ATTACHMENT 5

SANDOVAL COUNTY ADMINISTRATIVE OFFICES

BOARD OF COUNTY COMMISSIONERS

DARRYL F. MADALENA
District 5, Chairman

ORLANDO J. LUCERO
District 1, Vice Chairman

DON E. LEONARD
District 2

DON G. CHAPMAN
District 3

GLENN WALTERS
District 4

PHILLIP RIOS
County Manager

October 30, 2012

Mr. William E. Baldwin
726 Pueblo Solano NE
Albuquerque, NM 87107

SUBJECT: **CU-12-003** Request by Fred C. Arfman (Isaacson & Arfman, P.A.), Agent for William Baldwin, for a Conditional Use in the RC (Rural Commercial) and OZ-CORR (Corridor Overlay) Zones. The subject site is Lot 7, Centro de Algodones subdivision, in the Algodones community, adjacent to the northeast portion of the intersection of Interstate 25 and NM 313. The site is approximately 2.3764 acres.

Dear Mr. Baldwin:

At their meeting of October 25, 2012, the Sandoval County Planning & Zoning Commission **denied** the above referenced request, based upon the following Finding:

Denial of request due to citizen concerns regarding hours of operation past 9:00 pm and potential late schedule related impacts on the Algodones community.

The result of this ruling is that you may pursue construction and operation of the restaurant/grocery use, provided the operation of the use does not extend past 9:00 pm. This letter does not grant approval for construction of the use nor approval for any licensing related to its operation.

Pursuant to Section 22 of the Comprehensive Zoning Ordinance, you have the right to appeal this decision to the Board of County Commissioners. In order to exercise this right you must file a completed application for appeal with the Planning & Zoning Division within thirty (30) days of the date you receive this letter.

If you have any further questions concerning this matter, please do not hesitate to contact me at (505) 867-7656.

Sincerely,

Makita Hill

Makita Hill,
Long Range Senior Planner

XC: Mike Springfield, Director, Planning and Zoning Division
Brad Stebleton, Senior Planner, Planning and Zoning Division

ATTACHMENT 6

ORIGINAL

FILE #_____

SANDOVAL COUNTY PLANNING & ZONING DEPARTMENT
1500 IDALIA RD, BLDG D
P.O. BOX 40
BERNALILLO, NM 87004
(505) 867-7628
FAX: (505) 771-7184

APPLICATION FOR ZONING APPEAL

Applicant: William Baldwin
Daytime Phone: (505) 822-8855

Legal Description of Property that is the Subject of the Appeal:
Lot 7, El Centro de Algodones
Sandoval County, New Mexico

Address:

Vacant Property on Centro Algodones

Agent (if any):
Fred C. Arfman, PE — Mr. Josh Skarsgard
Isaacson & Arfman, PA — The Skarsgard Firm, P.C.

Address:
128 Monroe St NE
Albuquerque, NM 87108

Reason for Appeal (Use additional sheets if necessary):

(see attached)

Signature: Fred C. Wyman

Date: 11.29.12

INSTRUCTIONS: Submit a copy of the appeal form, with all attachments, and filing fee of $100.00 to the Planning & Zoning within 30 days after a determination is made that is the subject of appeal. Public notice must be given by legal advertisement prior to the hearing.

FOR OFFICE USE ONLY:

Application Received by: _____

Date: _____

File Number: _____

Receipt Number: _____

Action(s) Taken Denied Pursuant to Ordnance # 02-03-21-11C: _____

_____

_____

_____

Date(s): _____

Final Determination _____

Revised October 2003

ORIGINAL

THE Skarsgard Firm, P.C.

JOSHUA J. SKARSGARD, ESQ.
ATTORNEY AT LAW

8220 SAN PEDRO NE, SUITE 500
ALBUQUERQUE, NM 87113
TEL: (505) 262-2323
FAX: (505) 998-9099

December 3, 2012

Makita Hill
Long Range Planner
Sandoval County Planning and Zoning
1500 Idalia Rd Bldg D
Bernalillo NM 87004
(505) 867-7656
Email: mhill@sandovalcountynm.gov

Re: Appeal of the Sandoval County Planning and Zoning Commission Denial of the Application (CU-12-0003).

Dear Mr. Hill and Sandoval County:

Please be advised that The Skarsgard Firm, P.C. ("**Firm**" or "**Agent**") represents Mr. William Baldwin ("**Applicant**" or "**Client**") regarding the appeal of Conditional Use (CU-12-003) ("**Application**").

FACTS:
The Application submitted by the Applicant (and his Civil Engineer Mr. Fred Arfman, P.E.) requested extended hours of operations past the 9:00 PM closing time as established by the Sandoval County Zoning Code for the RC - Rural Commercial District; Section 9 (3).C.7. "Any commercial enterprise in which activities may be conducted earlier than 6:00 A.M. or later than 9:00 P.M." The Applicant requested that the hours of operation be extended to 2:00 AM as allowed by the State of New Mexico regulatory laws governing the sale of alcohol. On the 25th of October, 2012 the Sandoval County Planning and Zoning Commission ("**Commission**") held a public hearing ("**P & Z Hearing**") whereby they received testimony from the Applicant and "neighbors" expressing interest in the development of "Lot 7, Centro de Algodones Subdivision" ("**Subject Property**").

DECISION:

The Commission mailed the Notice of Decision ("**Decision**") denying the application on the 30th day of October, 2012 (it was received by the Applicant on November 4, 2012). The Decision stated as its justification for the denial the following: "*Denial of request due to citizen concerns regarding hours of operation past 9:00 pm and potential late schedule related matters on the Algodones community.*"

AUTHORITY TO FILE AN APPEAL

Section 22 of the Sandoval County Comprehensive Zoning Ordinance ("**Zone Code**") provides the basis for appealing the Application. Specifically, Section (A.) of the Zone Code states: "*Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by evidence in the matter.*" Section D. indicates that "*Any review of a decision of the Zoning Commission by the County Board shall be confined to the record of the proceedings, which shall include:*

1. All materials, pleading, memoranda, stipulations, and motions submitted by any party to the proceeding and received or considered by the Zoning Officer or Zoning Commission as evidence;

2. All materials submitted to the Zoning Officer with respect to any application(s);

3. The minutes and/or tape recording of the public hearing(s) held by the Zoning Commission;

4. The findings of fact and conclusions of law entered by the Zoning Commission following their decision; and

5. Argument confined to the record by the parties or their legal representatives at the time of review before the County Board.

JUSTIFICATION FOR THE APPEAL: "DECISION NOT SUPPORTED BY EVIDENCE IN THE MATTER" (STAFF REPORT)

The Applicant believes that the Decision was not supported by evidence in the matter. Specifically, the P & Z Commission overturned the recommendation of the Staff Planner to approved the conditional use subject to nine conditions of approval.

The staff report ("**Staff Report**") prepared by the Sandoval County Planning & Zoning Division staff was not provided to the Owner or Owner's agent, Isaacson & Arfman, PA prior to the P & Z Hearing. The Staff Report was reviewed by the Applicant during the proceedings of the P & Z Hearing and it was subsequently sent to the civil engineer of the Applicant (Mr. Fred Arfman).

The Staff Recommendations section of the Staff Report dated October 18, 2012 (attached) listed nine findings and nine conditions. The case planner recommended that the Planning & Zoning Commission **APPROVE** the request based on the nine findings and subject to the nine conditions. The Owner did not take exception to the conditions as listed.

JUSTIFICATION FOR THE APPEAL: "THE P & Z COMMISSION ERRED BY NOT APPLYING ZONE CODE SECTION 17 PARAGRAPH (D)"

The P & Z Commission erred in issuing its Decision by not correctly factoring Section 17 of the Zone Code appropriately. Specifically, Section 17 Paragraph D of the Zone Code states: "*The Zoning Commission shall not approve any conditional use unless satisfactory provision has been made concerning:*

1. Accessibility to the property and existing and/or proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe;

2. Off-street parking and loading areas where required, with particular attention to the refuse and service areas;

3. Water and liquid waste facilities, with reference to soil limitations, locations, and public health.

4. The economic, noise, glare, or odor effects of the conditional use on adjoining properties;

5. The general compatibility of the proposed use with actual or prospective permissive use of adjacent properties; and

6. The overall health and safety of the community.

All six of the above required conditional use guidelines were addressed successfully by the Applicant in the original Application and deemed complete by the Sandoval County Planning Department Staff (per the Staff Report). The Applicant's response to the six conditional use guidelines is summarized as follows:

1. *Accessibility to the property and existing and/or proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe;*

Applicant Response: The site (see attached Illustrative Site Plan) will have public access off of Centro Algodones approximately 260 feet northeast of its' intersection with NM SR 315. The driveway is proposed as a shared access with the vacant lot to the west in order to reduce the vehicular conflict points on Centro Algodones and to reduce the multiple irrigation ditch crossings to a single 60" diameter culvert crossing structure. This access to the property is acceptable for commercial property in Sandoval County and in compliance with the Zone Code.

2. *Off-street parking and loading areas where required, with particular attention to the refuse and service areas;*

Applicant Response: The off-street parking requirement of 72 parking spaces is met and exceeded by providing between 106 -114 spaces. The extra off-street parking allows for the public street to be posted for "No Parking", thereby creating a safer,

less congested public thoroughfare. The refuse and service areas are situated to the rear of the building and away from the customer parking and screened from view by the proposed building. The off-street parking and loading areas are design to be completely compliant with Zone Code and Sandoval County regulations.

3. *Water and liquid waste facilities, with reference to soil limitations, locations, and public health.*

Applicant Response: The site is served by an existing well (New Mexico Office of the State Engineer, File No. RG-83980) located near the northeast corner of the site. The well is proven as yielding 100 gpm which is more than adequate to serve the retail business. Onsite sanitary sewer disposal test pits were excavated in the presence of Dr. Ann Scaglione, NM Environmental Health Department (NMEH) that provided visual evidence that the site soils were compatible with the required onsite disposal field to adequately serve the retail business. A correspondence from the NMEH was provided to the Case Planner on Sept. 11, 2012 stating that the site was suitable for the onsite disposal system (correspondence attached). Again, has successfully planned and designed the project to comply with Sandoval County water and liquid waste regulations and ordinances and exceeds all public health regulations.

4. *The economic, noise, glare, or odor effects of the conditional on adjoining properties;*

Applicant Response: The adjoining properties would benefit from the proposed retail business because of the professional quality construction of the site improvements and the increase in valuation of the adjacent properties as a result of this project. The noise generated by his similar three retail businesses is minimal and the site noise is reduced by the existing noise from the vehicular traffic on the north and south bound lanes of I-25. In short, the noise does not travel in a manner that will substantively exceed the existing noise generated from the interstate traffic (which is 24 hours a day 7 days a week). The site building materials and business operations will not produce glares or odors affecting the adjoining properties. The Applicant (Mr. Baldwin) operates a restaurant and bar in Albuquerque that is located much closer to residential zoning and never has concerns about the noise generated from his businesses.

5. *The general compatibility of the proposed use with actual or prospective use of adjacent properties; and,*

Applicant Response: The adjacent properties are vacant and were platted in the same Centro de Algodones Subdivision as approved by the Sandoval Planning Commission on June 6, 2006 and have the same zoning. As such, the future permissive uses approved in this zone should be compatible. There is no indication that this property will adversely impact the zoning or future uses of the surrounding property (zoned commercial in 2006).

6. *The overall health and safety of the community.*

Applicant Response: The Applicant has a track record of running a high quality restaurant and bar that will not adversely impact the neighboring properties either economically or via sound, glare, odor or other effects. Additionally, Sandoval County will have a new source of Gross Receipts Tax revenue as a result of this facility. The restaurant and bar will generate employment opportunities which are sorely needed in this community for wait staff, cooks, etc. The safety of the patrons of the bar will not be compromised because the Applicant trains his staff of safety measures and how to eliminate any risks that

JUSTIFICATION FOR THE APPEAL: "DECISION NOT SUPPORTED BY EVIDENCE IN THE MATTER" (P & Z DECISION NOT IN COFORMANCE WITH THE SANDOVAL COUNTY COMPREHENSIVE PLAN)

The Decision by the P & Z was an error because it failed to apply the Sandoval County Comprehensive Plan policies to the Application. Specifically, ***Policy 6 & 7 of the Algodones Area Development Policy*** was furthered by the Applicant because the Subject Site is located outside and to the north of the Algodones Community District, and is currently zoned under the RC and OZ-CORR zone districts. The Staff Report said it best by stating in part: "*the Conditional Use review for this request* ***supports*** *the Algodones Area Development Policy.*"

The P & Z Hearing essentially disregarded Policy 6 and 7 of the Algodones Area Development Policy by denying the Conditional Use Application. This property is located directly within the Centro de Algodones subdivision, which is a "Planned Commercial Development". This Conditional Use is "***recommended*** *by the Algodones Area Development Policy which is a component of the Sandoval County Comprehensive Plan.*" (See Staff Report of Sandoval County Page 5). The P & Z Commission disregarded the thoughtful and comprehensive review conducted by the Staff and instead disregarded Policy 6 and 7 of the Algodones Area Development Policy. Unfortunately, the P & Z Commission decision is reviewable as an "on the record" appeal that when viewed in conjunction with Policy 6 and 7 of the Algodones Area Development Policy, the Board of County Commissioners are encouraged to arrive at a different result that respects the policies laid out within the Algodones Area Development Policy (Sandoval County Comprehensive Plan).

Pursuant to NMSA Section 3-21-8(B), a decision by the P & Z Commission that disregards the intent and policies of the Algodones Area Development Policy (Sandoval County Comprehensive Plan) indicates that the P & Z Commission may have failed to appropriately apply the Conditional Use criteria laid out within the Sandoval County Zone Code. See *Downtown Neighborhood Association vs. City of Albuquerque,* ***109 N.M. 186.***

JUSTIFICATION FOR THE APPEAL: "DECISION NOT SUPPORTED BY EVIDENCE IN THE MATTER"

The Applicant believes that the P & Z Commission erred in their decision based on the following additional observations, which if factored into the Decision would render the original Decision unsupported by evidence provided at the P & Z Hearing:

1. Testimony was offered by the Applicant stating that for the proposed business venture to be successful, the hours of operations ***must*** extend past 9:00 P.M. This is based on his thirty years of owning and operating similar businesses in the Albuquerque Metropolitan area. This Conditional Use is integral to the success of the restaurant and will act as an anchor to this PCD district within the Centro de Algodones subdivision. Without this restaurant and bar the Centro de Algodones subdivision will lose the "momentum" generated by this project and will further damage gross receipts tax and employment in Sandoval County.

2. The Owner has three other businesses that function without contributing to the detriment of the surrounding communities. Their hours are operations are regulated by the State of New Mexico requiring them to close no later than 2:00 AM. There has been no history of poorly run restaurant/bar(s) in his other locations, in fact the communities appreciate and support Mr. Baldwin's restaurants. They provide a great place for recreation and dining for the surrounding residents.

3. The proposed business is a grocery store with an attached tavern. The seating capacity of the tavern is limited by the New Mexico Environmental Department (NMEH) regulations limiting the onsite sanitary sewer disposal rate of 500 gpd/acre (1,185 gpd). This limitation equates to the tavern having approximately 40 – 50 seats that will be reviewed and approved by the NMED at the time of building permit.

4. The proposed business is an indoor grocery store including the sale of alcohol and an indoor tavern with seasonal outdoor patio seating on the northwest side of the building as showed on the attached site plan. The patio will have outdoor speakers for low level background music for the listening enjoyment of the customers. The orientation of the building has the patio on the northwest side of the building away from the freeway frontage in order to block the roadway noise generated by the trucks and cars traveling on I-25.

5. The proposed business is physically separated from the residential community to the southeast by the raised on/off ramps of I-25 at the Algodones exit. The freeway exit ramp elevation between the retail business and the residential community is at an elevation of 5135. The building finish floor elevation will be 5120±. The fifteen foot difference in elevation will serve as a noise abatement feature by blocking any potential sound waves and deflecting them upward if any were to occur. The public testimony stating that the residents to the southeast were concerned that the retail facility would add to the existing noise pollution is without merit.

6. The subject property is Lot 7 in the Centro de Algodones Subdivision and abuts the south bound off ramp of I-25 to the southeast, is one lot removed from State Road 315 approximately 260 feet to the southwest and has frontage on Centro Algodones to the northwest. This subdivision suffers from neglect due to the undeveloped lots and untraveled roadways in the area. There has been continued illegal dumping of trash and other detrimental activities in the area due to the lack of businesses and their related business functions which assist in controlling the negative activities that affect the well being of the neighborhood. The Owner has experienced that at one of his businesses locations at a time when it was in a semi rural area; that his outside maintenance program and employee/customer traffic generation resulted in the reduction of illegal activities. The proposed retail establishment will assist in the policing of the commercial subdivision and the adjacent residential community as a whole.

7. Mr. Baldwin has proven that his successful business model integrates his establishments into their surrounding neighborhoods. This has been accomplished by being a vital participant in promoting the general well being of the community and being a good neighbor and advocate of health and safety of his patrons and the local residents. This same model will be implemented in Algodones.

8. Mr. Baldwin is positioned to invest millions of dollars to develop the property and has the proven thirty years of experience to operate a successful business that will protect his investment and provide jobs and a desirable retail establishment to serve the community needs.

9. His investment will increase the property value and the corresponding County Property Tax and will provide a source for the generation of Sandoval County gross receipt taxes.

Thank you for your consideration of this request. Please call me if you have further questions. The Skarsgard Firm, P.C. telephone number is 505 262 2323.

Thank you,

SKARSGARD FIRM, P.C.

Joshua J. Skarsgard, Esq.

CC: Mr. Baldwin
Mr. Arfman, P.E.

Exh. A.

SANDOVAL COUNTY PLANNING AND ZONING COMMISSION
OCTOBER 25, 2012 PUBLIC HEARING

To: Sandoval County Planning & Zoning Commission

From: Sandoval County Planning and Zoning Division Staff

Date: October 18, 2012

SUBJECT: **CU-12-003** Request by Fred C. Arfman (Isaacson & Arfman, P.A.), Agent for William Baldwin, for a Conditional Use in the RC (Rural Commercial) and OZ-CORR (Corridor Overlay) Zones. The subject site is Lot 7, Centro de Algodones subdivision, in the Algodones community, adjacent to the northeast portion of the intersection of Interstate 25 and NM 313. The site is approximately 2.3764 acres.

The purpose of the request is to allow for the operation of a restaurant/grocery use within a Planned Commercial Development with hours of operation later than 9:00 pm.

FACTS:

In March 1987, the Board of County Commissioners approved Resolution No. 98-496, adopting the Algodones Area Development Policy (AADP) as a component of the Sandoval County Comprehensive Plan. Adoption of the AADP resulted in the establishment of the Algodones Community District zone, located in the center of the community, and the establishment of the RC (Rural Commercial) zone in outer areas to the east and west of Interstate 25. The OZ-CORR (Corridor Overlay) zone district was established by the County as an added development standard measure for properties within 1000 feet of Interstate and State highways

The original Centro de Algodones subdivision was approved by the County in February 2006 for a total of 5 lots and 37.85 acres, and a road access to NM 313. Lots 6 and 7, and a road access to NM 315, were approved by the County in May 2006. The approved Disclosure Statement for Centro de Algodones Lots 1 – 5 identifies individual wells as the means for water delivery and individual liquid waste systems as the means for liquid waste management. The subject site is currently equipped with an individual well. The County applies this Disclosure Statement to Lots 6 and 7 as no separate Disclosure Statement was filed for these lots. The subdivision was also required to undergo a Traffic Impact Analysis (TIA), which was approved by the New Mexico Department of Transportation (NMDOT) with conditions pertaining to road improvements on entrances into the subdivision from NM 313 and NM 315. To date, all

Exh. A-1.

STAFF RECOMMENDATION

In the matter of **CU-12-003**, Staff recommends that the Planning and Zoning Commission **APPROVE** this request, based on the following **FINDINGS** and subject to the following **CONDITIONS**:

FINDINGS

(1) **CU-12-003** is a request by Fred C. Arfman (Isaacson & Arfman, P.A.), Agent for William Baldwin, for a Conditional Use in the RC (Rural Commercial) and OZ-CORR (Corridor Overlay) Zones. The subject site is Lot 7, Centro de Algodones, in the Algodones community, adjacent to the northeast portion of the intersection of Interstate 25 and NM 313. The site is approximately 2.3764 acres.

(2) The purpose of the Conditional Use request is to allow for the operation of a restaurant/grocery use within a Planned Commercial Development with hours of operation later than 9:00 pm.

(3) The subject restaurant/grocery uses are permissive uses under the RC zone.

(4) The restaurant is proposed to serve full liquor, and the grocery is proposed to include the sale of package liquor. The service and sale of liquor pertaining to the restaurant/grocery is subject to review by the Board of County Commissioners and the State of New Mexico and is not a part of this request.

(5) The request is consistent with policies in the Sandoval County Comprehensive Plan as noted in this report.

(6) The request is consistent with the Algodones Area Development Policy, a component of the Sandoval County Comprehensive Plan, as noted in this report.

(7) Revision of site plans, and approvals from the Sandoval County Planning and Zoning Division, Sandoval County Public Works Division, the Sandoval County Fire Marshall, and the New Mexico Construction Industries Division, will be required in order for this request to meet the requirements of Section 17, Conditional Uses, Subsection D, Guidelines, Sandoval County Comprehensive Zoning Ordinance.

(8) The applicant for this request has also applied for a Variance (V-12-001) for reduced parking space dimensions for standard and physically challenged motorist parking spaces.

(9) Section 17, Conditional Uses, CZO, Subsection E, Special Requirements, establishes the County's authority to impose special conditions as deemed necessary to secure the requirements of Subsection D, Guidelines. For the purpose of addressing the overall health and safety of the community, Staff will recommend additional measures to address on-street parking, site related noise, and lighting.

CONDITIONS

(1) Review and approval of building plans by the Sandoval County Planning and Zoning Division and the Sandoval County Public Works Division shall be completed prior to submittal of building plans for application for building permit to the New Mexico Construction Industries Division.

(2) The applicant is required to fulfill all requirements regarding fire suppression from the Sandoval County Fire Marshall.

(3) The applicant shall submit landscaping site plans that demonstrate compliance with Section 9(2.6) OZ-CORR Corridor Overlay Zone. Landscaping plans must be approved by the Sandoval County Planning and Zoning Division prior to submittal of landscaping plans for building permit to the New Mexico Construction Industries Division.

(4) In the event that the Planning and Zoning Commission denies the applicant's request for a Variance (V-12-001) for parking space dimensions, the applicant will be required to revise the site plans accordingly and will be subject to review and approval by County Planning and Zoning Staff for minimum parking space dimension requirements prior to submittal of plans with an application for building permit to the New Mexico Construction Industries Division.

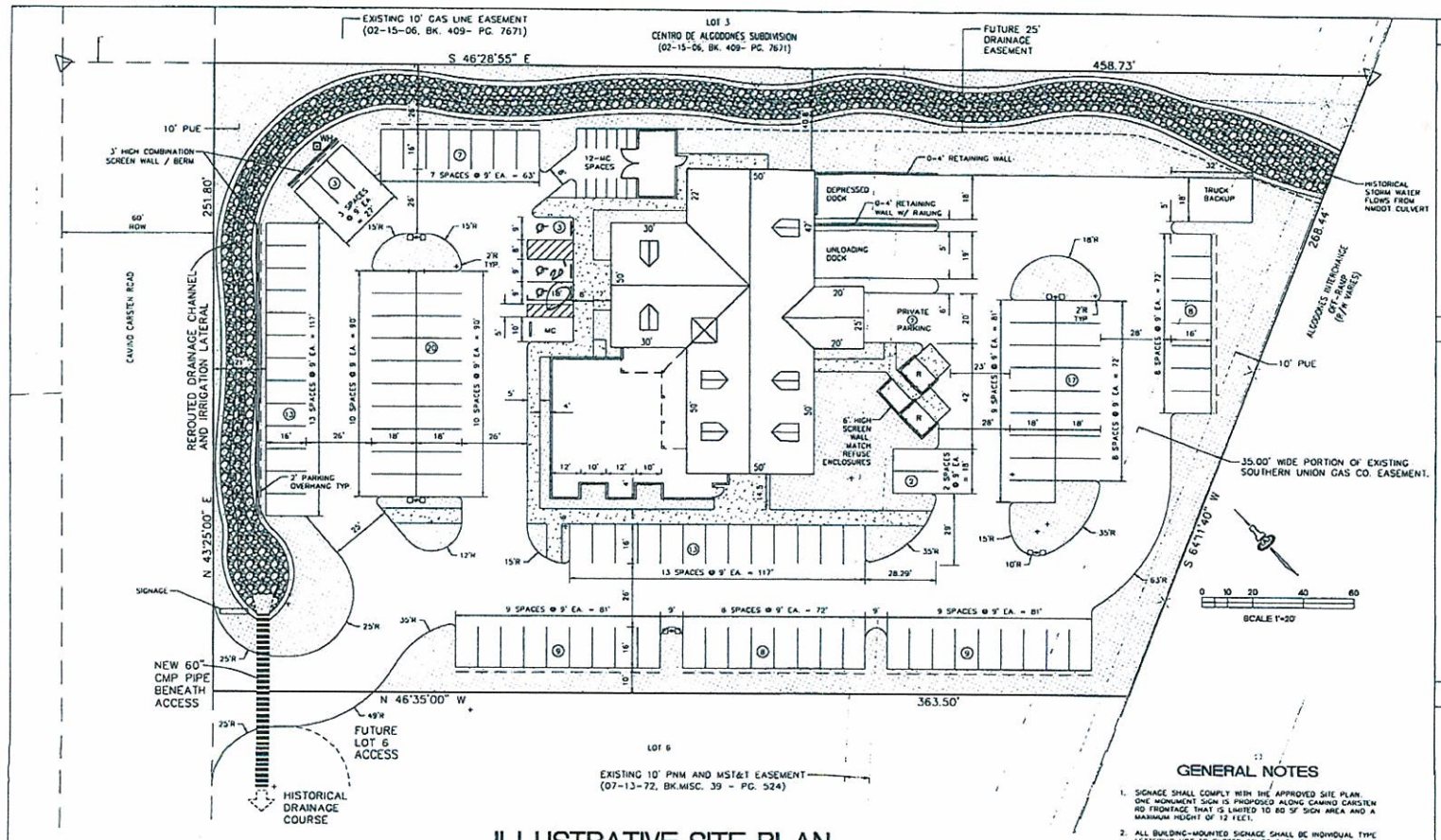
(5) Future development on the subject site is subject to site plans approved by the Sandoval County Planning and Zoning Division. Any substantial change to the site plans shall require approval of the Planning and Zoning Commission.

(6) A Middle Rio Grande Conservancy District (MRGCD) drainage easement extends from the northeast corner of the site along the northern site border, and continues along the west site border and into the adjoining Lot 6 to the south. The source of the water drainage is a culvert facility underneath Interstate 25 that was built by the New Mexico Department of Transportation (NMDOT). Any modifications to the drainage easement must be approved by the MRGCD and the NMDOT.

(7) In order to ensure adequate traffic flow on Camino Carsten Road and access to the subject site, vehicle parking on Camino Carsten Road adjoining the subject site will not be permitted. The applicant will be required to post signs on the Camino Carsten Road frontage adjoining the subject site that prohibit vehicle parking.

(8) In order to protect the surrounding community from unreasonably invasive noise effects, musical entertainment will not be allowed to perform outdoors on the subject site.

(9) Parking area and exterior building lighting shall be in conformance with the New Mexico Night Sky Protection Act, Sections 74-12-1 through 74-12-10 NMSA.



ILLUSTRATIVE SITE PLAN

PROJECT SUMMARY

THE PROPOSED DEVELOPMENT IS SITUATED ON THE SOUTH SIDE OF CAMINO CARSTEN AND WITHIN THE NORTH QUADRANT OF THE I-25 SOUTHBOUND EXIT RAMP AND THE ALGODONES EXIT ROAD CONNECTION I-25 WITH S.R. 313.

THE DEVELOPMENT CONSISTS OF A TWO STORY BUILDING DESIGNED WITH NORTHERN NEW MEXICO ARCHITECTURE. THE SITE HAS A SHARE ENTRANCE WITH THE VACANT PROPERTY TO THE SOUTH AND IS PROGRAMMED TO CONTAIN THE REQUIRED ONSITE CIRCULATION, PARKING, REFUSE, LANDSCAPING AND LIGHTING AS REQUIRED UNDER THE SANDOVAL COUNTY RURAL COMMERCIAL ZONE AND THE OZ-CORRIDOR OVERLAY ZONE.

THE SITE IS BONDERED BY CAMINO CENTRO ROAD AND A NON-OCCUPIED TREE NURSERY / VACANT LAND TO THE NORTH, A VACANT LOT OF SIMILAR ZONING TO THE EAST, THE I-25 / ALGODONES EXIT RAMP TO THE SOUTH AND THE SAID VACANT LOT OF SIMILAR ZONING TO THE WEST.

THE PROPOSED BUSINESS WILL HAVE A MAIN FLOOR USES OF A RESTAURANT WITH FULL SERVICE LIQUOR AND A COMMERCIAL KITCHEN, A GROCERY / LIQUOR STORE AND AND PRODUCE STORAGE COMPRISE THE REMAINDER OF THE FIRST FLOOR. SECOND STORY CONTAINS OFFICE, SECURITY CARETAKER'S QUARTERS AND STORAGE.

THE SITE PLAN COMPLIES WITH THE SETBACK AND HEIGHT REQUIREMENTS OF THE REFERENCED ZONING DOCUMENTS.

GENERAL NOTES

1. SIGNAGE SHALL COMPLY WITH THE APPROVED SITE PLAN. ONE MONUMENT SIGN IS PROPOSED ALONG CAMINO CARSTEN RD FRONTAGE THAT IS LIMITED TO 80 SF SIGN AREA AND A MAXIMUM HEIGHT OF 12 FEET.
2. ALL BUILDING-MOUNTED SIGNAGE SHALL BE INDIVIDUAL TYPE LETTERING NOT TO EXCEED 8% OF EACH BUILDING ELEVATION FACADE.
3. ALL LIGHTING SHALL COMPLY WITH NATIONAL LIGHTING STANDARDS. MAXIMUM HEIGHT OF FIXTURES SHALL BE 20FT.
4. ROOF MOUNTED MECHANICAL EQUIPMENT SHALL BE SCREENED.
5. THE MECHANICAL SYSTEMS (HEATING AND COOLING) AND BUILDING ENVELOPE (WALLS, ROOF, AND WINDOWS) SHALL BE DESIGNED AND MAINTAINED TO PROMOTE EFFICIENT USE OF ENERGY.
6. RAINWATER HARVESTING MEASURES SUCH AS DEPRESSED LANDSCAPE, SHALL BE PROVIDED.
7. RECYCLING CARTS SHALL BE PROVIDED IN THE BUILDING AND PICKED UP THROUGH A PRIVATE CONTRACTOR.
8. ALL SCREENING AND VEGETATION SURROUNDING GROUND-MOUNTED TRANSFORMERS AND UTILITY PADS SHALL ALLOW 10 FEET OF CLEARANCE IN FRONT OF THE EQUIPMENT DOOR AND 5-6 FEET OF CLEARANCE ON THE REMAINING THREE SIDES FOR SAFE OPERATION, MAINTENANCE, AND REPAIR PURPOSES PER PNM DESIGN GUIDELINES.
9. PNM COORDINATION: DEVELOPMENT SHALL ABIDE BY ALL CONDITIONS OR TERMS OF UTILITY EASEMENTS PRIOR TO DEVELOPMENT, CONTACT SHALL BE MADE TO PNM'S NEW SERVICE DEPARTMENT TO COORDINATE ELECTRICAL SERVICE AND OPTIONS FOR THE LOCATION OF ELECTRICAL SERVICE CONNECTION.

VICINITY MAP

PROJECT DATA

LEGAL DESCRIPTION:

ZONING: CONDITION USE PERMIT FOR RURAL COMMERCIAL DISTRICT ZONE + GROCERY & LIQUOR STORE AND OZ-CORR OVERLAY ZONE

AREAS:

TRACT AREA:	2.3764 AC. (103,515 SF)	
BUILDING FOOTPRINT:	9,740 SF	
F.A.R.:	0.094	

PROPOSED USE: RESTAURANT WITH PATIO DINING

PARKING REQUIREMENT:

RESTAURANT (6,340 SF):	1 SP/ 100 SF =	64 SP
GROCERY/RETAIL (2,600 SF):	1 SP/ 200 SF =	13 SP
OFFICE (800 SF):	1 SP/ 200 SF =	4 SP
STORAGE (1,000 SF):	1 SP/ 1000 SF =	1 SP
		72 SPACES

PARKING PROVIDED: 114 SPACES
INCLUDES: 3 HC PARKING
EXCLUDED: 2 TRUCK DELIVER
14 MOTORCYCLE SPACES

LEGEND

O-O	DOUBLE HEAD LIGHT FIXTURE, 20' POLE
WH	EXISTING WELL HEAD
	CENTERLINE DRAINAGE CHANNEL
	PCC (CONCRETE) WALK
	LANDSCAPE AREA
	RIPRAP CHANNEL

ISAACSON & ARFMAN, P.A.
Consulting Engineering Associates
124 Wagner Street N.E.
Albuquerque, New Mexico 87108
Ph. 505.268.4928 www.iaacel.com

1898 CP+101.dwg Aug 17,2012

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ALGODONES GROCERY AND LIQUOR

ILLUSTRATIVE SITE PLAN

Date	No.	Revision	Date	Job No.
Drawn By				PAGE
Chk By				SHL OF

Exh. B.

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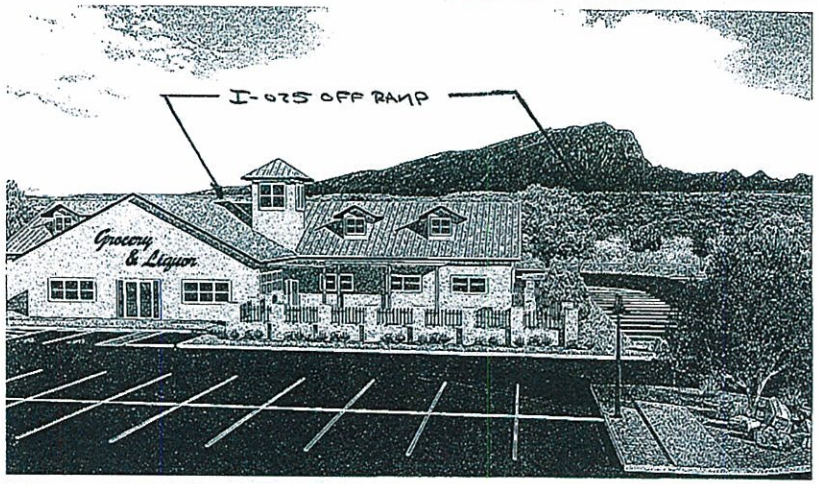
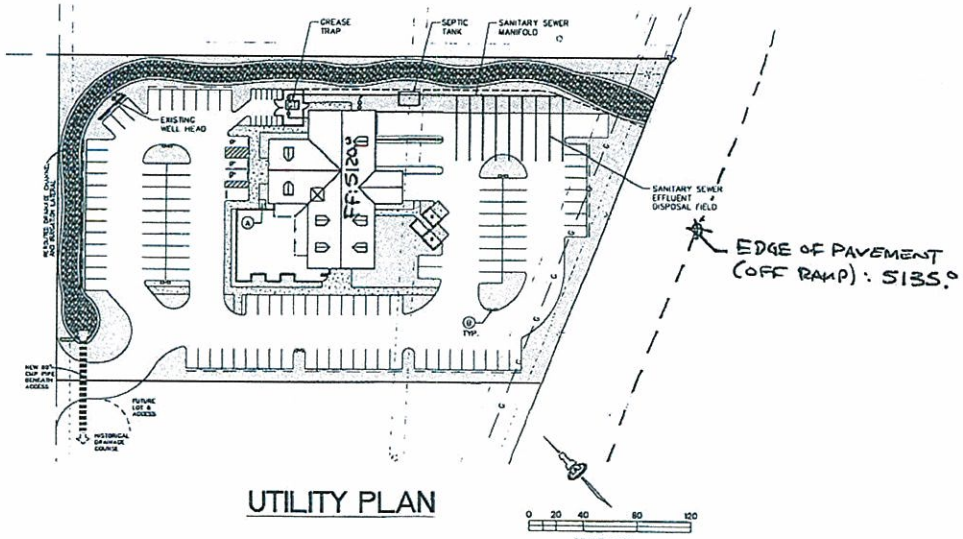
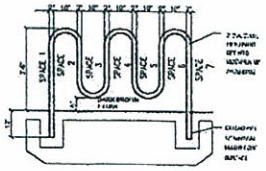


Grocery & Liquor Store

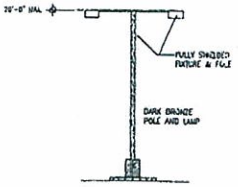
RENDERING



UTILITY PLAN



Ⓐ BIKE RACK DETAIL
NTS



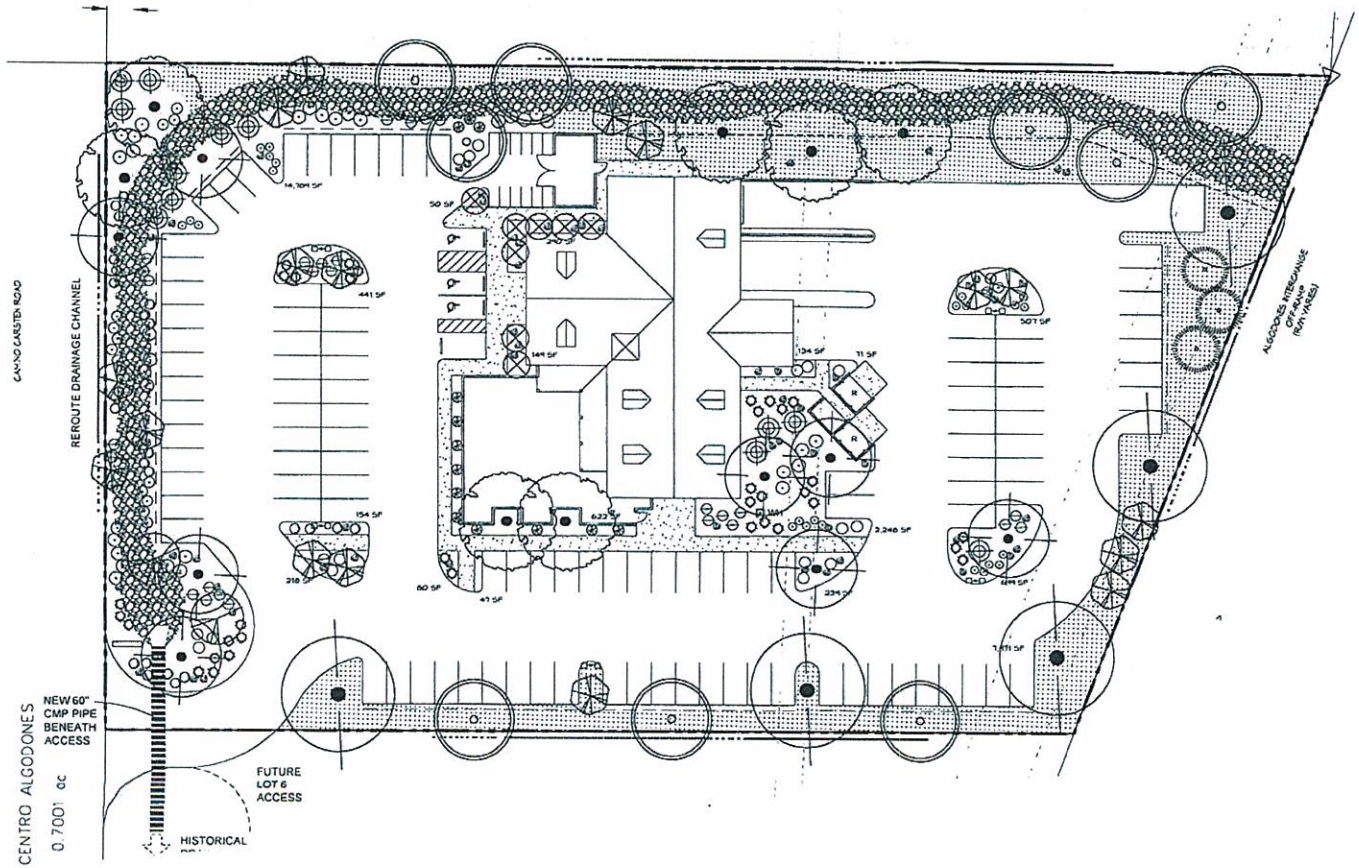
Ⓑ SITE LIGHTING DETAIL
NTS

ISAACSON & ARFMAN, P.A.
Consulting Engineering Associates
Aug 17, 2012

ALGODONES GROCERY AND LIQUOR

UTILITY PLAN, RENDERING AND DETAILS

Date:	No.	Revision	Date	Job No.
Drawn By:				PAGE
Dwl By:				SHL OF



Scale: 1" = 20'

NORTH 10 0 20 40

PLANT LEGEND

SYMBOL	SCIENTIFIC NAME / COMMON NAME	SIZE	INSTALLED SIZE / MATURE SIZE	WATER USE
TREES				
	ACER NEGUNDO BOX ELDER MAPLE	2"B&B	10' HT. X 6' SPR. 35' HT. X 30' SPR.	MEDIUM -
	POPULUS TREMULOIDES QUAKING ASPEN	15 GAL.	10' HT. X 4' SPR. 25' HT. X 10' SPR.	MEDIUM -
	FRAXINUS PENNSYLVANICA GREEN ASH	2.5" B&B	14' HT. X 6' SPR. 45' HT. X 40' SPR.	MEDIUM -
	PINUS PONDEROSA PONDEROSA PINE	B&B	8' MIN HT. 30' HT. X 20' SPR.	MEDIUM
	POPULUS ANGUSTIFOLIA NARROWLEAF COTTONWOOD	2" B&B	14' HT. X 6' SPR. 50' HT. X 50' SPR.	MEDIUM -
	ROBINIA AMBIGUA 'PURPLE ROBE' PURPLE ROBE LOCUST	2" B&B	16' HT. X 6' SPR. 30' HT. X 30' SPR.	MEDIUM
	ACER GINNALA AMUR MAPLE	15 GAL	8' HT. X 4' SPR. 15' HT. X 15' SPR.	MEDIUM
	RUSSIAN HAWTHORN CRATAEGUS AMBIGUA	15 GAL	8' HT. X 4' SPR. 15' HT. X 15' SPR.	MEDIUM
SHRUBS/GROUNDCOVERS				
	AMELANCHIER ALNIFOLIA SERVICEBERRY	5-GAL	8' O.C. 8' HT. X 8' SPR.	MEDIUM
	CHRYSOTHAMNUS NAUSEOSUS RABBITBRUSH	5-GAL	4' O.C. 4' HT. X 4' SPR.	LOW
	HOLODISCUS DUMOSUS MOUNTAIN SPIREA	5-GAL	4' O.C. 2' HT. X 4' SPR.	MEDIUM
	LONICERA TATORICA TARTERIAN HONEYSUCKLE	5-GAL	4' O.C. 3' HT. X 4' SPR.	MEDIUM
	PHILADELPHUS MADRENSIS DESERT MOUNTAIN MOCK ORANGE	5-GAL	4' O.C. 4' HT. X 4' SPR.	MEDIUM
	POTENTILLA FRUTICOSA SHRUBBY CINQUEFOIL	5-GAL	3' O.C. 3' HT. X 3' SPR.	MEDIUM
	RHUS TRILOBATA PROSTRATE PROSTRATE SUMAC	5-GAL	5' O.C. 2' HT. X 5' SPR.	LOW
	SPIRAEA VANHOUTTEI VANHOUTTE SPIREA	5-GAL	4' O.C. 4' HT. X 4' SPR.	MEDIUM
	SYRINGA VULGARIS COMMON LILAC	5-GAL	5' O.C. 7' HT. X 5' SPR.	MEDIUM

GRAVEL MULCH AND ACCENT BOULDERS

CRUSHER FINES
(3" DEPTH OVER DEWITT PRO-5 WEED CONTROL FABRIC)

REVEGETATIVE SEED MIX

RIP RAP
(SEE SITE PLAN FOR TYPE)

MOSS ROCK BOULDERS (3X3' MINIMUM)

AUGUST 2012

ALGODONES
GROCERY & LIQUOR

CONCEPTUAL LANDSCAPE PLAN

Consensus Planning, Inc.
302 Eighth Street NW
Albuquerque, NM 87102

Exh. C.

Fred Arfman

From: Scaglione, Ann, NMENV [ann.scaglione@state.nm.us]
Sent: Wednesday, September 26, 2012 12:10 PM
To: Fred Arfman
Subject: RE: Algodones Property

From: Scaglione, Ann, NMENV
Sent: Tuesday, September 11, 2012 8:02 AM
To: 'Makita Hill'
Subject: RE: Algodones Property

Dear Ms. Hill:
I visited the site on 9/6 for the purpose of excavating two test pits. One was excavated where the tank will go, the other was done at the end of the drainfield. The pits were dug to a depth of approximately 10 feet. Suitable soil was found throughout. The State only requires 4 feet of suitable soil under the bottom of the trench. The flow from the property has been calculated at 1,180 gpd. The tank has been sized at 2000 gal. As per NMEDs regulations. The drainfield has been sized according to soil application rat of 2 x gpd which equals 2,360 sq. foot of drainfield. This is in accordance with **20.7.3 NMAC**.

Please feel free to contact me if you have further questions or concerns.

Dr. Ann Scaglione
Environmental Scientist
New Mexico Environment Department
4359 Jager Dr. NE, Suite B
Rio Rancho, NM 87144

Phone: (505) 771-5980
Fax: (505) 771-5981

From: Fred Arfman [mailto:freda@iacivil.com]
Sent: Wednesday, September 26, 2012 11:19 AM
To: Scaglione, Ann, NMENV
Subject: RE: Algodones Property

Ann,

Let's see if a reply to this e-mail string will work?

Fred

Fred C. Arfman, P.E.
Principal/ President
Isaacson & Arfman, P.A.
Consulting Engineering Associates
128 Monroe St. N.E.
Albuquerque, NM 87108
Phone: (505)268-8828
Fax: (505)268-2632

ATTACHMENT 7

APP-13-001
FRED C ARFMAN
128 MONROE NE
ALBUQUERQUE, NM 87108

APP-13-001
MAINTENANCE 7 LLC
8201 SAN PEDRO NE STE 3
ALBUQUERQUE, NM 87113-1960

APP-13-001
GRITTON
4918 SALIDA BLVD
SALIDA, CA 95368-9403

APP-13-001
BARSHOP/BECKSTRAND
606 S. WINDSOR BLVD
LOS ANGELES, CA 90005-3753

APP-13-001
DEMKOVICH
10100 SAN BERNARDINO NE
ALBUQUERQUE, NM 87122

APP-13-001
HEISE
7116 AZTEC RD NE
ALBUQUERQUE, NM 87110

APP-13-001
WILLIAMS
6 VIA SOLE DR
ALGODONES, NM 87001

APP-13-001
JENNINGS
2 VIA SOLE
ALGODONES, NM 87001

APP-13-001
LARRABEE INC.
P O BOX 273
CORRALES, NM 87048

APP-13-001
LORIE VIGIL
1410 HWY 313
ALGODONES, NM 87001

APP-13-001
MORLEN
1 VIA SOLE DR
ALGODONES, NM 87001

APP-13-001
LOVATO
P O BOX 431
BERNALILLO, NM 87004

APP-13-001
PUEBLO OF SAN FELIPE
P O BOX 4339
SAN FELIPE, NM 87001

APP-13-001
MEL BENTZ
5 HWY 474
ALGODONES, NM 87001

APP-13-001
CHERYL SANCHEZ
4 ARCHIBEQUE DR
ALGODONES, NM 87001

APP-13-001
OBERG
33 VIA LUNA DR
ALGODONES, NM 87001

APP-13-001
MARVIN MENDELOW
1409 HWY 313
ALGODONES, NM 87001

APP-13-001
MARK MEDDLETON
5 CAMINO KARSTEN
ALGODONES, NM 87001

APP-13-001
HEARD
22 VIA SOLE
ALGODONES, NM 87001

ATTACHMENT 8

Agenda Item Number: _____

SANDOVAL COUNTY
BOARD OF COUNTY COMMISSIONERS

Date of Commission Meeting: January 10, 2013

Division / Elected Office: Planning and Zoning

Staff Contact: Makita Hill (ext. 1656)

Title of Item: **APPEAL** (APP-13-001) of the October 25, 2012 Sandoval County Planning and Zoning Commission decision (CU-12-003) to deny a request for a Conditional Use Permit to allow operation of a restaurant and grocery later than 9:00 pm. The subject site is located at Lot 7, Centro de Algodones subdivision, in the Algodones community, adjacent to the northeast portion of the intersection of Interstate 25 and NM 313. The site is approximately 2.3764 acres. The subject site is currently under RC (Rural Commercial) and OZ-CORR (Corridor Overlay) zoning. The **APPELANT** is William Baldwin.

Action Requested: Planning and Zoning Division staff requests review and consideration of the above stated APPEAL request.

Summary: On October 25, 2012, the Planning and Zoning Commission reviewed a request for a Conditional Use Permit (CU-12-003) to allow for the operation of a restaurant and a grocery past the hours of 9:00pm for Lot 7, Centro de Algodones. It is the intention of the applicant, William Baldwin, to seek a license for full alcoholic beverage service for the restaurant and a license for sale of package alcoholic beverages in the grocery. The zoning for the subject site, Rural Commercial (RC), does not specify the sale and service of alcoholic beverages as a use, the activity falls under the general category of "business, service, and commercial establishments" (Section 9(3), Rural Commercial District, Subsection B(2), Comprehensive Zoning Ordinance). Staff recommended approval of the Conditional Use Permit request based on the applicant providing the required information for the request as established in Section 17, Conditional Use Permit, Subsections A-D, Comprehensive Zoning Ordinance. This request was found to be consistent

Agenda Item Number: _____

with policies in the Sandoval County Comprehensive Plan and the Algodones Area Development Policy, as noted in the staff Planning and Zoning Commission report.

Citizens living in Algodones attended the meeting and gave testimony regarding concerns with the sale of package liquor that addressed the potential for driving under alcohol influence, package liquor related litter, breaking and entering private property, and assault, as well as concerns from noise from the restaurant from outdoor music speakers. The review guidelines for a Conditional Use Permit request are established in Section 17, Conditional Uses, Subsection D 1-6, Comprehensive Zoning Ordinance. The Planning & Zoning Commission voted to deny the request for the Conditional Use Permit CU-12-003 based on Subsection D(6) regarding the overall health and safety of the community. Specifically, the Planning and Zoning Commission's Finding regarding denial of this request noted ..."the incompatibility of the proposed use with the surrounding community and to protect the overall health and safety of the community..." Under the existing RC zoning, the restaurant and grocery may be built and operated by the applicant, provided that the restaurant and grocery activities do not operate past the hours of 9:00 pm. The Planning and Zoning Commission's decision is not related to any applications the applicant is pursuing regarding the sale and service of alcoholic beverages on the subject site.

The applicant has submitted all the required materials for an APPEAL of the Planning and Zoning Commission's decision regarding the Conditional Use Permit, as established in Section 22, Appeals, Comprehensive Zoning Ordinance.

Attachments:

Copy of October 25, Planning and Zoning Commission CU-12-003 Staff Report.
Copy of Application for Request for Conditional Use Permit.
Copy of Minutes of October 25, 2012 Planning and Zoning Commission Hearing.
Copy of Letter of Notice of Decision to Mr. William Baldwin dated October 30, 2012.
Copy of Application for Request for Appeal and Supporting Documentation.

Agenda Item Number: _____

FISCAL IMPACT

None

STAFF ANALYSIS SUMMARY

County Manager:	
Initiating Elected Official / Division Director:	Reviewed and Approved MRS.
Legal:	This appeal is a quasi-judicial; proceeding that requires the swearing in of witnesses and the opportunity for cross examination.
Finance:	(Not sent for review – no fiscal impact)

ATTACHMENT 9

SANDOVAL COUNTY ADMINISTRATIVE OFFICES

BOARD OF COUNTY COMMISSIONERS

DARRYL F. MADALENA
District 5, Chairman

ORLANDO J. LUCERO
District 1, Vice Chairman

DON E. LEONARD
District 2

DON G. CHAPMAN
District 3

GLENN WALTERS
District 4

PHILLIP RIOS
County Manager

January 14, 2013

Mr. William E. Baldwin
726 Pueblo Solano NE
Albuquerque, NM 87107

SUBJECT: **APPEAL (APP-13-001)** of the October 25, 2012 Sandoval County Planning and Zoning Commission decision **(CU-12-003)** to reject a request for a Conditional Use Permit to allow operation of a restaurant and grocery later than 9:00 pm. The subject site is located at Lot 7, Centro de Algodones subdivision, in the Algodones community, adjacent to the northeast portion of the intersection of Interstate 25 and NM 313. The site is approximately 2.3764 acres. The subject site is currently under RC (Rural Commercial) and OZ-CORR (Corridor Overlay) zoning. The **APPELANT** is William Baldwin.

Dear Mr. Baldwin:

At their regular public meeting on January 10, 2013, the Sandoval County Board of County Commissioners voted to remand CU-12-003 to the Sandoval County Planning & Zoning Commission, with instructions to review and consider only the portion of the application regarding hours of operation. The County Commission's decision was based on the submittal of new information regarding the CU-12-003 request upon which the APPEAL was based.

CU-12-003 is tentatively scheduled to be reviewed by the Sandoval County Planning and Zoning Commission at their February 28, 2013 public hearing. Upon confirmation of this schedule, additional information will be sent to you.

If you have any further questions concerning this matter, please do not hesitate to contact me at (505) 867-7656.

Sincerely,

Makita Hill

Makita Hill,
Long Range Senior Planner

XC: Mike Springfield, Director, Planning and Zoning Division
Brad Stebleton, Senior Planner, Planning and Zoning Division

ATTACHMENT 10

SANDOVAL COUNTY ADMINISTRATIVE OFFICES

BOARD OF COUNTY COMMISSIONERS

DARRYL F. MADALENA
District 5, Chair

NORA M. SCHERZINGER
District 2, Vice Chair

ORLANDO J. LUCERO
District 1

DON G. CHAPMAN
District 3

GLENN WALTERS
District 4

PHILLIP RIOS
County Manager

February 14, 2013

To: Sandoval County Planning and Zoning Commission
From: Makita Hill, Long Range Senior Planner
Re: CU-12-003 Remand from County Commission

On October 25, 2012, the Planning and Zoning Commission reviewed CU-12-003, a request for a Conditional Use Permit to allow for the operation of a restaurant and a grocery past the hours of 9:00 pm for Lot 7, Centro de Algodones. It is the intention of the applicant, William Baldwin, to seek a license for full alcoholic beverage service for the restaurant and a license for sale of package alcoholic beverage in the grocery. The zoning for the subject site, Rural Commercial (RC), does not specify the sale and service of alcoholic beverages as a use, the activity falls under the general RC category of "business, service, and commercial establishments" (Section 9(3),Rural Commercial District, Subsection B(2), Comprehensive Zoning Ordinance). Staff recommended approved of the Conditional Use Permit request based on the applicant providing the reqired information for the request as established in Section 17, Conditional Use Permit, Subsections A-D, Comprehensive Zoning Ordinance. This request was found to be consistent with policies in the Sandoval County Comprehensive Plan and the Algodones Area Development Policy, as noted in the staff Planning and Zoning Commission report for this case.

Citizens living in Algodones attended the meeting and gave testimony regarding concerns with the potential sale of package liquor past the hour of 9:00 pm. The Planning and Zoning Commission voted to deny the request for the Conditional Use Permit CU-12-003 based on Subsection D(6) regarding the overall health and safety of the community. Specifically, the Planning and Zoning Commission's Finding regarding denial of this request noted "...the incompatibility of the proposed use with the surrounding community and to protect the overall health and safety of the community...". Under the existing RC zoning, the restaurant and grocery may be built and operated by the applicant, provided that the restaurant and grocery do not operate past the hours of 9:00 pm.

The applicant filed an Appeal to the Sandoval County Board of County Commissioners regarding the Planning and Zoning Commission's decision (APP-13-001) and the Appeal was presented at the January 10, 2013 Board of County Commissioners meeting. As the applicant had prepared to present new evidence for the Appeal that had not been reviewed by the Planning and Zoning Commission, the Board of County Commissioners Remanded the case to the Planning and Zoning Commission for review of the new evidence. The Board of County Commissioners also sent instructions to the

Planning and Zoning Commission to review the Remanded case to make a decision only on the hours of operation for the restaurant and grocery based on new evidence.

The packet of information for the Planning and Zoning Commission includes this memo, a copy of the October 25, 2012 staff report for CU-12-003, and a copy of the material submitted by the applicant for Appeal APP-13-001. There are no changes to the staff recommendations regarding this request.

If you have any questions regarding this case, please contact me at the Planning and Zoning Division at 867-7656.

XC: Michael Springfield, Director, Planning and Zoning Division
Brad Stebleton, Senior Planner, Planning and Zoning Division
Kelly Romero, Support Coordinator, Planning and Zoning Division

ATTACHMENT 11

SANDOVAL COUNTY
PLANNING AND ZONING COMMISSION
PUBLIC HEARING
Thursday, March 28, 2013

DRAFT

PRESENT:	John Arango, Chairman	Bob Cote, Member	
	Larry McClain, Member	James G. Maduena, Member	
	Michael Springfield, Director	Brad Stebleton, Planner	
	Makita Hill, Planner	Patrick Trujillo, County Attorney	
	Kelly Romero, Commission Secretary		
ABSENT:	Pat Vester, Vice Chairman	Gino Rinaldi, Member	Vacant, Member

OTHERS PRESENT: Public Attendees - See attached list

1. **CALL TO ORDER –** Chairman Arango called the meeting to order at 6:00 pm.

2. **PLEDGE OF ALLEGIANCE**

3. **ROLL CALL**
Chairman Arango, Commissioners Cote, McClain, and Maduena were present.

4. **APPROVAL OF AGENDA**
Motion to approve by Commissioner Cote; second by Commissioner McClain. VOTE: Unanimous.

5. **APPROVAL OF JANUARY 24, 2013 MINUTES**
Motion to approve by Commissioner Cote; second by Commissioner Maduena. VOTE: Unanimous.

6. **PUBLIC HEARINGS** Anyone wishing to speak on any hearing item must be sworn in prior to giving testimony. The Planning Commission reserves the right to limit the time for individual testimony based on the number of persons wishing to speak.

   A. **CU-12-003** Request by Fred C. Arfman (Isaacson & Arfman, P.A.), Agent for William Baldwin, for a Conditional Use in the RC (Rural Commercial) and OZ-CORR (Corridor Overlay) Zones. The subject site is Lot 7, Centro de Algodones subdivision, in the Algodones community, adjacent to the northeast portion of the intersection of Interstate 25 and NM 313. The site is approximately 2.3764 acres.

   The purpose of the request is to allow for hours of operation of a restaurant/grocery use within a Planned Commercial Development later than 9:00 pm. This request was denied by the Planning and Zoning Commission at a public hearing on October 25, 2012 and was appealed to the Board of County Commissioners. The Board of County Commissioners has REMANDED this request back to the Planning and Zoning Commission for further review.

   Planner Makita Hill presented the Request and Chairman Arango displayed a map showing the specific location of the proposed site in relation to I-25.

   Josh Skarsgard, an attorney representing the Applicant, introduced William Baldwin and Fred C. Arfman and requested that Mr. Baldwin present information to the P & Z Commission.

   Mr. Baldwin explained the site plan, detailed the proposed type of operation, access to freeway, music to be played, exterior lighting plan, security camera placement, and number of managers to be employed.

   Chairman Arango requested that he describe specifically the type of operation proposed as many different descriptions had been previously provided.

Mr. Baldwin stated that the concept had evolved, that he considered the Request for a tavern which he considered a restaurant/bar.

Discussion ensued between Mr. Baldwin and the P & Z Commissioners about his acquisition of the property, other operations in Albuquerque, and location of entrance to property and gate.

Chairman Arango clarified that the issue under consideration by the P & Z Commission is only the matter of operations being allowed after 9 pm. The basic use of the Request is permissive. Attorney Skarsgard agreed that the Request is limited to allowing a closing time of 2 am.

Discussion followed between Chairman Arango, Director Springfield, Attorney Skarsgard, Mr. Baldwin and the P & Z Commissioners regarding Sandoval County Ordinances relating to Sunday liquor sales, package liquor sales, standards for Conditional Use applications, customer base for the Request, traffic volume on I-25 between Albuquerque and Santa Fe, projected percentage of business to be conducted after 9 pm, planned lighting, number of seats proposed in building, and number of seats indicated on NMED permit issued for the septic system.

Attorney Skarsgard reviewed the Guidelines for Conditional Uses from the Sandoval County Comprehensive Zoning Ordinance, Section 17, D. detailing how the Request met each requirement. He further stated that Mr. Baldwin planned to employ local labor and the gross receipts from the operation were projected in the six figure range.

County Attorney Trujillo reiterated that the only issue for the P & Z Commission to act on is extending closing time past 9 pm. He stated his opinion that Section 17, D. of the Comprehensive Zoning Ordinance is the only criteria for the decision.

PUBLIC COMMENT:

Melvin Bentz – Comments about extended hours, risks to the community, intoxication, vandalism, narrow streets in Algodones, lack of public transportation, lack of available law enforcement personnel.

Daryl Candelaria – San Felipe Tribal Administrator representing the Pueblo Governor; states the Pueblo is opposed; concerns with safety, dwi, alcoholism, and proximity of new housing units in San Felipe.

P. Heise – No comment.

Mary Oberg – Concern with package store.

Marvin Mendelow – Presents a petition with 75 signatures opposing the proposed operation. Concerns with liquor license application being inconsistent with the NMED application, drain field location, well location and flow rate, comments about adjacent vs. adjoining, possible violation of due process.

Attorney Skarsgard and Mr. Baldwin responded to concerns expressed during the public comment portion of the meeting. They stated that overserving is a cause of driving while intoxicated and Mr. Baldwin's operations stressed employee training and not serving more than one drink per hour to each patron. Their managers are responsible for ensuring safe transport home for patrons. They stated that Fred Arfman can respond to concerns about the water and septic systems if the P & Z Commission desired. Attorney Skarsgard discussed the expected route of I-25 travelers exiting to purchase food.

County Attorney Trujillo explained the revocation process for conditional uses.

Attorney Skarsgard proposed additional conditions that would be acceptable to the Applicant such as security cameras, adequate lighting, and mandatory training for servers.

County Attorney Trujillo, Chairman Arango and Attorney Skarsgard discussed other conditions which might be imposed such as limited seating, drafting of conditions by the Applicant, drinking and driving, personal responsibility and liquor sales in Algodones.

PUBLIC COMMENT:
Mary Oberg – Concerns with alcoholics and overserving.

Melvin Bentz – Comments about conditions, server training, overserving, possible extended hours of operation .

Chairman Arango makes a motion to deny the CU-12-003 based on a Finding that remaining open past 9 pm presents a threat to the communities of Algodones and San Felipe. Seconded by Commissioner Cote.

Discussion by P & Z Commissioners about the effect of the proposed operation on the surrounding communities, noise, traffic, prior liquor establishments in the Algodones area, health and safety issues and law enforcement availability.

Attorney Skarsgard inquires whether a denial means that the entire operation must close by 9 pm; County Attorney Trujillo responds that is correct.

VOTE: Unanimous.

B. **TU-13-001** Request by Bruce Taylor, Agent for Copar Pumice Company, for a Temporary Use in the RRA (Rural Residential Agricultural) Zone to allow a Pipe Yard for a period not to exceed 24 months. The temporary use is to be situated within 13.135 acres of the Santa Barbara Place Mining Claim #7, Mineral Survey #2154 located within Section 12, Township 15 North, Range 1 East, NMPM, Sandoval County, NM. The property in question is located west of Highway 550 just south of the Village of San Ysidro.

Planner Stebleton presents the Request stating that he recommends approval based on the findings with two (2) Conditions.

CONDITIONS

1. The uses in question will terminate no later than February 28, 2015.
2. Prior to the termination of the permit the land will be restored as per terms of the property lease.

Bruce Taylor, Agent for Copar Pumice Company, states that the property is to be used as a pipe yard for a project from Farmington to Hobbs. The pipe to be stored will be 60" long. There are measures being taken to control dust and noise. All other required permits are in place.

After brief discussion with the P & Z Commissioners, Mr. Taylor shows photos of the site and explains the storage method for the pipe.

Motion to approve TU-13-001 with Findings and Conditions by Commissioner Cote; second by Commissioner McClain. VOTE: Unanimous.

C. **TU-13-002** Request by Bruce Taylor, Agent for Eugene Johnson & Sons Ranch, for a Temporary Use in the RRA (Rural Residential Agricultural) Zone to allow a Pipe Yard for a period not to exceed 24 months. The temporary use is to be situated within 15.137 acres located along Highway 197 and within Section 20, Township 20 North, Range 2 West, NMPM, Sandoval County, NM. The property in question is located approximately five and one half miles southwest of the Village of Cuba.

Planner Stebleton presents the Request stating that he recommends approval based on the findings with three (3) Conditions.

CONDITIONS

1. The uses in question will terminate no later than February 28, 2015.
2. Prior to the termination of the permit the land will be restored as per terms of the property lease.
3. Prior to commencement of the proposed activity the applicant will have an approved permit from the Department of Transportation for access onto State Highway 197.

Bruce Taylor, Agent for Copar Pumice Company, states that the property is to be used as a pipe yard.

Planner Stebleton notes that the DOT permit has been obtained.

Motion to approve TU-13-002 with Findings and Conditions by Chairman Arango; second by Commissioner McClain. VOTE: Unanimous.

D. **TU-13-003** Request by Thomas Ashe, Agent for Trails Investors LLC, for a Temporary Use in the MP (Master Planned District) Zone to allow a Gravel Screener to be operated for a period not to exceed 24 months. The proposed temporary use is to be situated within Tract 9-B-3-A-1, Petroglyph Trails (Future Phase 2) just north of Petroglyph Trails Road and within projected Section 28, Township 13 North, Range 4 East, NMPM, Placitas, Sandoval County, NM.

Planner Stebleton presents the Request stating that he recommends approval based on the findings with four (4) Conditions.

CONDITIONS

1. The gravel screening use will terminate no later than February 28, 2015.
2. A grading and drainage plan for the site shall be submitted for review and approval by the County Engineer.
3. The applicant will obtain any required state or federal permits for this activity.
4. Any material screened onsite will be used in the Petroglyph Trails Subdivision. The remaining spoil can be removed from the subdivision buy cannot be used by the applicant for commercial purposes.

Thomas Ashe, representing the Applicant, showed photos of the screening equipment and requested that the permit be limited to a one year period, rather than two years.

Brief discussion ensued between the P & Z Commissioners and Mr. Ashe regarding the terrain after the screening is complete, the hours of operation and the proximity of neighbors.

PUBLIC COMMENT:

Orin Safier – Stated that ES-CA fully agrees with the Request as long as the time is limited to 12 months.

Motion by Commissioner Maduena to approve TU-13-003 based on the findings with the Conditions proposed (Condition #1 changed to terminate no later than February 28, 2014); seconded by Commissioner Cote. VOTE: Unanimous.

E. **TU-13-004** Request by FNF Construction Inc., Agent for Tom Ashe/Trails Investors LLC, for a Temporary Use Permit for an on-site office trailer and grading/removal of bulk soil material for a period not to exceed 24 months. The proposed temporary use is to be situated within Tract 9-B-1, Lands of Liberman-Grevey and within projected Section 28, Township 13 North, Range 4 East, NMPM, Placitas, Sandoval County, NM, located adjacent to the I-25 Frontage Road north of NM 165. The subject sit contains approximately 2 acres.

Mr. Ashe states that the Request will no longer include an on-site office trailer.

Planner Makita Hill presents the Request stating he recommends approval based on the Findings with three (3) Conditions.

CONDITIONS

1. The grading/removal of bulk soil material use will terminate no later than March 28, 2015.
2. A plan for grading, drainage, reclamation, and financial security, which meets the standards established in Section 10(1), Sand and Gravel Mining, Subsection F, Sandoval County Comprehensive Zoning Ordinance, shall be submitted for review and approval by the County Engineer within 30 days of the approval for this request.
3. The applicant will obtain any required state or federal permits for this activity, and provide copies of these permits to Sandoval County Planning and Zoning Division.

Motion to approve with Findings and Conditions by Commissioner Cote; seconded by Commissioner Maduena. VOTE: Unanimous.

F. Request by Sandoval County Planning and Zoning Division for recommendation of APPROVAL for the Rio Rancho Estates Area Plan to be forwarded to the Sandoval County Board of County Commissioners for their review and consideration.

Planner Hill presented the Request stating that the Plan had been extensively revised due to public comment and P & Z Commissioner input. He detailed the process for eventual adoption.

Motion to approve Request by Commissioner Cote; seconded by Commissioner McClain. VOTE: Unanimous.

7. **STAFF REPORT** - At the discretion of the Planning & Zoning Commission the Public may comment on the discussed items after the Staff has completed their report.

None

8. **DISCUSSION ITEMS –** These items are presented for discussion and recommendation. At the discretion of the Planning & Zoning Commission the public may comment on these items.

None

9. **PUBLIC COMMENT**

None

10. **PLANNING COMMISSION COMMENT**
None

11. **ADJOURNMENT**
The meeting was adjourned by acclamation at 8:15 pm.

ATTACHMENT 12

SANDOVAL COUNTY ADMINISTRATIVE OFFICES

BOARD OF COUNTY COMMISSIONERS

DARRYL F. MADALENA
District 5, Chair

NORA M. SCHERZINGER
District 2, Vice Chair

ORLANDO J. LUCERO
District 1

DON G. CHAPMAN
District 3

GLENN WALTERS
District 4

PHILLIP RIOS
County Manager

April 4, 2013

Mr. William E. Baldwin
726 Pueblo Solano NE
Albuquerque, NM 87107

SUBJECT: **CU-12-003** Request by Fred C. Arfman (Isaacson & Arfman, P.A.), Agent for William Baldwin, for a Conditional Use in the RC (Rural Commercial) and OZ-CORR (Corridor Overlay) Zones. The subject site is Lot 7, Centro de Algodones subdivision, in the Algodones community, adjacent to the northeast portion of the intersection of Interstate 25 and NM 313. The site is approximately 2.3764 acres. REMAND from the Board of County Commissioners for further review.

Dear Mr. Baldwin:

At their meeting of March 28, 2013, the Sandoval County Planning & Zoning Commission **denied** the above referenced request, based upon the following Finding:

Denial of request due to inconsistency of request with Comprehensive Zoning Ordinance, Section 17, Conditional Uses, Subsection D(6) regarding health and safety of the community.

The result of this ruling is that you may pursue construction and operation of the restaurant/grocery use, provided the operation of the use does not extend past 9:00 pm. This letter does not grant approval for construction of the use nor approval for any licensing related to its operation.

Pursuant to Section 22 of the Comprehensive Zoning Ordinance, you have the right to appeal this decision to the Board of County Commissioners. In order to exercise this right you must file a completed application for appeal with the Planning & Zoning Division within thirty (30) days of the date you receive this letter.

If you have any further questions concerning this matter, please do not hesitate to contact me at (505) 867-7656.

Sincerely,

Makita Hill

Makita Hill,
Long Range Senior Planner

XC: Mike Springfield, Director, Planning and Zoning Division
Patrick Trujillo, County Attorney
Brad Stebleton, Senior Planner, Planning and Zoning Division

ATTACHMENT 13

SANDOVAL COUNTY ADMINISTRATIVE OFFICES

BOARD OF COUNTY COMMISSIONERS

DARRYL F. MADALENA
District 5, Chair

NORA M. SCHERZINGER
District 2, Vice Chair

ORLANDO J. LUCERO
District 1

DON G. CHAPMAN
District 3

GLENN WALTERS
District 4

PHILLIP RIOS
County Manager

May 14, 2013

Joshua J. Skarsgard
The Skarsgard Firm, P.C.
8220 San Pedro NE, Suite 500
Albuquerque, NM 87113

Dear Mr. Skarsgard,
This letter serves as certified notice that your appeal case to the Sandoval County Board of County Commissioners (APP-13-001) will be heard at their regular meeting on June 6, 2013, 6:00 pm, County Commission chamber. If you have any questions on the scheduling of this case, please contact me at your convenience.

Best Regards,

Makita Hill

Makita Hill
Long Range Senior Planner
Sandoval County Planning and Zoning
1500 Idalia Rd Bldg D
Bernalillo NM 87004
(505) 867-7656
mhill@sandovalcountynm.gov

cc: Michael Springfield, Director, Sandoval County Planning and Zoning Division
Brad Stebleton, Senior Planner, Sandoval County Planning and Zoning Division

ATTACHMENT 14

THE Skarsgard Firm, P.C.

JOSHUA J. SKARSGARD, ESQ.
ATTORNEY AT LAW

8220 SAN PEDRO NE, SUITE 500
ALBUQUERQUE, NM 87113
TEL: (505) 262-2323
FAX: (505) 998-9099

May 3, 2013

Makita Hill
Long Range Planner
Sandoval County Planning and Zoning
1500 Idalia Rd Bldg D
Bernalillo NM 87004
(505) 867-7656
Email: mhill@sandovalcountynm.gov

Re: Appeal of the Sandoval County Planning and Zoning Commission Denial of the Application (CU-12-0003).

Dear Mr. Hill and Sandoval County:

Please be advised that The Skarsgard Firm, P.C. ("**Firm**" or "**Agent**") represents Mr. William Baldwin ("**Applicant**" or "**Client**") regarding the appeal of Conditional Use (CU-12-003) ("**Application**").

FACTS:

The Application submitted by the Applicant requested extended hours of operations past the 9:00 PM closing time as established by the Sandoval County Zoning Code for the RC - Rural Commercial District; Section 9 (3).C.7. "Any commercial enterprise in which activities may be conducted earlier than 6:00 A.M. or later than 9:00 P.M." The Applicant requested that the hours of operation be extended to 2:00 AM as allowed by the State of New Mexico regulatory laws governing the sale of alcohol. On the 28th of March, 2013 the Sandoval County Planning and Zoning Commission ("**Commission**") held a public hearing ("**P & Z Hearing**") whereby they received testimony from the Applicant and "neighbors" expressing interest in the development of "Lot 7, Centro de Algodones Subdivision" ("**Subject Property**").

DECISION:

The Commission mailed the Notice of Decision ("**Decision**") denying the application on the 4th day of April, 2013. The Decision stated as its justification for the denial the following: "*Denial of request due to inconsistency of request with Comprehensive Zoning Ordinance, Section 17, Conditional Uses, Subsection D(6) regarding health and safety of the community.*"

AUTHORITY TO FILE AN APPEAL

Section 22 of the Sandoval County Comprehensive Zoning Ordinance ("**Zone Code**") provides the basis for appealing the Application. Specifically, Section (A.) of the Zone Code states: "*Such appeal must set forth specifically wherein it is claimed there was an error or an abuse of discretion, or where the decision was not supported by evidence in the matter.*" Section D. indicates that "*Any review of a decision of the Zoning Commission by the County Board shall be confined to the record of the proceedings, which shall include:*

1. All materials, pleading, memoranda, stipulations, and motions submitted by any party to the proceeding and received or considered by the Zoning Officer or Zoning Commission as evidence;

2. All materials submitted to the Zoning Officer with respect to any application(s);

3. The minutes and/or tape recording of the public hearing(s) held by the Zoning Commission;

4. The findings of fact and conclusions of law entered by the Zoning Commission following their decision; and

5. Argument confined to the record by the parties or their legal representatives at the time of review before the County Board.

JUSTIFICATION FOR THE APPEAL: "DECISION NOT SUPPORTED BY EVIDENCE IN THE MATTER" (STAFF REPORT)

The Applicant believes that the Decision was not supported by evidence in the matter. Specifically, the P & Z Commission overturned the recommendation of the Staff Planner to approve the conditional use subject to nine conditions of approval.

The staff report ("**Staff Report**") prepared by the Sandoval County Planning & Zoning Division staff contained "Staff Recommendations" dated October 18, 2012 (attached) listed nine findings and nine conditions. The case planner recommended that the Planning & Zoning Commission **APPROVE** the request based on the nine findings and subject to the nine conditions. The Owner did not take exception to the conditions as listed. The Staff Report would like to be inserted into the record proper as substantial evidence that the Planning and Zoning Commission's decision was reached in error, and not supported by substantial evidence in the record.

JUSTIFICATION FOR THE APPEAL: "THE P & Z COMMISSION ERRED BY NOT APPLYING ZONE CODE SECTION 17 PARAGRAPH (D)"

The P & Z Commission erred in issuing its Decision by not correctly factoring Section 17 of the Zone Code appropriately. Specifically, Section 17 Paragraph D of the Zone Code states: "*The Zoning Commission shall not approve any conditional use unless satisfactory provision has been made concerning:*

1. Accessibility to the property and existing and/or proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe;

2. Off-street parking and loading areas where required, with particular attention to the refuse and service areas;

3. Water and liquid waste facilities, with reference to soil limitations, locations, and public health.

4. The economic, noise, glare, or odor effects of the conditional use on adjoining properties;

5. The general compatibility of the proposed use with actual or prospective permissive use of adjacent properties; and

6. The overall health and safety of the community.

All six of the above required conditional use guidelines were addressed successfully by the Applicant in the original Application and deemed complete by the Sandoval County Planning Department Staff (per the Staff Report). The Applicant's response to the six conditional use guidelines is summarized as follows:

1. *Accessibility to the property and existing and/or proposed structures thereon, with particular reference to automobile and pedestrian safety, traffic control, and emergency access in case of fire, flood or catastrophe;*

Applicant Response: The site (see attached Illustrative Site Plan) will have public access off of Centro Algodones approximately 260 feet northeast of its' intersection with NM SR 315. The driveway is proposed as a shared access with the vacant lot to the west in order to reduce the vehicular conflict points on Centro Algodones and to reduce the multiple irrigation ditch crossings to a single 60" diameter culvert crossing structure. This access to the property is acceptable for commercial property in Sandoval County and in compliance with the Zone Code.

2. *Off-street parking and loading areas where required, with particular attention to the refuse and service areas;*

Applicant Response: The off-street parking requirement of 72 parking spaces is met and exceeded by providing between 106 -114 spaces. The extra off-street parking allows for the public street to be posted for "No Parking", thereby creating a safer, less congested public thoroughfare. The refuse and service areas are situated to the rear of the building and away from the customer parking and screened from view by the proposed building. The off-street parking and loading areas are design to be completely compliant with Zone Code and Sandoval County regulations.

3. *Water and liquid waste facilities, with reference to soil limitations, locations, and public health.*

Applicant Response: The site is served by an existing well (New Mexico Office of the State Engineer, File No. RG-83980) located near the northeast corner of the site. The well is proven as yielding 100 gpm which is more than adequate to serve the retail business. Onsite sanitary sewer disposal test pits were excavated in the presence of Dr. Ann Scaglione, NM Environmental Health Department (NMEH) that provided visual evidence that the site soils were compatible with the required onsite disposal field to adequately serve the retail business. A correspondence from the NMEH was provided to the Case Planner on Sept. 11, 2012 stating that the site was suitable for the onsite disposal system (correspondence attached). Again, has successfully planned and designed the project to comply with Sandoval County water and liquid waste regulations and ordinances and exceeds all public health regulations.

4. *The economic, noise, glare, or odor effects of the conditional on adjoining properties;*

Applicant Response: The adjoining properties would benefit from the proposed retail business because of the professional quality construction of the site improvements and the increase in valuation of the adjacent properties as a result of this project. The noise generated by his similar three retail businesses is minimal and the site noise is reduced by the existing noise from the vehicular traffic on the north and south bound lanes of I-25. In short, the noise does not travel in a manner that will substantively exceed the existing noise generated from the interstate traffic (which is 24 hours a day 7 days a week). The site building materials and business operations will not produce glares or odors affecting the adjoining properties. The Applicant (Mr. Baldwin) operates a restaurant and bar in Albuquerque that is located much closer to residential zoning and never has concerns about the noise generated from his businesses.

5. *The general compatibility of the proposed use with actual or prospective use of adjacent properties; and,*

Applicant Response: The adjacent properties are vacant and were platted in the same Centro de Algodones Subdivision as approved by the Sandoval Planning Commission on June 6, 2006 and have the same zoning. As such, the future permissive uses approved in this zone should be compatible. There is no indication that this property will adversely impact the zoning or future uses of the surrounding property (zoned commercial in 2006).

6. *The overall health and safety of the community.*

Applicant Response: The Applicant has a track record of running a high quality restaurant and bar that will not adversely impact the neighboring properties either economically or via sound, glare, odor or other effects. Additionally, Sandoval County will have a new source of Gross Receipts Tax revenue as a result of this facility. The restaurant and bar will generate employment opportunities which are sorely needed in this community for wait staff, cooks, etc. The safety of the patrons of the bar will not be compromised because the Applicant trains his staff of safety measures and how to eliminate any risks. Additionally, the Applicant will be meeting with the neighbors in the days before the Sandoval County Commission appeal hearing to try and work out an amicable solution to their concerns raised at the P and Z Hearing. The Applicant believes that the conditional use, if granted would not materially or adversely injure the surrounding neighborhood.

JUSTIFICATION FOR THE APPEAL: "DECISION NOT SUPPORTED BY EVIDENCE IN THE MATTER" (P & Z DECISION NOT IN COFORMANCE WITH THE SANDOVAL COUNTY COMPREHENSIVE PLAN)

The Decision by the P & Z was an error because it failed to apply the Sandoval County Comprehensive Plan policies to the Application. Specifically, ***Policy 6 & 7 of the Algodones Area Development Policy*** was furthered by the Applicant because the Subject Site is located outside and to the north of the Algodones Community District, and is currently zoned under the RC and OZ-CORR zone districts. The Staff Report said it best by stating in part: "*the Conditional Use review for this request* ***supports*** *the Algodones Area Development Policy*."

This property is located directly within the Centro de Algodones subdivision, which is a "Planned Commercial Development". This Conditional Use is "***recommended*** *by the Algodones Area Development Policy which is a component of the Sandoval County Comprehensive Plan*." (See Staff Report of Sandoval County Page 5). The P & Z Commission erroneously didn't factor Policy 6 and 7 of the Algodones Area Development Policy into their decision. During the Appeal, the Appellant will help the Board of County Commissioners arrive at a different result that respects the policies laid out within the Algodones Area Development Policy (Sandoval County Comprehensive Plan).

Pursuant to NMSA Section 3-21-8(B), a decision by the P & Z Commission that disregards the intent and policies of the Algodones Area Development Policy (Sandoval County Comprehensive Plan) indicates that the P & Z Commission may have failed to appropriately apply the Conditional Use criteria laid out within the Sandoval County Zone Code. See *Downtown Neighborhood Association vs. City of Albuquerque,* ***109 N.M. 186.***

JUSTIFICATION FOR THE APPEAL: "DECISION NOT SUPPORTED BY EVIDENCE IN THE MATTER"

The Applicant believes that the P & Z Commission erred in their decision based on the following additional observations, which if factored into the Decision would render the original Decision unsupported by evidence provided at the P & Z Hearing:

1. Testimony was offered by the Applicant stating that for the proposed business venture to be successful, the hours of operations ***must*** extend past 9:00 P.M. This is based on his thirty years of owning and operating similar businesses in the Albuquerque Metropolitan area. This Conditional Use is integral to the success of the restaurant and will act as an anchor to this PCD district within the Centro de Algodones subdivision. Without this restaurant and bar the Centro de Algodones subdivision will lose the "momentum" generated by this project and will further damage gross receipts tax and employment in Sandoval County.

2. The Owner has three other businesses that function without contributing to the detriment of the surrounding communities. Their hours are operations are regulated by the State of New Mexico requiring them to close no later than 2:00 AM. There has been no history of poorly run restaurant/bar(s) in his other locations, in fact the communities appreciate and support Mr. Baldwin's restaurants. They provide a great place for recreation and dining for the surrounding residents.

3. The proposed business is a grocery store with an attached tavern. The seating capacity of the tavern is limited by the New Mexico Environmental Department (NMEH) regulations limiting the onsite sanitary sewer disposal rate of 500 gpd/acre (1,185 gpd). This limitation equates to the tavern having approximately 40 – 50 seats that will be reviewed and approved by the NMED at the time of building permit.

4. The proposed business is an indoor grocery store including the sale of alcohol and an indoor tavern with seasonal outdoor patio seating on the northwest side of the building as showed on the attached site plan. The patio will have outdoor speakers for low level background music for the listening enjoyment of the customers. The orientation of the building has the patio on the northwest side of the building away from the freeway frontage in order to block the roadway noise generated by the trucks and cars traveling on I-25.

5. The proposed business is physically separated from the residential community to the southeast by the raised on/off ramps of I-25 at the Algodones exit. The freeway exit ramp elevation between the retail business and the residential community is at an elevation of 5135. The building finish floor elevation will be 5120±. The fifteen foot difference in elevation will serve as a noise abatement feature by blocking any potential sound waves and deflecting them upward if any were to occur. The public testimony stating that the residents to the southeast were concerned that the retail facility would add to the existing noise pollution is without merit.

6. The subject property is Lot 7 in the Centro de Algodones Subdivision and abuts the south bound off ramp of I-25 to the southeast, is one lot removed from State Road 315 approximately 260 feet to the southwest and has frontage on Centro Algodones to the northwest. This subdivision suffers from neglect due to the undeveloped lots and untraveled roadways in the area. There has been continued illegal dumping of

trash and other detrimental activities in the area due to the lack of businesses and their related business functions which assist in controlling the negative activities that affect the well being of the neighborhood. The Owner has experienced that at one of his businesses locations at a time when it was in a semi rural area; that his outside maintenance program and employee/customer traffic generation resulted in the reduction of illegal activities. The proposed retail establishment will assist in the policing of the commercial subdivision and the adjacent residential community as a whole.

7. Mr. Baldwin has proven that his successful business model integrates his establishments into their surrounding neighborhoods. This has been accomplished by being a vital participant in promoting the general well being of the community and being a good neighbor and advocate of health and safety of his patrons and the local residents. This same model will be implemented in Algodones.

8. Mr. Baldwin is positioned to invest millions of dollars to develop the property and has the proven thirty years of experience to operate a successful business that will protect his investment and provide jobs and a desirable retail establishment to serve the community needs.

9. His investment will increase the property value and the corresponding County Property Tax and will provide a source for the generation of Sandoval County gross receipt taxes.

Thank you for your consideration of this request. Please call me if you have further questions. The Skarsgard Firm, P.C. telephone number is 505 262 2323.

Thank you,

SKARSGARD FIRM, P.C.

_____

Joshua J. Skarsgard, Esq.

CC: Mr. Baldwin
Mr. Arfman, P.E.