



Agenda Item Number: _____

BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: August 26, 2008

Department: Zoning, Building, Planning **Staff Contact:** Catherine VerEecke, Program Planner

TITLE: APPEAL: Special Use Permit for Cemetery (CSU-40004/CO-70006&70007)

DISTRICT COURT ORDER:

Remand to the Board of County Commissioners

SUMMARY:

This case was deferred for one month at the May 29, 2008 Board of County Commissioners' (BCC) hearing and for two months at the June 24, 2008 BCC hearing.

At the April 10, 2007 public hearing, the Board of County Commissioners voted (5-1, Commissioner Brasher opposed) to deny the appeal, thereby affirming the decision of the County Planning Commission with modifications to the Findings and Conditions for a Special Use Permit for a Cemetery on Tracts 1, 2, A-1 & A-2, Lands of Chapman, located at 6903 & 6813 Edith Boulevard NE, on the west side of Edith Boulevard approximately .25 miles north of Osuna Road NE, zoned A-1 & R-1 (a portion of Tract 1 is zoned A-1 with a Special Use Permit for a Hospital), containing approximately 17.13 acres. The decision was based on five (5) Findings and subject to thirteen (13) Conditions. (See Attachment 1 – BCC Notice of Decision).

This decision was appealed to Bernalillo County Second Judicial District Court. The Court upheld the decision to approve the zoning of a Special Use Permit for a Cemetery, but it also concluded that the CPC had passed on a 'deficient application' for approval to the Board of County Commissioners. The Court thus ordered that the case be remanded to the BCC for a decision on the merits of a complete application. (See Attachment 2 – Memorandum Opinion and Order.)

Staff is recommending that the case be remanded to the County Planning Commission to address the technical aspects of the application.

ATTACHMENTS:

1. Board of County Commissioners' Notice of Decision Letters (April 11, 2007).
2. Memorandum Opinion and Order, filed May 9, 2008.

STAFF ANALYSIS SUMMARY

ZONING, BUILDING & PLANNING:

Staff Recommends Remand to the County Planning Commission.