

MINUTES

VILLAGE OF LOS RANCHOS de ALBUQUERQUE
6718 RIO GRANDE BOULEVARD N.W.
BOARD OF TRUSTEES REGULAR MEETING
DECEMBER 12, 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

Kelly S. Ward, 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, December 12, 2007 in the Warren J. Gray Hall. The Mayor called the meeting to order at 7:00 p.m.

A. **APPROVAL OF AGENDA**

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

VOTE: The motion carried unanimously, 4-0.

2. **PUBLIC COMMENT PERIOD**

John McDowell, 7201 Guadalupe Trail, said the Board changed the Village Center Zone regulations and passed some conditional uses which included drive-through restaurants. He said in his opinion a conditional use for a drive-through should be reconsidered.

3. **CONSENT AGENDA**

A. **MINUTES – REGULAR MEETING–NOVEMBER 14, 2007**

There were no additions or corrections to the Minutes.

B. **DEPARTMENT AND COMMITTEE REPORTS**

1. **LAW ENFORCEMENT/BCSD**

2. FIRE
3. ANIMAL CONTROL
4. CODE ENFORCEMENT REPORT

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

VOTE: The motion carried unanimously, 4-0.

4. **REPORTS**

A. **MAYOR'S REPORT**

Mayor Abraham reported that:

- The Board's first meeting with the Legislators will be Friday, December 14 to review the Village's 2008 legislative priorities and to bring them up to date on last year's funding.
- The commemorative calendars are \$10 each or buy four and get one free.
- There was misinformation about the Ditches With Trails project that the Village was in favor of changing the surfaces of the trails. The Village's position has been that we like the ditches just the way they are.
- A luminaries tour was going to start in the Village Saturday, December 15, but to date we have not received their liability release and they have not requested permission from our Fire Chief.
- Regarding the bike trail along Rio Grande Blvd., they have renegotiated the Boyle Engineering contract and brought it down from over \$90,000 to \$72,000 with a \$4,000 contingency.
- The Area I & J sewer project will tear up the entire length of Rio Grande Blvd. from Chavez to Paseo del Norte. When they go back to repave Rio Grande Blvd., they will narrow the lanes slightly and then put a 4 or 5 foot lane on each side that will be specifically for bicycles. This will tie the bicycle trail from Montaña to Paseo del Norte.
- He personally drove Garduño Road after the recent rains and it was no more flooded than most of the other Village streets.
- Mrs. Dimas will turn 107 years old on December 24 and a tree was lit in her honor in front of Village Hall.

B. **ADMINISTRATOR'S REPORT**

Administrator Ward reported that:

- Animal Control Officer Arturo Andujo has returned to work on a limited activity schedule.
- They have begun the mid-year budget review process and anticipate presenting the results at the January 2008 Board meeting.
- The recent rains have indicated the need to replace the roof on Village Hall.

- They met with AMAFCA regarding the fix for the drainage problems on Garduño Road which is on AMAFCA's 2008 project plan. They have dedicated \$1.5 million to fix the problem.
- There was an article in the newspaper about Paseo del Norte's 20th Anniversary and the Village had some strong words about not being amenable to having truck traffic on Paseo.
- The Village has selected an appraiser for the Village Center Project and a meeting will be held on Friday afternoon, December 14, with the property owners to have them select an appraiser. The two appraisers will then select a third appraiser and they will constitute a panel that will begin to appraise the property. The Village is also letting a contract for the title work and survey work on the Village Center.

C. PLANNER'S REPORT

Planner Nighbert reported that:

- Two public information meetings have been held on the Floor Area Ratio for all the remaining zones in the Village.
- They have been involved with AMAFCA on a project to drain lands north of Paseo del Norte, including Garduño Road. They have also been involved in the 4th Street repaving of GRIP 2. NMDOT has acknowledged receipt of the Village's application to repave 4th Street, 4 lanes, from Schulte to El Pueblo Road.
- They met with the County on the Area I & J sewer project which will start January 7, 2008 and will be one year long. The project will begin in Tinnin Farms, come out on to Rio Grande Blvd. and head north at about 100 feet per day. One lane will be open with flagmen on each side except for where the pump stations will be located. The pump stations will be located at Chavez Road, Ranchitos Road, and Arada Road. When they dig the trenches for those intersections, the road will be closed. Flyers will be sent out to residents 7-10 days prior to excavation of any street and the contractor will work closely with the Village and Waste Management. There will be a hot line that is dedicated just to the Rio Grande sewer project for questions and comments on the project.

D. LEGAL REPORT

Attorney Martha King reported that:

- She served as legal counsel for the Planning & Zoning Commission.
- She assisted Planner Nighbert and Ms. Seebach on some Planning & Zoning matters.
- She got a permanent order of entry on the Gasman Case which closes that case.

E. FIRE DEPT. REPORT

Fire Chief Perez reported that:

- He and Lt. Cordova attended Incident Command Training with Albuquerque, Bernalillo County and Rio Rancho Fire Departments.
- They were invited by Albuquerque Fire Department to take part in advanced high-rise training which will put them on the call string as the second alarm on any high-rise fire downtown.
- He recently taught a CPR class for 11 individuals from the International Nanny Group. There were attendees from Russia, Germany, Thailand, Viet Nam, Venezuela, Columbia and a few other countries.
- He thanked Smith's Grocery Store for donating the cookies and cider for the event this evening.
- He also thanked Mr. McDowell and Rocky Mountain Stone for their help in using the company's scale to determine the weight of one of the pieces of apparatus.
- There were 81 calls for the month of November and 918 calls for the year which is an increase of 84 calls from this time last year.
- He has been working with Planner Nighbert on the Pueblo Solano and Del Aker area safety concerns. They have concluded that a 3-way stop is probably the best solution.
- They have a final design on the exterior layout of the new fire station. He will begin working with the architects for the remodel of the existing building.

5. **FINANCIAL BUSINESS**

A. **CASH REPORT – NOVEMBER**

Treasurer Haines reported that there were no significant transactions during November. She said the ending cash balance at November 30 was \$6,575,833.39 which represents an increase of \$85,447.55 from the prior month. She said the \$6.5 million includes the open space so the cash balance without the open space is \$2,451,337.00. She said the year-to-date revenues exceed expenditures by \$4,122,139.19 and without the bonds, the revenues exceed expenditures by \$522,643.46.

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

VOTE: The motion carried unanimously, 4-0.

6. **PUBLIC HEARINGS AND APPLICATIONS**

A. A REQUEST BY MATTHEW REMBE FOR AN AMENDMENT TO CONDITIONS OF APPROVAL FOR THE LOS POBLANOS INN AND CULTURAL CENTER SU-1 ZONE. THE PROPERTY IS LOCATED AT 4803 RIO GRANDE BLVD. AND IS LEGALLY KNOWN AS PLAT OF TRACTS A2A AND A3A, A REPLAT OF TRACTS A2 AND A3, LANDS OF ALBERT SIMMS II, VILLAGE OF LOS RANCHOS DE ALBUQUERQUE, NEW MEXICO, DECEMBER, 1998. THE PROPERTY CONTAINS 20.5874 ACRES, MORE OR LESS. ACA-07-01

Attorney King swore in those persons wishing to speak under Item 6.A.

Planner Nighbert presented Planning Report No. PZ-07-103. He said this was a request for an Amendment to Conditions of Approval for the Los Poblanos Inn and Cultural Center which is a Special Use granted by the Village. He said the proposed amendments to the zoning regulations of the Special Use Zone for Los Poblanos Inn and Cultural Center are operational in nature and do not require a new site plan, plat or other land markings. He said the owners are requesting changes to the number and times that events can be held on the grounds, number of participants, five additional guest rooms for a total of 20 that will be located in existing structures, a beer and wine license, and additional hours of operations. He said the applicant has requested that these less restrictive conditions be granted to allow the Inn and Cultural Center to continue to be economically viable. He said the Planning and Zoning Commission forwarded a recommendation of approval of the amendments to the Special Use Zone regulations for the Los Poblanos Inn and Cultural Center SU-1 Zone. He said the Planning Department would like to modify Conditions 31 and 32.

John Myers said he is attending the meeting on behalf of the Rembe family. He said in 1999 the Trustees approved two special use zones for the Rembe property: a cluster residential development and an Historic Inn and Cultural Center on their 26-acre property. He said after the approval of the project in 1999, there was substantial concern about what the impact of the project would be on the neighborhood and the Village. He said there was an appeal and during the course of the appeal, a compromise was reached between the Rembe's and the neighbors who appealed where the Rembe's agreed to a substantial number of conditions and limitations on the use of the property. He said the Rembe's agreed that they would not come back and seek any changes to those restrictions prior to January 2006. Since that time, the Rembe's have learned what changes would be necessary to make it an economically viable development. He said they have worked closely with the immediate neighbors and the neighbors in the vicinity and there is a small group of neighbors who continue to have concerns. He said prior to the hearing before the Planning and Zoning Commission, some additional concessions were made by the Rembe's. He said Planner Nighbert pointed out that since the Planning and Zoning Commission hearing, staff has recommended a couple more changes to the conditions and those changes related to what happens in the event the conditions are violated. He said the reason given for these suggested changes was to bring the decision into compliance with the Village's Zoning Ordinance and the State Law on the remedies available to the Village in the event the zoning conditions are not satisfied. He said the Rembe's find those changes acceptable and appropriate. However, he said they have not discussed those changes with Mr. Michaelson with whom they had worked out the compromise. He said he was distributing copies of petitions and letters of support to staff.

Trustee Lopez clarified that in the original Special Use Zone regulations it was agreed that the Rembe's would not seek any changes prior to January 2006 and it is now almost January 2008.

Trustee McDonough and **Trustee Homan** asked for clarification about the striking of Regulations #31 and #32 and the replacement language.

Planner Nighbert said they are attempting to make it follow State Law.

Trustee McDonough said if the Board grants the request, what allows the Board to revisit the conditions of the Special Use Zone.

John Myers said he believes that absent either a violation of the conditions or the zoning that would give the Trustees some right to seek a remedy under the Village's Zoning Code or the State Zoning Enabling Act that those conditions are established.

Matt Rembe said the reason it is 2008 is because he started in 2006 with J.T. Michaelson (north of the property) and Toby Michael (south of the property) who were the neighbors with the gravest concerns. He said he negotiated with them over the course of a year and things were going well and it was at that point they went to the remainder of the neighborhood.

In Favor:

Ed Gerety, 2044 Los Poblanos Place, said the Rembe's have shown that they are good stewards of the land and he is in favor of the Rembe's proceeding with their plans.

Janelle Johnson said she has been a resident of the Village since 1978 and a property owner since 1981. She said she has a letter from Bob Logan whose property abuts Los Poblanos on the entire west side and he wholeheartedly supports the Rembe's plan. She said she also has an e-mail from her son who is a life-long resident of the Village. He said he believes Los Poblanos is one of the most important gems of the Village and a centerpiece for visitors, many of whom later choose to make the Village their home.

Bill Howden said he is a life-long resident of Albuquerque and grew up in the North Valley. He said for the last 6 years he has run a business called Marriage Makers. He said there is a high demand for appealing, interesting and significant venues. He said Los Poblanos would provide a significant resource for couples and their families.

Against:

Marilyn Bettman, 5301 Eakes Road, said it is a 6-acre property that they have owned for 30 or 40 years. She said her main issue is the Lavender Festival and the unsafe conditions on Rio Grande Blvd. when you could not go north or south because of all the traffic. She said she talked to a lot of her neighbors and received mixed responses, but the most common response that seemed to be problematic was the Lavender Festival and the 12,000 people who attended. She said she believes many issues can be resolved if all the neighbors in Los Poblanos Estates are notified when the Planning & Zoning Commission is having a meeting that involves Los Poblanos Inn and Cultural Center.

Pearl Winterkorn, 4820 Rio Grande Lane, said her property is directly behind La Quinta and they hear everything. She said she has a problem with weddings, graduation parties, music outdoors and parties with children running around screaming which means they cannot go horseback riding on their property.

Keith Winterkorn, 4820 Rio Grande Lane, said the Mariachi music gets old. He said his concern is unlimited wedding receptions on weekends which means he can't enjoy a quiet weekend. He said he believes there should be a reasonable restriction put on the number of weddings per weekend or per month. He said he would also like to see some covenant on what happens over time if the Rembe family is no longer in charge of the property.

George Cook, 2241 Rio Grande Court, said he is opposed to just about everything about it. He said he is strongly against liquor. He said he moved into the neighborhood 7 years ago because he thought it was a safe area. He said he believes the Special Use is turning into a very commercialized business. He said he believes there are other ways to preserve the structures. He said he believes there should be a rule change to send out notices to residents who are further than 300 feet from Los Poblanos Inn. He said he was not aware of the P&Z Meeting because he did not receive a notice.

Rebuttal:

John Myers said several of the issues raised were issues raised by Mr. Michaelson and the people he was working with and they tried to deal with those in the proposed changes of conditions. He said the Lavender Festival is something the Village has a hand in and if there needs to be additional controls imposed on that Festival then they would work with the Village on monitoring those public events. He said the concern about parking is addressed in Condition #18; the concern about music is addressed in Condition #20, and the concern about the number of weddings and events is addressed in Condition #26. He said the lifeblood of the Inn and Cultural Center is the renting of rooms to guests and if the Rembe's abuse their ability to have the events in a way that destroys the benefits of the Inn, then they are hurting themselves as well as hurting their neighbors.

Trustees Discussion

Trustee Lopez said he supports the Rembe proposal.

Trustee Rael supports the proposal and his only concern is with the number of weddings to be held.

Matt Rembe said two issues came up and the neighbors called him directly like good neighbors and the issues were dealt with directly

Trustee McDonough said the comments from individuals opposed were pointed to the noise and parking issues. He said the attendance at Lavender in the Village took everyone by surprise this year and it was not the Village's intent to create the bottleneck that occurred. He said the Village will be more prepared next year to deal with it. He said he has a concern about no parking on Rio Grande Blvd. and the Village needs to be careful about how the parking is restricted. He said he is supportive of changing the conditions and is concerned should the property change hands. He said as far as the movies go, he believes the Village has a responsibility to share what is beautiful about the valley.

Trustee Homan said she supports the project overall because the Rembe's have been great stewards of the property and she believes it is a jewel in the crown of Los Ranchos. She said she hopes they will continue to be sensitive to the concerns of the neighbors. She said she would challenge everybody who has a concern to first give the neighbor or business an opportunity to address the problem and see if they can resolve it. She said she is concerned about the new conditions and once they see how the expanded operations do take place, she would like to revisit it and make sure it is working as they thought it would be.

Trustee Lopez said he cannot remember anyone coming before the Board and presenting a major problem about the Rembe's management of the property.

MOTION: Trustee McDonough moved approval of the request for amendment to conditions of approval for the Los Poblanos Inn and Cultural Center. (See Page 12 for second of motion.) The findings are:

1. The Planning and Zoning Commission is recognized as the authority to recommend amendments for approval.
2. The amendments are essential to the economic viability of the Los Poblanos Inn and Cultural Center.
3. There is a demonstrated history of operating in a manner that is consistent with the tone of the neighborhood.
4. The amendments are consistent with the Master Plan.

CONDITIONS:

The Historic County Inn has up to twenty (20) guest rooms located or to be located in the existing Los Poblanos structures and/or the proposed structures shown on the Site Plan. In the event that the additional guestrooms are proposed to be located in new structures not shown on the site plan, the site plan must be amended by the Planning and Zoning Commission/Board of Trustees at publicly advertised hearings.

The Los Poblanos structures are identified as buildings 1,2,3 and Proposed Structures/Improvements — Additional Inn Rooms on the site plan (Los Poblanos Building 1 consists of the main structure and Los Poblanos buildings 2 and 3 are the smaller structures on the west property line.)

- 1) The Cultural Events Center includes the common area rooms in Los Poblanos 1, the guestrooms, and the common area rooms in La Quinta. The private residential quarters and the private guest quarters may be rented as guestrooms of the Inn subject to the twenty (20) guestroom limitation.
- 2) Food operations are limited to food service in direct association with guests of the Historic Country Inn or utilizing the Cultural Events Center. Retail food service for individuals not staying at the Historic Country Inn or utilizing Cultural Events Center is prohibited.
- 3) The owner of the Inn and Events Center will not be permitted to own a liquor

dispensers license, but alcohol beverages may be served at these facilities through caterers. The owner of the Inn and Events Center may own and use at the property a beer and wine license.

- 4) "Material Modification" means that the material modification of the structure shall not jeopardize the designation of the National Historic District nor the New Mexico State Cultural Properties designation.
- 5) "Service Vehicles" are those automobiles and trucks associated with the activities for servicing guests of the Historic Country Inn and, the Cultural Events Center and maintenance of the grounds.
- 6) "Property" is the area contained within the legal lot of the premise and shall not include the license areas from MRGCD.
- 7) "Public Events" shall be up to two public events held at the Property sponsored by, or in conjunction with, the Village, which are currently the Lavender Festival and the Harvest Festival.
- 8) "Events" may include, but are not limited to, meetings, retreats, seminars, dinners, classes, social occasions, weddings and receptions.
- 9) The project shall be developed in accordance with the approved Site Plan. The site plan, as submitted is approved.
- 10) A replat or major subdivision plat shall be required to develop the property in accordance with the approved Site Plan.
- 11) The Inn shall have a maximum of twenty (20) guestrooms.
- 12) Los Poblanos, consisting of three structures, and the location of future buildings housing future guestrooms as are identified on the site plan as it may be amended from time to time. The existing buildings are numbered accordingly (Los Poblanos 1, 2, and 3. Los Poblanos 1 shall be the main structure).
- 13) La Quinta may contain 1 private residence and 1 private guest quarter which may be used for personal purposes by the owners of the Property in which event they shall not be rented as guestrooms in connection with the Historic Country Inn nor shall they be counted towards the twenty (20) guestroom limitation, or they may be used as guestrooms of the Inn in which event they may be rented as guestrooms of the Inn and shall be counted toward the twenty (20) guestroom limitation.
- 14) The existing acequias system and associated water rights shall be preserved and remain operable so that the system can irrigate the open space, the 12.1 acre tract to the east of this site and west of Rio Grande Boulevard.
- 15) City water shall serve the Historic Country Inn and Cultural Events Center.
- 16) An 8' wide landscape buffer shall be located along the southern and western perimeter of the tract that contains the Historic Country Inn, Cultural Events Center so

as to screen the structures, and associated parking from adjoining lots and MRGCD property. This landscape buffer is as shown on the Site Plan. In addition, the landscape buffer shall be maintained through an irrigation system. The new plants to be located within the landscape buffers shall be planted within one year of the approval of the amendments to the Special Use zoning.

- 17) No material modification shall be made to Los Poblanos or La Quinta unless compliance is obtained from the New Mexico State Historic Preservation Office or the US Department of Interior, Park Department, National Register of Historic Places, if required, and does not jeopardize the National or State Historic District Register Listings.
- 18) No vehicular access shall be permitted from the Country Inn or the Cultural Events Center on to Rio Grande Place except for emergency vehicles and vehicles related to agricultural use of the Property (not including the Public Events).
- 19) All outdoor lighting shall be shielded and must shine on the subject property. No outdoor lighting shall exceed 100 watts of light.
- 20) Two Hundred (200) parking spaces shall be required at all times with parking stalls to be a minimum of 9x18 with a 15' backup area for vehicular turning. At all events having more than 150 cars, the owners of the Property shall have valet parking. The owners shall inform all guests of the Inn and attendees of functions at the Cultural Center that parking on Rio Grande Blvd., shall not be permitted. Parking on Rio Grande Blvd., shall be permitted for the Public Events.
- 21) Indoor amplified music shall be allowed between the hours of 10:00 a.m. to 10:30 p.m.
- 22) Outdoor events may not take place prior to 8:00 a.m. and must cease at 10:00 p.m. Indoor events may continue until 11:00 p.m. Outdoor un-amplified music is permitted between the hours of 10:00 a.m. and 9:00 p.m. Portals may not be used after 10:00 p.m. or when amplified music is present at an indoor event. Outdoor amplified music is not permitted except in conjunction with the Public Events and the one event per year permitted with up to 500 guests. Outdoor and indoor events shall be permitted prior to 8:00 a.m. during the Balloon Fiesta.
- 23) No event with guests primarily under 21 years old shall be permitted without adult supervision of the facility parking lot.
- 24) The barn will not be used for commercial purposes other than those related to agriculture.
- 25) The project shall abide by the Fire Code.
- 26) The project shall abide by governing sewer and water regulations.
- 27) The project shall abide by local building code regulations.
- 28) The Cultural Events Center shall be allowed to have the following events:

Less than 65 people	No limit ¹
65 to 150 people	3 per week
150 to 250 people	2 per month ²
251 to 500 people	1 per year ³

- ¹ Permitted Events not held during a week, month or year will be “lost” and may not be carried forward.
- ² These events would replace a permitted event of between 65-150 people.
- ³ During the calendar week of this event, no other events having more than 65 people shall be permitted.

29) In addition to the events, the property may be used for no more than two (2) public events per year.

30) The property may be used for the filming of movies/television/advertisements under the same terms as is permitted on other properties within the Village.

31) All zone regulation violations shall follow Chapter 31, Section 23 §1-4.

32) The SU-1 Zoning specifically grants the Historic Country Inn and Cultural Events Center’s right to exist. Any closure or cessation of the Inn and Cultural Center must be by zone change. Change in zone must follow state zoning law NMSA Section 3-21-5 and be in accordance with the Master Plan and Village Ordinances.

33) Annual inspections shall be conducted of the property. All reports relating to events shall be submitted to the Village annually and by January 31 for the preceding year. The reporting period for each year shall be January 1 to December 31.

34) The project shall abide by the Subdivision Ordinance.

35) After eighteen months from the date of approval by the Village of the amended conditions, there shall be no limitation on the right to request changes to the imposed conditions.

Trustee Homan asked if Trustee McDonough’s motion would include the striking and replacement of Conditions #31 and #32 as recommended by the department.

Trustee McDonough responded that his motion would include the striking and replacement of Conditions #31 and #32.

Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

(Mayor Abraham recessed for a five-minute break at 8:56 p.m.)

B. AN APPEAL BY RICK SAYLOR FOR ANTIQUES AND COLLECTABLES MALL, OF PLANNING AND ZONING COMMISSION

DENIAL OF V-07-25 A VARIANCE FROM SECTION 21 SIGNS § D(8) ALLOWABLE 20 SQUARE FEET FOR BUILDING MOUNTED SIGN WHEN A FREE STANDING SIGN OF MAXIMUM DIMENSIONS EXISTS IN THE FOURTH STREET COMMERCIAL CORRIDOR ON OCTOBER 9, 2007 AGENDA ITEM 5D. THE PROPERTY IS THE ANTIQUES AND COLLECTABLES MALL, 7901 4TH STREET NW AND IS LEGALLY KNOWN AS TRACT B LAND OF WINTER AND TRACT B LAND OF RANCHITOS SHOPPING CENTER, BEING A REPLAT OF TRACTS 25A1, 25B2A, 26A3A2, 26A4A, 26A3B3, 1, 4B, 25BEB, 26A4B, 26B AND 25A2 M.R.G.C.D. MAP 27, VILLAGE OF LOS RANCHOS. THE PROPERTY CONTAINS 4.4140 ACRES MORE OR LESS. V-07-25

Attorney King swore in those speaking under Item 6.B.

Planner Nighbert presented Planning Report No. PZ-07-104. He said the request is for a variance from the allowable square footage for a building-mounted sign for the Antiques and Collectables Mall located in the Ranchitos Shopping Center. He said the variance request is to allow the existing sign of 250 square feet on the face of the building façade that faces Ranchitos, which was not approved or permitted by the Village. He said the Board may consider additional square footage for signs under Subsection G. Variance, if the applicant shows that the sign size restrictions are: An economic hardship; circumstances where enforcements would be inequitable; and the overall intent of the sign regulations are considered; as well as other matters that may be considered in the granting of the variance.

Planner Nighbert said the Planning and Zoning Commission denied the variance request on October 9, 2007 with the following findings: The request does not meet the requirements of the code, under Section 24.E.(a) The variance is not in conformance with the goals and policies of the Village Master Plan (1) It is contrary to the public interest; specifically, the size of the sign is not in conformance with the rest of the Village commercial corridor and represents such a departure that it is not in the public interest. And (b) owing to special conditions, a literal enforcement of this Ordinance will not result in unnecessary hardship; specifically, other businesses in the Village, including those shops at the Los Ranchos Villa Shopping Center meet the sign regulations, as well as other shopping centers in the Village.

Richard Saylor, Managing Member of Saylor Family Trust, LLC, the owner of Ranchitos Shopping Center and the adjacent North Valley Academy. He said the presentation by Planner Nighbert is factually incorrect because the large lit neon sign has been down for over a week. He said the sign ordinance was not meant for a shopping center it was meant for a tenant and the distance of a tenant from the street. He said the shopping centers tend to be long thin properties and as you drive by on 4th Street, you don't have the visibility. He said the Antique Mall now comprises 26,000 square feet and it is by far the largest single indoor retail store in the Village. He said he actually has 100 tenants inside the mall. He said he felt it was better to have one nice clean sign than a bunch of smaller signs.

Trustee Lopez asked how many signs in the Village do not meet the current Sign Ordinance.

Planner Nighbert said he would estimate 25% do not meet the Sign Ordinance.

Trustee Rael asked if you combined the 13 storefronts within the 300 feet and you had a sign for each one, would that equate to the size of the current sign?

Planner Nighbert responded that it probably would, but the department did make the other businesses in the shopping center meet the distance from the street requirement.

Trustee Homan said she has seen many requests come through for signs and some of them are tasteful and some of them are far from tasteful. She said Mr. Saylor's sign is very tasteful and she believes it would attract commercial business.

Trustee McDonough said the intent of the Sign Ordinance was to reduce the sign clutter throughout the Village, but he doesn't think this sign fits the definition of clutter.

MOTION: Trustee Rael moved to overrule the decision of the Planning and Zoning Commission to deny the variance, with the following findings:

1. There is an economic hardship because of the way the mall is situated.
2. Section 24.G. allows for a variance.
3. The variance is not contrary to public interest.

Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

C. REMAND OF CV-2006-02350, AN APPLICATION BY AMY LANDAU FOR A ZONE MAP AMENDMENT FROM A-1 TO R-2 IN THE GUADALUPE TRAIL CHARACTER AREA FOR CONSIDERATION AND ARGUMENT CONCERNING THE IMPACT OF TRACT C'S C-1 ZONING. THE PROPERTY IS LOCATED AT 8221 4TH STREET NW AND IS LEGALLY KNOWN AS TRACT B, PLAT OF LANDS OF CAPO WITHIN SECTIONS 16 8 17, T11N, R3E. N.M.P.M. BEING TRACT 184 B A PORTION OF TRACT 161 M.R.G.C.D. MAP NO. 24 BERNALILLO COUNTY, NEW MEXICO. THE PROPERTY CONTAINS APPROXIMATELY 1.5785 ACRES AND TRACT C OF PLAT OF LANDS OF CAPO, BERNALILLO COUNTY, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT THEREOF, FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO, ON SEPTEMBER 15, 1978, IN PLAT BOOK C14, FOLIO 1. THE PROPERTY CONTAINS .0330 ACRES MORE OR LESS

Attorney King swore in those who wished to speak under Item 6.C.

Planner Nighbert presented Planning Report No. PZ-07-107. He said the applicant requested a Zone Map Amendment for Tract B, Lands of Capo, from A-1 to R-2 in the Guadalupe Trail Character Area for a 3 lot major subdivision, Application No. Z-05-09. He said the original application request was only for Tract B, Lands of Capo and Tract C

was not included in the applicant's zone map amendment request. He said Tract C is not connected to Tract B and contains .0330 acres of land and serves as access for Tract B. He said the Board of Trustees held a formal quasi-judicial hearing on March 15, 2006 on application Z-05-09. He said after hearing formal presentations, receiving evidence, and testimony from staff, the applicant, affected parties, all of whom were duly sworn, and receiving comments from the general public, the Board of Trustees voted by a vote of 4-0 to deny the application. He said the applicant then appealed to the District Court who reversed and remanded the matter back to the Board of Trustees. He said thereafter the applicant petitioned the Court of Appeals and Supreme Court for writs of certiorari, both of which denied the petitions. He said at that point, the District Court's decision became final and the remand was now ready for the Board of Trustees' consideration.

Amy Landau, 8221 4th Street, said she currently owns Tract C and Tract B and both properties have one address of 8221 4th Street and abut 4th Street as defined in the Village of Los Ranchos Zoning Code. She said the remand incorporates by reference all of the prior record documents in all of the 6 prior hearings before the Village. She said she respectfully disagrees with Village Counsel because her appeal to the Village Board of Trustees was for confirmation of the Planning & Zoning January 10, 2006 approval of her variance request by zone map amendment request for Tract B from A-1 to R-2 and approval of her preliminary plat. She said all three of those items and applications were approved by the Planning & Zoning Commission on January 10, 2006 with specific findings consistent with the Zoning Code. She said the specific definition of "abut" used in the Village's Zone Code fits the description of both her pieces of property that abut 4th Street. She said in 1964 Tract B was not annexed to the Village; Tract 184, MRGCD Map 24 was annexed to the Village. She said Tract B did not come into legal existence until 1978 when there was a plat filed and approved by the Village and County which specifically provides that Tract C (which was never annexed) provided access to Tract B. She said the plat that occurred in 1978 which included Tracts A, B and C, cut off all access of Tract B to Guadalupe Trail. She said since 1978 Tract B has had no access to Guadalupe Trail; however, because of the Chamisal Ditch showing up in numerous zone maps and as a boundary, the Village has continually ignored the fact that since 1978, Tract C is the access to Tract B. She said the 1978 plat says specifically that Tract C is the access to Tract B from 4th Street and not from Guadalupe Trail. She said she believes that all the legal documents, regulations and ordinances allow her to subdivide her lots.

Opposed:

Tom Montoya, P. O. Box 66064, Albuquerque, said the lower tribunal only has such jurisdiction on remand as the opinion and mandate of the Appellant Court specifies. He said the Supreme Court said that the duty of a lower court on remand was to comply with the mandate of the Appellant Court and to obey the directions therein without variation. He said the Board is now sitting as the tribunal in a quasi-judicial capacity and is the lower court. He said the District Court stated that the matter was remanded for consideration and argument concerning the impact of Tract C's C-1 zoning on the determination of the appropriate zoning of Landau's property Tracts C and B. He said it was apparent that the Court believed on appeal that Landau did not know that Tract C was zoned C-1, but he said they have just heard that she did know. He said the argument that Ordinance 191 determines that within 300 feet of 4th Street for those

properties that were annexed that is C-1 and R-3 behind it. He said it is apparent that Ordinance 191 had nothing to do with Ms. Landau's property, nor did it have anything to do with Tract C. He said it appears that this tribunal needs to determine in writing that there were not enough changing conditions to warrant a zone change; that there was not sufficient road access to meet the zoning requirements because access to that property was not wide enough; the zone change is not consistent with the policy of the Village as set forth in the Master Plan; the increased density infringes on the rural nature of the zone; and there are neighbors who do not support this zoning.

David Montoya, 517 Pueblo Solano, said that Ms. Landau said her property is accessible from the ditch and she knew that from the beginning, but now that has been eliminated in the current discussion. He said he wants to remind the Board that the neighbors would like her to consider something else and not such a dense development. He said he thought there was discussion with her in the past about getting some kind of variance to increase the two lots.

Rebuttal:

Amy Landau said she objects to the representations made by Mr. Tom Montoya and that she believes he has accused her of lying under oath. She said he has twisted her words. She said she told the Village that she believed Tract C was zoned C-1 prior to 2005. She said the Village in over 6 reports said it was not. She said she has documentation from Linda Seebach and Terry Nighbert saying that her Tract C was zoned A-1. She said it was not until March of 2007 that she was given the documentation by the Village that she had been requesting previously. She said there are numerous examples in the pleadings of her requests to the Village documenting their position that Tract C was zoned A-1. She said there is access to her property currently used and in existence since 1960 from the Chamisal Ditch from El Pueblo and from 4th Street along the Chamisal Ditch maintenance road. She said her application has no impact on the Montoya property. She said she previously asked and has been willing to allow for additional setback from the Montoya property on the west side of her Tract B and they have continually refused to acknowledge that offer. She said the variance she requested for Tract B was granted on January 10, 2006. She said the Village has refused to acknowledge that variance is in existence and she said she is once again requesting that the Village acknowledge the granting of that variance because the P&Z approved it and it was never appealed. She said she does not understand how her being allowed to rezone to R-2, which is a less intense use than R-3, would in any way impact the Montoya land to the west of her property. She said she would request that she be granted the zone map amendment for Tract B which abuts 4th Street to R-2.

Trustee Discussion:

Trustee Lopez asked if there is a time limit for the Board of Trustees to act on the remand.

Attorney Chappell responded that there was no time limit imposed by the court in the remand. He said the mandate from the Supreme Court made the District Court in effect only was filed last week. He said he believes it must be done within a reasonable time,

but if the Board feels additional time is necessary, there is nothing in the Court Order that says the Board could not have additional time.

Mayor Abraham said they keep hearing that Ms. Landau was told that Tract C was A-1. He asked how this confusion came about.

Planner Nighbert responded that he was not sure what document Ms. Landau was referring to, but he does not believe he would have told her it was A-1 when they referred to the map the whole time they were looking at her case. He said when the case came before the Planning Commission, the zone change was only for Tract B and she was not asking for a zone change for Tract C.

Attorney Chappell said that in order for the record to be proper, he believes whatever the misconceptions were in prior records, the court mandate says that you should come back and consider arguments with respect to that particular issue and the circumstances where there are no misunderstandings with respect to that. He said he thinks what you have is a representation from Ms. Landau that the zoning is C-1 and therefore there is no dispute about that and the Board has an opportunity to show that it has considered that fact of the C-1 zoning with respect to the decision.

Trustee Rael said his feeling is that Tract B is still part of the Guadalupe Trail Character Area and it was there before Tract C was annexed.

Trustee McDonough said he could recall previously discussing that Tract C abutted 4th Street, that it was access but that the zoning on Tract B was A-1 zoning. He said he thinks they looked at it per the comprehensive plan and zone code and Tract B was identified as in the Guadalupe Trail area and that the zoning of A-1 was appropriate for that area. He said it is his understanding that it was zoned prior to the creation of Tract B and that a subsequent plat created Tract B but the zoning did not change, the zoning went with the subdivided parcels and so Tract B is still zoned A-1. He said he thinks that in creating the character areas, the comprehensive plan considered natural barriers such as the ditches as separating land uses and neighborhoods and were seen as dividing lines between the character areas. He said he believes it is appropriate to recognize those barriers when making zoning decisions. He said he believes they looked at all that and the variances that would be required and the resultant lots that would be created in dividing Tract B into three lots and felt that was out of character for the area and the variances were inappropriate. He said he appreciates Ms. Landau's goals and desires in what she is trying to do, but it is unfortunate that the property is so limited.

MOTION: Trustee McDonough moved to deny the application of Amy Landau for zone map amendment from A-1 to R-2 in the Guadalupe Trail Character Area for Tract B and find that Tract B was zoned A-1 and although Tract C was zoned C-1 and serves as access it does not materially change the rationale for rezoning Tract B. Tract B is buffered from commercial development along 4th Street due to the distance and separation from development on 4th Street. That there has been no showing of erroneous zoning or defective zoning and there has been no material change in condition since adoption of the zoning which would justify granting this application. That it is inconsistent with the Master Plan which supports retaining A-1 zoning in the Guadalupe

Trail Character Area, supports relatively low densities. Trustee Rael seconded the motion.

AMENDMENT TO MOTION: Trustee McDonough amended his motion that this Board has ruled previously that access for emergency vehicles is critical to consideration of zone change and subdivision and that Tract C does not meet those requirements for access and for those additional reasons moves to deny the request. Trustee Rael seconded the amendment.

Attorney Chappell said for clarification should this go back to court, the Planning Department has provided you the specific ordinances with respect to which these actions were taken. He said the Planning Department has also given you information about the effect of Ordinance 183, 191, etc. He said there seemed to be some confusion or some questions the Court had as to whether or not the ordinances were applicable and you may want to address those issues as the Planning Department recommended.

RESTATED MOTION: Trustee McDonough moved to deny the application of Amy Landau for a zone map amendment from A-1 to R-2 in the Guadalupe Trail Character Area, based on the following findings:

1. All findings of this Board in the prior hearings relating to the application are hereby adopted.
2. Tract B is located at 8221 4th Street NW and is legally known as Tract B, Plat of Lands of Capo within Sections 16, 8, and 17, Township 11 North, Range 3 East, N.M.P.M., being Tract 184 B, a portion of Tract 161 MRGCD Map No. 24 Bernalillo County, New Mexico containing 1.5785 acres more or less.
3. Tract C is legally described as Tract C, Plat of Lands of Capo, Bernalillo County New Mexico as the same shown and designated on the plat thereof filed in the office of the County Clerk of Bernalillo County, New Mexico on September 15, 1978 in Plat book A14, Folio 1. Tract C contains approximately .033 acres more or less, and is primarily usable only for access to Tract B.
4. Tract B and Tract C are separated by the Chamisal Lateral.
5. Tract C was annexed by Ordinance 68 on August 13, 1987 and zoned Los Ranchos C-1 zone.
6. Tract B was annexed on June 10, 1964 by Resolution No. 2 and was zoned A-1, agricultural/residential, 1 dwelling unit per acre by zoning action of September 1964.
7. Tract B and Tract C have not been rezoned since that date and are not affected by Ordinance 179, 183 or 191.
8. Tract B is located in the Guadalupe Trail Character Area by virtue of the Character Areas established in the 1992 Master Plan. This characterization was restated in the 2010 Master Plan. No action has been taken which has removed Tract B from the Guadalupe Trail Character Area.

9. The fact that the ingress and egress to Tract B is across Tract C which is zoned C-1, has no effect on the suitability of the A-1 zoning for Tract B.
10. Tract B is buffered from any commercial development along 4th Street due to the distance from 4th Street and the separation of any such development from 4th Street development by virtue of the Chamisal Lateral.
11. There has been no showing of erroneous zoning or defective zoning and there has been no material change in conditions since adoption of the zoning which would justify granting of the application.
12. The various properties used by the applicant for the purpose of demonstrating other approvals which support the application are not applicable since such properties are not similarly situated.
13. The goals and policies of the Master Plan are not furthered by this request:
 - a. The 2010 Master Plan supports retaining A-1 Zoning in the Guadalupe Trail Character Area and Corridor;
 - b. The 2010 Master Plan supports relatively low density and diversified residential land uses;
 - c. The 2010 Master Plan supports continued agricultural uses;
 - d. The 2010 Master Plan supports preservation of historic or archeologically significant features, traditional land use patterns and identifiable familiar vernacular characteristics (such as tripas and acequias).
 - e. The 2010 Master Plan is to preserve the unique character of each and to maintain and enhance the richness of architectural and land use types within a range appropriate to Village scale.
 - f. The 2010 Master Plan is to preserve and enhance the historic and "valley" character of Village neighborhoods, roadways, mixed-use centers, and corridors.
 - g. The 2010 Master Plan is to preserve unique character of Village Corridors and character 'areas'; promote private development that is in keeping with Village scale.
 - h. The 2010 Master Plan is to preserve the existing low density residential uses in the Rio Grande and Guadalupe Trail Character Areas.
14. The Board has consistently required adequate access as defined by the Fire Department and the zone code in other areas for subdivisions and the access through Tract C does not adequately meet those access requirements.

Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

7. OLD BUSINESS

A. DISCUSSION AND APPROVAL TO ADVERTISE IN SUMMARY AN ORDINANCE ANNEXING TERRITORY INTO THE VILLAGE OF LOS RANCHOS DE ALBUQUERQUE. THE PROPERTY IS LOCATED AT 8409 2ND STREET AND IS LEGALLY KNOWN AS A CERTAIN TRACT OF LAND SITUATED IN ALAMEDA, WITHIN SECTION 16, T11N, R3E, N.M.P.M., BERNALILLO COUNTY, NEW MEXICO, BEING KNOWN AS TRACT 149-B, AND A PORTION OF TRACT 146-A2, M.R.G.C.D. MAP 24, THE PROPERTY CONTAINS 1.31 ACRES, MORE OR LESS

Planner Nighbert stated that this Board approved and endorsed a letter to the Bernalillo County Commission to annex these 1.3 acres and join it into a 3.2 acre lot that goes from 4th Street to 2nd Street and to adjoin it to a long tripa lot that will be subdivided. He said the Board approved annexation of the 1.3 tract to make a larger subdivision and the Board of County Commissioners approved the piece to be annexed.

MOTION: Trustee Homan moved approval to advertise in summary an ordinance annexing the territory of 8409 2nd St NW. Trustee Lopez seconded the motion.

VOTE: The motion carried unanimously, 4-0.

8. NEW BUSINESS

A. DISCUSSION AND APPROVAL OF GRANT AGREEMENT BETWEEN THE VILLAGE OF LOS RANCHOS AND THE NEW MEXICO ENVIRONMENT DEPARTMENT SOLID WASTE BUREAU RECYCLING AND ILLEGAL DUMPING FUND (PROJECT #07NT-16)

Administrator Ward said this is an agreement between the Village and the Environment Department to accept the grant money to clean up an illegal dump site on the Paseo del Norte Open Space and to erect gates on the Albuquerque Main Canal and the Chamisal Lateral to prevent vehicle access to that dump site. He said the grant is for \$5,200 and there is a 20% match required of the Village which is \$1,300 for a total of \$6,500.

MOTION: Trustee Rael moved approval of the grant agreement between the Environment Department and the Village. Trustee Homan seconded the motion.

VOTE: The motion carried unanimously, 4-0.

B. DISCUSSION AND APPROVAL OF A SECOND AMENDMENT TO THE COOPERATIVE PROGRAM AGREEMENT WITH NEW MEXICO DEPARTMENT OF TRANSPORTATION TO EXTEND THE GRANT FOR THE

TRAFFIC SIGNAL IMPROVEMENTS AT LOS RANCHOS AND FOURTH STREET

Planner Nighbert said the Village requested a time extension to the original Cooperative Agreement to grant funds to improve the traffic signal at Los Ranchos and 4th Street. He said this was a request to include the work in the 4th Street GRIP2 Project with the repaving of 4th Street. He said this would allow them more time to finish the design. He said the estimated work is \$132,000 and there is only \$49,000 in the grant but the GRIP2 would help pay for that without having a large match.

MOTION: Trustee McDonough moved approval of the Second Amendment to the Cooperative Agreement to extend the time for the upgrade of the traffic signal and paving improvements to the intersection of Los Ranchos and 4th Street. Trustee Homan seconded the motion.

VOTE: The motion carried unanimously, 4-0.

C. DISCUSSION AND APPROVAL OF AMENDMENT ONE TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE REGENTS OF THE UNIVERSITY OF NEW MEXICO AND THE VILLAGE OF LOS RANCHOS

Chief Perez said this is a renewal of the agreement to allow them to practice at the EMS level. He said the one change is the difference in the amount of time to be provided by their Medical Director. He said due to legislation, the University of New Mexico was forced to go back and look at the fair market value of a medical director's time as compared to the time he could actually give to each entity. He said as a result the Village Fire Department would be allocated about 20 hours of guidance time from the Medical Director per year.

MOTION: Trustee Lopez moved approval of Amendment One to the Professional Services Agreement between the Regents of the University of New Mexico and the Village of Los Ranchos. Trustee Rael seconded the motion.

VOTE: The motion carried unanimously, 4-0.

9. TRUSTEES INFORMAL DISCUSSION

Trustee Rael said he was approached by Leo Bartolucci regarding the plaque from the foundry to acknowledge the previous Mayors and Trustees. He wanted to know what is being done.

Mayor Abraham said Mr. Bartolucci has put the Village in touch with a foundry that wants to charge between \$25,000 and \$35,000 to make a brass plaque. He said he believes it is too much money and could be done for less.

Trustee Rael said Bernie Sanchez called him and said he heard there could be some changes to the drive-up bank next to his property. He said he has seen problems where customers are not supposed to go east from the bank, but they go on his property and then they can go east. He said they should consider doing something besides putting the sign there.

Administrator Ward said he had a conversation with Sgt. Lazo who is citing people who turn left and go east on Osuna. However, he said something does need to be done to mitigate the problem.

Trustee Homan said that going southbound in the east lane on 4th Street, somewhere between JB's and Walgreens, on the left side of one of the manholes, it is starting to sink.

Planner Nighbert said that was put on the punch list for 4th Street.

Mayor Abraham said the 50th Anniversary is coming up next year and he is thinking about starting the celebration in November or December 2008 when the true 50th is and then carry it over 6 months from there.

10. **ADJOURNMENT**

The Mayor adjourned the meeting at 10:41 p.m.

APPROVED by the Board of Trustees of the Village of Los Ranchos de Albuquerque this _____ day of _____, 2008.

ATTEST:

Annabelle Silvas
Village Clerk