

**PLANNING & ZONING COMMISSION MEETING**

THURSDAY, APRIL 11, 2019- 6 PM  
CITY COUNCIL CHAMBERS, CITY HALL  
405 N PASEO DE OÑATE, ESPAÑOLA, NM 87532

**I. CALL TO ORDER**

Chairman Vigil called the meeting to order at 6:01 pm with the following in attendance:

**COMMISSIONERS**

A. ERLE WRIGHT, PARLIAMENTARIAN  
ADÁN CASADOS  
ANISSA MARTINEZ  
D. EDWARD HUNTER – **ABSENT**  
DINA L. QUINTANA  
ERIC MARTINEZ, VICE CHAIRMAN  
CLYDE VIGIL, CHAIRMAN

**STAFF**

ALISON GILLETTE, PLANNING DIRECTOR  
RICHARD HUBLER, CITY PLANNER  
DESIRAE J. LUJAN, GIS SPECIALIST  
MONICA VELASQUEZ, LEAD CODE ENFORCEMENT OFFICER  
JUSTIN PADILLA, CODE ENFORCEMENT OFFICER

**PUBLIC**

*As documented by sign-in sheet*  
KARL SOMMER, ATTORNEY FOR SONIC  
JD MORRITI  
NORMAN HANTHORN  
MARTIN ROMERO  
TINA GONZALES  
DENNIS G. MARTINEZ  
ISMAEL VIGIL  
LYDIA M. ARMIJO  
JOHNNIE MAE DESCHWEINITZ  
PATRICIA ARCHULETA  
MILENA ARCHULETA  
JOSE I. ARCHULETA  
ANGELINE MARTINEZ  
JEFFREY ARCHULETA  
JAMES L. ARCHULETA  
STEPHEN GOMEZ  
ENRIQUE ROMERO, NMAA ATTORNEY  
DANIEL ARCHULETA  
LEO JARAMILLO  
DAISHA GARCIA  
DIANA BLANCO  
PORFIE GARCIA  
JEREMY HERRERA  
STEPHANIE HERRERA  
DAVID INGERSOLL  
HOLLY INGERSOLL  
FRANK A. MAESTAS  
LOYDA MARTINEZ  
FIDEL MARTINEZ, JR.  
JOSE LEO GARCIA  
LEE GOODWIN  
ROSS GARCIA  
GILBERT SERRANO  
MACRINA MONTOYA  
KATHRYN BENNETT

**II. PLEDGE OF ALLEGIANCE**

Commissioner Quintana led the pledge of allegiance.

**III. APPROVAL OF AGENDA**

Director Gillette informed that Ms. Beverwyk-Abouda was unable to meet the notice requirements by the deadline. She asked that Historic District Review Case 2019-07 be tabled to the May 9<sup>th</sup> meeting. Commissioner Vigil acknowledged.

**COMMISSIONER WRIGHT MOTIONED TO APPROVE THE AGENDA AS AMENDED. VICE CHAIRMAN MARTINEZ SECONDED. MOTION CARRIED 6-0 VOTE.**

----- Agenda as Amended -----

- I. Call to Order
- II. Pledge of Allegiance
- III. Approval of Agenda
- IV. Approval of Minutes
  - 1. February 14, 2019
- V. Public Concerns/Business from Visitors
- VI. Code Enforcement Officer's Report
- VII. Items for Consideration:
  - 1. **Historic District Review #2019-04.** Kathryn Bennett, applicant, is requesting a Historic District Review for improvements to her property at 116 S. McCurdy Rd. This property is part of the Santa Cruz Historic District.
  - 2. **Historic District Review #2019-05.** Kathryn Bennett, applicant, is requesting a Historic District Review for improvements to her property at 117 A-D S. McCurdy Rd. This property is part of the Santa Cruz Historic District.
  - 3. **Historic District Review #2019-06.** Kathryn Bennett, applicant, is requesting a Historic District Review for signage on her property at 1451 Calle Hermanas Dominicana. This property is part of the Santa Cruz Historic District.
  - 4. **Commercial Site Plan Review #2019-08.** Applicant B & B Merritt Real Estate is requesting permission to construct a new Sonic Drive-In restaurant at 814 S. Riverside Dr. The subject property is zoned B-2, General Commercial District. The applicant is proposing a 1600 square foot building on the .909-acre site.
- VII. Old Business
  - 1. Denny's/Del Taco Update
- VIII. Matters from the Planning Staff
  - 1. Staff Report
- IX. Matters from the Planning Commission
- X. Adjournment

----- End -----

**IV. APPROVAL OF MINUTES**

- 1. FEBRUARY 14, 2019

Commissioner Wright noted that due to his absence, he would be abstaining from Approval of the Minutes.

**CHAIRMAN VIGIL MOVED TO ACCEPT THE MINUTES AS PRESENTED. VICE CHAIRMAN MARTINEZ SECONDED.**

Due to lack of quorum, Commissioner Wright accepted the vote of newly appointed Commissioner Quintana.

**MOTION WAS APPROVED BY 4-0 VOTE, WITH COMMISSIONER WRIGHT AND CASADOS ABSTAINING.**

**V. PUBLIC CONCERNS**  
NONE.

**VI. CODE ENFORCEMENT REPORT**

Monica Velasquez, Lead Code Enforcement Officer, reported statistical data for the first quarter of 2019. She shared year-to-date data that detailed 86 Open Cases, 45 Closed Cases, and 18 Court pending. She gave an overview of the types of violations issued. She commented that with the warmer weather, RVs are appearing and parking in the front of the lots — this is a code violation, RVs need to be parked in the rear.

Ms. Velasquez communicated Code Enforcement's training goals and intentions, such as taking the International Code Council Administration and Legal Principles course, verifying business registrations and vendors, and becoming International Property Maintenance Code certified. She emphasized that teamwork is necessary to establish and maintain a proactive environment to help solve community problems and stay at the forefront of reactive and effective code enforcement. She reported that in collaboration with Valley View Methodist, food bags are distributed to those in need and are on the streets. They also team up with Mesa to give homeowners some resources to comply.

Justin Padilla, Code Enforcement Officer, informed that Saturday is the Judge's citywide community clean up. Thereafter, neighborhood clean-ups will begin in three (3) neighborhoods. He shared the dates and locations: April 20th on N. Prince Dr., April 27th within the Santo Nino MHP; and May 4th within the Milagro MHP. He stated that they will be issuing temporary sign violations and guidelines for temporary signs. He concluded with before and after photos.

Vice Chairman Martinez thanked Code Enforcement and asked if RVs were allowed in the front of homes to load and unload. Ms. Velasquez confirmed. She disclosed that the problem has been that some RVs are connecting to the city sewer and being used as dwellings. That type of use is only allowed for 30 days during the construction or remodel of the primary residence.

## **VII. ITEMS FOR CONSIDERATION**

### **1. HISTORIC DISTRICT REVIEW #2019-04. KATHRYN BENNETT, APPLICANT, IS REQUESTING A HISTORIC DISTRICT REVIEW FOR IMPROVEMENTS TO HER PROPERTY AT 116 S. MCCURDY RD. THIS PROPERTY IS PART OF THE SANTA CRUZ HISTORIC DISTRICT.**

Kathryn Bennett, applicant, stated that she would like to erect some freestanding signs and some on the walls. She shared her proposal for walls and a portal that will wrap around the property. She informed that she has traced and retrieved some history of each site. She described the existing wall inside the property and the addition she proposes to stack on top.

Chairman Vigil asked where the sign would be located; Ms. Bennett responded on the wall. She noted that she also wanted a portal, but she had yet to prepare that request for this meeting.

Commissioner Casados inquired the height of wall and its proximity to the structure or highway. He questioned if it would affect the sightline to NMSR 76. Richard Hubler, City Planner, commented that he would address the sightline within his reporting.

Vice Chairman Martinez asked if the sign would be facing the street; Ms. Bennett confirmed. He asked if the message is intended for the pedestrians or the vehicles passing by, and where the history is coming. Ms. Bennett replied that it is shared from previous owners and other miscellaneous sources. She expressed that she wants to bring attention to the Plaza and its history.

Commissioner Wright voiced appreciation for her efforts, investments and rehabilitation within the Plaza, but he has concerns with the walls on the property. He questioned the need for 6' tall walls. Ms. Bennett communicated that McCurdy Road is a traffic nightmare — people speed at 40 MPH. The sounds are horrible, so the wall will act as a buffer. Commissioner Wright commented that the historic nature of the Plaza was opened properties. Furthermore, the historic walls were rock, not concrete block. He noted concern for the engineering of the rock wall. He stated that if it is not properly anchored, the CMU addition has the potential to topple into the right-of-way (ROW) and be a liability for her and the city. Ms. Bennett commented that she has a structural engineer; he did the last wall she erected and they used rebar throughout the height of the wall. Commissioner Wright echoed Commissioner Casado's concern for sightline. He added that the plans are not descriptive to the size or scale of the property.

Chairman Vigil asked if the wall would be built inside the property. Ms. Bennett clarified that it would be built on top of the existing wall. Chairman Vigil advised against it; echoing concern for engineering.

**6:34 PM — STAFF PRESENTED [filed Case #2019-04]**

Mr. Hubler highlighted Ms. Bennett's request for the construction of a 6' tall, block and stucco wall along the east boundary to connect with existing walls; create ingress/egress and standing area, and raise the existing walls to 6'. The proposal includes the installation of a 3' X 2', wall mounted, and wooden historic designation sign. He shared the recorded survey, site plan, and a map illustrating the sightline distance in relation to the traffic signal at NMSR 76. He explained that NMDOT looks for a 250' sightline. The map is an attempt to perform that analysis; it depicts a distance of less than 250'. Mr. Hubler communicated that the existing direct line of sight was already obstructed by a house and trees south of the proposed wall. It indicates that there would not be a lot of impact, because of the curvature of the road. The concerns are valid, but the proposed wall does not worsen them.

Mr. Hubler shared a proposed drawing of the freestanding sign and site photos. He stated that a portion of the wall on the south end does encroach across the property; therefore, one of the conditions made is that construction remains inside her property lines. He concluded that staff is recommending approval with the condition that the finished wall remain fully within the surveyed property boundaries and shall not encroach onto the neighboring right-of-way for S. McCurdy Road.

Commissioner Wright inquired how staff would ensure that the wall remains within the survey property boundary. Mr. Hubler noted that the boundary points are flagged; it would be simple to confirm with a laser shot or string. Commissioner Wright expressed that he would like it to be staked out, delineated and verified by staff prior to construction. Chairman Vigil added that he would like to require that utility locates be made before digging.

Commissioner Quintana reiterated concern for the height of the wall and its impact on the sightline. She asked if NMDOT could do a sightline analysis. Mr. Hubler communicated that since she already has NMDOT access, they were not consulted; however, he could make the request.

Vice Chairman Martinez asked if there was knowledge of future use for the building; alluding to whether it would remain a single-family residence, or a rental. Mr. Hubler stated that the request is for the wall; at this time there is no further knowledge. Vice Chairman Martinez explained that he is trying to gauge traffic. He stated that he cannot support a 6' wall — it will create safety issues. He voiced that Commissioner Wright has a valid point regarding the wall's structural integrity. There are other areas in the Plaza that have enough room for a 6' wall, but this location does not.

Commissioner Anissa Martinez communicated that she seeks out safety for the public. She echoes the concerns made for the safety of McCurdy corridor. It has a lot of traffic and speeding.

**6:47 PM — PUBLIC HEARING OPENED**

Holly Ingersoll commented that she is impressed with what Ms. Bennett has been doing in the Historic District. She understands the problems and concerns made; she suggested building a wall that is low in some areas and high where possible.

**6:49 PM — PUBLIC HEARING CLOSED**

Commissioner Wright mentioned that the only reason this proposal is being reviewed at Commission is because it is within the Historic District. He stressed concern with the drawing and sightline.

**COMMISSIONER WRIGHT MOVED TO DENY THE REQUEST FOR A 6' WALL.**

He suggested that she return with a better submittal and perhaps the portal request.

**COMMISSIONER CASADOS SECONDED.**

Vice Chairman Martinez asked Ms. Bennett if she would be interested in lowering the wall and returning with a different application. He commented that for this location, the maximum height should be 3'. Ms. Bennett agreed that the drawing was not clear enough. She is willing to resubmit, but would prefer a 6' wall. Commissioner Wright commented that his basis for the denial was his concern for the sightline.

**MOTION FOR DENIAL PASSED WITH 6-0 VOTE.**

- 2. HISTORIC DISTRICT REVIEW #2019-05. KATHRYN BENNETT, APPLICANT, IS REQUESTING A HISTORIC DISTRICT REVIEW FOR IMPROVEMENTS TO HER PROPERTY AT 117 A-D S. MCCURDY RD. THIS PROPERTY IS PART OF THE SANTA CRUZ HISTORIC DISTRICT.**

Kathryn Bennett, applicant, detailed her proposal for a wall. She mentioned that there would be a gate on the portal that would help with the water flow to the ditch. She shared that the building has gutters, but she might also put a water collection device. The continuation of the wall is to enclose the patio. She disclosed that the home now only has three (3) units and has enough room for three (3) cars.

Chairman Vigil asked if she would encroach into any thoroughfares or easements. Ms. Bennett responded that everything is within her boundary. Commissioner Quintana described the proposed wall and asked if someone exiting the subject property would impede the road. Ms. Bennett replied no, it is a clear sight, but an analysis would be interesting.

**7:02 PM — STAFF PRESENTED [filed Case #2019-05]**

Mr. Hubler outlined the request for construction of a 6' tall, block and stucco wall southeast of the property to match existing walls; connect with existing wall; extend 10' towards the roadway, and curve northward to connect with the south end of the existing portal. The proposal would be 12' from the property line and will not encroach on existing roadway. He presented the recorded survey, site plan and photos.

He concluded with staff's recommendation for Approval of Case #2019-05.

Commissioner Wright recounted that the wall shown on the photos was originally a 3' wall, and its addition was administratively approved by the previous Planning Director. He noted some concerns he had for stones being stacked outside the property boundary. To ensure that the wall abutting does not further extend encroachment, he would request a condition that the wall attach to the back side, flush with the corner. Additionally, he would suggest a condition to stake out the boundary prior to construction by the Planning Staff. Ms. Bennett agreed to the recommended conditions. Commissioner Wright stated there is a historical ROW that has yet to be determined, therefore, the roadway needs to stay cleared. Its ownership has not been resolved between the city, county and Santa Clara Pueblo.

Vice Chairman Martinez voiced support for the conditions recommended by Commissioner Wright. He inquired the city's requirement for the construction component of the wall. Mr. Hubler replied that Construction Industries Division has no specifications for walls less than 6' in height. Vice Chairman Martinez advised the city to make some requirements, as there are concerns for the structural integrity of the wall.

**7:12 PM — PUBLIC HEARING OPENED AND CLOSED WITHOUT COMMENT.**

**COMMISSIONER WRIGHT MOVED TO APPROVE THE HISTORIC DISTRICT REVIEW, #2019-05, FOR THE PLACEMENT OF THE PROPOSED WALL ON THE PROPERTY LOCATED AT 117 A-D S MCCURDY RD, WITH THE FOLLOWING CONDITIONS:**

- 1. THE FINISHED WALL SHOULD FULLY REMAIN WITHIN THE BOUNDARY AND SHALL NOT ENCROACH INTO THE NEIGHBORING RIGHT-OF-WAY, RINCON DE ESTELLA; AND**
- 2. PRIOR TO THE WALL'S CONSTRUCTION, IT BE LAID OUT AND STAKED OUT FOR REVIEW AND APPROVAL BY PLANNING STAFF TO ENSURE ITS LOCATION IS WITHIN THE SURVEY PROPERTY.**

Vice Chairman Martinez offered amendment to the motion to include a condition that would require the provision of footing details for the wall's construction and review by city staff. Commissioner Wright accepted.

**COMMISSIONER ANISSA MARTINEZ SECONDED. MOTION FOR APPROVAL CARRIED WITH A 6-0 VOTE WITH THE CONDITIONS AS AMENDED:**

- 1. THE FINISHED WALL SHOULD FULLY REMAIN WITHIN THE BOUNDARY AND SHALL NOT ENCROACH INTO THE NEIGHBORING RIGHT-OF-WAY, RINCON DE ESTELLA; AND**
  - 2. PRIOR TO THE WALL'S CONSTRUCTION, IT BE LAID OUT AND STAKED OUT FOR REVIEW AND APPROVAL BY PLANNING STAFF TO ENSURE ITS LOCATION IS WITHIN THE SURVEY PROPERTY.**
  - 3. THE APPLICANT PROVIDE FOOTING DETAILS OF THE WALL'S CONSTRUCTION TO CITY STAFF FOR REVIEW.**
- 3. HISTORIC DISTRICT REVIEW #2019-06. KATHRYN BENNETT, APPLICANT, IS REQUESTING A HISTORIC DISTRICT REVIEW FOR SIGNAGE ON HER PROPERTY AT 1451 CALLE HERMANAS DOMINCANA. THIS PROPERTY IS PART OF THE SANTA CRUZ HISTORIC DISTRICT.**

Kathryn Bennett, applicant, stated that the sign on the building has been there for over 10 years. She is asking approval to change the lettering. Secondly, she would like to place a wooden sign that will provide history of the structure.

Commissioner Wright questioned if the second sign would be freestanding. Ms. Bennett confirmed and demonstrated the location on an aerial. Commissioner Wright encouraged that she work with

city staff to ensure that its placement does not obstruct sightline. Vice Chairman Martinez concurred that that the sign should be set closer to the structure. Commissioner Anissa Martinez added that the sign should also remain with the aesthetics of the Santa Cruz Plaza.

**STAFF PRESENTED.**

Mr. Hubler presented the request for two signs: the update of an existing wall sign, and a new freestanding 2' X 3' wooden historic designation sign on 6' tall posts. He informed that the existing sign was previously approved with a permit for Gallery y Café. It was unused for an extended period of time, and Ms. Bennett recently updated it. He provided the recorded survey, site photos and a drawing of the proposed sign. He concluded with staff's recommendation of approval of Case #2019-06 with the condition that staff verifies the location of the sign prior to placement.

Vice Chairman Martinez asked if she is proposing square or round posts. Ms. Bennett replied rounded posts. [COMMISSIONER WRIGHT EXITED 7:27 PM] Commissioner Anissa Martinez inquired if the \$10 per square foot sign fee applied to both signs. Mr. Hubler confirmed that fees would be applied to each sign; however, Ms. Bennett's fees have not been addressed, as the request has not been approved. Vice Chairman Martinez questioned if the previous sign was approved by the city; Mr. Hubler confirmed. [COMMISSIONER WRIGHT RETURNED]

**VICE CHAIRMAN MARTINEZ MOTIONED TO APPROVE CASE 2019-06, REQUEST FOR SIGNAGE AT THE SANTA CRUZ HISTORIC PLAZA ON THE PROPERTY LOCATED AT 1451 CALLE HERMANAS DOMINICANA, WITH THE FOLLOWING CONDITIONS:**

- 1. THE FREESTANDING SIGN LOCATION BE VERIFIED BY CITY STAFF.**

**COMMISSIONER CASADOS SECONDED.**

Commissioner Wright noted that Public Hearing had to be opened. Chairman Vigil acknowledged.

**7:30 PM — PUBLIC HEARING OPENED AND CLOSED WITHOUT COMMENT.**

**MOTION CARRIED 6-0 VOTE.**

- 4. COMMERCIAL SITE PLAN REVIEW #2019-08. APPLICANT B & B MERRITT REAL ESTATE IS REQUESTING PERMISSION TO CONSTRUCT A NEW SONIC DRIVE-IN RESTAURANT AT 814 S. RIVERSIDE DR. THE SUBJECT PROPERTY IS ZONED B-2, GENERAL COMMERCIAL DISTRICT. THE APPLICANT IS PROPOSING A 1600 SQUARE FOOT BUILDING ON THE .909-ACRE SITE.**

Karl Sommer, attorney on behalf of B&B Merritt Real Estate, introduced himself and the team: JD Merritt, Jonathan Garcia, Norman Hanthorn, Martin Romero and Dennis Gonzales. He stated that Mr. Garcia and Romero have an interest in this property and its operation; they have detailed and long standing knowledge of this company. He stressed that they are here to ask one simple question — does the site development provided meet the requirements under the Code. The site is zoned for the use of a restaurant with drive-thru. It is not a conditional use, but a use of right. He affirmed that the zoning code is very specific, and does not allow for residential use within this zone — residences are legal non-conforming uses, and code encourages dissolving those uses.

He reported that the applicant has provided all submittals; a completed application and after a lot of study and input, the New Mexico Department of Transportation (NMDOT) has approved their site analysis. Additionally, the drainage created by this development and impervious surface will not flow onto the adjoining properties, acequia, or right-of-way. All drainage will be kept on the property as designed and stamped by an engineer. As a matter of Code — all has been satisfied.

Mr. Sommer revealed that traffic is a major issue that will be made. NMDOT required several submittals and analysis of this property. The site will have challenges no matter its use. NMDOT heard from many residents and city staff, they did not take their concerns lightly; however, engineers agree with the analysis that this will be a reasonable service. The plan requires that NMSR 396 (Upper San Pedro Road) be an exit only. The only exception is for fire and emergency access and sanitation. He described the entrance to be off S. Riverside Drive, noting the exit onto NMSR 396 as important for traffic flow. He acknowledged the neighborhood's concern for traffic onto San Pedro; however, NMDOT has agreed that the levels of service will be maintained.

Mr. Sommer described the vegetation as mature, providing a buffer and shade. He informed that staff has required that it be maintained, not removed; and that landscaping be enhanced. He addressed the lighting, reporting that staff has specified a height limit and requires the luminaries to be down casted. A lighting analysis has been submitted. Mr. Sommer recognized staff's conditions to mitigate the impacts of commercial use next to residential properties. Their recommendations are beyond Code requirements, but they are amenable. He recognized that the acequias are vital to communities in northern New Mexico. As such, staff recommends that an agreement be made for their maintenance. They have no problem entering an agreement; however, they disagree with staff's

recommendation to encase the ditch. Encasing would create problems for the ditch and property; a clog could flood and impede the acequia to deliver water — it is not in the best interest of the users.

Mr. Sommer concluded, and asked that public comment be limited 5-minutes for specific points. Chairman Vigil requested that individual speakers limit their comments to 3-minutes. In addition, Mr. Sommer requested 5-minutes after discussion to follow-up and have the opportunity to answer any questions. Chairman Vigil acknowledged. Mr. Sommer commented that prior cases did not swear in; he reported that state law requires that testimony be sworn in. It would require the speakers to identify themselves, and place them under oath to comply with state law. He voiced that he has a duty to advise them of that requirement for this type of case. **[AUDIENCE SPEAKING OUT OF TURN]**

Commissioner Wright announced that this is a quasi-judicial hearing, and state law does require the swearing-in of witnesses. He communicated that no matter the decision made — the ultimate decision may lay with the City Council. He encouraged every public participant and the Chairman to bear with the process, follow due process, and swear the witnesses as suggested. He asked that Mr. Sommer swear that the testimony he gave was factual. Mr. Sommer recited an affirmation of testimony, "I swear, under penalty of perjury, the information I've given to you with respect to the factual information is true and correct to the best of my belief." Commissioner Wright recommended that the affirmation of testimony be taken by the entire audience, and not impose on any due process. **[AUDIENCE SPEAKING OUT OF TURN]** Commissioner Wright asserted that this is common practice in other communities; following state statutes benefits everyone. Members of the audience questioned why the City Attorney was not present. Director Gillette responded that he was unable to attend. Commissioner Wright suggested proceeding by taking the oath from all parties separately.

Macrina Montoya, New Mexico Notarial Officer 1101862, administered the Affirmation of Testimony; the oath was sworn by the applicant party and all attendees.

Chairman Vigil asked what would happen to the water that will be detained; he inquired if it would migrate into the soil. He expressed that standing water poses a health and safety hazard because it becomes a nesting ground for mosquitos. Mr. Merritt stated that the drainage plan was designed by the civil engineers; it is to be detained on the lot and soaked up by the landscaping. It was created to not flow into the canal or highways. Mr. Sommer stated that it was a legitimate concern; but city code requires every development to detain their drainage. They are willing to consider mitigating the standing water, but they are following code. Chairman Vigil suggested treating the water, if there is a safe pesticide. Mr. Merritt responded that laws have to be followed, so he would have to consult with the engineers and environmental.

Vice Chairman Martinez disclosed that he is a Civil Engineer. He explained the difference between retention and detention — its function of construction and soil condition. He inquired the soil type. Mr. Hanthorn responded that the soil report identifies it as the same. Vice Chairman Martinez replied that the water should then percolate.

Commissioner Wright stated that Mr. Sommer's presentation alluded that NMDOT's approval was within the submittals. He reviewed staff Conditions of Approval (COA) #2, which states that the applicant cannot move forward with any development until the application to NMDOT, with the necessary variances for driveway, has been approved. The approval has not been submitted. Mr. Sommer clarified that NMDOT provided written approval for the site traffic study.

Commissioner Wright referenced the Grading & Drainage Plan and stated that the southern corner of the property indicates an overflow and spillway into a culvert and into the acequia. He stressed that run-off from the parking lot cannot be allowed into the acequia — it is a threat to the health, safety and welfare of the lands below. He noted COA #10, which requires a written agreement with the Ortega Community Ditch Association for maintenance. Commissioner Wright communicated that this was an extraordinary case and site. As such, there are some extraordinary conditions that have to be satisfied for the project to be successful within an acequia area. Its use for the San Pedro community is imperative. He informed that the ditches are easements that can only be relocated with approval of the Ditch Commission.

Vice Chairman Martinez asked if there had been any proposals to protect or improve the acequia. He inquired how the development would affect it. Mr. Merritt reported that the site was designed not to disrupt the acequia. Vice Chairman Martinez questioned if they would be utilizing existing or new pipe. Mr. Merritt replied that they would place new piping, but would have to consult with the engineer and have a discussion with the Mayordomo for specifications.

Mr. Sommer mentioned that they have not had detailed discussion with the Mayordomo. They will need to meet with the Ditch Commission to get an agreement. He acknowledged that state law does not allow them to damage, reduce or reroute the ditch. Commissioner Wright mentioned that it needs

protection and accessibility for maintenance. Mr. Sommer assured that they are aware of the importance of the ditch; they are not opposed to the written agreement.

Vice Chairman Martinez inquired their proposal for mitigating sound. Mr. Merritt communicated that the current location is between two motels, and they have never had complaints; Mr. Garcia confirmed. Mr. Sommer stated that the impacts may not violate the noise ordinance; they are not obligated to speak for the applicant, but they would be open to discussing the possibilities for a wall.

Vice Chairman Martinez questioned the location of the light poles. Director Gillette noted the locations as referenced on the site plan. Mr. Hanthorn informed that the lights have screens that can be adjusted.

Vice Chairman Martinez cited that the peak volume of water from non-pervious surfaces is approximately 5,400 ft<sup>3</sup>; however, the ponding depicts less than half that volume. He advised that the Civil Engineer address that issue, because the overflow has to go somewhere. Mr. Merritt acknowledged. In regards to traffic, Vice Chairman Martinez asked if NMDOT was requiring any widening or road improvements. Mr. Sommer stated NMDOT is not requiring any widening or improvements other than striping; however, they may be more specific when their application is reviewed. Vice Chairman inquired the width of Upper San Pedro Road (NMSR 369) and if it was acceptable to NMDOT; if they had conducted a turning analysis for the delivery trucks and created a template. Mr. Merritt reported that the street is 20'-22' wide. They started at 16' and widened it, but it was as far as it could be widened to accommodate the radius set by NMDOT code. He added that the driveway is sloped to aide access. Mr. Hanthorn mentioned that they designed to provide accessibility for the city's 75' ladder truck. Vice Chairman Martinez requested that the template used be submitted.

Commissioner Casados referenced COA #7 — he asked if they had spoken to the residential owners about the proposed opaque screening. He stated that it does not look adequate and suggested they contact the property owners to the west for their preference. He reiterated the need for a written agreement regarding the acequias. He asked if NMDOT was in favor of an acceleration lane. Mr. Merritt replied that they were not. Commissioner Casados expressed that he would like to see their recommendations in writing. Mr. Sommer inquired the name of the western owners so they could make contact. Chairman Vigil mentioned that their neighbors were present and recommended that they approach them after the meeting. Commissioner Casados requested another fencing option.

**8:50 PM — STAFF REPORT PRESENTED [filed Case #2019-08]**

Director Gillette reported that B&B Merritt Real Estate's request for the construction of a new Sonic Drive-In restaurant at 814 S. Riverside Drive is a use by right as it is within the B-2, General Commercial Zoning District. She described the B-2 district and shared that when zoning was initially established, consideration for existing use does not appear to have been taken; it was what the city envisioned at that time.

She informed that the lot is less than an acre and all setbacks and commercial site plan requirements are being met. The roads are both owned by the New Mexico Department of Transportation (NMDOT); they have confirmed that they have no issues with the proposals as presented. She mentioned that staff made some requests to NMDOT, such as a turn lane, but they were denied.

She stated that the city does not want the business to infringe on the neighbors, but this is a use by right. In order to minimize the adverse effects on neighbors, the Planning & Land Use Department is asking for increased nuisance-mitigation measures for overflow of noise and lighting. She disclosed that the new development would be opened from 6 AM to midnight daily; therefore, there is a concern with increased traffic volume, at a point where the road is only 20' wide.

Commissioner Wright interjected for confirmation that the *Affirmation of Testimony* was taken. Director Gillette and Richard Hubler, City Planner, confirmed that they recited the pledge with the mass.

Director Gillette recognized that the intersection is awkward; she has discussed it with NMDOT, but they have no issues. She noted that Matt Grush, NMDOT, was invited to attend this meeting to explain their conclusions. Director Gillette stated that Development Review Team (DRT) comments were included within the packets, and at this time, staff is recommending conditional approval. She added that staff would be amenable to any specifications the Commission may have for COA #7.

**CONDITIONS OF APPROVAL AS RECOMMENDED BY STAFF:**

- 1. APPLICANT MUST RE-SUBMIT UPDATED PLANS FOR EACH OF THESE CONDITIONS BEFORE CONSTRUCTION CAN BEGIN.**

2. APPLICANT CANNOT MOVE FORWARD WITH ANY DEVELOPMENT UNTIL APPLICATION TO NEW MEXICO DEPARTMENT OF TRANSPORTATION (NMDOT) WITH THE NECESSARY VARIANCES FOR DRIVEWAY SPACING, ACCELERATION AND DECELERATION LANES HAS BEEN APPROVED. APPLICANT SHALL COMPLY WITH ALL REQUIREMENTS OF NMDOT INCLUDING DRAINAGE, SIGNAGE, AND ROAD/SIDEWALK IMPROVEMENTS.
3. APPLICANT MUST MARK EASTERN EGRESS AS "EXIT ONLY." IT SHOULD NOT BE USED FOR AN ENTRANCE EXCEPT FOR EMERGENCY VEHICLES AND UTILITY SERVICE VEHICLES.
4. APPLICANT MUST PROVIDE A STOP SIGN AT THE NORTHERN AND EASTERN EXITS.
5. APPLICANT MUST CLOSE AND BLOCK SOUTH INGRESS/EGRESS ONTO MIDDLE SAN PEDRO RD.
6. LIGHT POLES SHALL NOT EXCEED SIXTEEN FEET (16') MAXIMUM AND ALL LIGHT FIXTURES SHALL ADHERE TO NEW MEXICO NIGHT SKIES PROTECTION ACT.
7. APPLICANT MUST ERECT OPAQUE SCREENING OF AT LEAST SIX FEET (6') IN HEIGHT ON THE WESTERN EDGE OF THE PROPERTY.
8. APPLICANT MUST INCREASE THE LANDSCAPING ALONG THE WESTERN & EASTERN EDGES OF THE PROPERTY TO ACT AS A BUFFER, AS DETERMINED BY THE PLANNING & LAND USE DEPARTMENT.
9. PER THE PLANNING & LAND USE DEPARTMENT'S DISCRETION, SELECTED OLD-GROWTH TREES MUST BE MAINTAINED.
10. THE APPLICANT SHALL ENTER INTO A WRITTEN AGREEMENT WITH THE ORTEGA COMMUNITY DITCH ASSOCIATION REGARDING MAINTENANCE AND SHALL PROVIDE A COPY OF THIS AGREEMENT TO THE PLANNING & LAND USE DEPARTMENT.
11. APPLICANT MUST INSTALL ONE FIRE HYDRANT ON S. RIVERSIDE DR., PER THE REQUEST OF THE DEPUTY FIRE CHIEF. THE HYDRANT SHOULD BE INSTALLED NEAR THE ENTRANCE/EXIT ON S. RIVERSIDE DR., PER THE PUBLIC WORKS DIRECTOR.
12. APPLICANT MUST INSTALL A GREASE TRAP.
13. APPLICANT MUST OBTAIN SIGN PERMITS FROM PLANNING & LAND USE FOR ALL SIGNAGE.

Vice Chairman Martinez questioned if COA #2 needed any revising to include that any NMDOT requirements be completed prior to occupancy of the new building. Director Gillette accepted the change. In regards to COA #B — he requested confirmation that landscaping was subject to staff's approval; Director Gillette confirmed. Vice Chairman Martinez inquired if the screening on the western edge of the property could exceed 6' in height. Director Gillette responded that code allows up to 8' on side lots of commercial properties. Anything higher than 6' will require permits from Construction Industries Division (CID), and anything greater than 8' would require a variance. Mr. Hubler questioned if the height could be acceptable if specified within the motion. Commissioner Wright stated that a variance is in perpetuity, so he would have to defer to Council.

Commissioner Anissa Martinez asked if the applicant was apprised of the COAs and if they agree. Director Gillette replied that they were not directly provided a packet, but it had been made publically available on the city's website. Mr. Sommer stated that they agree with the COAs; however, he mentioned that an agreement with the acequias requires two parties. If the other party does not sign, they would be unable to fulfill the condition. He proposed that the condition be a provision for maintenance. He added that they are not opposed to a 10' CMU wall for mitigating sound. They acknowledge that it is a serious issue and they are willing to address it and obtain a variance. Commissioner Casados voiced support for COA #10.

Commissioner Wright asked if staff was accepting of the site and landscaping plan as provided. The plan is hard to determine, but it looks like new trees are being proposed within the acequia. He communicated that the site is surrounded by three (3) roads and three (3) residential uses; according to Code, screening and buffering applies to all three (3) sides. Director Gillette confirmed that staff

is accepting of the landscaping plans; there will not be any planting within the acequia. Mr. Hubler stated that the landscaping plan is intended to illustrate the nature and scope — not the location of each tree and shrub. Commissioner Wright voiced that the acequia is not shown on the plan; there is not enough detail to know what is happening on the site. He questioned if the property had water rights to keep the acequia alive. Mr. Hubler responded that staff is comfortable enough to review the Landscaping Plan, and is able to manage it similarly to the Zia Credit Union development.

Mr. Sommer revealed that they are not aware of water rights associated with the property — the property was not previously irrigated, but he would look into it and ask the owner what he plans to do with them. Commissioner Wright mentioned that water rights could not be transferred out of the basin without permission. He noted another lateral running on the western boundary of the property.

#### **9:15 PM — PUBLIC HEARING OPENED.**

Porfy Garcia stated that she feels the applicant has addressed all the issues and is willing to mitigate and meet with the acequia to ensure everything is done properly.

Daisha Garcia, Sonic Manager, acknowledged the importance of the acequia, and stated that they are willing to mitigate and address all the issues to ensure the acequia is handled properly.

Jonathan Garcia, Sonic Franchise Owner, introduced Daisha Garcia, Taos Manager and Isabel Española Manager. He shared that they all grew up in Española, and he graduated from Española Valley High School — they are locals. As a rancher and cattle runner, he knows the importance of the acequias, and they are willing to do what they have to do to prevent any water contamination. He commended the San Pedro residents for coming together as a community. He voiced that as area Director, he will do what is necessary to keep them happy.

Ms. Garcia commented that she has been managing Sonic for over 10 years and had never had any issues. She disclosed that she lives behind the larger Sonic on N. Riverside Drive, and there is not too much sound or light — in fact, it is safer for the community.

Yvonne Quintana, 808 Middle San Pedro Road, stated that as an adjacent property owner, she would like to request 10 minutes to summarize serious concerns of impact on this community and her property. **[THE AUDIENCE VOICED SUPPORT TO ALLOW MS. QUINTANA TO SPEAK ON THEIR BEHALF]** Chairman Vigil accepted. Ms. Quintana affirmed that she is under oath. She disclosed that she is the owner of the southern property — it is irrigated land and has a doublewide mobile home. She communicated concerns with the proposal and plans as they indicate overflow onto the Middle San Pedro Road vicinity; not everything is detained. She voiced that her property would bear the greater impact; and irrigation and soil would be contaminated. The area is residential and agricultural use. Ms. Quintana expressed that the plans were small and difficult to read the grading documents, but in computing the math, the pond will not hold the overflow.

Ms. Quintana stated that although the city has utilities on both Middle San Pedro Road and Riverside Drive, many of the residents are on a well. The city needs to address that the greater use of this property has the potential to contaminate the groundwater. She stated that staff is recommending conditional approval, but the residents are asking for conditional denial. They ask that the conditions be met first. She addressed the 10' wall, and questioned how it would affect the drainage. In regards to traffic — she shared concern with the dimensions of the road and invited Commissioners and staff to observe the traffic at 5 PM. She inquired the entering of delivery trucks and revealed that the fire trucks can only access Middle San Pedro Road through Upper San Pedro Road. She asked that they address the traffic flow to ensure traffic control.

Ms. Quintana voiced concern with the hours of operation. Traffic lights entering Sonic will hit her property and be intrusive. The motels may have not complain about the current Sonic, but that is because they are residents for one night. Additionally, Ms. Quintana inquired if the native species would infiltrate the ditch and affect their agricultural way of life. She stated that the Landscaping Plan needs attention as to what types of vegetation is required. Furthermore, if the Ditch Commission settles on an agreement —they want bargaining power—they want input. She reported that the developer has not spoken to any of the neighbors, and they all be affected by the traffic, water and lighting. The roadway measurements are not actual and do not accommodate two (2) cars. Ms. Quintana reiterated request for conditional denial, and asked that the developer allow them the opportunity to be a part of the plan.

Gilbert Serrano, School Board Member, stated that they were not informed of the development. He noted a bus stop near the stop sign at Middle San Pedro Road and the concern for the safety of the kids and community. He expressed that the community is under siege from Santa Clara — they claim

the road. He asked if anyone is addressing that issue, it is imperative that the city look into it. The school buses go through that road and it needs to be addressed.

Ralph Martinez, Middle San Pedro Road resident, acknowledged that he was under oath. He shared that he went to the site to measure the width of the entrance of Upper San Pedro Road from the main street. It is not 20' as noted within the memorandum from staff. He detailed its attributes and widths, as calculated by a measuring wheel. He informed that he lives on Juniper Lane off Middle San Pedro Road—it can be accessed off through Lower or Upper San Pedro Road. He shared that his uncle had a fire down their street, and the fire truck was unable to respond to them from Lower San Pedro Road and had to rely on Upper San Pedro Road. He stated that it is not a matter of not liking Sonic; it is about sustaining their vitality.

Louis Torres, San Pedro resident, confirmed that he is under oath. He urged the Commission to reject the application; the hearing, as it has developed, should compel them to reject it. He stated that the proposal has horrific problems and is not appropriate for the site.

Christine Bustos, Middle San Pedro resident, acknowledged that she is under oath. She communicated that she has been in the Commissioners' position before, and there are many questions. However, it is not a matter of whether they are allowed to develop in that location, but whether they should develop. As a resident of the road, Middle San Pedro Road cannot take any more traffic. There are busses and people who drive up and down daily; two cars cannot fit side-by-side. She voiced that although it is B-2, it is not a good idea—it does not fit the neighborhood. She concluded that Middle San Pedro Road is jointly owned by the county, city and pueblo, there is no upkeep on that road because no one claims it.

Dennis [inaudible] stated his concern for the safety of the community. Upper San Pedro Road is narrow. During the wintertime and the build-up of snow, the road will decrease in width. He added that vermin would increase because of their debris. He acknowledged that there is not a good place for dumpsters, but they are planned on the south—the closest to the residences. He cited that the plans ask for a fire hydrant to be placed; he inquired what would happen when on the site when the water is under pressure.

Vince Trujillo confirmed that he is under oath. He stated that he has many concerns. He reiterated the concern for traffic and large vehicle's ability to turn onto Upper San Pedro Road with the current turning radius. The traffic increase would be enormous for a street that already has safety issues. The neighbors are the ones who will be living with the impact. He urges the Commission to think about their decision. He expressed that he would like to hear NMDOT's logic for approving the site; he asked if they could receive a presentation from NMDOT.

Pat Trujillo acknowledged his oath. He added that there is a problem with the traffic signal exiting Upper San Pedro Road. It does not work and stacks the road to where the ditch ends and the street narrows.

Ross Garcia, Ortega Ditch Commission, stated that they had their annual meeting on Sunday and had a quorum of 20 people. They discussed the issue and every one was against this proposal. He voiced that they do not want them to just maintain the acequia, but improve it for the future. He proposed assistance from the East Rio Arriba Soil Conservation to help with the design and developing options to move forward.

Lee Goodwin, Ortega Ditch Commission, communicated that they have a duty to maintain and protect their legal rights. He stated that they are worried about contamination, and have not been contacted by the developer. The plans do not look valid. Mr. Garcia shared that the previous owner did have water rights, but they are not sure if they were sold with the property. The transferring of water rights would go through the Ditch Commission and maintained in the area. He thanked the Commission for their support of the acequias and its development for the future. If water rights are lost, they can never be regained.

Commissioner Wright asked the Ditch Commission if they were aware of the conditions made by staff. Mr. Goodwin stated that they had not heard of them ahead of time, but they would have to rely on legal support for an agreement. They are willing to negotiate, but their concern is the protection of properties and their water. Mr. Garcia concluded that they have the resources to provide a proper solution.

Alonso Archuleta confirmed his oath. He expressed that there is trash throughout the city. He asked if they would be cleaning the acequia when it is filled with trash.

Jeff Archuleta, San Pedro resident, acknowledged his oath. He stated trucks take up both lanes and compound their street and traffic issues. He suggested that Sonic stay where it is.

Jose Archuleta, confirmed his oath, and informed that his property is to the west. According the schematics, the driveway would be 5' from his entry. He is concerned that his renters will be clipped by customers turning into Sonic when they attempt to exit their residence. He declared that residents have a significant investment in their homes, and it is larger than Sonic's. He reiterated trash concerns and inquired the 27' dome lights that would be on all night. He communicated that no one has addressed the site threshold analysis. It is based on estimates and figures from previous studies. He mentioned that in 2007, the Planning Commission approved a rezone of the adjacent lot from an R-2 to R-8. The owners gutted the building and left it vacant. He added that the site analysis was conducted by the same engineering firm that designed the plans. Mr. Archuleta cited language from the Traffic Study Analysis. He voiced that that law enforcement has not been addressed or considered for this property. He shared that from January 2016-2018, 184 calls were dispatched to the current Sonic; he detailed the type of calls made. He concluded that with the information given, the consideration for the health, safety and general welfare of the people should be within the site development's criteria.

Milena Archuleta acknowledged the oath taken. She cited a portion of the Comprehensive Plan and described the area and its nearby vacant structures. She commented that this is an existing business and it is operational. The Traffic Analysis Study indicates that there will not be an increase in traffic — if there is not an increase in traffic, there is not an increase in revenue. Additionally, a wall encompassing the whole property would only enclose the acequia; she asked how it would be accessed and maintained. Extending the sidewalk would mean moving the acequia, which would need approval. She questioned how they could seek approval if agreements are not yet in place. She expressed that the applicant has not done their research, nor finished their application process.

Dennis Vigil, San Pedro resident, confirmed his oath. He asked how long it would take to align the ditch because it would deprive him of his water rights. He had concern with the exit onto Upper San Pedro Road, which would be in front of his house. There is a lot of traffic there, but luckily, there has not been any fatal accidents. He shared that his wall has been hit twice, and he does not want to repair it a third time.

Leo Jaramillo, Rio Arriba County Commissioner- District 2, acknowledged his oath. He reported that at this time he is representing the San Pedro community — not the entire Rio Arriba County. He shared that he once was a proud Sonic employee and remembers having to wash the parking lot onto the street. With that said, he has concerns for the acequia and the possible contamination; affects to the agriculture and traffic. He communicated that the bus stop hours is the same as their "happy hour", so busses will be in danger. He questioned why they would move the Sonic across the street, and asked the Commission to consider not accepting the application.

Paula Garcia, Executive Director of the Ditch Commission Association, confirmed her oath. She stated that Rio Arriba is a special and beautiful place. She informed that as policy makers they have the power to protect the acequia. She advised that the Commission have a right to meet with their members, and she commends the staff for their consideration and condition for maintenance; however, it should go further. The concern is for contamination, operation and maintenance. The ditches are important for the future — they provide water and beauty. The condition was useful, but it should require more than maintenance.

Jeremy Herrera, Middle San Pedro resident, acknowledged his oath. He stated that Española is a beautiful place, and he is concerned with Sonic's location. The Santa Clara easement issue has decreased property values, and this will decrease them further. He respectfully requested denial of the application.

David Martinez confirmed the oath. He reiterated safety concerns, and noted that NMDOT has not approved the application. He encouraged people to visit the roads. He has lived in the area for 20-some-years and has never seen Public Safety give any citations. They already have enough bottles, Sonic trash and needles to pick-up. He concluded that he echoes the all the concerns made.

Ismael Vigil, adjacent owner, informed that he had donated property for the highway. His concerns are with noise and the smell. Lydia Vigil, daughter, stated that she lives on the property and will have to look at Sonic, hear the sounds, and smell the odors. She commented that she sees the loitering and drug trading at the current location from the roadway. Her father allowed the road to be in front of the property, and she does not believe that it is 20'; she suggested that the boundary be reviewed. She asked for denial — this property is not a place for a Sonic.

Johnnie Mae Deschweinitz, San Pedro resident, mentioned that the only people in favor of the request are the employees. She stated that there is already a Sonic on Riverside. They should stay there and keep the people of the community happy.

Frank Maestas acknowledged his oath. He stated that COA #9 states that all old-growth trees must be maintained, but some will need to be removed to create the access. Director Gillette clarified that COA #9 is at the discretion of staff. It does not apply to all trees, as some will need to be removed for things such as the driveway. Mr. Maestas noted that it would include most of the trees along Upper San Pedro Road. Director Gillette reiterated that only the trees that would clear the driveway and obstruct sightline would be removed. They would all be reviewed when/if the time comes.

Patricia Archuleta confirmed her oath. She informed that she has lived in the house, on the west, all her life. She communicated that all this could have been avoided if they had taken the time to talk with the people and ask them for their concerns. She shared that her husband approached them numerous times, to no avail. If they had worked with the community, they all would not be there tonight. She asked for denial.

Gilbert Serna, Upper San Pedro Road resident, requested to view the topographic map. He asked Chairman Vigil to calculate the slope from the entrance onto Riverside. Chairman Vigil calculated 2.5'. Mr. Serna commented that they would have to build over 20', which means those trees are gone. He cited a website's specifications for oil contamination — voicing its potential for contamination is going to ruin the ditch. He expressed that he grows organic, and the only pesticides he cannot control are those introduced to the water. He inquired Rio Arriba County Ordinances that prohibits this. He questioned their move, alluding to the minimum wage difference between Santa Fe County and Rio Arriba County. He asked that the request be tabled. Director Gillette clarified that the existing site is within Rio Arriba County.

Steven Jaramillo, acknowledged the oath, he stated that he is Chairman of the Garcia Acequia; their acequia runs west of the proposed site, and it runs along Middle San Pedro Road. He echoed Mr. Archuleta's concerns with trash. He stated that he proposed signage for the exit onto Upper San Pedro Road would not prevent people from traveling on Middle San Pedro Road, nor would it stop them from throwing more trash into the acequia.

Twig Deluje San Pedro resident, announced that he is a new resident and property owner. He is originally from Missouri and wanted to start a small farm. His concerns are for the water, traffic and noise pollution — overall the operations of air, water and land. He stated that their property values would go down. He takes pride in knowing that he lives in one of the least crime areas within Española; this development has the potential to increase foot and vehicle traffic, and thus crime. He described the entrance to be small and intrusive, and it will shorten their access. All these factors create a negative impact on property values and life. He urges the Commission to deny the development, as it would demolish their area.

**10:52 PM — PUBLIC HEARING CLOSED. CHAIRMAN VIGIL CALLED FOR A RECESS. MEETING RECONVENED AT 10:59 PM.**

Mr. Sommer commented that many issues and information has been relayed. With that, intertwined with questions from the Commission, the application needs to address the issues and provide sound information. In addition, the plans need to be detailed and at a scale that can be easily read. It is incumbent to come back to the Commission after addressing the acequia with the Ditch Commission. He acknowledged the process and they are willing to go through it in good faith. He suggested tabling the request for next month to give them the opportunity to meet with parties.

Ms. Quintana voiced concern for tabling the request, because by quorum of this Commission, it can be removed. She opposed tabling to ensure that it is addressed and given notice. She stressed that the analysis formula works because they picked the numbers. Mr. Sommer responded that the public hearing has been closed. He stated that he provided a conclusion and a doable request to table to a date specific. They are not opposing notification, but tabling is a way to address the issues in an earnest way. Ms. Quintana replied that she did not receive notification of this meeting. Commissioner Wright stressed that a motion to table must be to a date certain. As a quasi-judicial hearing, both parties are allowed rebuttals. Director Gillette noted that property owners of record with Rio Arriba County were notified. Ms. Quintana's property is recorded under Dorothy Quintana at her Santa Fe address.

**COMMISSIONER CASADOS MOTIONED TO TABLE THE COMMERCIAL SITE PLAN REVIEW #2019-08.**

Vice Chairman Martinez requested an amendment to include the date certain of May 9, 2019 to allow the applicant time to meet with the acequia representatives, neighbors of the community and address traffic, site, drainage, noise, trash and other issues shared. Commissioner Casados accepted.

**VICE CHAIRMAN MARTINEZ SECONDED THE MOTION AS AMENDED.**

Commissioner Wright stated that a motion to table is non-debatable.

**MOTION CARRIED 5-1 VOTE WITH COMMISSIONER WRIGHT VOTING IN OPPOSITION.**

**VIII. OLD BUSINESS**

**1. DENNY'S/DEL TACO UPDATE**

Director Gillette informed that Food Services Concepts and North Central Regional Transit District (NCRTD) has reached an agreement for the placement of a block wall between the properties.

**IX. MATTERS FROM PLANNING STAFF**

**1. STAFF REPORT**

Director Gillette reported that there is a new left-turn lane to Harbor Freight as they have approved. She thanked the Commission for their service during this long meeting. She stated that City Manager Valdez was present for a short time, and he asked that new zoning be taken into consideration, and perhaps some special zoning districts.

She shared that Los Vigiles Ditch Commission is interested in teaming with the city to turn part of the acequia into a public path. She stated that she has been enticing them with the possibilities of clean-up partnerships through grants, community services or staff time. She will be meeting with Andrew Garcia to walk the area.

She informed that Mr. Hubler is working with the City Clerk's Office to review the Vendor Ordinance. Additionally, this month's work session will not be held; however, she encouraged that they continue to provide their feedback regarding zoning.

Director Gillette shared that the New Mexico Land & Zoning Officials (NMLZO) conference is May 1st – 3<sup>rd</sup> in Albuquerque. They have a day dedicated to Commissioner training. She stated that the city will pay for the registration of any Commissioner wanting to attend — just let her know.

**X. MATTERS FROM PLANNING COMMISSION**

Commissioner Quintana expressed that she was impressed by tonight's meeting. There was a lot of synergy and talent — everyone has something to contribute.

Chairman Vigil acknowledged that the meeting was tough, but it was heard and understood. Good questions were asked, and it revealed their due diligence. Mr. Sommer is a good attorney and he represented well.

Commissioner Wright mentioned that Mr. Sommer's specialty is Land Use Law. He shared that at the last attended NMLZO conference, they were educated about the process of swearing-in; unfortunately, the Commission and staff were advised by then city attorney that those formalities were not necessary for Española. Following the process was the right thing to do. He voiced that the Commission would not be making the final decision. As such, their role is to get everything on the record and follow due process. He questioned the issuance of Finding of Facts, highlighting the challenge in having these meetings without the City Attorney, and providing their own legal advice. He explained that his vote for opposition was procedural. The negative vote would allow the option to recall the motion. He acknowledged that allowing the other party to rebuttal was the right thing to do. He announced that his absence at the last meeting was excused.

Vice Chairman Martinez agreed that administering the *Affirmation of Testimony* was the action to take. He advised that the City Attorney examine this procedure — including the Finding of Facts. Director Gillette expressed appreciation for Macrina Montoya and her ability to attest to the Oath. She inquired if the Commission would like to officially be sworn-in to office; the Commission concurred.

Commissioner Anissa Martinez commended Commissioner Wright for his leadership. She communicated that he stated truth, and was reasonable. She applauded Chairman Vigil for handling the meeting and keeping it controlled.

Commissioner Casados stated that it is most valuable to be prepared, participate in the site visits and learn the packet.

**XI. ADJOURNMENT**

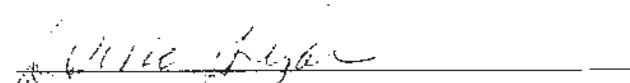
**COMMISSIONER ANISSA MARTINEZ MOTIONED TO ADJOURN; VICE CHAIRMAN MARTINEZ SECONDED. MEETING ADJOURNED AT 11:46 PM WITH 6-0 VOTE.**

***APPROVED by the City of Española Planning Commission this 9<sup>th</sup> day of May, 2019.***



*Clyde Vigil, Chairman*

**ATTEST:**

  
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*Desirae J. Lujan, GIS Specialist*