



Agenda Item Number: \_\_\_\_\_

## BERNALILLO COUNTY BOARD OF COUNTY COMMISSIONERS

Meeting Date: June 23, 2009

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

**TITLE: APPEAL:** Special Use Permit for a Contractor's Yard (CSU-90017/CO-90017)

### COUNTY PLANNING COMMISSION RECOMMENDATION:

Approval

### SUMMARY:

At the May 6, 2009 public hearing, the County Planning Commission (CPC) voted (7-0) to recommend approval of the request for a Special Use Permit for a Contractor's Yard on Tract A, Lands of Philip A. Moraga, located at 10008 2<sup>nd</sup> Street NW, on the northeast corner of Alameda Road and 2<sup>nd</sup> Street, zoned A-1, and containing approximately .83 acres. The decision was based on four (4) Findings and is subject to twelve (12) Conditions (See Attachment 1—Notice of Decision).

The CPC found that the request to establish a contractor's yard could be justified by changed neighborhood conditions, including an increased incidence of light industrial uses, adjacent to and nearby the site along Second St. at Alameda Rd. However, the CPC decided to limit the term of use to a five year period (Condition 10) as opposed to the term of 'life of the use' requested by the applicant (Attachment 2—CPC Information Packet, p.26). This would allow the CPC to review the property in five years to determine if the required 6 foot landscape buffer between the subject site and the residential property to the northeast of the site should be installed. (The agent had argued that the buffer is not necessary at present because the applicant currently owns both properties.) Based on this condition to limit the term of use, the CPC then added a condition (Condition 5.d) which waived the required landscaping between the two properties (See Attachment 4—Draft Minutes, CPC Hearing, pp. 72-73, 79-104).

The applicant's agent is now appealing the five year term of use recommended by the CPC (Condition 10) and is requesting that the Special Use be granted for "a fifteen year period". This would allow time for the applicant to construct and make use of a storage building on the property and to complete the improvements recommended by the CPC as conditions of approval (See Attachment 3—Appeal Justification, p. 48).

The agent has submitted an addendum to the appeal request. (Attachment 5—Addendum to Appeal Justification). The agent is now requesting, in addition to the requested change to Condition 10, that Condition 5.d be modified to include a waiver of both solid wall/fencing and landscaping between the applicant's two properties. The agent states that the discussion at the CPC hearing had covered both these requirements, but the Condition in the CPC Notice of Decision only waived the landscaping requirement.

Staff notes, however, that if this appeal is granted to allow a fifteen year term of use, the Planning Commission would not re-evaluate the property in five years to determine if the buffering (e.g., landscaping, solid wall/fencing) should be added between the subject site and the residential property to the northeast.

**Criteria for Evaluating Zone Map Changes and Special Use Permit Applications**

Resolution 116-86 (see Attachment 6) states that the applicant must demonstrate that the existing zoning is inappropriate because:

1. there was an error when the existing zone map was created; or
2. changed neighborhood or community conditions justifies a land use change; or
3. a different land use category is more advantageous to the community, as articulated in the Comprehensive Plan or other County Master Plan, the even though (1) and (2) above do not apply.

<b>ATTACHMENTS:</b>	<b>PAGE</b>
1. County Planning Commission Notice of Decision Letter (May 8, 2009).	3
2. County Planning Commission Information Packet.	6
3. Appeal application and justification	45
4. Draft CPC Minutes, May 6, 2009.	53
5. Addendum to appeal (dated 6/9/09)	82
6. Resolution 116-86	83
7. Site Plan (Commissioners Only).	

**STAFF ANALYSIS SUMMARY**

**ZONING, BUILDING & PLANNING:**

Staff recommends denial of appeal.