cypress Gardens Homeowners Association which represents about three hundred homes. Mr. Fuller stated the board is unanimously opposed to this because they think there will be a negative impact especially of the increase of density and some of the other issues raised. Density will increase the traffic on Cypress Boulevard which is a big problem already and don't feel this will be an improvement to their area.

Larry Bond resides at 47 Milton Loop Cypress Gardens member of the homeowners association expressed his concerns on safety and traffic in this area. With the heavy traffic around 7:00AM and 7:30AM trying to get out of Cypress Gardens without a traffic light is very difficult. There is an additional road shown on the original plat, which he pulled up these photos from the county website. At present it is not a physical road and Mr. Bond would suggest for safety reasons that this road be given consideration.

Art Tourjee who resides at 25 Cruz's Loop Eastland Hills stated they are against the division of any of the lots from eighty feet wide to forty feet. The rest of it is irrelevant, they are on the plat. Those are legal size and approved by the commission. Smaller lot sizes mean more vehicles and more traffic.

Commissioner Rael asked County Planner Jacobo Martinez if this request was to reduce the size of the lots in Phase I or Phase II and what happens to the other one if it's only one or the other. Mr. Martinez said the request is for a variance on seventy four lots. They have set it up in a Phase I and Phase II project. According to the map they also have contract ownership for another twenty seven lots. What they will be doing in the first phase is replating those lots to move the lot lines in the first phase. In the whole subdivision you're not adding any more parcels in the first phase. You're replating lots from one place to another. Phase II they're actually adding parcels to the whole subdivision. If your adding parcels to a subdivision, you have to go through a subdivision process by which you do a traffic study, a drainage study, they have to go through the whole process. What is before the commission tonight is a request on the variance. Commissioner Rael asked if this is approved or not approved, it doesn't change the total number of homes in the subdivision by the commission's action next week no matter what it may be. Mr. Martinez's response was "that's correct."

Ginger Brown resides at 28 Cruz's Loop, and president of the homeowners association would like to point out to the commission several things that have been overlooked. There is a sink hole in this area that they want to replat and develop. These are quick turn around homes; she doesn't see a positive future with these homes coming in. The ground is unstable and needs to be reengineered. Ms. Brown's issue is with the density of the homes and the weakness of the hill.

Commissioner Gentry said a sink hole goes down, are you talking about a place where it's all going down into the ground? Ms. Brown said "no, it's all going in an angle. Commissioner Gentry said then it's an arroyo not a sink hole if it's running off.

Elaine Tourjee resides at 25 Cruz's Loop also expressed her concerns on the hundred and forty homes that will be built within the two phases and the impact she feels it will create. There are no sidewalks in the development; the roads are not up to standard. Ms. Tourjee tried to refinance her home and was turned down because there was a lien on every house in the development and the bank would not do a partial release of lien so she could refinance.

Commissioner Otero-Kirkham stated if Ms Tourjee purchased a piece of property and she was not aware that it had a lien and has title insurance policy, then she has a title claim and needs to call her title company.

Irene Brown an 87 year old resident of the subdivision was present to also express her concerns and the affect it will have on the residents of this subdivision. "Project what is

going to happen in the future, not just now" was Ms. Brown's statement to the commission.

Commissioner Gentry asked Ms. Brown with the philosophy she just expressed to the commission would she and her neighborhood associations support some kind of action to put a moratorium saying no more development within Cypress Gardens until their roads are brought up to par? She can't say a moratorium because she doesn't know what it involves. She knows her philosophy is waiting until they can get the other problems resolved because with time they can be resolved.

Russell Schmidt who resides at 13 Alamosa Loop is a Cypress Gardens Association member and concerned with the fact that the developers have not mentioned what these homes are going to be sold for and is concerned this would bring his property values down.

Chairman Holliday said it's his assumption it depends on the size of the home and market value. It's really none of our business, it's whatever they want to market their homes to get them sold, but will be glad to hear that information. Mr. Goodwin said the price range is from the "lowest house in the nineties to the upper end houses in the 160's to the 170's".

Efren Salido resides at 26 Cruz's Loop is also concerned that his property values will drop if the door is opened for lower substandard housing to come into the area.

Mr. Mechneiber stated this is not a "Barrio" this is a planned development. There's a lot of problems, they're not the last developer, this isn't something they're going to get rich on, they're not here to make money and leave town, they're here to put in a quality development. Mr. Mechneiber is trying to do something of quality and he can't legislate or regulate someone moving into your area because of their income. He hopes this project goes because he too is a member of this county, he has lived here for thirty years, he has tried to make it a better place to live, but to let this just go into ruin he doesn't feel that's the answer.

Sherry Padilla Foust said the homeowners are not against the development. All they ask is do the studies first, and then they can address handling the negatives.(See Exhibit A)

d) Quasi-Judicial District Change to Amend the Zoning Map from RR-1 to C-2 on the Subject Property Defined as; Section 9, T4N R1E, NMPM, Salomon Country Estates, Blk 3; Lots 5C & 5B zoned RR-1, Filed in Book 274 Page 8064 of the office of the Valencia County Clerk, Valencia County, NM -Jacobco Martinez/ Robert Becker.

County Planner Jacobco Martinez said this is a request by Mr. Robert Becker for a zone change to amend the map from RR-1 to C-2. The Planning and Zoning Commission recommended this for approval 4-0. Code Enforcement has indicated if approved the applicant will have to write a grading and drainage plan, a landscape plan and go through a site design review as required.

Mr. Becker stated he made this request in order to put in a service station and country mart which would employ two or three people.

Commissioner Gentry asked Mr. Martinez if he had contacted all the adjacent neighbors. Mr. Martinez said yes, he did notify the neighbors and went beyond the 100' buffer zone in order to make sure they had a wider range of neighbors and did not receive any responses. Commissioner Gentry also asked if it's within the commission's authority or guidelines in the county ordinance for the commission to approve something on a filed plat and put ingress and egress into that, that was not on the plat. Mr. Martinez stated when he spoke with the Department of Transportation they said yes you can develop commercial sites off the highway itself, they would make sure you go through a process in which they were satisfied as to what was being done. As far as having authority for that, he doesn't have the answer. Commissioner Gentry asked Mr. Zamora to check on that and also with the determination of the Planning and Zoning Committee that this zone change goes with the property whether the actual proposal is built or not. Mr. Martinez said that is correct, if you do a zone change it runs with the land and with that are the permissive uses. Commissioner Gentry had concerns if the request for the actual proposal is not built the property then can be marketed and used in other ways. He suggested a condition be placed on the zone change if approved?

Commissioner Rael said if Mr. Becker could start a new business, gets three people employed and has no opposition, it's very easy for him to support his project.

Commissioner Medina said it's his understanding a condition can be placed on this. Yes, a condition can be put on this was Mr. Martinez's response. (See Exhibit B)

e) Appeal on Approved Day Care Facility in a Rural Residential-2 Zone; Section 5, T5N, R2E, NMPM; Tract 40, Tract 42-B, Tract 54, Tract 55, Tract 56, Lands of Pablo B and Judy Sanchez, Consisting of 5.53 Acres, Zoned RR-2, Filed in Book, 328 Page 9032 of the Office of the Valencia County Clerk; AKA 20 Sausal Road, Valencia County, NM – Jacobo Martinez/Arturo Bustamante.

County Planner Jacobo Martinez said this request was originally heard on December 17, 2009 at the Planning and Zoning Commission Hearing. After hearing testimony from the applicants and taking public comment on the matter which included the appellant's comments as well, the Planning and Zoning Commission voted 4-0 to approve the conditional use request.

Arturo Bustamante who resides on Sausal Court expressed opposition for the conditional use request in order to open a day care facility and said Sausal Road is very narrow and in poor condition and would not be able to support the traffic.

Mr. Martinez said Sausal Road is a county maintained road. Commissioner Gentry asked County Manager Eric Zamora does the county maintains this road? Yes was Mr. Zamora's response.

Judy Sanchez resides at 1328 Gabaldon Road in Belen stated she never planned on using Sausal Road and Mr. Bustamante knew that. Sanchez said she will be using the access off of Gabaldon Road which is her private driveway to her property. They can make the road as wide as needed, forty foot wide if they need to. They maintain their own road, they keep hard dirt on it and no one is responsible to maintain it except them. She plans on building a facility that can hold forty to fifty children.

Chairman Holliday asked Ms. Sanchez to provide the commission with a detailed plan of the private road she plans to construct on her property for the commission to review. Commissioner Gentry also asked Ms. Sanchez to provide the commission with a plat map showing the private road.

Jacobo Martinez said the county would require at least a twenty foot road with gravel to show on the site design and the site plan along with grading and drainage and everything else that needs to happen before the site is developed. (See Exhibit C)

a) Trigo Canyon Road/John F. Kennedy Camp Ground Access- Adren Nance

County Attorney Adren Nance stated this is an issue of the road that goes to the Trigo Canyon/Kennedy Campground. This road goes through Mr. Chavez's property and a couple of years ago Mr. Chavez shut the gate to the property which brought up a lot of public interest. There have been several calls about wanting to have access to that road. The county obtained the easement for the road in 1962 through a condemnation proceeding and the road has been there ever since. Mr. Chavez shut the road off and closed the gate because of problems with vandalism and property destruction. The forest service and certain people have a position that they would like to keep that as access to the forest. The reason why they're here tonight is to give both sides a chance to make their case to the Board of County Commissioners why the roads should or should not be kept open. Mr. Bennet, attorney for Mr. Chavez and the District Ranger from the United States Forest Service was also present to discuss and since this was a land issue it can be discussed in Executive Session before a decision can be made.

Commissioner Rael asked is this an opportunity for the forest service and the private land owner to try and work it out, is that correct? Counsel stated it's at least an opportunity for the public; forest service and the private landowner to explain what they would like to see have done with the road. The way counsel looks at it; the Board of County Commissioners holds title to that easement.

Chairman Holliday asked is it correct that there was no easement there at one time and Mr. Chavez owned the road? No, and they may have different legal arguments.

Gordon Bennett resides at 171 AB County Road A01A, Tesuque N.M. 87016. First of all, attorney for Mr. Chavez stated, they dispute the county's free claim to title on that easement and dispute that there is any problem in agreement between the forest service and Mr. Chavez allowing the forest service access to the road. Even the JFK Campground was closed by the forest service. The reason was because of gang activity. The gate that is at the end of the road off Mr. Chavez's property on to forest service land, even the forest service has gated that access. Their position is if this road were open for public access it would invite vandalism, gang activity, gang hangout, property damage,

fires like the Trigo Canyon fire and there are other routes of access to the back country there besides going through Mr. Chavez's property.

Commissioner Rael asked Mr. Bennett assuming the county does own the road; does the county have the right to end its use, regardless of what's happening out there? Mr. Bennett would state for the record that his client wouldn't have a problem with that and as he represents his clients interest to give the commission information or promote a position that might be adverse to his client, he's not going to do it but he's sure the county's attorney could address the issue as to whether or not the county has the right to terminate it's access to a road. Commissioner Rael also asked do you dispute that the county owns the road. Their position is that the county's title is defective because in the early sixties a condemnation taking was starting by the county commissioners at the time. There is documentation that is on file that Mr. Nance has and they have discussed what he has advised his client as to the defects that he sees in the condemnation and taking aspect of the property because his client has been in touch with the county; he believes it was Mr. Zamora that informed his client that the road was not on the county's inventory. The maintenance of the road has always been done by his client. They dispute that the contractual basis for the taking was breached by the county. Again that's a legal issue that will have to be decided. The original taking was agreed to in a contract and the county never fulfilled it's obligations under the contract. They did not pay the amount they agreed to, they did not do some of the fencing that they were suppose to, there were supplies that they were suppose to provide and produce a fence line along the property line so that it might limit some of the vandalism and public access on to the private property. None of that was consummated in full.

Mr. Ron Chavez who resides at 6 Patricio Road Tome stated it started in the early eighties when they tallied up close to three hundred head of cattle, between themselves and the neighboring ranchers which are all within ten miles of the same vicinity, that were killed, run over by vehicles or shot and this is when they decided to fight back. They have reduced a lot of the problems, but they are still on going. This is a situation that is behavior related, they shoot the water tanks, they break the pipe line, and they are still killing cattle, cutting fences and shooting at windows. A neighbor rancher had his casita burned; shortly after that someone killed twelve head of his cattle and stole two of his trailers. There's other access, there's access on the north side and there's an access to the mountain on the south side. They were putting out fires at 1:00 – 2:00 in the morning that were abandoned by people camping in an area that was no longer designated as a campsite because the forest service themselves had closed JFK Campground. People are still using this as party area even though this was converted to a parking area for hikers. This has continued year after year, un-policed and nobody was willing to go up and take care of the issue. He understands that it's a hard thing to do because it's a twenty four hour problem. You don't know what time of day it's going to happen and when it happens you end up having a situation like Trigo fire. That happened before the road was closed off and it landed up costing taxpayers several million dollars. It's the cattle, the fences, the windmills, the pipelines, all the private property they have, all the natural resources they have are in danger and nobody wants to be culpable. They reached the point where they said we'll call them on this and closed the road. The bottom line is, is it his responsibility to bear the brunt so people can go have recreation or is someone else responsible. When he put the gate up, the road hadn't been graded by the county for eight years even though they had been asked repeatedly and that's when they decided to put the gate up.

Commissioner Otero-Kirkham asked Mr. Chavez when the gate went up. In 2008 right before the Trigo fire but the gate was not locked, was Mr. Chavez's response. Commissioner Otero-Kirkham said the calls she has received have been from riding groups that like to access from that road which they have done that for many years. They indicated that they were respectful of the property, that they left it the way they found it and there was no other access to this trail ride that they were used to doing for many years. Mr. Chavez said there were several accesses to the Manzano Mountains and several ways to get in the forest.

Commissioner Gentry asked Mr. Chavez what is his request or proposal that he would like to see done? Mr. Chavez stated a few years ago before he put the gate up he spoke to Commissioner Gentry and to Ruben Chavez and had asked Ruben what his plans for this road were and Ruben looked it up in the computer and said it was not a county road and the county doesn't claim to maintain it. He then asked Ruben if it would be a problem if he closed it and Ruben asked him why he wanted to close it and Mr. Chavez explained they're not getting any service and they had complained about many issues and never got

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a response from the county. Mr. Chavez had two issues; restrooms and road access. Allowing unrestricted 24/7 access to this area is not a good idea because of vandalism and bad behavior. Unless the forest service has the money for a facility up there that is not only maintained and overseen by forest service personnel whenever it's open and unless the county and the forest service or state wants to come in and bring the road up to standard, gravel the road so that in the event of an emergency, an emergency vehicle can make it up there. Mr. Chavez's request was if the county can't maintain the road that they leave it closed, not forever but until they can afford to maintain it.

County Clerk Sally Perea administered the oath to Karen Lessard, District Ranger.

Ms. Lessard showed the roads and where they led to and informed the commission that the forest service closed the camp ground and access to this particular area. They now have Comanche Trail Head and it's large enough for stock trailers to go in because it is an area that folks like to bring their horse into for riding. They have verbal agreements to access three other spots with Valley Improvement Association but they don't have anything deeded or signs that show the public how to get back there. The campground is gated off because they didn't want people getting in there and driving around, but there are some folks that will park in the Comanche Trail Head parking lot and walk into the JFK area and camp. Which they can still camp, it's not a developed campground but there's no place that's closed in the forest that you can't camp in. John F. Kennedy Campground has been officially decommissioned, it's on the old maps, but it's no longer designated as a campground.

Jim Lane was creating a project to give Meadow Lake back to the community and part of this project is creating a trail to the Manzano Mountains and giving people access to the west side. He stated he would like to see Kennedy Campground opened again and see the road at least half way graded.

Ernest Reneau said he has enjoyed riding his horses up in this area. He would like to see it kept open or have some kind of agreement with the property owners to give access to people when they need it. John F. Kennedy was one of our great presidents and he would like to see his name sake continued.

Jim Greer resides in Belen and has been going to Kennedy Campground since he was a kid. He understands what Mr. Chavez is talking about and he feels that it's our government that's failing us. He would like for the campground to remain open as he enjoys taking his grandkids up there and feels it's wrong for them to close it down. Also if someone claims title to land, they need to have proof.

Paul Smouse resides on 428 Mims Road in Los Chavez. He's lived in the county for fifty some years and as a kid and as an adult he has camped in this area. He is also one of the people with the horses that like to ride that mountain. He and several friends ride up there two to three times a month. Mr. Smouse was probably one of the first persons that called about the gate being closed. Now that Mr. Chavez has put the gate up and locked it, it has denied entrance to anybody wanting to get in there. Mr. Smouse would like to see the gate opened for everyone to use and would also like to see law enforcement help Mr. Chavez with some of the problems he's having out there.

Chairman Holliday stated Mr. Chavez doesn't have a problem as long as they grate the roads, put in a good road but along with that it will increase the use if there is an easier access to Trigo Canyon. You don't have a problem with it but yet you're saying you don't want people up there. You say if the county puts a good road, a good fence then you don't have a problem with it.

No, I didn't say that, I said that's part of the stipulations. The good road has to be there, law enforcement has to be there and leaving it open 24/7 is bad policy because it won't work. If the forest service wants that place to be open, then they better be there to make sure the people are behaving because he's been doing it for 30 years and it's been coming out of his pocket. He's had to carry the burden and the expense was Mr. Chavez's response.

Commissioner Otero-Kirkham moved for adjournment. Seconded by Commissioner Rael. Motion carried unanimously.


8) The next Regular Meeting of the Valencia County Board of County Commission will be held on February 17, 2010 at 5:00 P.M. in the County Commission Room at the Valencia County Courthouse.

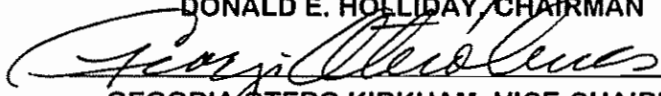
9) Adjournment

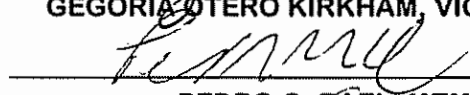
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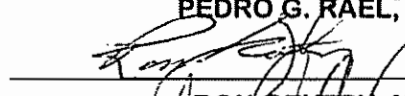
NOTE: All proposals, documents, items, etc., pertaining to items on the agenda of the February 10, 2010 Public Hearing Meeting (presented to the Board of County Commissioners) are attached in consecutive order as stated in these minutes.


VALENCIA COUNTY BOARD OF COMMISSIONERS

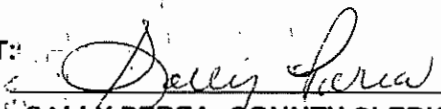

DONALD E. HOLLIDAY, CHAIRMAN


GEGORIA OTERO KIRKHAM, VICE-CHAIRMAN


PEDRO G. RAEL, MEMBER


RON GENTRY, MEMBER


DAVID MEDINA, MEMBER

ATTEST: 
SALLY PEREA, COUNTY CLERK

3-3-2010
DATE



VALENCIA COUNTY
Board of County Commissioners

AGENDA REQUEST FORM

Department Head: Jacobo Martinez

Individual Making Request: Mark Goodwin

Presentation at Meeting on: February 10, 2010

Date Submitted: January 29th, 2010

Title of Request: Appeal on a Denied Variance on Parcel Size

Request:

Appeal on a denied Variance on Parcel Size in a Suburban Residential (SR) Zoning District to allow for the parcel size of the subject properties to be less than 6,500 square feet. (Mark Goodwin) Application #: VR 09009

Legal Description:

Section 7N, T3E, NMPM; Lots 55B1 thru 71B1, Lots 117B1 thru 121B1, Lots 162C1 thru 199B1, Lots 203A1 thru 208A1, Lot 209B1, Lot 210B1, and Lots 211C1 thru 217C1, Eastland Hills Subdivision, survey plat M-112 of the Office of the Valencia County Clerk, Valencia County, NM.

Information Background and Rationale

Appeal on a denied Variance on Parcel Size in a Suburban Residential (SR) Zoning District to allow for the parcel size of the subject properties to be less than 6,500 square feet. This request was originally heard at the December 17, 2009 Planning & Zoning Commission Hearing. After hearing testimony from the applicants, and after taking public comments on the matter (which included the appellant's comments), the P&Z Commission voted 3-1 to deny the Variance request.

On January 4, 2009, Mark Goodwin filed an appeal with the Valencia County Planning and Zoning Office.

Pursuant to §154.062 (B) (1) of the Valencia County Code, anyone with standing may appeal the P&Z Commission's decision to the County Commission within 15 days of the official decision. The Appellant, giving testimony at the public hearing appears to have standing. Furthermore, the appellant submitted his appeal within the required 15 days of the final decision.

The initial request was submitted for departmental review on December 1, 2009. Six departments returned comments; Rural Addressor had no adverse comments. The Sheriff's Department stated that traffic impact should be checked. Public Works commented that the subject lots are located on private roads not maintained by the County because they have not been built to County standards. Code Enforcement comments that a new grading a drainage plan needs to be updated. The Fire Department had some initial fire safety concerns pertaining to access to the subject properties.

Essentially, the applicant would like to buy 74 lots, split them and sell 148 lots. This would add 74 lots to an approved subdivision and would be considered a major subdivision meaning that the

EXHIBIT A

BOOK 068

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applicant would need to follow the subdivision process. However, the applicant does have a contract to buy 28 lots in the same subdivision not included in the subject lots the applicant wants to split. The applicant has asked if they could take those 28 lots and go through a replat process so that the applicant could move the lot lines from the 28 lots to the subject area lots. This would give the applicant approximately 97 lots in the subject area. The other 51 lots that the applicant would like to add would have to go through a Subdivision Review Process. The replat process is an acceptable procedure, however a Variance for lot size still needs to be approved.

Attached is Section 154.058 of the Zoning Ordinance, which details the criteria for Variances and 154.106, which details the criteria for Suburban Residential (SR). The subject property is zoned Suburban Residential (SR) and the surrounding area is zoned SR as well. According to the Valencia County Zoning Ordinance under 154.106(F)(1) the maximum overall dwelling density for any new development shall not exceed 1 dwelling unit per 6,500 square feet excluding road right-of-ways, in the SR district. The 74 subject lots are approximately 7,000 square feet. The applicant would like to buy these lots and split them creating lots below the standard 6,500 square feet.

The subject lots in question had been partially completed by a previous developer. Some infrastructure was provided; however, the infrastructure was substandard and did not meet County requirements to accept the infrastructure for future maintenance such as the roads. The subject properties have also been graded, however, because infrastructure was not completed, this has caused issues with blowing dust and dirt in the community.

The original subdivision of Eastland Hills currently contains 64 lots at approximately 3,200 square feet found in the middle of the subdivision that do not pertain to the subject lots in question.

Access to the subdivision is delivered off of Meadow Lake Road and there is one main access for egress and ingress into the subdivision which is Cypress Boulevard.

The Cypress Gardens covenant does not make mention of a lot size standard.

The purpose of a Variance, Section 154.058, is to provide administrative relief when a strict application of the zoning requirements of lot width, lot depth, building height, setback, access or other dimensional requirements would impose practical difficulties or unnecessary hardship.

Sections 154.058 (D) (5) states: "No variance shall be granted which allows the creation of a parcel which is substandard to the minimum parcel size requirements of the particular zoning district [in which the property is located]."



VALENCIA COUNTY
Board of County Commissioners

AGENDA REQUEST FORM

Department Head: Jacobo Martinez

Individual Making Request: Robert Becker

Presentation at Meeting on: February 10, 2010

Date Submitted: January 29th, 2010

Title of Request: Quasi-Judicial Zone District Change; Amend the Zoning Map from RR-1 to C-2

Request:

Quasi-Judicial District Change to amend the zoning map from RR-1 to C-2 on the subject property defined as: Section 9, T4N, R1E, NMPM, Salomon Country Estates, Block 3 Lots 5C & 5B, Zoned RR-1, Filed in Book 274, Page 8064 of the Office of the Valencia County Clerk, Valencia County, NM. (Robert D. Becker-Agent) Application #: ZC 09004

Legal Description:

Section 9, T4N, R1E, NMPM, Salomon Country Estates, Block 3 Lots 5C & 5B, Zoned RR-1, Filed in Book 274, Page 8064 of the Office of the Valencia County Clerk, Valencia County, NM.

Information Background and Rationale

This request was submitted for departmental review on December 1, 2009. Three departments submitted comments. The Code Enforcement Department has indicated that if approved the applicant would have to provide a grading and drainage plan, a landscape plan and obtain a state permit to gain access off of Highway 304. They have also indicated that this zone change would benefit the area adding commercial development to a needed population.

The lot is currently vacant with no existing structure, if this zone were to change and somebody wanted to develop a commercial site the applicant would have to pursue Zoning Ordinance 154.035 for a site design review in which a grading and drainage plan along with other requirements would have to be met including landscaping.

Pursuant to Section 154.061 (C) Review criteria for a Quasi-Judicial zone change, Quasi-Judicial zone changes may be authorized, pursuant to this section, provided that the request satisfies all applicable requirements of this chapter, and also provided that the applicant demonstrates compliance with the following criteria:

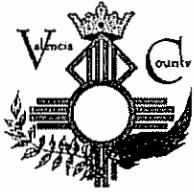
- (1) The proposed change is consistent with the goals, policies and any other applicable provisions of the comprehensive plan;
- (2) The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the 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.

According to the zoning map included in your packet, the subject area has no commercial zone and no commercial activity in the near vicinity. The surrounding community is Rural Residential-

EXHIBIT B

1 (RR-1). The Rio Grande Industrial Park is approximately 1 mile to the north of the subject site and the property's access is Highway 304.

The Rio Grande Industrial Park (1 mile north of subject property) is defined as an Activity Center within the Valencia County Comprehensive Plan. According to Goal C of Land Use and Housing Development in the Comp Plan, an Activity Center is a designated area that can accommodate intensive commercial and industrial activity clusters and other special use development. Activity Centers are designed to accommodate future growth in Valencia County. The thought is that more intensive development within and around the Activity Center such as higher density development and high intensity commercial and industrial sites will release development pressure from more sensitive sites such as agriculture land. The proposed zone change is approximately 1 mile south of the Rio Grande Industrial Park Activity Center.



VALENCIA COUNTY
Board of County Commissioners

AGENDA REQUEST FORM

Department Head: Jacobo Martinez

Individual Making Request: Arthur Bustamante

Presentation at Meeting on: February 10, 2010

Date Submitted: January 29th, 2010

Title of Request: Appeal on Approved Day Care Facility in an RR-2 Zone

Request:

Appeal on an approved Conditional Use within a Rural Residential-2 (RR-2) Zoning District (Pablo and Judy Sanchez) Application # CU 09014

Legal Description:

Section 5, T5N, R2E, NMPM; Tract 40, Tract 41, Tract 42B, Tract 54, Tract 55, Tract 56, Lands of Pablo B and Judy Sanchez, consisting of 5.53 acres, Zoned RR-2; Filed in Book 328, Page 9032 of the Office of the Valencia County Clerk; Also known as 20 Sausal Road, Valencia County, NM.

Information Background and Rationale

Appeal on an approved Conditional Use—Day Care Facility request that was made by applicants Pablo and Judy Sanchez to allow for the operation of a Day Care Facility on their property zoned RR-2. This request was originally heard at the December 17, 2009 Planning & Zoning Commission Hearing. After hearing testimony from the applicants, and after taking public comments on the matter (which included the appellant's comments), the P&Z Commission voted 5-0 approve the Conditional Use request.

On December 28, 2009, Arthur Bustamante, who owns a parcel located near the subject property, came into the Planning Office with concerns about the approved project. These concerns include:

- Road to facility is too narrow (Sausal Road).
- Property is on a flood zone.
- The surrounding community is agriculture and this environment could be dangerous to children including large animals and drainage and irrigation ditches.
- There is no city water or sewer to provide adequately for the Day Care facility.

Pursuant to §154.062 (B) (1) of the Valencia County Code, anyone with standing may appeal the P&Z Commission's decision to the County Commission within 15 days of the official decision. The Appellant, living within 100 ft from the subject property and giving testimony at the public hearing appears to have standing. Furthermore, the appellant submitted his appeal within the required 15 days of the final decision.

EXHIBIT C

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This request was submitted for Departmental Review on December 1, 2009. The Sheriff's Department had no concerns regarding this request. Public Works and Code Enforcement both submitted comments. Public Works had some significant issues regarding the traffic impact. According to public works, due to the increase in traffic as indicated by the applicant, Public Works would require a Traffic Study to be completed that answers the following questions:

- Current daily average traffic count
- Prediction of increase of traffic when the business opens?
- Prediction of increase of traffic count within the next five years?
- What improvements are required on Gabaldon Road.

Code Enforcement also shared the same concern over the traffic and its impact on the community as well as requiring a grading and drainage plan, acquiring proper permits for the day care including state and federal permits.

The applicants are applying for a Conditional Use in a Rural Residential-2 Zone. The conditional use within an RR-2 zone, 154.105(C)(1)(3), states: Kindergarten, day nursery, or day care facility in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in § 154.169.

Furthermore, Planning Office has determined that this request meets all of the criteria detailed in Section 154.169 (Day Care Facilities) of the Valencia County Zoning Code. The applicant understands that they will need to obtain any necessary state, and/or federal permits required for the proposed use. Also, the applicant has been informed that if approved, they would have to follow a site design analysis as set forth by 154.035 – 154.040 which would include a drainage and grading plan.