

MINUTES

VILLAGE OF LOS RANCHOS de ALBUQUERQUE
6718 RIO GRANDE BOULEVARD N.W.
BOARD OF TRUSTEES REGULAR MEETING
AUGUST 8, 2007- 7:00 P.M.

Present:

Larry P. Abraham, Mayor

Donald T. Lopez, Trustee/Mayor Pro-Tem

Mary Homan, Trustee

Tim McDonough, Trustee

Pablo R. Rael, Trustee

Annabelle Silvas, Clerk

Juan Vigil, Administrator

Terry Nighbert, P&Z Director

Nancy Haines, Treasurer

Martha King, Attorney

Greg Perez, Fire Chief

1. CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The Village of Los Ranchos' Governing Body held its Regular Meeting on Wednesday, August 8, 2007 in the Warren J. Gray Hall. The Mayor called the meeting to order at 7:05 p.m.

A. APPROVAL OF AGENDA

Administrator Vigil asked that Item 1.B be deferred.

Planner Nighbert asked that Item 6.B., David Hartman's request for site development plan approval, be deferred to the September meeting due to a problem with storm drainage.

MOTION: Trustee Lopez moved approval of the agenda as amended. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0

B. *Ceremonial Check Presentation – Municipal Arterial Program Projects - NMDOT*

This item was deferred.

C. *Proclamation Proclaiming August 30th as William F. Fulginiti Day – New Mexico Municipal League*

Mayor Abraham read the proclamation proclaiming August 30th as William Fulginiti Day.

2. PUBLIC COMMENT PERIOD

Frank Mangano, 4300 Rio Grande Blvd. NW, said he is representing the Rio Grande Neighborhood Association to express their deep concern about the direction of the Ditches with Trails North Valley Demonstration Project. He said what began as a noble effort to preserve and protect the culture of the acequias has mutated into a high speed, high impact corridor with bike

lanes, paved parking lots, trail heads and a new bridge over Montaño. He said he went to the Conservancy District and talked to their attorney, Mr. Dumars, who agreed with him that Ditches with Trails has overstepped their authority. He said the original study was supposed to be for a feasibility study to see if it would work and instead they eliminated the study and have gone straight into a design/engineer and have issued an RFP. He said Ditches with Trails has never come back to the Board or the Conservancy and no one really knows what is going on. He said when Ditches with Trails came to the Board in August 2006 they already knew what they wanted to do, they already had the plans and the RFP in motion but they did not mention it to anybody. He said Ditches with Trails are operating on their own and he thinks the Board should re-think its support.

Trustee Lopez asked if Mr. Mangano knows where all the funding is coming from.

Frank Mangano said there was an appropriation in 2006 by Senator Feldman for \$550,000 to design, engineer and construct a multi-surface trail with parking, trail heads and a grade separated bridge over Montaño. He said they received another \$500,000 in the 2007 appropriations.

Trustee Homan asked if the RFP is for design only or for all the way.

Frank Mangano - It is for the whole thing – design, engineering and construction. He said within the RFP it says they have written in their ability to do things without worrying about what the consultant might say.

Trustee Homan asked if they have made any statements on where their authority comes from.

Frank Mangano said they rely on the initial resolution from the Middle Rio Grande Conservancy District which allowed them the authority to proceed with a feasibility study.

Trustee McDonough asked if Bernalillo County is the administrative body for the grant.

Frank Mangano replied that Bernalillo County is the administrative body for the grant – State money goes to the County and County Parks and Recreation are administering the RFP.

Phillip Sterling, 8215 Rio Grande Blvd., asked the Board to look at the current Animal Ordinance. He said the Village has a definition for vicious dogs but it does not seem to be working. He said in his case dogs attacked his horses and the Sheriff had to get the County to impound the dogs and take them to a shelter. He said the dogs were released the next morning to the same owner. He said the Animal Control Officer of Los Ranchos was unable to take any action because the City had released the dogs to the owners. He said he believes the dogs should have been declared vicious animals and removed from the Village. He said the problem with the Village's ordinance is that there is no consequence to the actions of a vicious dog. He said the ordinance says they can't be in the Village but it doesn't go to fact that they be removed from the Village, by whom and who makes the determination that they are vicious animals. He said the dogs attacked again about a month later on Mr. Gutierrez's property and Gutierrez had to shoot the animals on his property. He said the current ordinance has a definition of vicious animals but there is no penalty for the owner. He said he would like to ask the Village to reconsider the ordinance.

Larry Gutierrez, 8117 Rio Grande Blvd., said those dogs came into his garage and attacked his dogs and one of his dogs did not survive. He said he is concerned about his dogs but more

concerned for his grandchildren who could have been mauled instead of his dogs. He said he believes there needs to be better enforcement and a better ordinance that makes the owners of the dogs responsible for them.

Trustee Rael asked if the owners apologized.

Larry Gutierrez responded that they never apologized and instead went out and bought 3 pit bull puppies and another American bulldog.

3. **CONSENT AGENDA**

A. **MINUTES –REGULAR MEETING–JULY 11, 2007**

There were no additions or corrections to the Minutes.

B. **DEPARTMENT AND COMMITTEE REPORTS**

1. LAW ENFORCEMENT/BCSD
2. FIRE
3. ANIMAL CONTROL

MOTION: Trustee Homan moved approval of the Consent Agenda. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

4. **REPORTS**

A. **MAYOR'S REPORT**

Mayor Abraham reported that:

- The activity in the Village on August 6 was the filming of a movie called *Swing Vote* which was produced by Kevin Costner and concerns a Presidential election. There will also be a couple more movies filmed later. At some point the Village needs to discuss instituting rules and regulations on how the movie business will be handled in the Village and how much they will be charged for parking, etc.
- The Cell Tower Go-Live Ceremony was held on August 1 with T-Mobile as the first carrier on the tower. They anticipate Alltel to be finalizing their lease agreement and that they should be on the tower within 60 days. Soon to follow should be Verizon and Sprint.
- The audit by Hinkle and Landers has begun.
- He and Administrator Vigil had lunch with DOT Secretary Ronda Faught to discuss how the Village can obtain title to the excess right of way north of Paseo. She gave the name of the person who would coordinate that with the Village and she estimated a timetable by the first of the year. They also asked for funding for the bike trail along Rio Grande and she identified some sources.
- Sue Brawley and Lorilee McDowell are coordinating a calendar to celebrate the 15th Anniversary of the Growers' Market as well as the 50th Anniversary of the Village. They are putting the calendar together with pictures submitted by residents and hope to have the

calendar for sale by the first week or two of September. The cost for the calendar will be \$10 and the proceeds will go to the Growers' Market.

- They are having trouble coordinating volunteers to work on the *Business Directory* and have discussed making it a "50th Anniversary Business Directory".
- He will be hosting a private fund-raiser for Senator Domenici on August 27 that has nothing to do with the Village of Los Ranchos. He agreed to host the fund-raiser for Domenici who in turn invited President Bush. Around noon on August 27th it may be a little invasive with the Presidential motorcade coming through the Village. He doesn't expect the Village to put any money into the visit other than possibly if the Secret Service asks for some security protection from the Fire Department or the Bernalillo County Sheriff's Office.

B. ADMINISTRATOR'S REPORT

Administrator Vigil reported that:

- He has been working with Bernalillo County on the Law Enforcement Fund and the Village received \$22,400 to replace a vehicle. In addition, a Sheriff's Deputy was in an accident that totaled his vehicle. Each vehicle is costing about \$21,200.
- He has been working with Attorney King on the Drug Free Policy so that all employees re-sign their acknowledgement and consent form.
- He has been getting cost estimates for a water rights study on the Blanchard property.
- There have been two automobile break-ins at Hartnett Park during the last couple weeks.
- They are working with NM Department of Transportation for a bike trail and also the Village has received \$160,000 in grants.
- At the September BOT meeting, the County will give a briefing on the Area I and J sewer project.
- The speed board on Chavez has been a problem; B & D Electric has been working on it but it is still not fixed.
- They are working on a grant for trash clean-up and hopefully will receive the funds for the gates and security at the Blanchard property.
- He has been working with the Federal government to clean up the property at 916 Ranchitos and he received a report of a skunk infestation which he reported to the government as well.
- All the tennis courts have been screened and this will be an improvement for the players as well as helping to keep the tennis courts clean.
- Staff has been cutting the weeds along the streets and they are also working on the chipping area and the open space.
- He visited with Gamblers Anonymous that is located on the Blanchard property and the Village needs to enter into a lease agreement with them.
- He attended a meeting for all of the affected entities on the Bachechi open space located off of Rio Grande, just south of Alameda. One of his concerns was the traffic impact analysis, parking plan, emergency access routes and what type of uses would occur at the open space.
- They are in the final stages of preparing the Village Center Project Area RFP. They expect to have it ready to submit in the next couple of weeks.
- He has been working with Rosemary on a project to revamp our website.

C. PLANNER'S REPORT

Planner Nighbert reported that:

- The Planning Department received the information from the Assessor's Office that will help in drafting an ordinance to set styles and floor area ratios based on home size and median land areas for the 13 character areas.
- The ICIP is prepared for approval on tonight's agenda. With this approval the program will be sent to the State for publication.
- He and Administrator Vigil drove the 4th Street repaving project with the engineer to discuss the need for several infiltrators and special attention to those areas that are known for pedestrians walking along the road. They also looked at the signal light on Los Ranchos.
- Several letters have been sent and personal visits made in connection with code enforcement complaints throughout the Village with good results.
- Plan review continues to be a priority especially with FEMA and NPDES requirements now included in the process. The NPDES Biological Report was received and sent to the EPA along with the other preliminary information required by August 1, which included the proposed ordinance and workbook.
- Linda is on family emergency leave to Alaska.

D. LEGAL REPORT

Attorney King reported that:

- They worked on the Cox case and were successful in getting it dismissed.
- They secured numerous default judgments in the Gasman case.
- She worked on matters related to the Retail One and the Landau cases.
- She researched matters related to the Starbuck's variances.
- She prepared and negotiated the Alltel leases which will be circulated for signature.
- She has been working with Administrator Vigil on updating the drug policy.
- She worked on Code Enforcement matters and there will be some Municipal Court litigation.
- She worked with Planner Nighbert and NM DOT to avoid potential takings in the Village.

E. FIRE DEPT. REPORT

Fire Chief Perez reported that:

- Fire Marshal Cordova has begun his safety meetings with all the schools in the Village. At the conclusion of the meetings, he sets a firm date for when he will return for an inspection and the fire drills that will be set throughout the year.
- He had his first meeting with Chief Garcia from Bernalillo County and from a meeting with Chief Ortega he has agreed to put together a Chiefs' Committee where they will meet monthly to make sure they are all on the same page.
- Four members of the Fire Department participated in a joint exercise with the Albuquerque Police Department to attempt to recover a weapon involved in a murder case.

- They held a meeting on the final design of the fire station.

5. FINANCIAL BUSINESS

A. CASH REPORT – JULY

Treasurer Haines reported that the ending cash balance for July 31, 2007 went up to \$2,555,168.25 and for the month of July, revenues exceeded expenditures by \$101,474.05. She said it was a very good gross receipts month. The auditors visited the Village last week and performed an onsite tour of the Unser Museum. She said they will return on Thursday and Friday and are proceeding very well.

MOTION: Trustee Lopez moved approval of the Cash Report. Trustee Homan seconded the motion.

VOTE: The motion carried unanimously, 4-0.

6. PUBLIC HEARINGS AND APPLICATIONS

Attorney King swore in those who would be speaking on Item 6.A.

Mayor Abraham said, for the record, he would like any Trustees who visited the property to please disclose the visit and any discussions held with the Chavez' or Peterson Properties.

Trustee Lopez said on the morning of July 28 he visited close to the property but not the actual property and observed it from 4th Street. He said he chose not to discuss it with anyone.

Trustee Homan said she visited the property by driving down Chavez from 4th Street but did not stop and visit with the Chavez family.

Trustee McDonough said he visited the property on Sunday morning and talked to the Chavez' about the Zoning Code, what is allowed on the site, and the existing zoning. He said he had no further discussion other than the Zoning Code.

Trustee Rael said he did not visit the property.

Mayor Abraham said he did not visit the property.

Mayor Abraham requested a 5 minute recess in order to read a letter handed to him by Attorney King. Reconvened at 7:50 p.m.

A. AN APPEAL BY DOUG PETERSON, LOS RANCHOS VILLA, LLC., TO THE BOARD OF TRUSTEES OF ACTION TO DENY APPLICATIONS V-07-02, V-07-04, AND V-07-07 BY PLANNING AND ZONING COMMISSION ON FEBRUARY 13, 2007 AGENDA ITEM 5A, REQUESTS BY GEORGE RAINHART AND ASSOCIATES, AGENTS FOR LOS RANCHOS VILLA, LLC., FOR VARIANCES FROM THE VILLAGE CENTER ZONE FOR NEW COMMERCIAL CONSTRUCTION IN THE VC ZONE AND IN THE FOURTH STREET COMMERCIAL CORRIDOR. THE

PROPERTY IS LOCATED AT 6561 4TH STREET NW AND IS LEGALLY KNOWN AS TRACT 41G, M.R.G.C.D. MAP NO. 29, ELENA GALLEGOS GRANT IN PROJECTED SECTIONS 28 AND 29, T11N, R3E, N.M.P.M. CITY OF ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, MAY 31, 1962. THE PROPERTY CONTAINS .9317 ACRES MORE OR LESS. SDP-07-02. DEFERRED FROM THE JULY 11, 2007 MEETING.

George Rainhart, 2225 San Pedro, said the property they are considering is adjacent to a residential home and a residential area that is zoned commercial. He said in spite of it, they have buffered the drive-up use as well as the activity in front of the shops from the homes as if they were zoned residential and to a higher level than other cities require between commercial and residential. He said Starbucks is not coming in without a drive-up because this is a suburban area with a lot of people who commute to downtown and other areas for work, stop and pick up coffee and continue their commute. However, he said on weekends, these same people would visit Starbucks and stay to read their paper. He said the Starbucks use is an integral part of developing a Village Center with some degree of corporate use. He said there was a lot of discussion previously about Chavez Road. He said they offered to close it off and apparently Ms. Chavez prefers to keep it open. He said if they keep Chavez Road open, then he would suggest creating a pedestrian connection with raised speed humps. He said that would discourage cut-through traffic and would slow traffic. He said he would also then request on-street perpendicular parking on Chavez Road. He said what the traffic report showed was that there is so much background traffic from 4th Street and Osuna that this use would not significantly impact the traffic.

Terry Brown, P. O. Box 92051, said he performed the traffic study.

Trustee Lopez said Mr. Brown is a well respected traffic engineer, but he asked him to explain the low traffic counts.

Terry Brown explained how the traffic counts were arrived at using the Institute of Transportation Engineers' Trip Generation Manual for shopping center use and the Starbucks use was based on local data they collected on four separate Starbucks locations in the Albuquerque Metro area.

Trustee Lopez asked Terry Brown if Mr. Peterson's design meets the recommendations that he made on Page 11 of his Traffic Report.

Terry Brown responded that it does meet his recommendations. He said his analysis concluded that all of the access locations are acceptable and the impact of the added traffic for the new Starbucks and its related commercial area is minimal.

Doug Peterson, 2325 San Pedro, said he submitted a petition from April 2007 with 50 signatures of persons in favor of the development. He said he also submitted a letter which gives an attorney's opinion regarding the preservation of views and how that could be considered in cases such as this. He said the opinion stated that normally views are not protected, but they have done a great deal to try to preserve the views of the adjoining property.

Trustee Lopez asked if the final plan approval would be by the Planning & Zoning Commission.

Planner Nighbert responded that the final site development plan is heard by the Board of Trustees with a recommendation from the Planning & Zoning Commission.

THOSE IN FAVOR OF THE APPEAL

Alicia Feil, 1004 Acequia Trail, said she moved to the Village 27 years ago and it embodies what home is. She said she believes a Starbuck's would be a great addition. She said the Village has never been anti-business, but it has always seemed to want to ensure we got the right businesses, ones that would benefit the residents and not be a nuisance to the community. She said she went out and knocked at neighbors doors and the response she got was overwhelmingly positive. She said she is still unclear of exactly why people are opposing a Starbuck's. She said originally it was the potential threat of increased traffic but the Traffic Study now shows that is not an issue. She says it now appears the major concern is Mrs. Chavez's views. She said she believes Starbuck's is the least invasive of the possible businesses that could be located there. She asked the Board to take into consideration the wishes of the many residents who are in favor of the Starbuck's.

Julie Johns-Felty, 5431 Eakes Road, said she grew up in the Village and lived here for 25 years before moving to New York City for 11 years and has now returned to the Village. She said she frequents the Starbuck's on Rio Grande and has met lots of new people. She said she would like to be able to have that atmosphere in the Village. She said it is a wonderful community experience and would be great for our Village.

Susan Feil said she is a realtor who moved to the Village in 1981 and has specialized in selling property in the North Valley. She said she believes Gross Receipts Tax is a significant issue in the current controversy. She said with the growth of the Village, there needs to be money and good national tenants who pay Gross Receipts Tax and will be successful and set an example for other national tenants to come to the Village. She said she went by the property on her way to the meeting and you still see the top of the mountains.

Marsha Adams, 1008 Acequia Trail, said Starbuck's is a great gathering place for their teenagers and provides them a safe, healthy environment. She said she would like our tax dollars to stay here in the Village and would like to have this convenience of a drive-up.

THOSE OPPOSED TO THE APPEAL

Georgia Chavez, 428 Chavez Ave. NW, said the ladies who spoke in favor of Starbuck's don't realize the impact. She said she would like them to have a Starbuck's next to their house with all the traffic from 5:45 am to 10:45 pm. She said she appreciates the Trustees who drove by and looked at her situation. She said the Chavez's will continue to fight for their rights because they are the original land grantees in the Village. She said a big concern is flooding because last year her garage was flooded from all the water coming from the shopping center.

Randy Gallegos, 501 Sandia View Road, said he has never been opposed to Starbuck's. He said it is not the Starbuck's that he has been complaining about but the second building on the site which is a 23-foot building. He said the suggestion of parking on Chavez Road is very new and this is the first time he has heard about it. He said he does not want to give away Chavez Road and with the recent rains they are already getting flooding on the new road.

Bruce Muhr, 336 Enchanted Valley Place, said he is opposed to the traffic, the pollution, the noise and the light. He said he wanted to remind the Board that there are Villagers who don't want a large commercial development on the corner of 4th and Osuna. He said they would like it a little quieter and a little less traffic.

Robert Chavez, 324 Enchanted Valley Place, said there are two legal issues he wanted to bring up for the record: 1) submission of any new materials to this appeal process; they were specifically denied and were told they could not have any new material; 2) the appeal process was based on the site plan presented to the Planning & Zoning Commission without any modifications; and somehow through the numerous deferrals, they have now allowed numerous changes to the appeal process and there are changes being proposed. He said he is questioning those two legal points for possible use later on. He said the drive-up was specifically denied under the Zoning Ordinance that was in force at the time the site plan was brought forth. He said they presented a petition from about 55 nearby residents that surrounded the proposed Starbucks who opposed it. He said there was a letter sent by the East Los Ranchos Neighborhood Association that directly opposed the drive-up. He said this is not a Chavez/Peterson issue, it is that the Villagers do not want this type of enterprise in the Village. He said they don't want another drive-up in the Village; they want to go back to the 2010 Master Plan and build a pedestrian friendly, Village-type environment and not a huge commercialized zone. He said they request that the Board deny the variances as proposed without any of the changes.

Erin Mowris, Desert Sunrise Coffee House, 7015 4th Street, said she is opposed to a Starbucks as a business owner and a Village resident. She said she is an expert in her field and knows that a drive-up Starbucks at 4th and Osuna would be a traffic nightmare. She said it takes about 2-3 minutes to prepare a customized drink for one person and she believes if you multiply that times 10 cars in the drive-up line you can see the traffic congestion it would cause. She said she doesn't believe you need a corporate business to attract other businesses; she chose Los Ranchos because of its rural feel.

Darrel Mummert, 330 Vineyard Road, said this is a variance request. He said he is not opposed to Starbucks and his sister works for Starbucks in Seattle. He said he spoke with her and she said Starbucks corporate is making a move to try to get into pedestrian friendly areas with no drive-ups.

Summary

Doug Peterson said he can't emphasize enough that when he hears that they have not tried to work with the Chavez family, he said that is absolutely untrue. He said he wishes he would have video taped the multiple meetings that he has had with the Chavez's and how much he has tried to give. He said they have submitted multiple sketches of various ways they have tried to shift it. He said he believes they own one of the most valuable pieces of property in the Village and also that they own one of the physically largest pieces of property in the Village. He said they have made a substantial multi-million dollar investment in the Village.

Georgia Chavez said she wishes Mr. Peterson would have had a video of the meetings they had and that she hopes the Board will deny the appeal.

Trustee Discussion

Trustee Homan asked Attorney King if at the time period of the dedication of the property that became Chavez Road, was there any kind of encumbrance so that if the dedication should fall away from whomever it was dedicated to originally, was there anything to prevent it from being passed along?

Attorney King said she did not research the ownership or dedication specific to that road.

Planner Nighbert responded that if it was dedicated to the County, they would have to go back through the County and going back that far, it would probably be pre-incorporation.

Trustee McDonough said he assumes that the zoning at the time when this started is the zoning that applies as they address the issue before them. He asked if it was correct that the old VC zoning would be the applicable zoning.

Planner Nighbert responded that the reason the application was processed through the old VC Ordinance was because the new VC Ordinance was not in place at the time that they made their application in December 2006; therefore, the old VC Ordinance applies. He said the old VC Ordinance prohibits drive-ups and that is why they requested a variance.

Trustee McDonough said after the last meeting he went to a drive-up Starbucks in Rio Rancho. He said he was car #5 and it took 7-1/2 minutes from ordering to receiving the coffee. He said his concern is that the location on 4th Street could stack up 15 or more cars and there is the potential that it would back up on to 4th Street and prevent people from making the right turn to access into that area. He said he appreciates the concerns that it is contrary to the Master Plan and that as it is written it is giving a variance for a drive-up at that location; there is no mention of Starbucks specifically in the variance. He said if something happened to the Starbucks deal, they have already given permission for that variance for a drive-up and the door is opened for anybody who has a drive-up window.

Trustee Rael said he spent two years working on the Master Plan and throughout the process there were many people who spoke to him about what they desired in the Village and it was overwhelmingly against drive-ups. He said he is also against the drive-ups and feels they need to follow the Master Plan. He asked Attorney King if she agreed with the two legal issues raised by Robert Chavez.

Attorney King said what the Rules of Appeal say is that all testimony, information and documents submitted to the Board prior to its decision and the transcript of the meeting will constitute the record in the event of appeal.

Trustee Homan said she believes that this Board expressly requested the Peterson's to go back and work with the Chavez's to see if there were any other adjustments.

Trustee Homan asked Planner Nighbert how wide the road is where the perpendicular parking on Chavez Road was being proposed and how wide would a perpendicular parking space be.

Planner Nighbert responded that he had not personally measured it, but he would think that the right of way is 40 feet and that the road would be 24 feet and a parking space would be about 23 feet which would essentially leave no roadway.

Trustee Homan said if the Board chose to deny the appeal, what would prevent the Peterson's from coming back and reapplying under the new VC Code where the drive-up would be conditional?

Planner Nighbert responded that there is a waiting period for the variance and he believes that if the Board first denies the variance for a drive-up and then later allows it under the new Ordinance as a conditional use, he believes that could be viewed as a subversion of what the Board's earlier decision was.

Trustee Homan said there has been a lot of discussion about the possible back up on 4th Street, but she said she doesn't see any ingress on the diagram coming off of 4th Street.

Planner Nighbert responded that the ingress is on Sandia View and what they are talking about is if cars got into the queue and the queue stretched around the block and on to southbound 4th Street then there would be a traffic problem there.

Trustee Lopez said there is the possibility of allowing a drive-up here, whether Starbuck's or someone else's. He said from a harsh point of view, other potential developments can come in so if the Board denies it, then that opens the door for every possibility—anything that meets the zone code.

Trustee Homan asked that they vote on each variance request separately. She said regarding the variance requirement to build at the sidewalk, the closest building that is actually built at the sidewalk is Super Cuts and therefore you are not really seeing any of the buildings along that pathway at the sidewalk level, although the Master Plan did have recommendations to start creating a tunnel view down 4th Street. She said this brings up the issue of blank walls which is one of the other variances. She said she is sure no one wants to see a long expanse of blank wall, but it could be dressed with murals, etc.

Trustee McDonough asked Planner Nighbert whether they maintained those requirements in the revised VC Zone for building to the sidewalk and the blank walls prohibition.

Planner Nighbert responded that they did not.

MOTION: Trustee McDonough moved to deny the appeal by Mr. Peterson for a variance from Section 11.B.2. prohibiting drive-through restaurants. Trustee Homan seconded the motion.

Planner Nighbert asked the Board to please state the findings of why they denied the appeal.

AMENDED MOTION: Trustee McDonough amended his motion to include the statement that based on the findings, the Appellant failed to demonstrate the hardship as required and that a variance is inconsistent with the adopted Master Plan of the Village. Trustee Homan seconded Trustee McDonough's amended motion.

Trustee Lopez said he is in favor of Trustee McDonough's motion but he wanted to point out to the audience that the door will now be wide open for other development.

VOTE: The motion carried unanimously, 4-0.

MOTION: Trustee McDonough moved to deny the appeal for variance to V-07-04 which is a variance from the requirement of building to the sidewalk along 4th Street and Osuna Blvd. and V-07-07 variance from K12 blank walls along public rights of way that it was not shown that they would result in unnecessary hardship. Trustee Rael seconded the motion.

VOTE: The motion carried 3-1, with Trustee Homan voting no.

Mayor Abraham called for a 5-minute break at 9:09 p.m. The meeting reconvened at 9:15 p.m.

Mayor Abraham requested that they move to Item 7.B. at this time.

B. A REQUEST BY DAVID HARTMAN FOR SITE DEVELOPMENT PLAN APPROVAL FOR NEW COMMERCIAL CONSTRUCTION IN THE VC ZONE. THE PROPERTY IS LOCATED AT 6711-25 4TH STREET NW AND IS LEGALLY KNOWN AS TRACT A-1-A SCHULTE ACRES WITHIN SECTION 28, T11N, R3E, N.M.P.M. VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, JULY 1998. THE PROPERTY CONTAINS 1.3736 ACRES MORE OR LESS. SDP-07-05. DEFERRED FROM THE JULY 11, 2007 MEETING.

Planner Nighbert asked that Item 6.B. be deferred to the September meeting due to a problem with storm drainage.

C. A REQUEST BY RAJIV SHAH FOR LAKSHMI GROUP, LLC FOR A SPECIAL USE PERMIT FOR PACKAGE LIQUOR SALES IN THE C-1 ZONE OF THE FOURTH STREET COMMERCIAL CORRIDOR. THE PROPERTY IS IC FOOD MART, 7900 FOURTH STREET NW AND IS LEGALLY KNOWN AS A CERTAIN TRACT OF LAND LOCATED IN THE WESTERLY PORTION OF SECTION 21, T11N, R3E, N.M.P.M., IDENTIFIED AS TRACT 23A, M.R.G.C.D. MAP NO. 27, BEING 117 FEET ON NORTH FOURTH STREET NW, AND APPROXIMATELY 171 FEET ON RANCHITOS ROAD NW, IN THE CITY OF ALBUQUERQUE, COUNTY OF BERNALILLO, NEW MEXICO. THE PROPERTY CONTAINS .32 ACRES MORE OR LESS. SU-07-04

Planner Nighbert reported that IC Food Mart has been sold and the new owner has requested a liquor license transfer from the New Mexico Regulation and Licensing Department, Alcohol and Gaming Division, Liquor License #1373. He said the transfer is from the previous owner and is the same license IC Food Mart has always operated under. He said the previous owner had a Conditional Use Permit for liquor sales in the C-1 Zone, issued prior to Ordinance 183 which requires a Special Use Permit for package liquor stores. He said the Special Use Permit is required in conjunction with the liquor license transfer approval by the Board of Trustees. He said the Planning & Zoning Commission heard the application on July 10, 2007 and recommended approval with seven conditions and three findings. He said the Planning staff recommended an additional condition that the applicant notify the State Alcohol and Gaming

Division listing Horizon Academy, 7903 4th Street since the school is within 300 feet of the property and was not listed on the original application.

Attorney King swore in those persons wishing to speak on Items 6.C. and 6.D.

Rajiv Shah said he is the new owner of IC Food Mart which he bought from Basel Mheirat in January 2007. He said he requests that the Board approve his Special Use Permit for package liquor stores.

Trustee Lopez asked if Mr. Shah was familiar with the Planning & Zoning recommendations and whether he concurred with them.

Rajiv Shah responded that he did concur.

Trustee Homan said Planner Nighbert mentioned an auxiliary document that would go to the State Alcohol and Gaming Division noticing that Horizon Academy was in a close proximity to IC Food Mart. She asked if that would include correcting the application.

Planner Nighbert responded that it would include the correction.

Trustee Homan asked about Item E. under the P&Z Recommendations concerning no liquor sales banner. She asked Planner Nighbert to describe a banner and the restrictions on where it could be placed.

Planner Nighbert responded that banners are usually about 3 feet wide and 10 feet long, hanging from an odd angle. He said they are not permitted on the building or on the fence line. He said sandwich board signs are considered temporary and can be used for 30 days, but then they must reapply for a sign permit.

Attorney King said the applicant will notify the Alcohol Board that his establishment is within the proximity of Horizon Academy. She said it will not update his application because he is grand-fathered in under that application.

Rajiv Shah said he does not plan to change anything about the business; he plans to conform to the signage requirements and continue to keep the property clean inside and outside.

MOTION: Trustee Lopez moved approval of the Special Use Permit for package liquor sales in the C-1 Zone of the 4th Street Commercial Corridor for Mr. Rajiv Shah and his property consistent with the following Planning & Zoning Recommendations: a) Walk-up sales windows will not be permitted; b) No on-site drinking or loitering to be allowed at any time of day or night; c) Dumpsters must be kept in a locked, enclosed structure; d) all outside lighting will conform to the Dark Skies Ordinance; e) Signage will conform to the Sign Ordinance. No liquor sales banners allowed; f) All State Liquor License Laws and Regulations shall be met; and g) Applicant has obtained a Village of Los Ranchos business license (#379) and will pay gross receipts to the Village of Los Ranchos. The Findings are included as follows: a) The Special Use Permit request for a retail package liquor store in the C-1 Zone of the Fourth Street Corridor meets the commercial goals of the 2010 Master Plan 4.7.2.1 a, b, h and i.; b) The use meets the purpose and intent of Chapter 31 Zoning Code, Section 16. Special Use Permit, A. and B. Potential Uses (8) Package Liquor Stores; and c) The applicant has applied for the appropriate licensing and transfer

for such liquor sales with the State of New Mexico Regulation and Licensing Division, Alcohol and Gaming Bureau, Number 1373. Also included is the condition from the Planning Department staff that Mr. Shah notify the State Alcohol and Gaming Division that Horizon Academy, 7903 4th Street, is within 300 feet of the property and was not listed on the original application. Trustee McDonough seconded the motion.

VOTE: The motion carried unanimously, 4-0.

D. DISCUSSION AND APPROVAL OF LIQUOR LICENSE TRANSFER OF OWNERSHIP – RAJIV SHAH FOR LAKSHMI GROUP, LLC. dba I.C. FOOD MART, 7900 4TH STREET NW.

Planner Nighbert explained that this is the transfer of the package liquor license for IC Food Mart and the recommendations and findings coincide with those recommendations and findings in the previous Special Use Permit.

MOTION: Trustee Rael moved approval of the Liquor License transfer of ownership for I.C. Food Mart. The Recommendations and Findings were as follows: 1) Approve the application for transfer of package liquor sales at this location with the following conditions: 1) IC Food Mart meet all the conditions and regulations required by the State Licensing Division; and b) All conditions approved by the Board are met and adhered to in the operation of the business. 2) With the following Findings: a) The issuance of a package liquor license is in conformance with the 2010 Master Plan 4.7.2 commercial goals – for a mixed use corridor; and 4.7.2.1 Create a business climate, encourage mixed use development and encourage small businesses; and b) The property is zoned C-1; and c) The Zone Code Section 16. SUP-Special Use Permit, B. Potential Uses (4) (8) allows for package liquor stores. SU-07-04 has been recommended for approval to the Board of Trustees by the Planning and Zoning Commission at their July 10, 2007 Regular Meeting. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously 4-0

E. AN APPEAL BY JULIAN PADILLA OF P & Z COMMISSION RECOMMENDED SUBDIVISION CONDITION OF APPROVAL NO. 6 FOR FAMILY TRANSFER SUBDIVISION. THE PROPERTY IS LOCATED AT 8414 GUADALUPE TRAIL NW AND IS LEGALLY KNOWN AS PLAT OF ANITA MARIE SUBDIVISION, LOTS 1 AND 2, SECTIONS 16 AND 17, T11N, R3E, N.M.P.M., BEING A REPLAT OF TRACT 174, M.R.G.C.D. MAP NO 24, VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, DECEMBER 2003. THE PROPERTY CONTAINS 4.0 ACRES MORE OR LESS. S-07-08

Attorney King swore in those who would be speaking on Items 6.E., 6.F., and 6.G.

Planner Nighbert said this is an appeal for a Special Use Permit for a condition that was set within the Special Use from a recommendation set by the Planning Commission. He said the action required is that the Board must first hear the appeal of the Planning Commission Subdivision Condition for Approval Number 6: The access road must be a minimum of 20 feet wide. He said action on the appeal will determine if the Special Use for a Family Transfer Subdivision is approved as recommended by the Planning Commission or granted with a narrower entrance to the access road from Guadalupe Trail. He said the appeal must be heard

before the consideration of the Special Use for a Family Transfer Subdivision and Subdivision Preliminary Plat are considered. He said the Planning and Zoning Commission recommended to the Board of Trustees approval for the Special Use Permit with conditions at their regular meeting on June 12, 2007. He said the Commission also recommended to the Board of Trustees approval of Preliminary Plat with conditions at their regular meeting on July 10, 2007. He said subsequent to the P&Z Commission approval of the subdivision with conditions, Julian Padilla filed an appeal of Condition Number 6 concerning the access road. He said the reason for the appeal is that the 20 foot requirement would require the Padilla's to remove the small residential structure where many of the children were born and raised and which is currently occupied. He said the Fire Department made their recommendations based on the IFC 2003 regulations and an on-site drive through with the fire engine. He said the width was very narrow at 11 feet between the small house and the concrete block at the property line.

Trustee Lopez said there is a letter from Julian Padilla dated July 16 and in Paragraphs 3 and 4 he says Fire Chief Perez said he is willing to work with the families on a reasonable solution that will allow the families to build their homes while maintaining a safe condition for rescue personnel and property residents. He also mentioned that Fire Truck #12 easily drove down the Padilla Road and did not have to slow down as it approached and cleared an 18 inch eave on the south side of the guest home. He said that Chief Perez suggested that if the eave was removed it might allow safer entry to the remaining property.

Chief Perez said the absolute minimum is 20 feet and that is what research has shown as the safest amount of access point for a road. He said in the Planning & Zoning Meeting he did state that he would work with the families; however, he said he cannot deviate from the Code to the extent he would have to. He said he and Planner Nighbert visited the property again to take measurements and that even if they removed the eave, it still would not give them adequate access to the back of the property.

Trustee Lopez said he approves of family transfers, but the number one job of elected officials is protecting health, life and safety. He said he does not see how they could make an exception to the 20 foot requirement.

Trustee Homan asked which buildings were in the way.

Planner Nighbert responded that one of the buildings is a garage and the 20 foot mark would come to the middle of one of the two garage doors. He said the smaller building is a residence where Julian says he was born.

Trustee Homan suggested that perhaps they could do a joint use of a portion of the neighbor's property to the south for a roadway.

Planner Nighbert said at the first hearing the family to the south refused to work with the Padilla's.

Julian Padilla, 8414 Guadalupe Trail, said he would like to bring the family back home; the dwelling in front is his Dad's house. He said he understands about the Fire Code, but the fire truck has passed through several times quite rapidly. He said he is willing to knock off the eave and if they have to knock off half of the garage that is fine too. He said he would like to move forward. He said he would prefer to modify the buildings, not knock them down. He asked that

they revise the application for E & F combined and allow some sort of mutual agreement between the Padilla family and Chief Perez.

Trustee Lopez asked if modifying the buildings would be an acceptable solution.

Chief Perez said even if they removed half of the garage, they would still need to find a way to get more width in between the historical structure and the neighbor's property.

Trustee McDonough said he believes this is a Trustee decision and he doesn't believe Chief Perez should be put in the position of making this a sole call. He said an ordinance was passed requiring all new houses to install sprinklers and they have acted in a manner to protect health and safety. He said the subdivision of this property is something that all of the Trustees want to encourage. He said he doesn't think they can move forward based on "we can work things out". He said if Mr. Padilla would like to reconsider what could be done to those structures to provide the 20 feet and come back at a later time, they could defer this item.

Trustee Homan suggested that an option could be relocating the historical home.

Trustee Lopez said his property is a classic tripa, 77 feet wide on Rio Grande and 75 feet on the back and he was forced to have 20 feet.

Planner Nighbert said you can take the recommendation of the Planning Commission and approve the Special Use with the 20 foot requirement in there.

Julian Padilla said he understands the Board's position and if they have to do the 20 feet, he said they should go ahead and do it. He said he would ask that there be some language that the garage could stay and the house could stay in the same spot.

Trustee McDonough said he believes everyone on the Board is fine with the subdivision and the only issue is the 20 foot access. He said he does not see that there has been any resolution to that issue and he would be reluctant to move forward in this meeting granting a Special Use Permit and a preliminary plat until the first issue is resolved.

Planner Nighbert said the Special Use does require that the applicant sign an affidavit that the transfer of title to the new parcel is made to a first degree family member either immediately upon subdivision of the original lot or upon death of the original owner. He said the title to either of the parcels derived by family transfer may not be changed for a period of three years from the date of subdivision except upon death of the title holder. He said those are two conditions that are in the Special Use Permit that are also in the Ordinance.

Trustee Lopez said he thinks the real question is how will the Trustees know that there will be a 20-foot access? He said his answer is because the Board would make it a condition of approval and they would have to follow those conditions that Planner Nighbert just described.

Planner Nighbert said the other thing is that the Mayor would not be given the plat to sign and record until the 20 foot easement requirement is met.

Trustee McDonough said that since the 20 foot requirement is a condition of the plat, he asked Mr. Padilla if he wanted to go forward with it.

Julian Padilla replied that he did.

Maria Montoya said she is sister to Julian Padilla III, daughter of Julian Padilla, Sr., and the Fire Marshal did say he would be willing to consider 17 to 18 feet. She said if it comes down to where those structures have to be moved, she asked that the road be made narrower, to only 18 feet. She said they would like to get this resolved. She said their mission as a family is to have everyone together. She said she will be living on the property that her Father originally bought and she will be taking care of him.

Christina Padilla said she and her 19 month old son live in the dwelling they have been discussing. She said her request is that if they have to tear down the structure, could they wait till a new structure is built so that she will not be displaced.

Paul Lucero, 8414 Guadalupe Trail, said he understands about the International Code requiring 20 feet and most of the road will be 20 feet. He said the trucks can make it down the road and if they wanted to service the back homes, they would have to slow down a little. He said the house has been there for 200 years

Mayor Abraham said when you subdivide, can you put some sort of deed declaration acknowledging that the road is less than what is required by the Fire Department?

Attorney King said she does not see how that would work.

Juan Vigil said the standard has already been set up and if you waive the standard, the liability would fall on the governing body because it was aware that 20 feet was the minimum requirement.

Maria Montoya said they would sign whatever waiver is needed. She said she has seen trucks go past the structure without slowing down. She said she realizes the Board is being asked to bend the rules for them but that is why the Board is there to make hard decisions. She said her request then would be to change the road access from 20 feet to 17 feet.

Trustee Rael said if they are building new homes, why do they want to save the old house?

Maria Montoya said if they take down the house then her sister will have to find another place to live. She said they are trying to build three houses and right now two of her sisters live with her Mom and Dad. She said there are three families living up there but there are only two houses.

Trustee Rael asked if the structures were adobe.

Maria Montoya said they are adobe and over 150 years old and could not be moved.

Julian Padilla said that structure is frame stucco, but the main house adjacent to it is 200 years old and it is terrones.

MOTION: Trustee Lopez moved to deny the appeal and require the minimum 20 foot access road. The reason for the denial is that the access road should be a minimum of 20 feet wide for

the entire length of the access road as required by the Fire Code and the Fire Department. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

F. A REQUEST BY TERRA LAND SURVEYS, LLC, AGENTS FOR THE JULIAN PADILLA FAMILY FOR A SPECIAL USE PERMIT FOR A FAMILY TRANSFER SUBDIVISION FOR A FOUR LOT (MAJOR) SUBDIVISION IN THE A-1 ZONE OF THE GUADALUPE TRAIL CHARACTER AREA. THE PROPERTY IS LOCATED AT 8414 GUADALUPE TRAIL NW AND IS LEGALLY KNOWN AS PLAT OF ANITA MARIE SUBDIVISION, LOTS 1 AND 2, SECTIONS 16 AND 17, T11N, R3E, N.M.P.M., BEING A REPLAT OF TRACT 174, M.R.G.C.D. MAP NO 24, VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, DECEMBER 2003. THE PROPERTY CONTAINS 4.0 ACRES MORE OR LESS. SU-07-03

MOTION: Trustee Lopez moved approval of the family subdivision subject to the Special Use Permit conditions that have been outlined specifically by Planner Nighbert and contingent upon adequate ingress being 20 feet. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

G. A REQUEST BY TERRA LAND SURVEYS, LLC, AGENTS FOR THE JULIAN PADILLA FAMILY FOR PRELIMINARY PLAT APPROVAL OF A FOUR LOT, MAJOR, FAMILY TRANSFER SUBDIVISION IN THE A-1 ZONE OF THE GUADALUPE TRAIL CHARACTER AREA. THE PROPERTY IS LOCATED AT 8414 GUADALUPE TRAIL NW AND IS LEGALLY KNOWN AS PLAT OF ANITA MARIE SUBDIVISION, LOTS 1 AND 2, SECTIONS 16 AND 17, T11N, R3E, N.M.P.M., BEING A REPLAT OF TRACT 174, M.R.G.C.D. MAP NO 24, VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, BERNALILLO COUNTY, NEW MEXICO, DECEMBER 2003. THE PROPERTY CONTAINS 4.0 ACRES MORE OR LESS. S-07-08

MOTION: Trustee Rael moved approval of the preliminary plat for a major subdivision and included the Planning & Zoning Commission recommendations as follows: 1) The subdivision is dependent upon the Special Use Permit – Family Transfer Subdivision being approved. Any special or additional conditions placed on the FTS become a part of the subdivision conditions. 2) Any further subdivision rights for the Special Use Permit for a Family Transfer Subdivision will retire with this subdivision and this statement shall be noted on the subdivision plat as a requirement for recording. 3) The transfer of title to the new parcel is made to a first-degree family member either immediately upon subdivision of the original lot, or upon the death of the original owner. 4) Title to either of the parcels derived by family transfer may not be changed for a period of three years from the date of subdivision, except upon the death of a title holder. 5) Family members receiving the lots will sign an affidavit to be filed with the County Clerk stating that the property will not be sold or transferred for a period of three years, except upon the death of a title holder. 6) The access road shall be a minimum of 20 feet wide for the entire length of the access road as required by the Fire Code and the Fire Department and so marked on the Subdivision Plat. 7) There is no open space requirement for a family transfer subdivision. 8) The Final Plat shall contain all of the required language to be placed on the plat; i.e., data notes,

vicinity map, public utility easement statements, restrictions, legend and certifications, etc. 9) The grading and drainage plan shall be reviewed and meet any additional requirements of the Village-designated engineer. 10) Lighting must meet the Village Dark Skies Ordinance. 11) Subdivision signage must conform to the Village Sign Ordinance. 12) All the requirements of the Albuquerque/Bernalillo County Water Utility Authority shall be met in the installation of the utilities, and new ABCWUA rules and regulations will be followed in the subdivision. 13) The Fire Department will approve the location of the fire hydrants and turn around requirements of the private access road. 14) A Subdivision Improvement Agreement is to be executed prior to the recording of the Final Plat. 15) A financial guarantee instrument is to be submitted with the Subdivision Improvement Agreement for any public infrastructure that is required for the subdivision. Trustee Lopez seconded the motion.

Trustee Homan said if they approve it, then it will be as it is laid out showing the access road on the southern portion of their property, and if for some reason they decide to take it through a slightly different route, will they have to come back before this Board with a new plat?

Planner Nighbert responded that they would have to come back with an amended plat.

Julian Padilla said it is his understanding that this will allow them to move forward and he said he doesn't think they thoroughly looked at the other possibilities such as Chamisal Lateral on the eastern side.

VOTE: The motion carried unanimously, 4-0.

7. OLD BUSINESS

A. DISCUSSION AND APPROVAL TO ADOPT AN ORDINANCE ESTABLISHING STORMWATER MANAGEMENT ACCORDING TO EPA, NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) REQUIREMENTS WITHIN THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE

MOTION: Trustee Lopez moved approval to adopt Ordinance No. 211. Trustee Rael seconded the motion.

Trustee Homan said there is a typo on page 13, line 6. She said there should be a period between each letter of A.M.A.F.C.A.

ROLL CALL VOTE: Trustee McDonough, yes; Trustee Homan, yes; Trustee Lopez, yes; Trustee Rael, yes. The motion carried unanimously, 4-0.

B. DISCUSSION AND APPROVAL TO ADOPT AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF \$3,600,000 GENERAL OBLIGATION BONDS

This item was moved up for discussion after Item 6.A.

Tommy Hughes, Hughes & Strumor, said they conducted the Village's first-ever bond sale today and received a very good interest rate of 4.58%. He said the purchaser was RBC Dain Rauscher and they are putting municipal bond insurance on it at their expense. He said the

expenses were about 1.2% so the project fund will be about \$3,540,000. He said he is asking the Board to approve the ordinance that is required by law to approve the issuance of the bonds.

Administrator Vigil said Treasurer Haines, Accountant Saavedra and he had reviewed the ordinance.

MOTION: Trustee Homan moved to adopt Ordinance No. 212 authorizing the issuance and sale of the \$3.6 million general obligation bonds. Trustee Rael seconded the motion.

ROLL CALL VOTE: Trustee McDonough, yes; Trustee Homan, yes; Trustee Lopez, yes; Trustee Rael, yes. The motion carried unanimously, 4-0.

8. NEW BUSINESS

A. DISCUSSION AND APPROVAL OF RESOLUTION NO. 2007-8-1- INFRASTRUCTURE CAPITAL IMPROVEMENT PLANNING (ICIP) FOR THE YEARS 2009-2013

Planner Nighbert said the ICIP covers the years 2009-2013 and the State has already programmed Capital Improvement funding through 2008. He said they have developed the proposed plan based on projects that were approved in the Village's earlier legislative priorities and the funding received in the last session of the Legislature. He said the resolution is required to go along with the Village's program submission to the State and it is then published by the Department of Finance and Administration and passed out to the Legislature. He said the five top priorities are a fire station for Los Ranchos at \$700,000; GRIP II construction of bike lanes at \$500,000; improvements to the Village Park Community Center at \$100,000; road safety enhancements at \$500,000; and land acquisition and open space for agricultural land at \$600,000.

MOTION: Trustee Rael moved approval to adopt Resolution No. 2007-8-1 for Infrastructure Capital Improvement Planning. Trustee McDonough seconded the motion.

ROLL CALL VOTE: Trustee McDonough, yes; Trustee Homan, yes; Trustee Lopez, yes; Trustee Rael, yes. The motion carried unanimously, 4-0.

B. DISCUSSION AND APPROVAL TO ADVERTISE AN ORDINANCE IN SUMMARY AMENDING THE COMPREHENSIVE ZONE CODE, CHAPTER 31, ZONING AND MAP, CHANGING SECTION 24, APPLICATION AND APPROVAL PROCESS. SECTION (B). PLANNING DIRECTOR ISSUED PERMITS. ADDING PARAGRAPH (13) FLOOR AREA VARIANCES. THIS GIVES THE DIRECTOR OF PLANNING AND ZONING AUTHORITY TO APPROVE VARIANCES FOR BUILDING RESIDENTIAL STRUCTURES IN THE A-1 ZONE FROM THE ESTABLISHED FLOOR AREA RATIO TABLE UNDER CERTAIN CONDITIONS.

MOTION: Trustee Homan moved approval to publish the first notice for consideration of amending the Comprehensive Zone Code, establishing Paragraph 13, Floor Area Ratio, to grant the Director of Planning and Zoning the authority to approve variances for building residential

structures in the A-1 Zone from the established floor area ratio table under certain conditions. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

C. DISCUSSION AND APPROVAL OF VOTING DELEGATE AND ALTERNATE FOR NEW MEXICO MUNICIPAL LEAGUE ANNUAL CONFERENCE BEING HELD IN LAS CRUCES, NEW MEXICO.

Trustee Homan asked if all the Trustees and the Mayor will be attending the event.

Mayor Abraham said he would not be attending.

MOTION: Trustee Homan moved approval of voting delegate Pablo Rael and Don Lopez as alternate for the NMML Annual Conference.

VOTE: The motion carried unanimously, 4-0.

Trustee Homan requested the Village's support in her position running for Treasurer of the Municipal League.

The other Trustees said Trustee Homan has their support.

D. DISCUSSION OF VILLAGE OF LOS RANCHOS 50TH ANNIVERSARY.

MOTION: Trustee Lopez moved to defer this item to the September 12th Board Meeting. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

E. DISCUSSION AND APPROVAL TO APPROVE AN ADJUSTMENT WITH MACKIE KITTS FOR THE INSTALLATION OF A STORM DRAIN AND CONNECTION TO THE FOURTH STREET IMPROVEMENT PROJECT AT SPANISH WALK PLAZA, LOCATED AT 6303 FOURTH STREET NW. IN THE AMOUNT OF \$7,000.00.

Administrator Vigil stated that this is part of the 4th Street Project where they had issues with the storm drain and the City of Albuquerque. He said Mr. Kitts would have benefited greatly but because of changes and because of the anti-donation clause, they are working with Mr. Kitts to have him pay for some of the improvements in the storm drainage to his property. He said the cost was \$10,199 but because of the five reasons listed in the agenda summary, he believes the assessment to Mr. Kitts of \$7,000 is reasonable.

Trustee McDonough said he thinks it sounds reasonable given the history and all the changes that went on there.

MOTION: Trustee McDonough moved to approve an adjustment with Mackie Kitts for the installation of a storm drain and connection to the 4th Street Improvement Project at Spanish Walk

Plaza located at 6303 Fourth Street NW in the amount of \$7,000. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

F. DISCUSSION AND APPROVAL OF CHANGE ORDER NO. 4, FINAL C.O., FOR CERTAIN MODIFICATIONS, INCLUDING DEDUCTIONS AND INCREASES TO THE CONSTRUCTION OF: STORM DRAIN, WATER/SEWER, ROADWAY, SIGNALIZATION, STREET LIGHTING AND OTHER NEW ITEMS AND QUANTITY CHANGES TOTALING \$108,592.84.

Administrator Vigil stated that this is the final change order to close out the 4th Street Project. He said basically there was no change on the bottom line. He said there are a couple pending issues that need to be addressed with Larkin Group. He said one is whether they did their due diligence on the installation of the light standard at 4th and Schulte and the other issue is whether the sprinkler system for the Taft multi-purpose field were done in accordance with APS standards. He said the Village may have to hold Larkin accountable for part of those issues because they acted not only as engineers but as construction managers on the project. He said the cost for the light standard is \$7,044. He said regarding the sprinkler system, if Larkin Group did take the plans and they were approved specifically as designed by APS, then APS has some accountability to help the Village with the additional \$68,000 cost for sprinkler heads and a booster pump. However, he said if APS did not design it that way and Larkin approved the plans as installed, then he said Larkin bears some responsibility. He said at this point he doesn't think they can withhold payment from Star Paving or the other subcontractors for the work that was done. The sprinkler system and the booster pump issues are still not done, but the light standards were moved.

Planner Nighbert said the \$108,000 still leaves us below the sum appropriated by about \$14,000. He said given the weather from last summer and the cold weather in the winter, the additional days that Star asked for were appropriate and fair. He said he believes the Village was fortunate to have one of Star's better superintendents working on this project.

Trustee McDonough asked how the light standard was not the liability of the contractor.

Administrator Vigil said the contractor did absorb \$7,000 which they felt was their responsibility out of the total cost of \$14,000.

Trustee McDonough asked if the \$108,000 includes the full \$68,000 for the irrigation system. He also asked when they will be done with the irrigation system.

Administrator Vigil responded that it does include the irrigation system and the booster pump was ordered and should have been delivered this week, but as of yesterday afternoon it had not arrived.

MOTION: Trustee Rael moved approval of the Final Change Order No. 4. Trustee Homan seconded the motion.

VOTE: The motion carried unanimously, 4-0.

9. TRUSTEES INFORMAL DISCUSSION

Trustee Rael said his binder is falling apart and he could use a new one. He also asked if they could look at a way to calm the traffic in front of the barbershop; i.e., a flashing light or some rumble strips. He said the weeds on Osuna are pretty bad on the north side of the road and the Contreras property is full of dry weeds.

Administrator Vigil said regarding the weed issues on Osuna and 4th Street, he and Terry have contacted the Director of the Metropolitan Detention Center and he has committed to get some “trustees” to go out there and perform the cleaning.

Trustee Rael said he would like to revisit the Animal Ordinance to see if it could be strengthened and then put on the Board Agenda for further discussion.

Administrator Vigil said there have been several efforts to revisit the Animal Control Ordinance, but if they are looking specifically at vicious animals, probably an amendment to the Ordinance would suffice. However, he said if they want to look at leash laws, shelters, etc., it would take a long time to do. He said these are very emotional issues for both sides.

Trustee Homan said they are coming up on the time when they need to form a committee for the next Master Plan and when they do that she would like to see efforts for energy efficiency included in the Master Plan. She said she attended the Best Practices Green Summit last week which was put on by the City of Albuquerque and there were some very good tips and code ideas that she would like to see the Village consider.

Planner Nighbert said they are going to try to have a facilitator for the 2020 Master Plan and start working on that.

Trustee McDonough said when they are re-doing the website, he would like to see all the ordinances updated that have been changed or modified.

Trustee Homan said she believes all the Trustees and the Mayor should update their profiles as well.

Trustee McDonough said he would like to see his e-mail forwarded to his home. He said he has not been receiving any of the e-mails that should be forwarded.

10. ADJOURNMENT

Trustee Rael moved to adjourn at 11:00 p.m. Trustee Homan seconded the motion.

APPROVED by the Board of Trustees of the Village of Los Ranchos de Albuquerque this _____ day of _____, 2007.

ATTEST:

Annabelle Silvas
Village Clerk