

AG E N D A
CITY OF AZTEC
CITY COMMISSION MEETING
August 25, 2020
201 W. Chaco, City Hall
6:00 p.m.

**For The Regular Meeting of City of Aztec Commission to be held at
6:00 pm Tuesday, August 25, 2020
it will be streamed live on www.youtube.com City of Aztec**

I. CALL TO ORDER

II. INVOCATION AND PLEDGE OF ALLEGIANCE

United States Pledge of Allegiance

New Mexico Pledge of Allegiance

I Salute the Flag of the State of New Mexico and the Zia Symbol of Perfect
Friendship among United Cultures

III. ROLL CALL

IV. PROCLAMATION

Constitution Week
Piano Month

V. APPROVAL OF AGENDA ITEMS

VI. CONSENT AGENDA

- A. Commission Workshop Meeting Minutes August 11, 2020
- B. Commission Meeting Minutes August 11, 2020
- C. Consideration for a Memorandum of Agreement amending the
Intergovernmental Agreement for Building Inspection Services with San Juan
County
- D. RFP 2019-697 City Attorney Contract Renewal
- E. RFP 2014-225 SEH North Main Final Design, Amendment #2 Hydraulic Study
- F. Senior Community Center Records Destruction

Items placed on the Consent Agenda will be voted on with one motion. If any item proposed does not meet the approval of all Commissioners, a Commissioner may request that the item be heard under "items from Consent Agenda"

VII. ITEMS REMOVED FROM CONSENT AGENDA

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 72 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410.

VIII. CITIZENS INPUT (3 Minutes Maximum)

Commission will take general public comment in written form via email or fax through 5:00 PM on Monday, August 24th. Hard copies can be faxed to 505-334-7609 or emailed to ksayler@aztecm.gov. These comments will be distributed to all commissioners for review to be addressed at the meeting.

IX. BUSINESS

- A. Final Adoption of Ordinance 2020-507: An Ordinance Granting a Franchise to Comcast Cablevision of New Mexico / Pennsylvania, Inc. to Operate and Maintain a Cable System in the City of Aztec, New Mexico
- B. Intent to Adopt Ordinance 2020-508: An Ordinance Authorizing the Sale of Certain Municipal-Owned Real Property West of Newman Avenue to Eric Edgerton, for the Purchase Price of \$5,400.00

X. QUASI JUDICIAL HEARINGS (LAND USE)

- A. Approval of a Conditional Use Permit (CUP) to Allow a Church in a R-1 Zoning District.
- B. ZC 2020-02 Amending a Planned Unit Development (PUD) for the Villa Serena Mobile Home Park, Located at 510 Ruins Rd.
- C. ZC 2020-03 Amending a Planned Unit Development (PUD) for the Cottonwood Mobile Home Park, Located at 304 Robinson Ave.

XI. COMMISSIONER, CITY MANAGER, DEPARTMENT REPORTS

XII. ADJOURNMENT

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

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Proclamation City of Aztec

WHEREAS, The Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and

WHEREAS, September 17, 2020, marks the two hundred thirty-third anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate it; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,

NOW, THEREFORE I, Victor Snover by virtue of the authority vested in me as Mayor of the City of Aztec in the State of New Mexico, do hereby proclaim the week of September 17 through 23, 2020 as

CONSTITUTION WEEK

And I ask our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the City of Aztec to be affixed this 25th day of August of the year of our Lord Two Thousand and Twenty.

Mayor Victor Snover

ATTEST:

Karla Saylor, City Clerk CMC

Date

Proclamation City of Aztec

- Whereas,** the Aztec community has supported Aztec painted pianos as a public art form to be shared and enjoyed in the business community of downtown Aztec; and
- Whereas,** throughout the month of September, residents and visitors can tour the city and enjoy the beautiful art that has been created on playable pianos; and
- Whereas,** Aztec artists have volunteered their creative ideas and exceptional talent to decorate the pianos for this year's display;
- Whereas,** we want to honor Timothy Gordon, Bonnie Adams, Sandy Waybourn, Cynthia Iacovetto and Connie Hutcheson who have donated hundreds of hours to create this public art that is now a part of the City of Aztec;
- Whereas,** we seek to find interesting activities that will draw visitors to our city and broaden the entertainment available to encourage people to visit our city;
- Whereas,** we have been blessed with the generosity of those who donated pianos and helped with numerous activities to make this happen;
- Whereas,** the Aztec Chamber of Commerce has become the partner and sponsor of this cooperative activity between artists and musicians and named this project "big sound in a small town."

Now therefore, we the Aztec City Commission, do hereby proclaim September, 2020 as

Aztec Painted Piano Month

and all residents are encouraged to visit the pianos and to join us in this special observance.

Mayor Victor Snover

ATTEST:

Karla Saylor, City Clerk CMC

Date

1 CITY OF AZTEC
2 WORKSHOP MEETING MINUTES
3 August 11, 2020
4

5 **I. CALL TO ORDER**

6 Mayor Snover called the Virtual Workshop to order at 5:15 pm
7

8 MEMBERS PRESENT: Mayor Victor Snover; Mayor Pro-Tem Fry;
9 Commissioner Mike Padilla; Commissioner,
10 Mark Lewis; Commissioner Randall
11

12 MEMBERS ABSENT: NONE
13

14 OTHERS PRESENT: City Manager Steve Mueller; Electric Director
15 Ken George; Utility Director Delain George;
16 City Clerk Karla Sayler
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18 **A. Solar Rate Discussion**
19

20 Mayor Snover opened the workshop and turned it over to City Manager
21 Steve Mueller mentioned that Ken George Electric Director and Delain George
22 Utility Director were here to answer any questions for Commission.

- 23 • The discussion on this item is why a solar customer is charged higher than
24 a residential customer for base charge. Ken mentioned that the base
25 charge is \$38 and feels that it is a justifiable charge.
- 26 • Delain explained that right now we have only 4 solar customers. One of
27 those customers overproduces in the summer and they don't use as much
28 electric as they do in the winter. One customer who has never
29 overproduced and they continually purchase electricity. One of the
30 customers is sporadic because they have a tenant in there. The last one
31 came online 6 months ago and it seems like it will also overproduce in the
32 summer.
- 33 • Delain explained that the billing process for these 4 customers is more in
34 depth because she has to manually go into their accounts and make the
35 proper adjustment. The billing rates aren't as complicated for solar
36 customers because they only have to pay the power cost supply. A non-
37 solar customer pays the supply cost and the operational cost because
38 they are always getting electricity. The solar customer doesn't pay for the
39 operational costs because it's built into their base rate all year long. The
40 solar customer still has all the same services as the non-solar customer
41 and they pay about \$5.69 less.
- 42 • Mayor Snover wants to bring the base rate for solar customers down to
43 the standard rate of non-solar customers. We are only dealing with 4
44 customers right now he feels that we need to be a little ahead of the curve,
45 prices of solar have come down significantly since the rate study was
46 done and we are friendly to renewables especially solar.

- 1 • Mayor Pro-Tem Fry asked if there were complaints about the fee from the
2 4 customers and also if there is a way for us to buy or trade off the power
3 that they solar customers product. Delain said that she has had no
4 complaints on the current rate and we can buy back but we don't at this
5 time. She is pro solar and after talking about this last time she went home
6 and looked at her bill and it was about the cost of the solar fee so there is
7 no incentive for her to do solar at her house. Delain explained that if they
8 are able to produce the electricity they need and they are not connected to
9 the City system in any way there is no fee at all.
- 10 • Ken George explained that when you factor in the costs to be the backup
11 system for the solar customers we only make \$38 a month on the solar
12 customers. He also mentioned that when the rate study was conducted
13 they made sure that with these fees neither side will have to subsidize the
14 other.
- 15 • Delain mentioned that as a utility we need to make sure we get our
16 operational costs for having solar customers connected to our system and
17 that is why it is built in.
- 18 • Commissioner Padilla feels that if these 4 customers are not complaining
19 then we shouldn't change anything right now because he doesn't want the
20 fees to get passed on to the non-solar customers, when we get more solar
21 customers than the rates can be looked at.
- 22 • Commissioner Lewis asked City Attorney Tyson Gobble about the
23 litigation that is going on with Farmington and if he feels what we are
24 doing has legal ground to stand on. City Attorney explained that it is
25 obvious that we are treating solar versus non solar a little differently with
26 valid reasons for doing so because it is based on the survey conducted he
27 doesn't necessarily see any potential liability at this point just based on
28 what he's heard right now.
- 29 • Commissioner Randall said that the study was a big deal when we did it
30 and it makes sense to him the way it is.
- 31 • Steve Mueller mentioned that he will get the rate study distributed to all
32 Commissioners and after that we can draft an ordinance for Commission
33 to consider.

34 35 36 **II. ADJOURMENT**

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39 Moved by Mayor Snover to adjourn the meeting at 5:40 p.m.
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Mayor, Victor C. Snover

1 ATTEST:

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Karla Sayler, City Clerk

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6 MINUTES PREPARED BY:

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Sherlynn Morgan, Administrative Assistant

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DRAFT

1 CITY OF AZTEC
2 COMMISSION MEETING MINUTES
3 August 11, 2020
4

5 **I. CALL TO ORDER**
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7 Mayor Snover called the Meeting to order at 6:00 pm. The Regular Meeting of City
8 of Aztec Commission to be held Virtual at 6:00 pm Tuesday, August 11, 2020 will be
9 streamed live on www.youtube.com
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11 **II. INVOCATION AND PLEDGE OF ALLEGIANCE**
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- 13 A. Invocation (led Mayor Pro-Tem Fry)
14 B. United States Pledge of Allegiance (led by Commissioner Padilla)
15 C. New Mexico pledge of Allegiance (led by Commissioner Padilla)
16

17 **III. ROLL CALL**

18 Members Present: (Members were on web call) Mayor Snover; Mayor Pro-Tem
19 Fry; Commissioner Austin Randall; Commissioner Mark
20 Lewis; Commissioner Mike Padilla (In Person)
21

22 Members Absent: None
23

24 Others Present: City Manager Steve Mueller; City Attorney Tyson Gobble; IT
25 Director Wallace Begay; City Clerk Karla Saylor
26
27

28 **IV. APPROVAL OF AGENDA ITEMS**
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- 30 A. Commission Workshop Meeting Minutes July 28, 2020
31 B. Commission Meeting Minutes July 28, 2020
32 C. Resolution 2020-1195 Delegating Authority to the City Manager to Acquire Real
33 Property Necessary for the Construction of the Aztec Arterial
34

35 MOVED by Commissioner Randall to approve the agenda as given;
36 SECONDED by Mayor Pro-Tem Fry
37

38 All voted Aye: Motion passed five to zero
39

40 **V. CONSENT AGENDA**
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43 MOVED by Commissioner Lewis to Approve the Consent Agenda as
44 given SECONDED by Commissioner Padilla
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46 All voted Aye: Motion passed five to zero

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VI. ITEMS REMOVED FROM CONSENT AGENDA

NONE

VII. CITIZENS INPUT (3 Minutes Maximum)

NONE

Commission will take general public comment in written form via email or fax through 5:00 PM on Monday, July 13th. Hard copies can be faxed to 505-334-7609 or emailed to ksayler@aztecnm.gov. These comments will be distributed to all commissioners for review to be addressed at the meeting.

VIII. BUSINESS ITEMS

NONE

IX. QUASI JUDICIAL HEARINGS (Land Use)

Mayor Snover read the land use script and swore all parties in. He asked if there were any challenges, conflicts of interest or personal bias that needed to be declared and there were none.

A. CUP 2020-02 A Conditional Use Permit (CUP) to allow a construction yard for a construction project in an O-1 Zoning District

Mayor Snover read the land use script and swore all parties in and turned the CUP over to Community Development Director Steven Saavedra. Steven explained that this is a request from the Aztec Municipal School District to allow a construction yard within the office and institutional district. The school district is represented by Grant Banish and property is located at 500 East Chaco, we are here today because of City Code. Steven explained that construction can be messy and there's negative externalities associated with it like dust and loud noise, all development is going to need some type of construction at some point. Aztec Schools are improving so of their security functions and they submitted this a few months ago with the scope of their project but the construction yard was not shown at time of approval. The intent for the CUP is to protect residents with a limitation. They have not received any formal questions or concerns. They did receive a letter today that was shared today with Commission. Staff is recommending approval with conditions. Grant Banash said the hope to wrap this project up by the end of January, there is a need to be able to store materials. The work will take place between the hours of 7am and 6 pm and not on weekends except for 1 Saturday. The scope of work is they are reducing the

92 choke point of the high school and turning it into a secured vestibule exterior so
93 that everyone visiting is going to have to go through one area. Grant mentioned
94 that they will work with citizens and neighbors however they can.

95
96 Mayor Snover closed to testimony and opened discussion.

97
98 MOVED by Commissioner Randall to Approve the CUP 20-02, a request
99 from Aztec Municipal School district, represented by Grant Banash, for a
100 conditional use permit to allow a construction yard in an O-1 District, at 500 E.
101 Chaco St., Aztec, NM with the following conditions SECONDED by
102 Commissioner Padilla

- 103
104 1. All construction activity needs to be between 7:00 AM and ending at 6:30 PM.
105 2. Screening needs to be added to the east and south side.
106 3. Dust control measures need to be in place and applied per this construction
107 project.

108
109 A Roll Call was taken: All voted Aye: Motion passed five to zero
110

111 **X. COMMISSIONER, CITY MANAGER, DEPARTMENT REPORTS**

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113 Commissioner Padilla mentioned that he attended a Chamber meeting today and
114 it seems pretty active again.

115
116 Commissioner Lewis attended the water commission meeting last Wednesday
117 and the drought is still ongoing and they are keeping an eye on it.

118
119 Mayor Pro-Tem Fry invited everyone downtown to the 4 pianos, she also
120 attended the chamber meeting and mentioned that Sandy and Mike have done a
121 great job bringing the Chamber back to life, they are working hard to support
122 businesses and activities. They received a \$1000 grant from the Connie Gotch Art
123 Foundation for next year.

124
125 Mayor Snover gave kudos for the piano project and all participants. He reminded
126 everyone to be patient with each other we are all going through this COVID mess
127 right now and some more than others.

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130 **XI. ADJOURNMENT**

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132 Mayor Snover moved to adjourn the meeting at 6:59 pm SECONDED by
133 Commissioner Lewis
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Mayor, Victor Snover

ATTEST:

Karla Sayler, City Clerk

MINUTES PREPARED BY:

Sherlynn Morgan, Administrative Assistant

DRAFT

Staff Summary Report

MEETING DATE: August 25, 2020
AGENDA ITEM: VI. CONSENT AGENDA (C)
AGENDA TITLE: Consideration For A Memorandum Of Agreement Amending The Intergovernmental Agreement For Building Inspection Services With San Juan County

ACTION REQUESTED BY: City Staff
ACTION REQUESTED: Approve A Memorandum Of Agreement Amending The Intergovernmental Agreement For Building Inspection Services With San Juan County
SUMMARY BY: City Staff

PROJECT DESCRIPTION / FACTS

The City and San Juan County entered into an agreement on October 27th, 2009 for the County to provide the City with building inspection services. The City would like to amend the current agreement to have the County provide a Fire Marshall on a part-time and occasional basis to the City to perform building inspections specific to the International Fire Code. The agreement has been reviewed by the City's Attorney.

SUPPORT DOCUMENTS: Memorandum of Agreement

DEPARTMENT'S RECOMMENDED MOTION:
Move to approve Memorandum of Agreement Amending the Intergovernmental Agreement for Building Inspection Services with San Juan County

**Memorandum of Agreement
Amending Intergovernmental Agreement
For Building Inspection Services**

This Agreement is made and entered into this ____ day of _____, 2020 by and between the CITY OF AZTEC, NEW MEXICO (hereinafter “City”) and SAN JUAN COUNTY, NEW MEXICO (hereinafter “County”).

Whereas, the City and the County entered into an agreement on October 27th, 2009 for the County to provide the City with Building Inspection Services; and

Whereas, the agreement shall be in place for a period of one (1) year, and from year to year thereafter, unless terminated pursuant to paragraph 9 of that same agreement; and

Whereas, the City and County wish to amend the agreement to include the San Juan County Fire Marshall in the inspection of buildings within the City of Aztec; and

Whereas, local building inspections and fire code enforcement within the corporate limits of the City of Aztec is the City’s responsibility, but it is in the best interest of the City to contract with the County for the services of a Fire Marshall; and

Whereas, the County employs a full-time Fire Marshall and is willing to enter into an agreement with the City for building inspection; and

Whereas, the parties hereto desire to enter into an agreement whereby the County contracts with the City to serve as the City’s Fire Marshall.

Whereas, the parties wish for this Memorandum Agreement to serve as an Amendment to the Intergovernmental Agreement for Building Inspections entered into on October 27th, 2009 and hereby incorporate its terms within this document.

Now, Therefore, in addition to their terms of the Intergovernmental Agreement for Building Inspection, the parties agree that:

1. The County shall provide a Fire Marshall to the City on a part-time and occasional basis to perform building inspections for the City. The Fire Marshall shall serve as the City’s Fire Marshall and shall be governed by the provisions of the International Fire Code.
2. All notices, placards, permits and other forms to be used by the County Fire Marshall while performing inspections for the City shall indicate on their face that they have been issued and authorized by the City.

3. As material consideration for this Agreement, the City shall indemnify and hold harmless the County and all its Elected Officials, agents, managers, and employees, from and against claims, suits, actions, costs, attorney fees, expenses, damages, judgement, or decrees of any kind resulting from any actions or omissions of the County Fire Marshall, their agents, or employees, while acting on behalf of the City.

This agreement to indemnify shall not extend to liability, claims, damages, losses or expenses, including attorney fees, arising out of:

- A. The preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, or specifications by the indemnitee, or the agents or employees of the indemnitee; or
- B. The giving of or the failure to give directions or instructions by the indemnitee, or the agents or employees of the indemnitee, where such giving or failure to give directions or instructions is the primary cause of bodily injury to person or damage to property.

EXECUTED this ____ day of _____, 2020.

CITY OF AZTEC, NEW MEXICO

**BOARD OF COUNTY COMMISSIONERS
OF SAN JUAN COUNTY, NEW MEXICO**

Victor Snover, Mayor

Jack Fortner, Chairman

ATTEST

Karla Sayler, City Clerk

Tanya Shelby, County Clerk

APPROVED AS TO FORM

Tyson K. Gobble, City Attorney

Dough Echols, County Attorney

Staff Summary Report

MEETING DATE: August 25, 2020
AGENDA ITEM: VI. CONSENT AGENDA (D)
AGENDA TITLE: RFP 2019-697 City Attorney Contract Renewal

ACTION REQUESTED BY: City Staff
ACTION REQUESTED: Approval of Contract Renewal
SUMMARY BY: Kathy Lamb

PROJECT DESCRIPTION / FACTS

- The current annual agreement for Municipal Legal Services with H. Steven Murphy and Tyson K. Gobble will expire on October 31, 2020.
- The City Attorney includes the following services (not complete list):
 1. Legal representation of the City, its political subdivision, as well as individual commissioners and other municipal employees who may be named as parties in their official capacities in any legal action.
 2. Advise the City Commission, the City staff and all appointed boards on legal matters including but not limited to matters of civil liability, City finances, public property, and personnel.
 3. Draft and/or review ordinances, resolutions, and proposed legislation.
 4. Prepare and/or review all contracts for the City of Aztec.
 5. Prosecute all ordinance violations in Municipal Court and in District Court.
 6. Represent the City of Aztec for all DWI prosecutions and District Court appeals.
 7. The City Attorney attends all Meetings as required by the City Commission.
- A review of detailed billing statements identifies 60% of time expended is specific to representation of the City in Municipal Court/District Court. 40% has been expended in all other services to the City. To date, there have been eight cases where a conflict of interest was identified and required a special prosecutor appointment. The cases were assigned to Adam Bell, P.C. and fees were deducted from amounts due to Murphy & Tyson.
- City staff recognizes the financial commitment specific to the city attorney contract and were requested to provide their opinions of services provided by Messrs. Murphy & Gobble over the last 10 months. Responses are listed below (most recent to earliest) and those which have identified a need for improvement have been shared with Messrs. Murphy & Gobble.

Chief Mike Heal:

The Police Department is extremely happy with the job Steve Murphy has done for us. He does not lose any cases and the appeal rate has dropped to almost zero which saves a great deal of

overtime for my officers. I urge the elected body to please stay with this firm to be the Cities legal team as they are doing a stellar job in my opinion.

City Manager Steve Mueller:

I have had interactions with both Steve and Tyson (primarily) and both have provided information and/or opinions as needed. Both have been accessible and responsive to requests and all interactions have been conducted professionally.

Tyson has been very accessible, responsive and timely with legal opinions and legal guidance as we've progressed through the various stages of the COVID-19 related Executive Orders and DOH orders over the past few months. Tyson is not afraid to tell you he doesn't have an immediate answer, but will do the research needed to provide the correct legal answer.

I recommend that we retain them for another year.

Community Development Director Steven Saavedra:

I believe Tyson is professional and competent as City Attorney. Also, he is prompt to answer emails and or phone calls. I am confident in Mr. Gobble's legal abilities and take no issue extending the contract. However, I want to ensure timely submission of legal documents for Code Enforcement and Community Development.

Municipal Judge Carlton Gray:

I have had the opportunity to work with both Mr. Murphy and Mr. Gobble and have found them both to be very professional and responsive. I work with Mr. Murphy usually every week and he is always on time and ready to proceed with the cases he is assigned. I have nothing negative to report on either of them.

Utility Customer Service Director Delain George:

Mr. Gobble has been very responsive and professional to all my requests.

When working on projects, he has let me know he is available for guidance or assistance if needed.

When observing Commission meetings, I agree with Jeff he does his research before the meeting and is well informed. He also lets Commission know when he doesn't know an answer and that he will research and find the answer for them.

I can't speak to Mr. Murphy only to Mr. Gobble.

I recommend to retain our City Attorneys for the second year of a 4 year contract.

Aztec Public Library Director Angela Watkins:

While I have had very limited interactions with Mr. Gobble who looked over permission forms to participate in our library writing contest. I have had positive interaction when I passed him at commission meetings. Mr. Gobble has been professional and have been present at commission meeting consistently, has performed responsibly from what I have seen.

If this is almost a \$100k annual commitment for the City, then the city should be asking how many hours are needed? After 2 years where have we needed him the most? Could fees be renegotiated? What would it cost to court another attorney?

I think 2 years of performance is building that relationship that can /should continue, rather than restart every 2 years, just saying..

City Clerk & Human Resources Karla Sayler:

Tyson has been very helpful and responsive to me in the HR and City Clerk Office. He is always willing to help and answer any questions promptly and will research if he doesn't have the answer immediately. I feel that he is professional and does a good job in commission meetings.

General Services Director Jeff Blackburn:

Mr. Gobble has been responsive to needs from the GS Department. He has assisted with Sports Association contracts primarily. Mr. Gobble has been professional and receptive in all other interactions. My opinion of his presence at the Commission Meetings is that he is prepared and ready to answer any questions, he also admits if he doesn't know and commits to finding the answer as soon as possible.

Mr. Murphy has called me to be present at one prosecution of an act of vandalism. Although the amount was relatively insignificant, he was committed recovering the maximum amount of reimbursement possible. I felt for the first time that we were seriously committed to recouping loses for such acts and I was impressed.

Over all from my limited interaction with our legal counsel I believe that they are doing a good job. I have no professional negative opinions of the service we are receiving.

Captain Troy Morris:

Mr. Murphy is doing an outstanding job for the police department. Our conviction rate is close to 100 percent since he took over. He is also quick to respond with legal related issues when called upon. He gives more concise advice concerning gray areas in the law than attorneys at the District Attorney's Office. Well worth the money.

- The City issued a formal Request for Proposal – RFP 2019-697 Municipal Legal Services in May 2019. Proposals were due on June 20, 2019. The City Commission approved the award of the RFP and contract to H. Steve Murphy and Tyson K. Gobble on October 1, 2019.
- RFP 2019-697 requested proposers to include an annual escalation rate. The Murphy/Gobble proposal included a 4% annual escalation.
- The contract renewal will be effective November 1, 2020 for a term of one (1) year and represents the 1st renewal of a maximum of three under State Procurement. Under the terms of Section 13-1-50, NMSA professional serviced contracts may be subject to extension not to exceed a total of four (4) years.

FISCAL IMPACTS

- The FY21 adopted budget includes \$92,400 specific to City Attorney services. This budget includes the 4% increase effective November 1, 2020.
- Messrs. Murphy and Gobble have advised their hourly rate (used when 40 hrs/mo are exceeded) will be reduced by 30% from \$250/hr to \$175/hr effective November 1, 2020.

SUPPORT DOCUMENTS: 2020 Agreement with H. Steven Murphy, P.C. and Tyson Gobble, P.C.

STAFF RECOMMENDATION: **Approve** OR Deny

MOTION: Move to approve award of RFP 2019-697 Municipal Legal Services contract renewal to H. Steven Murphy P.C. and Tyson Gobble, P.C. and authorize the City Manager to sign the professional services agreement on behalf of the City.

CITY OF AZTEC
PROFESSIONAL SERVICES CONTRACT
RFP 2019-697 MUNICIPAL LEGAL SERVICES

THIS AGREEMENT is made and entered into by and between the **CITY OF AZTEC**, hereinafter referred to as the "City," and **H. Steven Murphy, P.C. and Tyson K. Gobble, P.C.** , hereinafter referred to as the "Contractor," and is effective as of **November 1, 2020**, "Effective Date".

IT IS AGREED BETWEEN THE PARTIES:

1. Scope of Work.

Contractor agrees to perform the services as set forth in Scope of Services RFP 2019-697 MUNICIPAL LEGAL SERVICES, Exhibit 1, attached hereto, "Services", in a timely manner and in accordance with the terms and conditions of this Agreement and applicable laws. Contractor shall furnish, at its own expense, all labor, transportation, materials, consumables, qualified supervisory personnel, tools, equipment and facilities, to properly perform the Services, except as otherwise provided in the Services.

2. Compensation.

A. For performance and completion of the Services, the City shall pay the Contractor based on Compensation Schedule, Exhibit 2, attached hereto, "Compensation", excluding gross receipts tax. The New Mexico gross receipts tax levied on the amounts payable under this Agreement shall be paid by the City to the Contractor. **The monthly retainer fee payable to the Contractor under this agreement shall not exceed \$7,280.00 per month. Hours in excess of 40 hours per month will be compensated at \$175.00 per hour for H. Steven Murphy P.C. and \$175.00 per hour for Tyson K. Gobble P.C. for the period through October 31, 2021.**

B. Payment is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices MUST BE received by the City no later than fifteen (15) days after the termination of the Fiscal Year (June 30) in which the services were delivered. Invoices received after such date WILL NOT BE PAID.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within thirty days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked. However, the City shall not incur late charges, interest, or penalties for failure to make payment within the time specified herein.

3. Term.

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY. This Agreement shall terminate on **October 31, 2021, representing the 2nd year of a maximum of four years**, unless terminated pursuant to paragraph 4 (Termination), or paragraph 5 (Appropriations). In accordance with

Section 13-1-150 NMSA 1978, no contract term for a professional services contract, including extensions and renewals, shall exceed four years, except as set forth in Section 13-1-150 NMSA 1978.

4. Termination.

A. Termination. This Agreement may be terminated by either of the parties hereto upon written notice delivered to the other party at least thirty (30) days prior to the intended date of termination. Except as otherwise allowed or provided under this Agreement, the City's sole liability upon such termination shall be to pay for acceptable work performed prior to the Contractor's receipt of the notice of termination, if the City is the terminating party, or the Contractor's sending of the notice of termination, if the Contractor is the terminating party; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Agreement. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. Notwithstanding the foregoing, this Agreement may be terminated immediately upon written notice to the Contractor if the Contractor becomes unable to perform the services contracted for, as determined by the City or if, during the term of this Agreement, the Contractor or any of its officers, employees or agents is indicted for fraud, embezzlement or other crime due to misuse of city funds or due to the Appropriations paragraph herein. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

B Termination Management. Immediately upon receipt by either the City or the Contractor of notice of termination of this Agreement, the Contractor shall: 1) not incur any further obligations for salaries, services or any other expenditure of funds under this Agreement without written approval of the City; 2) comply with all directives issued by the City in the notice of termination as to the performance of work under this Agreement; and 3) take such action as the City shall direct for the protection, preservation, retention or transfer of all property titled to the City and records generated under this Agreement. Any non-expendable personal property or equipment provided to or purchased by the Contractor with contract funds shall become property of the City upon termination and shall be submitted to the City as soon as practicable.

5. Appropriations.

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City of Aztec for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Agreement to unilaterally reduce funding, the Contractor shall have the option to terminate the Agreement or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

6. Status of Contractor.

The Contractor and its agents and employees are independent contractors performing professional services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of city vehicles, or any other benefits afforded to employees of the City as a result of this Agreement. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the

City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

7. Assignment.

The Contractor shall not assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the City.

8. Subcontracting.

The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Agreement, nor shall any subcontract obligate direct payment from the City.

9. Release.

Final payment of the amounts due under this Agreement shall operate as a release of the City, its officers and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement.

10. Confidentiality.

Any confidential information provided to or developed by the Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

11. Product of Service -- Copyright.

All materials developed or acquired by the Contractor under this Agreement shall become the property of the City and shall be delivered to the City no later than the termination date of this Agreement. Nothing developed or produced, in whole or in part, by the Contractor under this Agreement shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

12. Conflict of Interest; Governmental Conduct Act.

A. The Contractor represents and warrants that during the term of this Agreement they shall not acquire an interest, direct or indirect which would conflict in any manner or degree with the performance or services required under the Agreement in any civil matter. The City and Contractor agrees and acknowledges the Contractor presently has conflicts with current clients which the Contractor represents in criminal matters in the City of Aztec Municipal Court and Appellant Courts thereafter. The City and Contractor agree and acknowledge the Contractor in the future may acquire clients charged with criminal offenses in the City of Aztec Municipal Court. In those instances where the contractor may have a conflict with current or future clients, the City will retain outside counsel as Special Prosecutor to prosecute those matters to meet ethical obligations and satisfy the Contractor's contractual requirements with the City of Aztec. The Special Prosecutor will be selected solely by the City of Aztec Municipal Judge with no input from the Contractors. The cost of the Special Prosecutor's services will be borne by the Contractor with no additional costs to the City. The Special Prosecutor shall submit an invoice no to the City and the Contractor agrees and acknowledges the City shall pay the submitted invoices directly from the monthly retainer fee payable to the Contractor under this agreement. The Contractor agrees and acknowledges the City will have no financial obligation to pay the Special Prosecutor in conflict cases and the Contractor will be solely responsible for the cost of outside counsel to act as Special Prosecutor. The

City acknowledges the Contractor has a contractual obligation to represent employees of the Aztec Well Family of Companies.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Agreement, will continue to comply with, and that this Agreement complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978. Without in anyway limiting the generality of the foregoing, the Contractor specifically represents and warrants that:

1) in accordance with Section 10-16-4.3 NMSA 1978, the Contractor does not employ, has not employed, and will not employ during the term of this Agreement any City employee while such employee was or is employed by the City and participating directly or indirectly in the City's contracting process;

2) this Agreement complies with Section 10-16-7(A) NMSA 1978 because (i) the Contractor is not a public officer or employee of the City; (ii) the Contractor is not a member of the family of a public officer or employee of the City; (iii) the Contractor is not a business in which a public officer or employee or the family of a public officer or employee has a substantial interest; or (iv) if the Contractor is a public officer or employee of the City, a member of the family of a public officer or employee of the City, or a business in which a public officer or employee of the City or the family of a public officer or employee of the City has a substantial interest, public notice was given as required by Section 10-16-7(A) NMSA 1978 and this Agreement was awarded pursuant to a competitive process;

3) in accordance with Section 10-16-8(A) NMSA 1978, (i) the Contractor is not, and has not been represented by, a person who has been a public officer or employee of the City within the preceding year and whose official act directly resulted in this Agreement and (ii) the Contractor is not, and has not been assisted in any way regarding this transaction by, a former public officer or employee of the City whose official act, while in City employment, directly resulted in the City's making this Agreement;

4) in accordance with Section 10-16-13 NMSA 1978, the Contractor has not directly participated in the preparation of specifications, qualifications or evaluation criteria for this Agreement or any procurement related to this Agreement; and

5) in accordance with Section 10-16-3 and Section 10-16-13.3 NMSA 1978, the Contractor has not contributed, and during the term of this Agreement shall not contribute, anything of value to a public officer or employee of the City.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Agreement was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Agreement, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Agreement or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Agreement to the contrary, the City may immediately terminate the Agreement.

D. All terms defined in the Governmental Conduct Act have the same meaning in this Article 12(B).

13. Amendment.

A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Agreement to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Agreement, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

14. Merger.

This Agreement incorporates all the Agreements, covenants and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, Agreements and understandings have been merged into this written Agreement. No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

15. Penalties for violation of law.

The Procurement Code, Sections 13-1-28 through 13-1-199, NMSA 1978, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

16. Equal Opportunity Compliance.

The Contractor agrees to abide by all federal and state laws and rules and regulations, and executive orders of the Governor of the State of New Mexico, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

17. Applicable Law.

The laws of the State of New Mexico shall govern this Agreement, without giving effect to its choice of law provisions. Venue shall be proper only in a San Juan County, New Mexico court of competent jurisdiction in accordance with Section 38-3-1 (G) NMSA 1978. By execution of this Agreement, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Agreement.

18. Insurance

The Contractor and the City acknowledge that the Contractors are independent contractors. The Contractor further represents and warrants that prior to the commencement of the services contemplated herein, the Contractors will and at any and all times relevant hereto maintain a legal malpractice insurance policy, or the equivalent thereto, with a limit of not less than one millions dollars (\$1,000,000.00) at no additional cost to the city. The Contractor agrees to provide proof thereof upon the request of the City.

19. Records and Financial Audit.

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Agreement's term and effect and retain them for a period of three (3) years from the date of final payment under this Agreement. The records shall be subject to

inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments

20. Indemnification.

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Agreement, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Agreement. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Agreement is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City by certified mail.

21. Invalid Term or Condition.

If any term or condition of this Agreement shall be held invalid or unenforceable, the remainder of this Agreement shall not be affected and shall be valid and enforceable.

22. Enforcement of Agreement.

A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

23. Notices.

Any notice required to be given to either party by this Agreement shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: CITY OF AZTEC
 Attn: Purchasing Office
 201 W Chaco
 Aztec NM 87410

To the Contractor: H. Steven Murphy, P.C. & Tyson K. Gobble, P.C.
 4000 E. 30th Street
 Farmington NM 87402

24. Authority.

If Contractor is other than a natural person, the individual(s) signing this Agreement on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

IN WITNESS WHEREOF, the Contractor and City have executed this Agreement on their behalves by their duly authorized representatives as of the Effective Date set forth above.

By: _____
Steve Mueller, City Manager

Date: _____

(SEAL)

ATTEST:

By: _____
Karla Saylor, City Clerk

Date: _____

By: _____
H. Steven Murphy, P.C.

Date: _____

Title

Phone: _____

Tyson K. Gobble, P.C.

Date: _____

Title

Phone: _____

Federal Taxpayer Identification or
Social Security Number

NM Taxpayer Identification
Number

Staff Summary Report

MEETING DATE: August 25, 2020
AGENDA ITEM: VI. CONSENT AGENDA (E)
AGENDA TITLE: RFP 2014-225 SEH (formerly Russell Planning & Engineering) Contract-N. Main Corridor Final Design Amendment #2

ACTION REQUESTED BY: City Management Team

ACTION REQUESTED: Approval

SUMMARY BY: Kathy Lamb

PROJECT DESCRIPTION / FACTS

Acronyms:

NMDOT – New Mexico Department of Transportation
FEMA – Federal Emergency Management Administration
USACE – United States Army Corp of Engineers

Background:

- Original Contract: Approved by City Commission during the August 26, 2013 regular meeting, RFP 2014-225 was awarded to Russell Planning & Engineering (RPE) for design services of the North Main Corridor connecting Main Avenue to the Aztec Ruins National Monument. Elements of the design include plaza area, trails, landscaping, roadway, sidewalks and utilities.
- August 2014 to April 2016 amendments and change orders to the original contract were approved by the City Commission, the result of changes in scope of services to be provided (amendments) and cost increases to previously approved services (change orders).
- Legislative funding appropriated to the City in 2019 will allow the City to move forward with this project. Due to the lapse in time, design and specifications require review and update for NMDOT, FEMA and USACE.
- RPE has submitted a cost proposal which will update the design and prepare the project to be ready to bid this fall. Their cost proposal identifies items which are included and several which are not. It is anticipated there may be additional costs specific to the level of coordination with NMDOT. Cost proposal approved July 2019.
- Electric and irrigation infrastructure are being coordinated by the City and are not included in RPE's proposal.
- Russell Planning and Engineering merged with Short-Elliott-Hendrickson (SEH) in August 2019.
- SEH project manager has identified the efforts necessary for coordination of the North Main Project with NMDOT and has reviewed their fee proposal with the City project team. Additional fees were approved by City Commission in December 2019 and are reimbursable to the City under 2019 legislative funding.

Current:

- A floodplain analysis has not been completed specific to the North Main project. The analysis that was completed in association with the north pedestrian bridge, approximately 2011, did not extend downstream sufficiently to include this project and was never submitted to FEMA for a Letter of Map Revision (LOMR) which would revise the floodplain mapping. In addition, the construction performed in 2016 to raise the North Main roadway elevation to construction grade is anticipated to have an impact on the existing (unrevised) mapped FEMA floodplain (no analysis was prepared prior to construction at the direction of City officials).
- Completing this process and obtaining FEMA approval of the LOMR will provide benefit for future development of North Main with establishment of correct flood zones.
- SEH anticipates the project will require approximately three months for the LOMR to be finalized for submittal to FEMA. The FEMA process could require six to twelve months for approval. It is not anticipated the FEMA process will delay NMDOT approval of the project as the final design will have incorporated necessary construction requirements based on the results of the hydraulic study.
- SEH's proposal includes three alternates. Stephen Morse, PW Director/City Engineer recommends that in addition to the base contract, alternate 2, floodway determination, is desired to assist in future development floodplain permitting. Alternate 3 may be required if the existing contours around the existing pedestrian bridge by the Aztec Ruins property are not reflected in the LIDAR files to be provided to SEH by the City. Alternate 1 has been determined not to be necessary or desired by the City.

PROCUREMENT

- Qualification based proposals in response to the City's Request for Proposal (RFP) 2014-225 were received on June 20, 2013. Proposals were evaluated, finalists were interviewed, and ultimately, a contract was negotiated with RPE. The scope of services included in RFP 2014-225 include preliminary engineering, preliminary design, agency coordination, final construction documents and bid documents, bidding phase and construction services.
 - Original Contract, Amendments & Change Orders: \$268,925.14
 - Design Update \$ 39,090.00
 - NMDOT Coordination, Final Design, Bid Support: \$130,753.11
 - Floodplain survey & study to update FEMA map with alternates #2 and #3 \$ 57,632.00
- NMSA 1978 13-1-150.B Multi Term Contracts Professional Services may not exceed four years, for this reason, a sole source notice advising of the City's intent to continue with RPE on this project was posted on June 27, 2019. No protests to the sole source were received.

FISCAL IMPACTS

- The North Main project has been included in the FY21 Annual Budget in the Capital Projects Fund and was increased in anticipation of the hydraulic study.

- After City Commission approval of the amendment, documents will be submitted to NMDOT for approval to use legislative funds for the additional fees. Preliminary conversation indicates the request will be approved.

SUPPORT DOCUMENTS: SEH North Main Corridor Final Design, Amendment #2
Hydraulic Study

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve SEH North Main Corridor Final Design, Amendment #2 Hydraulic Study including Alternates #2 Floodway Determination and #3 East Pedestrian Bridge Topo Survey and authorize the City Manager to execute the amendment on behalf of City.

CONTRACT AMENDMENT NO. 2 (CA-2)
TO OWNER/ENGINEER AGREEMENT
FOR PROFESSIONAL SERVICES

Short Elliott Hendrickson Inc. (ENGINEER)

A. Background Data

1. Effective Date of Owner/Engineer Agreement for Professional Services 2/25/2020
2. Client: City of Aztec
3. Engineer: Short Elliott Hendrickson Inc. ®
4. Project Title; Aztec North Main
5. SEH Project No. 154723- AZTEC

B. Description of Amendment

City of Aztec staff has requested a proposal from SEH to study a section of the Animas River adjacent to the ongoing North Main Project as part of NM DOT funding requirements and obtain a Letter Of Map Revision (LOMR) from the Federal Emergency Management Agency (FEMA). The proposed revision reach for the Animas River extends from immediately upstream of the two bridges conveying NM State Hwy 516 to a point approximately 1,200 river center-line feet above the existing pedestrian bridge over the Animas River, for an approximate total study reach length of 4,500 feet. FEMA guidelines for LOMRs require that the revised Base Flood Elevation (BFE) profile ties into the effective BFE within 0.5 feet at the extents of the revision reach, the final revision reach length will be dependent upon meeting these requirements. Only the downstream tie-in location of this study reach is zoned "AE", therefore the upper bound of the study reach will generally match the Zone A floodplain width and will not tie into vertical information.

Scope of Services

Our scope of services for completion of the Hydraulic Study and FEMA LOMR through the study reach is broken down into two tasks. Task 1 consists of the upfront survey data collection of approximately 20 cross-sections of the Animas River, including sections at the uppermost section from the AE-Zoned floodplain immediately downstream of the study section and several sections at the pedestrian bridge installed in 2015.

The remainder of the items included in Task 2 are the technical analyses as required to support the E-LOMR submittal. These items include Project Management, a kick-off meeting with City staff, a 60% meeting with the City and San Juan County Floodplain Manager to discuss the results of the technical analysis and any proposed revisions to the designated Floodplain and forthcoming LOMR submittal package. Task 2 also includes preparation of the E-LOMR submittal package or the formal LOMR submittal to first the City of Aztec for review and signing off on the Overview and Concurrence Form and then FEMA for review and issuance. The major individual tasks and associated deliverables for each phase are described below.

Hydrologic Analysis

SEH staff will obtain and review available Hydrological information for the Animas River through the study reach. The 2013 HDR report validated and utilized the existing Flood Insurance Study flows for the 500, 100, and 50-year events. SEH will continue to use the same information which will simplify the FEMA process. SEH staff will review the existing hydrologic information used in the development of the FIS, but no change in hydrology is proposed for this study. Any changes to the Hydrologic parameters for the study reach will require additional fees.

Deliverables:

1. Compilation of background data to be used in subsequent tasks.
2. Hydrologic data incorporated into the Hydraulic Analysis.

Hydraulic Analysis

SEH staff will create a HEC-RAS model for use in the hydraulic analysis and LOMR submittal. The cross-sections through the study reach will be integrated into the topographic information provided by the City of Aztec, and will be integrated into the model. The relatively new pedestrian bridge crossing and east approach fills will be incorporated into the HEC-RAS model. In order to provide as efficient of a delivery as possible, SEH will need the following items supplied by the City of Aztec.

Items to be supplied by the City of Aztec:

1. As-built plans for the new pedestrian bridge
2. Aerial topography supplied in either geotiff or .dem file types, based on the NAVD-88 datum
3. HDR bridge model report (if any version more current than the March, 2013 version exists).
4. All electronic modeling, electronic hydrology output, and any other electronic modeling data supplied by HDR in the preparation of their 2013 report. Typical City of Aztec contract language declares the Product of Service (the electronic files from HDR) are the property of the City of Aztec should the City need to request this information from HDR.
5. No-Rise certification from HDR for the pedestrian bridge project.
6. Any floodplain model of the Zone A reach above the study area.
7. Any floodplain model of the Zone AE reach below the study area.
8. The floodplain model for the Hampton Arroyo.
9. Any floodplain model for the Estes Arroyo.
10. All postage and certified mailing costs associated with Adjacent Landowner notifications as part of the public process for the proposed FEMA floodplain modification.
11. All costs and coordination for the public notice (newspaper) of the proposed FEMA floodplain modification.

Deliverables:

1. Hydraulic model and floodway modifications for the Animas River through the study reach for the existing conditions and revised conditions hydraulic models.
2. SEH will provide the text of the public notice announcement and Adjacent Landowner Notifications for use on City of Aztec letterhead.

LOMR Submittal

SEH shall prepare the MT-2 forms for the LOMR. This task includes compilation of the Technical Support Data Notebook and floodplain and floodway mapping. This task also includes 18 hours to respond to the San Juan County Floodplain Manager and FEMA comments. It is difficult to determine the amount of effort required responding to FEMA comments until they are formally received. Responses often times are not consolidated and can take several weeks or months to be received in their entirety. Reviewers and reviewing consultants have been known to be substituted during a review. Response efforts required to obtain FEMA approval beyond the assumed effort will be considered

beyond the scope of the initial agreement and will be discussed with the City prior to performing the required work.

Deliverables:

1. Submittal of three (3) paper copies of completed Application/Certification forms for the LOMR prepared for submittal to FEMA.
2. Submittal of one (1) copy of supporting background information and computations for inclusion in LOMR submittal.

Add-Alternates

There are three add-alternate options for the City of Aztec to consider.

Add-Alternate 1: SEH to provide the 10-year and 50-year flood elevations.

Add-Alternate 2: SEH to provide the 100-year Floodway

Add-Alternate 3: SEH to perform topographic survey of the existing pedestrian bridge east approach should that information not be included in the topographic aerial information provided by the City of Aztec.

Schedule

We will commence work on the project within 1 week of the execution of an agreement. We anticipate two to three months needed to make the LOMR submittal to the City of Aztec, San Juan County, and FEMA, depending primarily on scheduling of the required meetings, receipt of the topographic information tiles, and receipt of any effective hydraulic model for the downstream Zone AE and upstream Zone A mapped areas. It is anticipated that approval of the LOMR by FEMA will take several months and it is not uncommon to take six months to a year or more for approval.

Fees

Base Contract – Survey and Base Floodplain Study	\$52,412
Add Alternate 1 – 10-year and 50-year Floodplain Elevations	\$ 2,720
Add Alternate 2 – Floodway Determination	\$ 2,720
Add Alternate 3 – East Pedestrian Bridge Topo Survey	\$ 2,500

See Attachment A for a detailed break out of fees.

Exclusions

A work item that is not explicitly included is explicitly excluded.

Any fees required by review or approval agencies will be paid by the client and are not included in this proposal. Should the study be determined by FEMA to trigger a review fee, the City of Aztec should be prepared for an \$8,000 fee from FEMA.

Should FEMA determine that this study reach is subject to obtaining a Conditional Letter Of Map Revision (CLOMR) or Physical Map Revision (PMR) additional fees may apply.

OWNER AND ENGINEER hereby agree to modify the above-referenced Agreement as set forth in this Amendment. All provisions of the Agreement not modified by this or previous Amendments remain in effect. The Effective Date of this Amendment is 06/30/2020.



ENGINEER

Short Elliott Hendrickson Inc.

By: Rick Coldsnow

Title: Principal

Date: 6/30/2020

CLIENT

City of Aztec

By: _____

Title: _____

Date: _____

Attachment A

30-Jun-20



City of Aztec North Main - Contract Amendment 2 - Animas River Floodplain

	Principal	Project Engineer	Sr. Project Engineer	Graduate Engineer	Administrative	TOTAL FEES
	\$185	\$138	\$150	\$125	\$118	
Task Survey						
1 SEH Survey (includes GRT)						\$ 19,945.00
						\$ 19,945.00
2 Base Floodplain Study						
Project Management	12				4	\$ 2,692.00
Kick Off Meeting	1	1		2		\$ 573.00
Survey surface manipulation and integration with aerial (from COA)	1	2	1	22		\$ 3,361.00
Build floodplain model (20 sections on Animas)		8		48		\$ 7,104.00
Base floodplain model (100-year and 500-year floodplain BFEs) & QC	1	5	5	48		\$ 7,625.00
60% Meeting	1	1		2		\$ 573.00
E-LOMR application, Annotated FIRM Panel,	2	8	8	35		\$ 7,049.00
Respond to one round of FEMA comments	2		8	16		\$ 3,570.00
	20	25	22	173	4	\$ 32,547.00
Expenses						
Printing, copying						\$ 125.00
						\$ 125.00
						Subtotal \$ 52,617.00
						GRT @ 8.25% for work in NM \$ 95.00
						Total \$ 52,712.00
Add-Alternate 1 (10 and 50 year Elevations)		3	2	16		\$ 2,714.00
Add-Alternate 2 (Floodway)		3	2	16		\$ 2,714.00
Add-Alternate 3 (East Pedestrian Bridge Approach Topo)						\$ 2,500.00
Notes:						
1 A work item that is not explicitly included is explicitly excluded.						
2 Line item estimates are only estimates, and final costs may be reallocated between line items.						

Staff Summary Report

MEETING DATE: August 19, 2020
AGENDA ITEM: VI. CONSENT AGENDA (F)
AGENDA TITLE: Senior Community Center Record Destruction

ACTION REQUESTED BY: Aztec Senior Community Center
ACTION REQUESTED: Approval of Department Record Destruction
SUMMARY BY: Cindy Iacovetto

PROJECT DESCRIPTION / FACTS

- Resolution 2019-1133 Designating the New Mexico Municipal Records and Retention Schedule was approved on May 14, 2019.
- Prior to the final destruction of any city document, Commission approval must be obtained.
- If approval is obtained the documents will be shredded. The Destruction Form will be signed and held by the City Clerk.

Documents to be Destroyed

- Meal rosters, menus, copies of bank deposit slips, transportation logs, vehicle maintenance logs, client files, purchase receipts, from years 1998-2016

PROCUREMENT

- None Required; paper shredding service cost estimated at \$200

FISCAL IMPACTS

- Due to the volume of paper to be destroyed, the Senior Community Center will contact a firm specializing in document destruction. Funds are available in the department budget.

SUPPORT DOCUMENTS: None

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve the Destruction of Aztec Senior Community Center Documents

Staff Summary Report

MEETING DATE:	August 25, 2020
AGENDA ITEM:	IX. BUSINESS ITEM (A)
AGENDA TITLE:	Final Adoption of Ordinance 2020-507: An Ordinance Granting a Franchise to Comcast Cablevision of New Mexico / Pennsylvania, Inc. to Operate and Maintain a Cable System in the City of Aztec, New Mexico
ACTION REQUESTED BY:	City Manager
ACTION REQUESTED:	Approve Final Adoption of Ordinance 2020-507: An Ordinance Granting a Franchise to Comcast Cablevision of New Mexico / Pennsylvania, Inc. to Operate and Maintain a Cable System in the City of Aztec, New Mexico
SUMMARY BY:	City Staff

PROJECT DESCRIPTION / FACTS

City Commission approved Intent to Adopt Ordinance 2020-507 at their July 14th Commission Meeting.

The existing Comcast Franchise agreement was approved via Ordinance 2002-285 on May 6th, 2003. The current agreement has expired. During the November 12, 2019 Commission meeting, City Commission adopted Ordinance 2019-495 granting a Franchise Agreement to Comcast Cablevision of New Mexico/Pennsylvania, Inc. The agreement was signed by the Mayor and forwarded to Comcast Cablevision for signature. Due to a Federal Communication Commission (FCC) ruling revising the FCC 621 order finalized in early 2020, the City and Comcast Cablevision need to amend the franchise agreement.

In Section 10 – System Description items 10.2 and 10.3 have been removed from the franchise agreement that was approved by the City Commission during the November 12, 2019 meeting to comply with the new FCC directive. The City Attorney and staff have reviewed the new franchise agreement with Comcast.

<https://www.fcc.gov/document/fcc-enforces-franchising-laws-promote-broadband-deployment-0>

<https://docs.fcc.gov/public/attachments/DOC-358839A1.pdf>

The following information has been provided by Erin Mufalleto, External Affairs Manager, Comcast:

In-Kind Contributions Summary: While the 621 Order addresses any in-kind contributions (including but not limited to courtesy services, I-Net agreements, and payments for PEG other than PEG capital), the most common in-kind contributions are courtesy services. An LFA that wants to retain its courtesy accounts must agree to either: (a) have the fair market value of those courtesy accounts deducted from their franchise fee payment, or (b) pay for the services as invoiced by the cable operator.

As to schools, libraries, and public health institutions – continuing to provide services on a courtesy basis after the Third 621 Order may be classified as a “gift” in violation of E-Rate gift prohibitions. Violating the gift rules could disqualify Comcast as an e-rate provider to those facilities and could disqualify those facilities from getting e-rate benefits from any other provider.

621 Order Summary: On August 1, 2019, the Federal Communications Commission (“FCC” or “Commission”), in a 3-2 vote, approved its Third Report and Order, formally titled “In the Matter of Implementation of Section 621(a)(1) of the Cable Communications Policy Act” (“Order”). This Order will have a significant impact on communities in respect to their cable franchise benefits and obligations. The Order is the result of a notice and comment proceeding in which numerous local governments, national municipal organizations, cable operators, and cable industry associations participated. The following is a brief summary of the salient issues in the 85-page Order. The underlying premise of the Order is that all in-kind, non-capital cable company contributions to local governments fall within the five percent (5%) franchise fee and therefore must be offset against franchise fee payments. The Order defines “in-kind cable-related contributions” as “. . .any non-monetary contributions related to the provision of cable services provided by cable operators as a condition or requirement of a local franchise, including but not limited to, free or discounted cable service to public buildings, non-capital costs in support of PEG access, and costs attributable to the construction, maintenance, and service of I-Nets. It does not include the costs of complying with build-out and customer service requirements.”

The Order confirms and restates that so-called “free cable services” to municipal facilities, schools, and public libraries may be offset against franchise fees. It states: “We find that costs attributable to franchise terms that require a cable operator to provide free or discounted cable service to public buildings, including buildings leased by or under control of the franchise authority, are cable-related in-kind contributions that fall within the five percent cap on franchise fees.” (§26) As with its discussion of I-Nets, the Order concludes that any such services must be offset against franchise fees based on their fair market value.

The FCC outlines the options available to local governments when it comes to these services: “The local franchising authority may wish to either (1) continue to receive the existing free cable service and a monetary payment of five percent minus the fair market value of that service, or (2) discontinue service and receive a monetary payment of five percent, or (3) reduce the free cable service to select municipal buildings and receive a monetary payment of five percent minus the fair market value of the reduced service.” (Fn. 251) The FCC is clearly driving home its position that local governments cannot receive free cable service in addition to franchise fees.

The Order is prospective and may not be applied retroactively. (§62) For those current franchise agreements that conflict with the Order, the Commission “encourages the parties to negotiate franchise modifications within a reasonable period of time.” Id. In footnote 247 to the Order, it concludes that 120 days “should be, in most cases” a reasonable period of time. What happens if the parties cannot agree on changes to the franchise agreement? Here the FCC assumes that any failure to reach agreement will be the fault of the local government: “If a franchise authority refuses to modify any provision of a franchise agreement that is inconsistent with this Order, that provision is subject to preemption under Section 636(c).” (§62) Section 636(c) states simply that any franchise term that is inconsistent with the Cable Act will be deemed to be preempted. 47 U.S.C. 556(c) While the FCC may believe that this provides clear guidance as to how the Order will be implemented in practice, many questions remain.

Link to full order: <https://docs.fcc.gov/public/attachments/FCC-19-80A1.pdf>

PROCUREMENT / PURCHASING (if applicable)

N/a

FISCAL INPUT / FINANCE DEPARTMENT (if applicable)

N/a

SUPPORT DOCUMENTS: Ordinance 2020-507
2020 Comcast Franchise Agreement

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve Final Adoption of Ordinance 2020-507: An Ordinance Granting a Franchise to Comcast Cablevision of New Mexico / Pennsylvania, Inc. to operate and maintain a cable system in the City of Aztec, New Mexico

**City of Aztec
Ordinance 2020-507**

**An Ordinance Granting a Franchise to
Comcast Cablevision of New Mexico / Pennsylvania, Inc.
to Operate and Maintain a Cable System
in the City of Aztec, New Mexico**

WHEREAS: The City of Aztec entered into a franchise agreement with Comcast Cablevision of New Mexico / Pennsylvania, Inc. in 2009 to operate and maintain a cable system in the City of Aztec; and

WHEREAS: That agreement has to be modified due to new FCC rules; and

WHEREAS: Staff and attorneys have done their due diligence to create a new franchise agreement;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Aztec, New Mexico that the City Commission approves Ordinance 2020-507 which accepts the attached agreement and grants a franchise to Comcast Cablevision of New Mexico / Pennsylvania, Inc. to operate and maintain a cable system in the City of Aztec, New Mexico as attached.

PASSED, APPROVED, SIGNED AND ADOPTED THIS 25th day of August 2020 by the Aztec City Commission, City of Aztec, New Mexico.

Mayor Victor C. Snover

ATTEST:

Karla Saylor, City Clerk CMC

APPROVE AS TO FORM:

City Attorney

Advertised Date of Final Adoption: _____

Effective Date of Ordinance: _____

FRANCHISE AGREEMENT
CITY OF AZTEC, NEW MEXICO
AND
COMCAST OF NEW MEXICO/PENNSYLVANIA, LLC

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FRANCHISE AGREEMENT

This Franchise Agreement (hereinafter, the “Agreement” or “Franchise Agreement”) is made between the City of Aztec, New Mexico (hereinafter, “City”) and Comcast of New Mexico/Pennsylvania, LLC (hereinafter, “Grantee”).

The City having determined that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide the services, facilities, and equipment necessary to meet the future cable-related needs of the community, desires to enter into this Franchise Agreement with the Grantee for the construction, operation and maintenance of a Cable System on the terms and conditions set forth herein.

SECTION 1 - Definition of Terms

For the purpose of this Franchise Agreement, capitalized terms, phrases, words, and abbreviations shall have the meanings ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. §§ 521 et seq. (the “Cable Act”), unless otherwise defined herein.

1.1. “Basic Service” is the level of programming service which includes, at a minimum, all Broadcast Channels, all PEG SD Access Channels required in this Franchise, and any additional Programming added by the Grantee, and is made available to all Cable Services Subscribers in the Franchise Area.

1.2. “Customer” means a Person or user of the Cable System who lawfully receives Cable Service there from with the Grantee’s express permission.

1.3. “Digital Starter Service” means the Tier of optional video programming services, which is the level of Cable Service received by most Subscribers above Basic Service, and does not include Premium Services.

1.4. “Effective Date” means the date on which all persons necessary to sign this Agreement in order for it to be binding on both parties have executed this Agreement as indicated on the signature page(s), unless a specific date is otherwise provided in the “Term” section herein.

1.5. “FCC” means the Federal Communications Commission, or successor governmental entity thereto.

1.6. “Franchise” means the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes the construction and operation of the Cable System.

1.7. “Franchise Agreement” or “Agreement” shall mean this Agreement and any amendments or modifications hereto.

1.8. “Franchise Area” means the present legal boundaries of the City as of the Effective Date, and shall also include any additions thereto, by annexation or other legal means.

1.9. “Franchising Authority” means the City or the lawful successor, transferee, designee, or assignee thereof.

1.10. “Grantee” shall mean Comcast of New Mexico/Pennsylvania, LLC.

1.11. “Gross Revenue” means the Cable Service revenue derived by the Grantee from the operation of the Cable System in the Franchise Area to provide Cable Services, calculated in accordance with generally accepted accounting principles. Cable Service revenue includes monthly basic, premium and pay-per-view video fees, advertising and home shopping revenue, installation fees and equipment rental fees. Gross Revenue shall not include refundable deposits, bad debt, late fees, investment income, programming launch support payments, advertising sales commissions, nor any taxes, fees or assessments imposed or assessed by any governmental authority.

1.12. “Person” means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Franchising Authority.

1.13. “Public Way” shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or easements dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Franchise Area, which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Franchise Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing, operating, and maintaining the Grantee’s Cable System over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

SECTION 2 - Grant of Authority

2.1. Grant of Authority

The Franchising Authority hereby grants to the Grantee a nonexclusive Franchise authorizing the Grantee to construct and operate a Cable System in the Public Ways within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in any Public Way such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System, and to provide such services over the Cable System as may be lawfully allowed.

2.1.1 Subject to federal and state preemption, the provisions of this Franchise constitute a valid and enforceable contract between the parties. The material terms and conditions contained in this Franchise may not be unilaterally altered by the Franchising Authority through subsequent amendment to any ordinance, rule, regulation, or other enactment of the Franchising Authority, except in the lawful exercise of the Franchising Authority's police power.

2.1.2 Notwithstanding any other provision of this Franchise, Grantee reserves the right to challenge provisions of any ordinance, rule, regulation, or other enactment of the Franchising Authority that conflicts with its contractual rights under this Franchise, either now or in the future.

2.2. Term of Franchise.

The term of the Franchise granted hereunder shall be ten (10) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement and the Cable Act.

2.3. Renewal.

Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended.

Should the Franchise expire without a mutually agreed upon renewed Franchise Agreement and Grantee and City are engaged in an informal or formal renewal process, the Franchise shall continue on a month-to-month basis, with the same terms and conditions as provided in the Franchise, and the Grantee and City shall continue to comply with all obligations and duties under the Franchise.

2.4. Reservation of Authority.

Nothing in this Franchise Agreement shall (A) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of general

applicability promulgated by the Franchising Authority, or (C) be construed as a waiver or release of the rights of the Franchising Authority in and to the Public Ways.

SECTION 3 – Construction and Maintenance of the Cable System

3.1. Permits and General Obligations.

The Grantee shall be responsible for obtaining, at its own cost and expense, all generally applicable permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain or repair the Cable System, or any part thereof, prior to the commencement of any such activity. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All transmission and distribution structures, poles, other lines, and equipment installed by the Grantee for use in the Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the Public Ways and the rights and reasonable convenience of property owners who own property that adjoins any such Public Way.

3.2. Conditions of Street Occupancy.

3.2.1. New Grades or Lines. If the grades or lines of any Public Way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable advance written notice from the Franchising Authority (which shall not be less than ten (10) business days) and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any other user of the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall notify Grantee of such funding and make available such funds to the Grantee.

3.2.2. Relocation at request of Third Party. The Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure; provided (i) the Grantee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires; and (ii) the Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary relocation.

3.2.3. Restoration of Public Ways. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Grantee disturbs, alters, or damages any Public Way, the Grantee agrees that it shall at its own cost and expense replace and restore any such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to the disturbance.

3.2.4. Safety Requirements. The Grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System shall be performed in substantial accordance with applicable FCC or other federal and state regulations. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

3.2.5. Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Grantee's wires, cables, or other equipment. All such trimming shall be done at the Grantee's sole cost and expense. The Grantee shall be responsible for any damage caused by such trimming. The Grantee will provide the Franchising Authority 10 days advance notice of scheduled tree or other natural growth trimming except in emergency situations that affects Grantee's service.

3.2.6. Aerial and Underground Construction. At the time of Cable System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its Cable Systems' transmission and distribution facilities underground, provided that such underground locations are actually capable of accommodating the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground upon written approval of the City of Aztec Electric Department Director. Nothing in this Section shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment.

3.2.7. Undergrounding and Beautification Projects. In the event all users of the Public Way relocate aerial facilities underground as part of an undergrounding or neighborhood beautification project, Grantee shall participate in the planning for relocation of its aerial facilities contemporaneously with other utilities. Grantee's relocation costs shall be included in any computation of necessary project funding by the municipality or private parties. Grantee shall be entitled to reimbursement of its relocation costs from public or private funds raised for the project and made available to other users of the Public Way.

SECTION 4 - Service Obligations

4.1. General Service Obligation.

The Grantee shall make Cable Service available to every residential dwelling unit within the Franchise Area where the minimum density is at least thirty (30) dwelling units per mile and is within one (1) mile of the existing Cable System. Subject to the density requirement, Grantee shall offer Cable Service to all new homes or previously unserved homes located within 125 feet of the Grantee's distribution cable.

The Grantee may elect to provide Cable Service to areas not meeting the above density and distance standards. The Grantee may impose an additional charge in excess of its regular installation charge for any service installation requiring a drop in or line extension in excess of the above standards. Any such additional charge shall be computed on a time plus materials basis to be calculated on that portion of the installation that exceeds the standards set forth above.

4.2. Programming.

The Grantee shall offer to all Customers a diversity of video programming services.

4.3. No Discrimination.

The Grantee shall not discriminate or permit discrimination between or among any Persons in the availability of Cable Services or other services provided in connection with the Cable System in the Franchise Area. It shall be the right of all Persons to receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied. Nothing contained herein shall prohibit the Grantee from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice.

4.4. New Developments.

The Franchising Authority shall include the Grantee in the review process of proposed new developments within the Franchise Area. The Franchising Authority agrees to require the developer to give the Grantee access to open trenches for deployment of cable facilities and at least ten (10) business days written notice of the date of availability of open trenches. The Grantee will be required to utilize any open trench made available by the developer in the new development unless approved in writing by the City of Aztec Electric Department Director.

SECTION 5 - Fees and Charges to Customers

5.1. All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with applicable FCC's rate regulations. Before any new or modified rate, fee, or charge is imposed, the Grantee shall follow the applicable FCC

notice requirements and rules and notify affected Customers, which notice may be by any means permitted under applicable law.

SECTION 6 - Customer Service Standards; Customer Bills; and Privacy Protection

6.1. Customer Service Standards.

The Franchising Authority hereby adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended. The Grantee shall comply in all respects with the customer service requirements established by the FCC.

6.2. Customer Bills.

Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Customers, and in a way that (A) is not misleading and (B) does not omit material information. Notwithstanding anything to the contrary in Section 6.1, above, the Grantee may, in its sole discretion, consolidate costs on Customer bills as may otherwise be permitted by Section 622(c) of the Cable Act (47 U.S.C. §542(c)).

6.3. Privacy Protection.

The Grantee shall comply with all applicable federal and state privacy laws, including Section 631 of the Cable Act and regulations adopted pursuant thereto.

SECTION 7 - Oversight and Regulation by Franchising Authority

7.1. Franchise Fees.

The Grantee shall pay to the Franchising Authority a franchise fee in an amount equal to five percent (5%) of annual Gross Revenues received from the operation of the Cable System to provide Cable Service in the Franchise Area; provided, however, that Grantee shall not be compelled to pay any higher percentage of franchise fees than any other video service provider providing service in the Franchise Area. The payment of franchise fees shall be made on a quarterly basis and shall be due forty-five (45) days after the close of each calendar quarter. Each franchise fee payment shall be accompanied by a report prepared by a representative of the Grantee showing the basis for the computation of the Franchise Fees paid during that period.

7.2. Franchise Fees Subject to Audit.

7.2.1. Upon reasonable prior written notice, during normal business hours at Grantee's principal business office, the Franchising Authority shall have the right to inspect the Grantee's financial records used to calculate the Franchising Authority's

franchise fees; provided, however, that any such inspection shall take place within two (2) years from the date the Franchising Authority receives such payment, after which period any such payment shall be considered final.

7.2.2. Upon the completion of any such audit by the Franchising Authority, the Franchising Authority shall provide to the Grantee a final report setting forth the Franchising Authority's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Grantee shall have thirty (30) days from the receipt of the report to provide the Franchising Authority with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a "Finally Settled Amount." For purposes of this Section, the term "Finally Settled Amount(s)" shall mean the agreed upon underpayment, if any, to the Franchising Authority by the Grantee as a result of any such audit. If the parties cannot agree on a "Final Settlement Amount," the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.

7.2.3. Any "Finally Settled Amount(s)" due to the Franchising Authority as a result of such audit shall be paid to the Franchising Authority by the Grantee within thirty (30) days from the date the parties agree upon the "Finally Settled Amount." Once the parties agree upon a Finally Settled Amount and such amount is paid by the Grantee, the Franchising Authority shall have no further rights to audit or challenge the payment for that period. The Franchising Authority shall bear the expense of its audit of the Grantee's books and records.

7.3. Oversight of Franchise.

In accordance with applicable law, the Franchising Authority shall have the right to, on reasonable prior written notice and in the presence of Grantee's employee, periodically inspect the construction and maintenance of the Cable System in the Franchise Area as necessary to monitor Grantee's compliance with the provisions of this Franchise Agreement.

7.4. Technical Standards.

The Grantee shall comply with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. § 76. To the extent those standards are altered, modified, or amended during the term of this Franchise, the Grantee shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective. The Franchising Authority shall have, upon written request, the right to obtain a copy of tests and records required to be performed pursuant to the FCC's rules.

7.5. Maintenance of Books, Records, and Files.

7.5.1. Books and Records. Throughout the term of this Franchise Agreement, the Grantee agrees that the Franchising Authority may review the Grantee's books and records regarding customer service performance levels in the Franchise Area to monitor Grantee's compliance with the provisions of this Franchise Agreement, upon reasonable prior written notice to the Grantee, at the Grantee's business office, during normal business hours, and without unreasonably interfering with Grantee's business operations. All such documents that may be the subject of an inspection by the Franchising Authority shall be retained by the Grantee for a minimum period of three (3) years.

7.5.2. Proprietary Information. Notwithstanding anything to the contrary set forth in this Section, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to those employees, representatives, and agents of the Franchising Authority that have a need to know in order to enforce this Franchise Agreement and who agree to maintain the confidentiality of all such information. The Grantee shall not be required to provide Customer information in violation of Section 631 of the Cable Act or any other applicable federal or state privacy law. For purposes of this Section, the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, customer lists, marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules, or other information that is reasonably determined by the Grantee to be competitively sensitive. Grantee may make proprietary or confidential information available for inspection but not copying or removal by the Franchise Authority's representative. In the event that the Franchising Authority has in its possession and receives a request under a state "sunshine," public records, or similar law for the disclosure of information the Grantee has designated as confidential, trade secret or proprietary, the Franchising Authority shall notify Grantee of such request and cooperate with Grantee in opposing such request.

SECTION 8 – Transfer of Cable System or Franchise or Control of Grantee

8.1. Neither the Grantee nor any other Person may transfer the Cable System or the Franchise without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed. No transfer of control of the Grantee, defined as an acquisition of 51% or greater ownership interest in Grantee, shall take place without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld or delayed. No consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation. Within thirty (30) days of receiving a request for consent, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the

Grantee in writing of the additional information, if any, it requires to determine the legal, financial and technical qualifications of the transferee or new controlling party. If the Franchising Authority has not taken final action on the Grantee's request for consent within one hundred twenty (120) days after receiving such request, consent shall be deemed granted.

SECTION 9 - Insurance and Indemnity

9.1. Insurance.

Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain Comprehensive General Liability Insurance and provide the Franchising Authority certificates of insurance designating the Franchising Authority and its officers, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section. Such policy or policies shall be in the minimum amount of One Million Dollars (\$1,000,000.00) for bodily injury or death to any one person, and One Million Dollars (\$1,000,000.00) for bodily injury or death of any two or more persons resulting from one occurrence, and One Million Dollars (\$1,000,000.00) for property damage resulting from any one accident. Such policy or policies shall be non-cancelable except upon thirty (30) days prior written notice to the Franchising Authority. The Grantee shall provide workers' compensation coverage in accordance with applicable law. The Grantee shall indemnify and hold harmless the Franchising Authority from any workers compensation claims to which the Grantee may become subject during the term of this Franchise Agreement

9.2. Indemnification.

The Grantee shall indemnify, defend and hold harmless the Franchising Authority, its officers, employees, and agents from and against any liability or claims resulting from property damage or bodily injury (including accidental death) that arise out of the Grantee's construction, operation, maintenance or removal of the Cable System, including, but not limited to, reasonable attorneys' fees and costs, provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify and defend the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.

SECTION 10 - System Description and Service

10.1. System Capacity.

During the term of this Agreement the Grantee's Cable System shall be capable of providing a minimum of 85 channels of video programming with satisfactory reception available to its customers in the Franchise Area.

SECTION 11 - Enforcement and Termination of Franchise

11.1. Notice of Violation or Default.

In the event the Franchising Authority believes that the Grantee has not complied with the material terms of the Franchise, it shall notify the Grantee in writing with specific details regarding the exact nature of the alleged noncompliance or default.

11.2. Grantee's Right to Cure or Respond.

The Grantee shall have forty-five (45) days from the receipt of the Franchising Authority's written notice: (A) to respond to the Franchising Authority, contesting the assertion of noncompliance or default; or (B) to cure such default; or (C) in the event that, by nature of the default, such default cannot be cured within the forty-five (45) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that the cure will be completed.

11.3. Public Hearings.

In the event the Grantee fails to respond to the Franchising Authority's notice or in the event that the alleged default is not remedied within forty-five (45) days or the date projected by the Grantee, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority that is scheduled at a time that is no less than ten (10) business days therefrom. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with a reasonable opportunity to be heard.

11.4. Enforcement.

Subject to applicable federal and state law, in the event the Franchising Authority, after such public hearing, determines that the Grantee is in default of any material provision of the Franchise, the Franchising Authority may:

11.4.1. seek specific performance of any provision that reasonably lends itself to such remedy as an alternative to damages, or seek other equitable relief; or

11.4.2. in the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:

(i) The Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including two or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have ninety (90) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a response from the Grantee or upon receipt of the response does not agree with the Grantee's proposed remedy, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least ten (10) days prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to request termination of the Franchise.

(ii) At the designated hearing, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, present evidence and question witnesses, after which it shall determine whether or not the Franchise shall be terminated. The public hearing shall be on the record and a written transcript shall be made available to the Grantee within ten (10) business days. The decision of the Franchising Authority shall be in writing and shall be delivered to the Grantee by certified mail. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority "de novo" and to modify or reverse such decision as justice may require.

11.5. Technical Violation.

The Franchising Authority agrees that it is not its intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

11.5.1. in instances or for matters where a violation or a breach of the Franchise by the Grantee was good faith error that resulted in no or minimal negative impact on the Customers within the Franchise Area; or

11.5.2. where there existed circumstances reasonably beyond the control of the Grantee and which precipitated a violation by the Grantee of the Franchise, or which were deemed to have prevented the Grantee from complying with a term or condition of the Franchise.

SECTION 12 – Competitive Equity

12.1. Purposes.

The Grantee and the Franchising Authority acknowledge that there is increasing competition in the video marketplace among cable operators, direct broadcast satellite providers, telephone companies, broadband content providers and others; new technologies are emerging that enable the provision of new and advanced services to City residents; and changes in the scope and application of the traditional regulatory framework governing the provision of video services are being considered in a variety of federal, state and local venues. To foster an environment where video service providers using the public rights-of-way can compete on a competitively neutral and nondiscriminatory basis; encourage the provision of new and advanced services to City residents; promote local communications infrastructure investments and economic opportunities in the City; and provide flexibility in the event of subsequent changes in the law, the Grantee and the Franchising Authority have agreed to the provisions in this Section, and they should be interpreted and applied with such purposes in mind.

12.2. New Video Service Provider.

12.2.1. Notwithstanding any other provision of this Agreement or any other provision of law, if any Video Service Provider (“VSP”) (i) enters into any agreement with the Franchising Authority to provide video services to subscribers in the City, or (ii) otherwise begins to provide video services to subscribers in the City (with or without entering into an agreement with the Franchising Authority), the Franchising Authority, upon written request of the Grantee, shall permit the Grantee to construct and operate its Cable System and to provide video services to subscribers in the City under the same agreement and/or under the same terms and conditions as apply to the new VSP. The Grantee and the Franchising Authority shall enter into an agreement or other appropriate authorization (if necessary) containing the same terms and conditions as are applicable to the VSP within sixty (60) days after the Grantee submits a written request to the Franchising Authority.

12.2.2. If there is no written agreement or other authorization between the new VSP and the Franchising Authority, the Grantee and the Franchising Authority shall use the sixty (60) day period to develop and enter into an agreement or other appropriate authorization (if necessary) that to the maximum extent possible contains provisions that will ensure competitive equity between the Grantee and other VSPs, taking into account the terms and conditions under which other VSPs are allowed to provide video services to subscribers in the City.

12.3 Subsequent Change in Law.

If there is a change in federal, state or local law that provides for a new or alternative form of authorization for a VSP to provide video services to subscribers in the City, or that otherwise changes the nature or extent of the obligations that the Franchising Authority may request from or impose on a VSP providing video services to subscribers in the City, the Franchising Authority agrees that, notwithstanding any other provision of

law, upon Grantee's written request the Franchising Authority shall: (i) permit the Grantee to provide video services to subscribers in the City on the same terms and conditions as are applicable to a VSP under the changed law; (ii) modify this Agreement to comply with the changed law; or (iii) modify this Agreement to ensure competitive equity between the Grantee and other VSPs, taking into account the conditions under which other VSPs are permitted to provide video services to subscribers in the City. The Franchising Authority and the Grantee shall implement the provisions of this Section within sixty (60) days after the Grantee submits a written request to the Franchising Authority. Notwithstanding any provision of law that imposes a time or other limitation on the Grantee's ability to take advantage of the changed law's provisions, the Grantee may exercise its rights under this Section at any time, but not sooner than thirty (30) days after the changed law goes into effect.

12.4 Effect on This Agreement.

Any agreement, authorization, right or determination to provide video services to subscribers in the City under Sections 12.2 or 12.3 shall supersede this Agreement, and the Grantee, at its option, may terminate this Agreement or portions thereof, upon written notice to the Franchising Authority, without penalty or damages.

12.5 The term "Video Service Provider" or "VSP" shall mean any entity using the public rights-of-way to provide multiple video programming services to subscribers, for purchase or at no cost, regardless of the transmission method, facilities, or technology used. A VSP shall include but is not limited to any entity that provides cable services, multichannel multipoint distribution services, broadcast satellite services, satellite-delivered services, wireless services, and Internet-Protocol based services.

SECTION 13 - Miscellaneous Provisions

13.1. Force Majeure.

The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, failure of utility service necessary to operate the Cable System, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable or equipment is attached, as well as unavailability of materials or qualified labor to perform the work necessary.

Furthermore, the parties hereby agree that it is not the Grantee's intention to subject the Grantor to penalties, fines, forfeiture or revocation of the Agreement for violations of the Agreement where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Grantor and/or Subscribers.

13.2. Notice.

All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, or by reputable overnight courier service and addressed as follows:

To the Franchising Authority:

City of Aztec
201 W. Chaco St.
Aztec, NM 87410
Attn: City Manager

To the Grantee:

Comcast of New Mexico/Pennsylvania, LLC
8440 Washington St NE
Albuquerque, NM 87113
Attn: Government Affairs Dept.

with a copy to:

Comcast Cable
1701 John F Kennedy Blvd.
Philadelphia, PA 19103
Attn.: Government Affairs Department

13.3. Entire Agreement.

This Franchise Agreement, including all Exhibits, embodies the entire understanding and agreement of the Franchising Authority and the Grantee with respect to the subject matter hereof and supersedes all prior understandings, agreements and communications, whether written or oral. All ordinances or parts of ordinances that are in conflict with or otherwise impose obligations different from the provisions of this Franchise Agreement are superseded by this Franchise Agreement.

13.4. Severability.

If any section, subsection, sentence, clause, phrase, or other portion of this Franchise Agreement is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body, or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

13.5. Governing Law.

This Franchise Agreement shall be deemed to be executed in the State of New Mexico, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of New Mexico, as applicable to contracts entered into and performed entirely within the State.

13.6. Modification.

No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Grantee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.

13.7. No Third-Party Beneficiaries.

Nothing in this Franchise Agreement is intended to confer third-party beneficiary status on any member of the public to enforce the terms of this Franchise Agreement.

13.8. No Waiver of Rights.

Nothing in this Franchise Agreement shall be construed as a waiver of any rights, substantive or procedural, Grantee may have under federal or state law unless such waiver is expressly stated herein.

IN WITNESS WHEREOF, this Franchise is signed in the name of the City of Aztec, New Mexico this ___ day of _____, 2020.

For City of Aztec, New Mexico:

By: _____

Name: _____

Title: _____

Date: _____

For Comcast of New Mexico/Pennsylvania, LLC

By: _____

Name: Richard C. Jennings

Title: Regional Senior Vice President – Cable Management

Date: _____, 2020

Staff Summary Report

MEETING DATE:	August 25, 2020
AGENDA ITEM:	IX. BUSINESS ITEM (B)
AGENDA TITLE:	Intent to Adopt Ordinance 2020-508: An Ordinance Authorizing the Sale of Certain Municipal-Owned Real Property West of Newman Avenue to Eric Edgerton, for the Purchase Price of \$5,400.00

ACTION REQUESTED BY:	Eric Edgerton
ACTION REQUESTED:	Approve Intent to Adopt Ordinance 2020-508: An Ordinance Authorizing the Sale of Certain Municipal-Owned Real Property West of Newman Avenue to Eric Edgerton, for the Purchase Price of \$5,400.00
SUMMARY BY:	Steven M. Saavedra

PROJECT DESCRIPTION / FACTS

- Mr. Eric Edgerton seeks to purchase 0.29 AC of real property from the City of Aztec.
- In 2004, Mr. Edgerton obtained final approval from the City Commission and constructed the Cottonwood Mobile Home Park, west of Newman Ave. However, 0.29 acres of Cottonwood Mobile Home Park resides on the City of Aztec's right-of-way.
- Prior to the final approval of the PUD Zoning & Cottonwood Mobile Home Park, the City of Aztec approved an encroachment permit on July 8, 2003, allowing Mr. Eric Edgerton and Art Perkins to encroach on city property along Newman Ave.
- Currently, Mr. Edgerton seeks to sell the Cottonwood Mobile Home Park. However, the potential buyer is uncomfortable with 0.29 AC of the Cottonwood Mobile Home Park on COA property. Therefore, Mr. Edgerton seeks to obtain 0.29 AC from the City of Aztec.
- In July 2020, the City Manager, the City Attorney, and the City Planner met to discuss Mr. Edgerton's request. Due to the anti-donation clause, Mr. Edgerton needed a survey and appraisal for the valuation of property, prior to consideration of the request. To date, Mr. Edgerton obtained an appraisal for the 0.29 AC and a survey of the subject property.
- On 8/11/2020 & 8/18/2020, City Staff discussed the request. Areas of concern were related to future paving of Newman Ave and associated sidewalks. The right-of-way width for Newman Ave is approximately 45-feet in width. However, the encroachment reduces the right-of-way to approximately 30-feet in width.
- The maintenance of utilities was also listed as a concern. Notably, the underground electric line and the waterline could be difficult to maintain without sufficient access. According to the City of Aztec GIS map, there is evidence indicating seven (7) residential dwelling units abutting Newman Ave are placed over the underground electric line.

- The City had requested an official survey, in the hopes of determining the exact location of both underground utilities. To date, the submitted survey relied on our GIS data to indicate the utility lines' location.
- An alternative approach to rectify the situation is a long-term lease, combined with any mobile home leaving the park, is replaced with the correct placement of a structure outside of the encroachment area. The goal is to accommodate the development of Newman Ave, access to utility lines, and no transactional issues for the property owner or future property owner(s) of the Cottonwood Mobile Home Park.
- The Community Development Department has received three (3) calls and two (2) letters from property owners within close proximity of Newman Ave. The calls were generated based on the zoning letter for a Planned Unit Development (PUD) for the Cottonwood Mobile Home Park.
- The property legals are:

Beginning at a point on the northwest right of way line of Newman Avenue where said point is located South 85° 59' 40" West a distance of 0.86 feet from a ½" Iron Rod w/ Cap Stamped MN 11598" found at the intersection formed by the northwest right of way line of Newman Avenue and the dividing line between lands n/f Cottonwood Mobile Home Community, LLC (APN 2065178342194) and lands n/f Christopher & Ruth Collins-Medina (APN 2065178326237), thence, Running through the right of way of Newman Avenue, South 01° 18' 49" West a distance of 962.66 feet to a point, thence, Continuing through the right of way of Newman Avenue, South 89° 48' 05"E a distance of 12.01 feet to a point , thence, Along the west right of way line of Newman Avenue, North 01° 10' 25" East a distance of 993.86 feet to a point, thence, Along the northwest right of way line of Newman Avenue, North 85° 59' 40" West a distance of 14.43 feet to the point and place of beginning.

Containing; 12,690 square feet or 0.29 acres of land more or less.

FISCAL IMPACTS

If the ordinance is approved and becomes effective, the market value for the 0.29 AC is valued at \$5,400.00.

SUPPORT DOCUMENTS:

- Ordinance 2020-508 Authorizing the Sale of Certain Municipal
- GIS Map
- Appraisal
- Survey from Eric Edgerton
- 2003 Encroachment Permit
- 2004 City Commission Minutes
- 2003 Encroachment Permit
- 2004 City Commission Minutes

DEPARTMENT'S RECOMMENDED MOTION: Move to Approve the Approve Intent to Adopt Ordinance 2020-508: An Ordinance Authorizing the Sale of Certain Municipal-Owned Real Property West of Newman Avenue to Eric Edgerton, for the Purchase Price of \$5,400.00



Figure 1: GIS Utility Map



Figure 2: Street view

CITY OF AZTEC
Ordinance 2020-508

**An Ordinance Authorizing the Sale of Certain Municipal-Owned Real Property
West of Newman Avenue to Eric Edgerton, for the Purchase Price of \$5,400.00**

WHEREAS, The Cottonwood Mobile Home Park currently resides and encroaches on City of Aztec's Right-of-Way;

WHEREAS, Unless a referendum election is held, the Ordinance authorizing the sale of this property shall be effective forty-five (45) days after its adoption; and

WHEREAS, Staff has determined that the sale of the property is in the best interest of both parties.

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the City of Aztec as follows:

Section 1. Terms of Sale

The City proposes to sell Property comprised of 0.29 AC.

Section 2. Appraised Value of Municipal Owned Real Property

The current appraised fair market value of the Property has been determined by a qualified appraiser to be Five Thousand Four Hundred Dollars (\$5,400.00) as of August 18, 2020 and the report is available for inspection in the City Clerk's office.

Section 3. The Amount of Purchase Price

In the amount of \$ 5,400.00

Section 4. Property Legal Description

Beginning at a point on the northwest right of way line of Newman Avenue where said point is located South 85° 59' 40" West a distance of 0.86 feet from a ½" Iron Rod w/ Cap Stamped MN 11598" found at the intersection formed by the northwest right of way line of Newman Avenue and the dividing line between lands n/f Cottonwood Mobile Home Community, LLC (APN 2065178342194) and lands n/f Christopher & Ruth Collins-Medina (APN 2065178326237), thence, Running through the right of way of Newman Avenue, South 01° 18' 49" West a distance of 962.66 feet to a point, thence, Continuing through the right of way of Newman Avenue, South 89° 48' 05"E a distance of 12.01 feet to a point , thence, Along the west right of way line of Newman Avenue, North 01° 10' 25" East a distance of 993.86 feet to a point, thence, Along the northwest right of way line of Newman Avenue, North 85° 59' 40" West a distance of 14.43 feet to the point and place of beginning. Containing; 12,690 square feet or 0.29 acres of land more or less, in Aztec, New Mexico.

Section 4. Purchaser of Property

Eric Edgerton, 193 CR 2900 Aztec, New Mexico.

Section 5. Adoption and Effective Date of Ordinance

This Ordinance was published prior to its adoption and shall be published at least once after adoption, pursuant to Sections 3-1-2 (J), 3-17-3 and 3-54-1, et seq. NMSA 1978, as amended. The effective date of this Ordinance shall be forty-five (45) days after its adoption by the governing body of the City of Aztec, unless a referendum election is held.

Section 6. Authorization and Execution of Documents

The City Manager is hereby authorized to finalize and execute documents as may be reasonably necessary to close the transaction authorized herein provided that the closing documents shall be substantially in a form acceptable to the City Attorney.

PASSED, APPROVED, SIGNED AND ADOPTED this ____ day of ____ 2020, by the Aztec City Commission, City of Aztec, New Mexico.

Mayor Victor Snover

ATTEST:

Karla Saylor, City Clerk CMC

APPROVED AS TO FROM:

City Attorney

Advertised Date of Final Adoption: _____

Effective Date of Ordinance: _____

**Estimate of Market Value
Appraisal Report**

**Right of Way Encroachment
Along West Side of Newman Avenue
Cottonwood Mobile Home Park
Aztec, NM**

**Effective Date of Appraisal
August 7, 2020**

**Date of Inspection
August 7, 2020**

**Date of Report
August 18, 2020**

**Prepared For:
Cottonwood Mobile Home Park
% Eric Edgerton
Aztec, NM**

**Prepared By:
James Q. Gipson**

Gipson Investments, Inc.

Appraisal and Consulting

3001 Northridge Drive, Suite 24

P.O. Box 2458

Farmington, NM 87499

Phone 505-327-5470

August 18, 2020

Cottonwood Mobile Home Park

% Eric Edgerton

193 Road 2900

Aztec, NM 87410

RE: Estimate of Market Value – Right of Way Encroachment situated on Newman Avenue, Aztec, NM; encumbered by Cottonwood Mobile Home Park, owned by City of Aztec

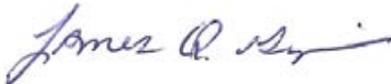
As requested, I have estimated the current market value of the fee simple interest in the subject property, as of August 7, 2020, which is the date of inspection of the subject property.

Attached is my Appraisal Report that outlines my analysis and conclusions. Please note the contingent and limiting conditions that are a part of this report. This report is prepared in accordance with the current version of the Uniform Standards of Professional Appraisal Practice (USPAP).

The current market value of the subject property, as of August 7, 2020, is as follows:

Fee Simple:	\$ 5,400 (Five Thousand Four Hundred Dollars)
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Respectfully submitted,



James Q. Gipson

NM 642-G (April 30, 2021)

QUALIFICATIONS

James Q. Gipson – General Certified Appraiser

EDUCATION

Bachelor of Business Administration, Accounting, New Mexico State University
Master of Business Administration, Management, Angelo State University

APPRAISAL EDUCATION

Real Estate Appraisal Principles, Appraisal Institute, Boulder
Residential Valuation, Appraisal Institute, Boulder
Basic Valuation Procedures, Appraisal Institute, Boulder
Basic Income Capitalization, Appraisal Institute, Tempe
Advanced Income Capitalization, Appraisal Institute, Boulder
Real Estate Finance, Statistics and Valuation Modeling, Appraisal Institute, Denver
National Uniform Standards of Professional Appraisal Practice, Appraisal Institute, Denver (03/15)
National USPAP Update, Appraisal Institute, Albuquerque (01/20)
Uniform Appraisal Standards for Federal Land Acquisition, Appraisal Institute, Albuquerque (07/17)
Business Valuation Parts 1 & 2, Appraisal Institute, Austin
Valuation of Leased Fee Interests, Appraisal Institute, Albuquerque
Real Estate Fraud, Appraisal Institute, Albuquerque
Valuing Conservation Easements, Appraisal Institute, Albuquerque
Appraising Natural Resources, Am Society of Farm Managers and Rural Appraisers, Albuquerque
Rates and Ratios: Making Sense of GIMs, OARs and DCF, Appraisal Institute, Albuquerque
Small Hotel/Motel Valuation, Limited Service Lodging, Appraisal Institute, Chicago (online)
Subdivision Valuation, Appraisal Institute, Albuquerque
Evaluating Commercial Construction, Appraisal Institute, El Paso
Real Estate Finance, Value and Investment Performance, Appraisal Institute, Albuquerque
Practical Regression Using Microsoft Excel, Appraisal Institute, Albuquerque
Comparative Analysis, Appraisal Institute, Chicago (online)
The Discounted Cash Flow Model: Concepts, Issues and Applications, Appraisal Institute, Chicago (online)
Advanced Spreadsheet Modeling for Valuation Applications, Appraisal Institute, Albuquerque
Eminent Domain and Condemnation, Appraisal Institute, Chicago (online)
Stats, Graphs and Data Science, George Dell's Valometrics, Albuquerque
Fundamentals of Uniform Standards for Federal Land Acquisitions, Appraisal Institute, Chicago (online)
Economic Forecasting, ASU, San Angelo
Real Estate Finance and Investment, NMSU, Las Cruces
Real Estate Principles, NMSU, Las Cruces
Business Law, NMSU, Las Cruces

CLIENTELE

Citizens Bank, Farmington	Charter Bank
Wells Fargo Bank, N.A.	M&I Thunderbird Bank, Phoenix
Washington Federal Savings	Los Alamos National Bank
Bank of the Southwest, Farmington	Texas Commerce Bank, El Paso
Vectra Bank Colorado, N.A.	Associated Financial Services
Four Corners Community Bank	United Bank of Colorado
Animas Credit Union	Transamerica
California Bank & Trust	The Bank of Durango
City of Farmington, NM	United Missouri Bank, Kansas City
ConocoPhillips Company	Questar Regulated Services
U.S. Government, Dept of the Interior - BOR	National Bank of Arizona
U.S. Government, Dept of the Interior - BIA	New Mexico Department of Transportation
U.S. Government, Dept of Agriculture - NRCS	
City of Aztec, NM	

APPRAISAL REPORT
Prepared for
COTTONWOOD MOBILE HOME PARK

DATE OF REPORT: August 18, 2020

TO: Eric Edgerton

FROM: James Q. Gipson

RE: Right of Way Encroachment

Legal Description: A parcel situated within the Newman Avenue right of way, described metes and bounds – full legal included – page 11.

Purpose of the Appraisal: Provide an estimate of market value as defined by the Office of Comptroller of the Currency under 12 CFR, Part 34, Sub-part C

Intended Use: Assist in resolution of encroachment of real property by facilitating a purchase of encroached area.

Client / Intended Users: Cottonwood Mobile Home Community, LLC is the client. Intended users are Eric Edgerton and the City of Aztec; there are no other intended uses of this report.

Real Estate: The subject property is a 0.29 Acre (12,690 SF) portion of an arterial right of way on which Cottonwood Mobile Home Park is currently encroached.

Personal Property: There is no personal property included in the appraisal

Property location: Newman Avenue
Aztec, NM

Tax ID: N/A

Property Rights Appraised: Fee Simple

Appraisal Premise: Current

Date of Value: August 7, 2020

Date of Inspection: August 7, 2020

Estimate of Market Value:	As Is	As Proposed
Real Estate	\$ 5,400	\$ N/A

Contingencies: None noted

COMPETENCY

James Q. Gipson has a wide variety of real estate and real property appraisal experience throughout New Mexico and Southwest Colorado. Experience includes a number of assignments similar to the one at hand. General Certifications are currently held in New Mexico, Colorado and Arizona.

SUMMARY

Net Operating Income:	\$ N/A	Remaining Economic Life:	N/A
Exposure Period Estimate:	8 to 12 months	Marketing Time Estimate:	12 months
Insurable Replacement Cost:	\$ N/A		

PURPOSE OF ANALYSIS

The purpose of this memorandum is to convey an estimate of market value of the identified interest in the above-referenced property. Market Value is defined by the federal financial institutions regulatory agencies as follows:

"Market Value means the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently knowledgeable, and assuming the price is not affected by undue stimulus. Implicit in this definition is the consummation of a sale as of a specified date and the passing of title from seller to buyer under conditions whereby:

- (1) buyer and seller are typically motivated;
- (2) both parties are well informed or well advised, and each acting in what he considers their own best interest;
- (3) a reasonable time is allowed for exposure in the open market;
- (4) payment is made in terms of cash in US dollars or in terms of financial arrangements comparable thereto;
- (5) the price represents the normal consideration for the property sold, unaffected by special or creative financing or sales concessions granted by anyone associated with the sale."

(Source: Office of the Comptroller of Currency under 12 CFR, Part 34, subpart C-appraisals, 34.42 Definitions (g).)

SCOPE, APPRAISAL DEVELOPMENT AND REPORTING PROCESS

This is an Appraisal Report which is intended to comply with the reporting requirements set forth under Standards Rule 2-2(a) of the Uniform Standards of Professional Appraisal Practice for an Appraisal Report. As such, it presents summary discussions of the data, reasoning, and analyses that are used in the appraisal process to develop the appraiser's opinion to value. Supporting documentation concerning data, reasoning, and analyses is retained in the appraiser's files. The depth of discussion contained in this report is specific to the needs of the client and for the intended use stated above. The appraiser is not responsible for unauthorized use of this report.

The scope of this analysis includes the following:

- discussing the request for appraisal services with the client;
- physical inspection of the subject, neighborhood, and submarket;
- research public records, or other sources deemed reliable, relative to the subject;
- research public records, or other sources deemed reliable, for the sales of comparable vacant properties;
- present the result of this Appraisal Report.

The result of this assignment is to value a portion of an existing right of way on which Cottonwood Mobile Home Park is encroached. When the mobile home park was constructed the owner obtained approval to encroach an average of 13 feet into the right of way but now wants to correct the encroachment and purchase the underlying land from the City of Aztec, who is the owner. The encroachment is fenced along Newman Avenue and includes utilities for the mobile home spaces but those improvements were installed with construction of the mobile home park and, with the approval of the encroachment, would not be considered compensable to the city. As a result, only the underlying land will be valued and, valuing only the underlying land, the only approach that is applicable is the sales comparison approach. Vacant land in our market area do not typically sell based on income potential and the income approach is not applicable. Additionally, with no improvements considered, the cost approach is not applicable.

AREA / NEIGHBORHOOD DESCRIPTION

Northwest New Mexico was the home of prehistoric Indians for thousands of years. The Anasazi (meaning "The Ancient Ones" in Navajo), farmed the area and built stone and adobe cities until about the 13th century. The Pueblo Indians and the nomadic tribes that became the Navajos and Apaches inhabited the area for years before the Spanish invaded the area in 1540. Northwestern New Mexico was opened to settlement in the late 1870's. Farmers and ranchers began homesteading the land. The farmers prospered, but the major growth occurred after the development in the 1950's of the area's oil, gas and coal reserves.

The most recent census (April 1, 2010) reported the population of San Juan County at 130,044, and that of Aztec at 6,736. The population on July 1, 2019 was estimated to be 6,369, which represents an annual decline in population of 0.62% over the period. San Juan County indicated a 0.53% annual decline in population while the State of New Mexico has experienced a slight annualized increase of 0.20% (2,059,199 to 2,096,829 persons). Per capita income in San Juan County was \$23,206, which is in the upper one-third of the state; however, unemployment remains above the state average.

The subject's neighborhood lies south of West Aztec Boulevard, extending from the San Juan County complex on the west, with the southern and eastern boundaries being the Animas River. The neighborhood is primarily residential in nature and most of the parcels that front on West Aztec Boulevard are commercial in nature and are not included in the neighborhood. Zoning in the neighborhood includes residential, mobile home and PUD. Site built homes in the neighborhood tend to be 40 or more years old and manufactured housing (mobile homes) present a wide range of age, some on subdivided parcels and some in mobile home parks. The neighborhood is essentially fully developed with very little vacant land available for a new improvement or development. Full public services are present and the neighborhood will continue in its current use

MARKET CONDITIONS

San Juan County continues to show signs of a correction. The petroleum industry was very active until 2008, but has slowed significantly over the past few years due to reduced natural gas prices and an abundant supply of natural gas. Historically, the San Juan Basin has produced little oil, although there has been activity in developing the Mancos Shale, which is an oil formation; however, a fairly abrupt correction in oil prices of up to 50% has slowed much of the exploration at this time. Retail sales corrected, with lower gross receipts tax affecting both local and state revenue, and appear to be correcting again, with the lower oil prices. The effects of a sustained slowdown in exploration and a continued sluggish national economy will have a negative impact on local market conditions and real estate values, as has occurred over the past few years.

Throughout San Juan County over the past twelve months compared to the previous twelve months, the number of residential sales decreased moderately, with the local MLS reporting 928 sales (site built single family, townhome/condo and mfg. housing) from August 1, 2018 thru July 31, 2019; and 921 sales from August 1, 2019 thru July 31, 2020, indicating a very slight change over the period. The average price of the residential sales has held fairly steady for a number of years but increased over the two years examined with 2018/19 reporting an average sales price of \$193,437 and 2019/20 reporting \$199,496. The median price of these sales decreased slightly with 2018/19 reporting a median sales price of \$179,900 and 2019/20 reporting a median sales price of \$178,000. Although the average and median sales prices have held rather well, the numbers are not a sign of a stable market, but rather the reflection of sales of upper end homes selling at a reduced price after an extended period on the market which raises both indications.

The following table outlines the last five years of gross receipts tax for the City of Aztec. Gross receipts revenue declined in 2018 but has increased every year since that time, exceeding FY 2016 by 3.8%.

FY 2016	\$4,050,276
FY 2017	\$3,520,582
FY 2018	\$3,776,238
FY 2019	\$3,981,925
FY 2020	\$4,205,436

Due to the uncertainty created by COVID-19, the FY 2021 gross receipts budget was decreased to \$2,927,386, with July 2020 – first month of fiscal year – reporting \$293,578 in gross receipts, which is 22% below actual for the previous July.

EXPOSURE TIME / MARKETING PERIOD

Sales of all classes of land have been slow in San Juan County over the past few years and the smaller communities have typically experienced a greater correction in sales than the larger communities. Over the past five years, MLS reports 12 sales of vacant land and two pending transactions as of the date of this report within the Aztec City Limits. Both commercial and residential construction has been slow for the past decade and sales of vacant parcels are very limited. Days on market for the entire data set ranged from 17 to 1,253 days, with an average of 272 days. With the data available and current market conditions, I would expect up to a 12 month marketing period for the subject and similar exposure time.

SITE DESCRIPTION

The subject of this assignment is a portion of an existing artery, lying along the west side of Newman Avenue. It was reported to be 12,690 square feet (0.29 acre) and is situated at the rear of twenty-three mobile home spaces that front on Robinson Avenue. This encroachment was allowed by the city at the time the mobile home park was constructed but the proposed acquisition by the mobile home park will “clean up” the encroachment so that utilities and fencing are within the parcel. The parcel into which the subject would be incorporated is currently 7.90 acres in size and is zoned PUD, planned unit development. The topography of the site is very gently sloped. During my inspection, I did not note any additional encroachments, nor have I been made aware of any factors that are detrimental to the site. The site enjoys access to public water, electricity, sewer and natural gas. Nothing is noted that adversely affects the marketability of the site.

PROPERTY HISTORY

The subject property has been owned by the current owner, City of Aztec, in excess of three years. The artery – Newman Avenue - was platted when the subdivision was approved, which is over 50 years ago. The prospective purchaser of the subject is Cottonwood Mobile Home Community, LLC, and it has been owned by the current owner(s) in excess of three years. The property has not been actively marketed.

TAXES & ASSESSMENTS

The Office of the Assessor, San Juan County, New Mexico, revealed that there is no tax bill number for the artery.

HIGHEST AND BEST USE

Highest and best use as vacant

Physically, the topography of the site is favorable and would require little, if any, site preparation. The size, given the current zoning, is too larger for the typical single improvement and there is not a market for new residential subdivisions at this time. Given the zoning and the current market conditions, the highest and best use of the subject would be residential.

Highest and best use as improved

Only the underlying land is being valued. Therefore, there is no highest and best use as improved.

Assessors Map



The proposed acquisition is shown in blue.

Legal Description

Beginning at a point on the northwest right of way line of Newman Avenue where said point is located South 85° 59' 40" West a distance of 0.86 feet from a ½" Iron Rod w/ Cap Stamped MN 11598" found at the intersection formed by the northwest right of way line of Newman Avenue and the dividing line between lands n/f Cottonwood Mobile Home Community, LLC (APN 2065178342194) and lands n/f Christopher & Ruth Collins-Medina (APN 2065178326237), thence

Running through the right of way of Newman Avenue, South 01° 18' 49" West a distance of 962.66 feet to a point, thence

Continuing through the right of way of Newman Avenue, South 89° 48' 05"E a distance of 12.01 feet to a point , thence

Along the west right of way line of Newman Avenue, North 01° 10' 25" East a distance of 993.86 feet to a point, thence

Along the northwest right of way line of Newman Avenue, North 85° 59' 40" West a distance of 14.43 feet to the point and place of beginning.

Containing; 12,690 square feet or 0.29 acres of land more or less.

Photographs of the Subject Property



Subject Property facing South



Subject Property facing North

SITE VALUE

Only the sales comparison approach is applied, as the subject is vacant land. The subject of this assignment is a 0.29 acre (12,690 SF) parcel that would result in Cottonwood mobile home park parcel being 8.19 acre. This 8.19 acre parcel is referred to as the “larger parcel” for the assignment and the value that is applied to the acquisition is based on this area.

Comparable 1

Location:	301 Santisteven Lane, Aztec
Proximity to the Subject:	1.3 Miles Northeast
Grantor:	Thomas J Irro, Jr. and Jeannie S. Izzo
Grantee:	Dayton Randall Hooser and Jodie Hooser
Recording Reference:	Book 1641 / Page 856
Date of Sale:	March 22, 2019
Days on Market:	17
Confirmed By:	Pearl Montoya to James Gipson
Terms of Sale:	Cash to Seller
Zoning:	None
Size of Parcel:	5.80 Acres
Sales Price:	\$125,000
Indicated / AC:	21,552
Topography:	Level
Comments:	This is a parcel situated off of McCoy that enjoys river frontage and irrigation for 66% of the parcel. It does not include sewer service but is a large single home site. This parcel sold for list price with multiple offers.



Comparable 2

Location:	211 Bison Trail, Aztec
Proximity to the Subject:	2.2 Miles Southeast
Grantor:	Gordon Neal Crane, Jr., Trustee
Grantee:	Mitchell S. Reid and Kelsey S. Reid
Recording Reference:	B1640 / P252
Date of Sale:	January 31, 2019
Days on Market:	1,253
Confirmed By:	Gordon Crane (Realtor) to James Gipson
Terms of Sale:	Cash to seller
Zoning:	None
Size of Parcel:	4.77 Acres
Sales Price:	\$25,000
Indicated / AC:	\$5,241
Topography:	Gently rolling

Comments: This is a parcel in South Aztec, off of U.S. Highway 550. It is in an area that is residential in nature with the non-residential activity typically being situated with highway frontage. The parcel is within the city limits but in an area that does not include sewer service at this time and is serviced by community water. This parcel was originally listed for \$50,000.



Comparable 3

Location: XX McCoy Avenue, Aztec
Proximity to the Subject: 1.7 Miles Northeast
Grantor: Robert D. McGee, Trustee
Grantee: Aztec Municipal Schools
Recording Reference: Book 1536 / Page 10
Date of Sale: February 9, 2012
Days on Market: 48
Confirmed By: Jan Connors (Realtor) to James Gipson
Terms of Sale: Cash to Seller
Zoning: None
Size of Parcel: 6.29 Acres
Sales Price: \$210,000
Indicated / AC: \$33,386
Topography: Level

Comments: This is a parcel situated on McCoy that includes full irrigation and was planted in alfalfa at the time of sale. It does not include sewer service but the highest and best use would be a large single home site. Agricultural production does not typically support irrigated land values in San Juan County. This parcel sold for list price in 48 days.



Comparable 4

Location: 1135 McCoy Avenue, Aztec
Proximity to the Subject: 1.5 Miles Northeast
Grantor: Audrey Oglesby
Grantee: Kenneth W. Light and Meghan S. Light
Recording Reference: Book 1598 / Page 359
Date of Sale: February 18, 2015
Days on Market: 218
Confirmed By: Elizabeth Tafoya (Realtor) to James Gipson
Terms of Sale: Cash
Zoning: None
Size of Parcel: 3.97 Acres
Sales Price: \$105,000
Indicated / AC: \$26,448
Topography: Level

Comments: This is a parcel situated off of McCoy that includes irrigation – approximately 50% - and was developed with a residence after the purchase. It does not include sewer service but the highest and best use would be a large single home site. This parcel sold for list price in 218 days, with a listed price at sale of \$120,000 (originally listed at \$140,000). There is an easement that provides access to the adjacent parcel to the east which enters this parcel around the middle of the eastern boundary and drops down to the southern boundary, extending across the entire parcel.



Analysis

	Subject	Comp 1	Comp 2	Comp 3	Comp 4
Date of Sale		Mar-19	Jan-19	Feb-12	Feb-15
Sales Price		\$125,000	\$25,000	\$210,000	\$105,000
Size - Acres	8.19	5.80	4.77	6.29	3.97
Price Per Acre		\$21,552	\$5,241	\$33,386	\$26,448
Property Rights	Fee Simple				
Market Conditions	Current			(3,300)	(2,000)
Financing Terms					
Conditions of Sale	Arms Length				
Adjusted Per Acre		\$21,552	\$5,241	\$30,086	\$24,448
Location			10,400		
Size					
Topography			2,600		
Improvements					
Irrigation		(3,500)		(5,000)	(3,500)
Easement					(1,300)
Total Adjustments		(\$3,500)	\$13,000	(\$5,000)	(\$4,800)
Indicated Per Acre		\$18,052	\$18,241	\$25,086	\$19,648

Comments

Before the differences are considered, the site sales form a wide range of indicated price per acre that extend from \$13,000 to \$25,000. As reported, competing sales throughout San Juan County have been limited and narrowing the search to the Aztec area provides even less data. Sales from other municipalities in San Juan County would not necessarily compete with the subject and it is best to remain within the Aztec market area. Although the sales formed a wide range of time, adjustments were minimal due to the suppressed market that has existed for the past decade. All of the sales include transfer of fee simple property rights and all are reported to be “arms length” between willing market participants.

Market Conditions

The market corrected in 2008 and continued to decline for the next four to five years, after which there was a slight stabilizing to a possible increase in values that has held steady over the past five years. Sale 3, which is the oldest sale, is adjusted at 10% of the price per acre and sale 4, which occurred three years later, is adjusted at 7.5%. Sales 1 and 2 are recent enough that an adjustment for a difference in market conditions was not supported.

Location

An adjustment for location was only appropriate for sale 2, which is located in south Aztec and is considerably inferior to the subject and the other comparable sales.

Size

Typically, smaller properties sell for more per unit – square feet, acre, etc. – and larger one less. However, after any other adjustments that were appropriate were applied, the smallest did not set the upper end of the range and the largest the lower end. As a result, I have chosen to not apply adjustments for this variable.

Topography

All of the sales were essentially level with the exception of sale 2, which enjoys gently rolling terrain. An adjustment was appropriate for this difference and applied at 5% to reflect this variable.

Improvements

None of the sales included any permanent improvements and only the subject underlying land is appraised and an adjustment is not supported for this variable.

Irrigation

Three of the sales enjoy adjudicated irrigation and this variable is superior to those parcels that do not include irrigation. The subject and sale 2 do not have irrigation with sale 3 being fully irrigated and sales 1 and 4 being partially irrigated and adjusted accordingly.

Easement

Comparable sale 4 includes an easement that provides access to the parcel that lies to the west and an adjustment was appropriate for this variable. That adjustment was applied at 5% of the price per acre.

Reconciliation

Typically in reconciliation there are similarities of dissimilarities that would influence the selection of a value within the range presented after the adjustments are applied. In this case, due to sale 3 being so far out of line with the other sales after adjustments, I choose to allow most weight to the three sales that formed a tight range of value. As a result, I select a value of \$18,500 per acre for the subject larger parcel.

Conclusion

I researched transactions that include acquisitions of strips of public lands – alleys, frontage along arteries, etc. - and did not find any sales/purchases. The area of encroachment for the subject of this parcel is 0.29 acres. The comparable sales indicate a per acre value of \$18,500, resulting in an estimated value of \$5,365.

$$0.29 \text{ Ac} \times \$18,500 / \text{Ac} = \$5,365$$

Rounded to \$ 5,400

SPECIAL ASSUMPTIONS AND LIMITING CONDITIONS

There are no special assumptions or limiting conditions.

GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

This appraisal has been prepared subject to the following general assumptions and limiting conditions. They are critical to the analyses and conclusions contained in this report.

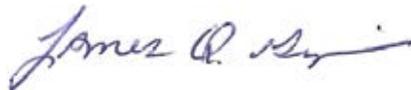
1. The valuation herein is the fee simple interest, and the subject property is appraised free and clear of all liens and encumbrances unless otherwise stated. Encumbrances considered in the valuation include, where applicable: real estate taxes, recorded easements and/or covenants, CC&R's, purchase options or sales agreements, signed leases, and unpaid bond debt.
2. It is assumed that any easements noted on the title report without specific locations will have no material effect on the normal use of any of the subject parcels
3. Responsible ownership and competent property management are assumed.
4. Information furnished by others is believed to be reliable if it cannot be independently verified by the appraiser. However, no warranty is given for its accuracy.
5. No responsibility is assumed for the legal description or other matters involving legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
6. All engineering surveys are assumed to be correct. The plot plans and other illustrative material in this report are included only to assist the reader in visualizing the property.
7. It is assumed that there are no hidden or unapparent conditions of the subject property, subsoil, or structures which would render it most or less valuable than other comparable properties. No responsibility is assumed for any such conditions or for professional engineering services, which might be required to discover such facts. No soils or geological reports were made available to provide further input in this area.
8. It is assumed that all customary public utilities for this property type and market are reasonably available to the subject property, unless otherwise stated.
9. It is assumed that the subject is in compliance with all applicable zoning use regulations and restrictions, unless otherwise stated. It is further assumed that any required governmental entitlements, licenses, certificates of occupancy, consents, etc., have been or can be obtained or renewed for any use upon which the value estimate in this report is based.
10. Any forecasts or projections contained in this report are the product of analysis of current, historical, and anticipated market conditions and assume continuation of prevailing political, social, economic, and environmental conditions. Such factors are contingent forecasts and/or projections are subject to change.

11. It is assumed that any utilization of land and improvements is within the described legal boundaries of the subject property, and that there is no encroachment or trespass, unless otherwise noted.
12. The distribution, if any, of the total valuation in this report between land and improvements applies only under the stated program of utilization. The separate allocations for land and improvements must not be used in conjunction with any other appraisal and are invalid if so used.
13. The Americans with Disabilities Act (ADA) became effective in January 1992. The appraiser has not made a specific compliance survey or analysis of this property to determine whether it is in conformance with the various, detailed requirements of the ADA. The value estimate is predicated on the assumption that, except as identified by the appraiser, the subject improvements comply with ADA. It is possible that a comprehensive compliance survey could reveal additional areas in which the property does not conform with one or more of the Act's requirements. If so, this could have a negative effect upon the market value or marketability of the property.

CERTIFICATION

I certify that, to the best of my knowledge and belief:

1. The statements of fact and data reported and utilized in the appraisal process are true and correct.
2. The analyses, opinions and conclusions are limited only by the special and general assumptions and limiting conditions stated in this report, and are the appraiser's personal, unbiased professional analyses, opinions and conclusions.
3. I have no present or prospective interest in the property that is the subject of this appraisal report, and I have no personal interest or bias with respect to the parties involved.
4. My compensation and/or continued employment are not contingent upon an action or event resulting in from the analyses, opinions, or conclusions in, or the use of, this appraisal report.
5. The appraisal assignment was not based on a requested minimum valuation, a specific valuation, or the approval of a loan.
6. My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the Uniform Standards of Professional Appraisal Practice.
7. I have performed this report in accordance with the Competency Provision of the Uniform Standards of Professional Appraisal Practice (USPAP).
8. The principal appraiser who completed this appraisal report did personally inspect the subject property as noted.
9. No one provided significant professional assistance to the appraiser signing this appraisal report.
10. My analyses, opinions and conclusions were developed, and this report has been prepared, in conformity with the requirements of the Code of Professional Ethics and the Standards of Professional Appraisal Practice of the Appraisal Institute, as well as all applicable state and federal appraisal and banking regulations in force as of the date of this appraisal report.
11. I have performed no services, as an appraiser or in any other capacity, regarding the property that is the subject of his report within the three-year period immediately preceding acceptance of this assignment.
12. As of the date of this report, I have completed the continuing education program for Practicing Affiliates of the Appraisal Institute.
13. The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly sworn authorized representatives



SIGNED: _____

APPRAISER: James Q. Gipson

STATE CERTIFIED

GENERAL APPRAISER NUMBER: NM642-G

EXPIRATION DATE: April 30, 2021

August 18, 2020

Date

Inspected Property

Exterior

Interior N/A

Yes X No ___

Yes ___ No ___

FAXED
7/8/03

July 8, 2003

City of Aztec
Attn.: Erick Aune (City Planner)
201 W. Chaco
Aztec, NM 87410

Re: Ordinance 99-228 Encroachment on City Property

Erick,

Eric Edgerton and Art Perkins are requesting a permit to encroach on city property along Newman Ave in Aztec, New Mexico. The property is located at 1710 W. Aztec Blvd in Aztec, New Mexico (See Attached legal description). The encroachment would take place along the East side of the property starting at the North end of Newman Ave and extending South to the end of our property. The encroachment would be for a fence to extend 10 ft onto city property along Newman Ave. The reason for the encroachment is to allow adequate spacing of mobile home units for our mobile home park.

I understand and agree that any permit issued hereon shall be issued pursuant and subject to the provisions of Chapter 22 of the Aztec City Code, that such permit may be revoked by the City of Aztec, acting by and through its Planning department, at any time, and that the encroachment must be removed within 30 days thereafter; that no right, title or interest in any property owned by the City of Aztec shall vest or accrue to me by any reason of the issuance of such permit or exercise of the privilege given thereby, that I will not suffer or permit any dangerous or defective condition of property to exist in connection with the exercise of the privilege; and that I will hold harmless the City of Aztec if for any damages arising out of, from or in connection with the exercise of the privilege granted by the issuance of the permit sought.

Eric Edgerton
Owner



Mayor
Gail A. Aspromonte

Mayor Pro-Tem
Mike Arnold



City Commissioners
Jerry Hanhardt
James J. Rubow
Larry Marcum

June 18, 2003

Art Perkins and Eric Edgerton
1549 W. Aztec Boulevard
Aztec, NM 87410

Re: Application for Site Development Plan for Planned Unit Development

Dear Mr. Perkins:

This is an addendum and clarification of the letter dated June 16, 2003. Based on a site visit, the inclusion of a 30 foot east/west road right-of-way easement at the South end of the property for the purpose of a future road to Oliver Street will suffice.

Thank you for including this easement within your development, as we believe it will benefit the entire community in the long run.

Very truly yours,


Erick J. Aune, AICP
City Planner

Revision of 4/16/03
letter

30' EASEMENT

Mayor
Gail A. Aspromonte

Mayor Pro-Tem
Mike Arnold



City Commissioners
Jerry Hanhardt
James J. Rubow
Larry Marcum

April 16, 2003

Art Perkins and Eric Edgerton
1549 W. Aztec Boulevard
Aztec, NM 87410

Re: Application for Site Development Plan for Planned Unit Development (PUD)

Dear Mr. Perkins and Mr. Edgerton:

This letter is to confirm the decision made by the City of Aztec Commission on April 15, 2003. The application for the Site Development Plan for Planned Unit Development (PUD) was approved contingent upon the New Mexico State Highway and Transportation Department's written approval of the site traffic analysis and the inclusion of a 30 foot east/west road easement at the South end of the property for the purpose of a future road that may access Oliver Street. If you have any questions regarding this decision please give Erick Aune a call at 334-7605.

Sincerely,

Brandy Candelaria
Brandy Candelaria
Planning & Zoning
City of Aztec

30' per Eric Aune 4/23/03

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Public Hearing Notice Zone Change ZC2020-03

Rec'd
8-20-20 (18)

Commissioners and Community Development
201 West Chaco St.
Aztec, New Mexico 87410
505-334-7600

Dear Commissioners and Mr. Saavedra,

After reviewing your letter of August the 11th, 2020, and a phone call to Mr. Saavedra, I am responding with some concerns about the proposed sale of Cottonwood Mobile Home Park. At this juncture, I am opposed to the sale.

Due to the revision of the setback that was not properly established in the original sale in 2004, here is a list of concerns that I have as a homeowner. I purchased my home in 2006 and have been here in this home since 2007.

I was not privy to the original sale but I have heard about it and have done my own investigation.

1. Each mobile home park shall be entirely enclosed as its exterior boundaries by a fence or wall six feet in height, and by screen, landscaping not less than six feet in height. Said wall or fence shall run along and be contiguous to the boundary line or property line except where abutting a front street.
2. Responsibilities of Mobile Home Park, Landlord maintain the common area and roads in the park (keep clean and safe) responsible for the trees in the mobile park that was not placed by a tenant. Any tree that is larger than 8 inches diameter that is determined to be a risk.
3. Trash other than the tenant's domestic home use is the Landlord's responsibility to maintain or hire maintenance to do so.

The improper setback is a major concern; I have been told over the years that Newman Ave. is an alley. There is a Newman Ave. sign on the Western Ave. intersection, but not on Mulberry or Elm Streets. This makes it difficult for deliveries and people to find our homes.

No one will maintain this road or this alley. When it rains, this alley becomes a four-wheel road mud bog run.

I have asked repeatedly to have road base put in and graded, as it stands, not much has happened. We still have standing water, and I have never seen water run up-hill. One of the answers I get is that the road is not wide enough to pave; (the road is 35') if the Mobile Home Park's fence was where it is supposed to be we would have the room to pave the road and put in the sidewalks.

Public Hearing Notice Zone Change ZC2020-03

This alley is heavily used. When School is in session there are three buses twice a day using the road plus daily traffic.

The Mobile Home Park or the planning department allowed the Park to take up to 12' to 15' feet of the road, so the easement is off considerably. This has become a reason for not fixing the road. There are two stop signs in the Mobile Home Park, neither are observed as they run them all the time. I have had several close calls, no matter which route I take from this alley. The one-stop sign has been obscured by trees until recently, the other is just ignored. It makes no difference if we come off Mulberry, Elm, or the dirt road.

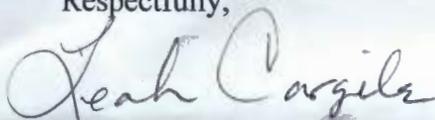
Some of the tenants have taken it upon themselves to clean up around their homes and empty lots. I don't have a problem with this until they start throwing the trash over the fence into the road, (this has just recently stopped also). When the east side fence has been Graffited the owner or Landlord has done nothing, if we choose not to look at it we have had to remove the graffiti and or paint the fence.

Until just recently, the fence has not been maintained. If I, or the other homeowners, don't pick up the trash from the Park, or others that use this road, the trash just stays there. The weeds have been horrendous over the years. To my knowledge, the Park has never been cited for this because the road is considered an alley by the city, or that is what I have been told.

When I first moved here the Park was maintained until the Oil Companies moved out. There was a time every two months or so a sting operation would take place to pick up the undesirables, this too has stopped in recent months.

I am not opposed to the sale, I am resistant to the sale because of the unjustified hardships put on homeowners that surround the Park. The road and the fence easement is what I am concerned about.

Respectfully,



Ms. Leah Cargile
308 Newman Ave.
Aztec, NM 87410
505-860-7853

August 18, 2020

Seven M Saavedra
Community Development Department
City of Aztec

Reference: Notice of Public Hearing, zone Change, Petition no. ZC 2020-

Dear Sir,

My parents, William R and Betty Brown, have lived at 310 Newman Ave. since 1956. At the time they purchased the property on the corner of Newman and Mulberry they gave a portion of the land as an easement dedicated to the City of Aztec for a roadway to and from.

Year after year we saw my dad haul rock in to maintain the roads.

We saw the new developments around us go in with paved streets and sidewalks while our portion of the Newman Ave. go unattended.

I remember when the land was purchased by "Robinson" to use as an auto salvage yard even though it went against city ordinances at that time. (Should have been at least 6 miles outside city limits) And yet to the "betterment of the City of Aztec" it was allowed.

When the land was sold around 2004 for the Mobile Trailer Park to go in, I remember the discussion at that time being that it was against the City of Aztec Zoning for that area. And Yet again to the "Betterment of the City" it was allowed. Not only that, they allotted the Mobile Trailer Park around 12-15 feet taking up a portion of the road on Newman. It appears in my perception, that the City of Aztec changes the ordinances and zoning to fit the need.

It would only be proper and fair, that if we gave up a certain portion of our land as an easement, The party across from us, would have to also give up an easement so that the road could be paved and a sidewalks put in. When looking at the map enclosed with the letter, ours is the only road not paved. Could you explain why?

Another concern is the safety and wellbeing of the children from the trailer park who board and get off the bus during the school year. I have observed that they line up along the fence line with parents waiting for the bus with no place to safely stand. (Sometimes in the rain and mud)

Another concern is that the traffic uses this Avenue as a two lane street. Even though the street is about the size of a "One Way" road. Speed limit signs, conducive for a neighborhood, should be put up to slow the traffic down.

I believe that the City of Aztec should do what is honorable and right and redeem what has been lost from the last purchase of the Mobile Home Park. Give us back the full street.

If this zone Change goes through, again it will be at the expense of the people on Newman.

With Sincere Regards

• Rhonda Nordman

✓ Susan E Baker

402-4814
rknordman@gmail.com

City Commission Meeting Quasi Judicial Hearing
Tue, Aug 25, 2020 6:00 PM - 10:00 PM (MDT)

Please join my meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/236514949>

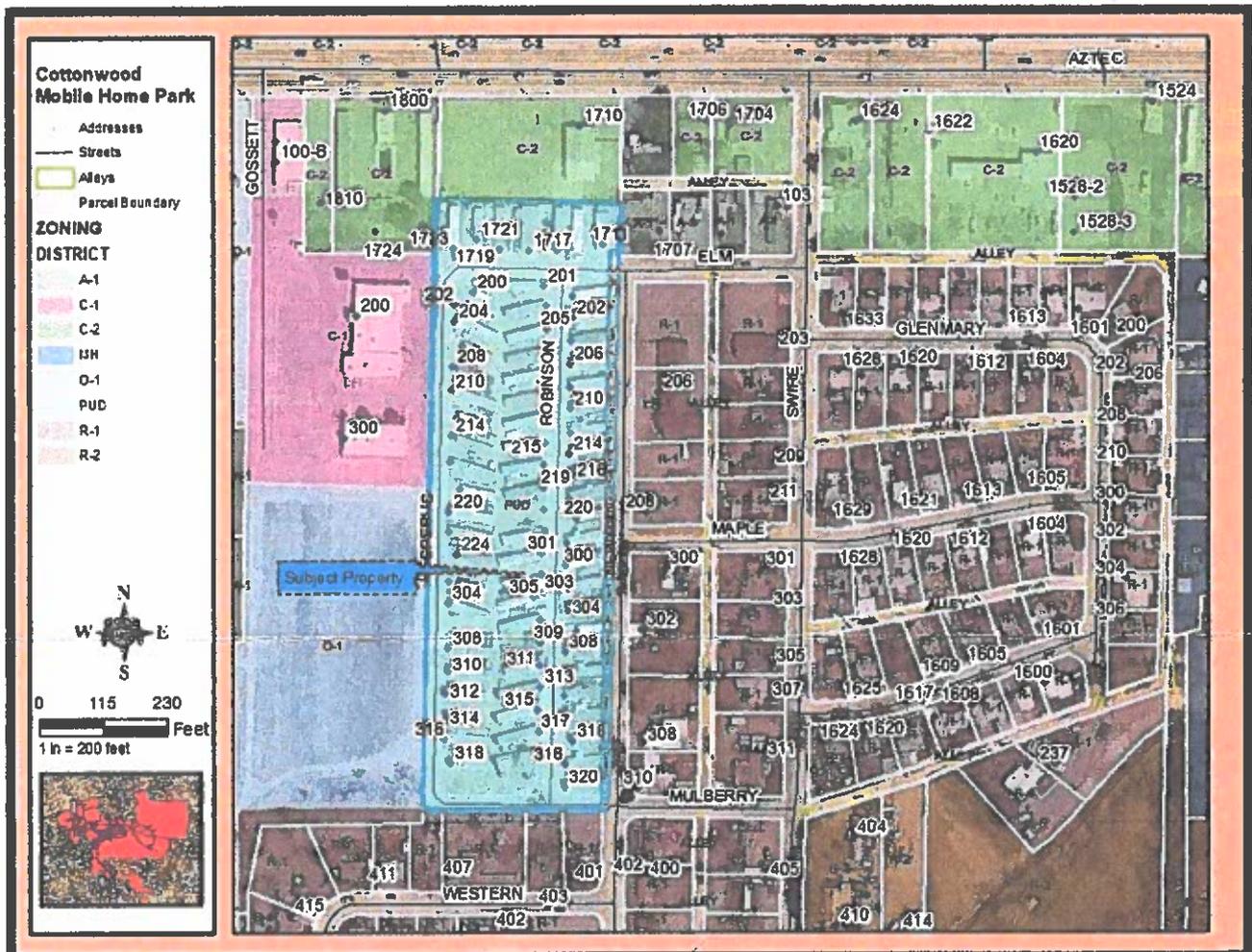
You can also dial in using your phone.

United States (Toll Free): 1 877 309 2073

United States: +1 (646) 749-3129

Access Code: 236-514-949

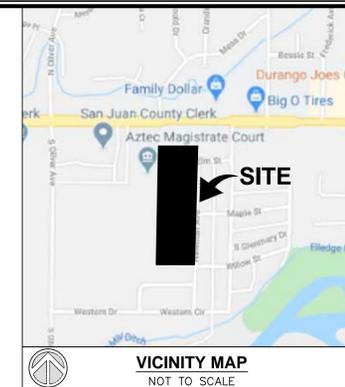
New to GoToMeeting? Get the app now and be ready when your first meeting starts: <https://global.gotomeeting.com/install/236514949>



Townsend, Swire?

Zoned

Transforming the Industry
Surveying
Zoning
Environmental
Real Support - Title Review
Millman Surveying, Inc.
Corporate Headquarters
4111 Bradley Circle NW
Canton, OH 44718
Phone: 800-520-1010
Fax: 330-342-0834
www.millmanland.com
landsurveyors@millmanland.com



VICINITY MAP
NOT TO SCALE

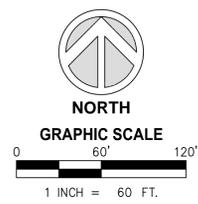
SYMBOL LEGEND

- R/W - Right-of-Way
- P/L - Adjoiner Property Line
- - Monumentation Found as Noted
- - 5/8" Iron Pin w/Cap Set Stamped "FISH 23998"
- △ - Surveyor's Observation
- ☐ - Cleanout
- ⊙ - Sanitary Manhole
- ⊕ - Fire Hydrant
- ⊖ - Water Valve
- ⊗ - Water Vault
- ⊘ - Gas Meter
- ⊙ - Air Condition Unit
- ⊙ - Cable T.V. Pedestal
- ⊙ - Satellite Dish
- ⊙ - Telephone Box
- ⊙ - Electric Meter
- ⊙ - Electric Transformer
- ⊙ - Electric Manhole
- ⊙ - Electric Box
- ⊙ - Sign
- ⊙ - Light Pole
- ⊙ - Chain Link Fence (As Noted)
- ⊙ - Wood Fence (As Noted)
- ⊙ - Wall (As Noted)
- - Approximate Water Line Location
- - Approximate Underground Electric Location

ALTA/NSPS LAND
TITLE SURVEY
PREPARED FOR:

COTTONWOOD
MOBILE HOME
PARK

200 Hesperus Avenue
City of Aztec
County of San Juan
State of New Mexico



Sheet No. **1** of **1**

MSI Project No. 47838
PC: ERF
PM: GHS Drafter: ETN

CERTIFICATION:

To: TR MHP Holdings, LLC, a Colorado Limited Liability Company, Fidelity National Title Insurance Company and San Juan County Abstract & Title Company.

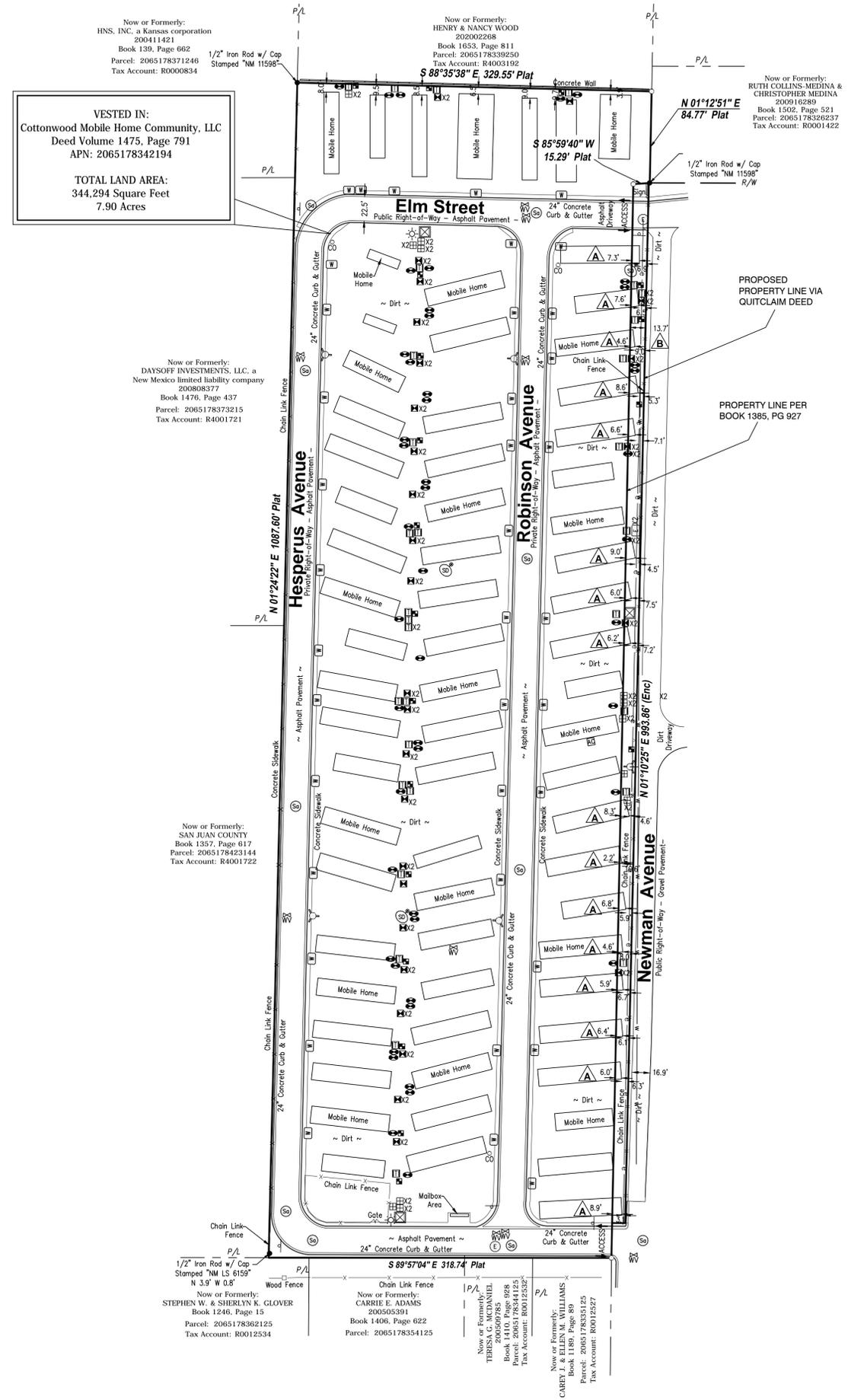
This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 10(a), 11, 12, 13, 16, 17, 18, 19, & 20 of Table A thereof. The field work was completed on June 30, 2020.

Date of Plat or Map: August 18, 2020

By: *Timothy L. Fish*
Timothy L. Fish, P.S.
New Mexico Professional Surveyor No. 23998

REVISION HISTORY

BY:	DATE:	COMMENT:



VESTED IN:
Cottonwood Mobile Home Community, LLC
Deed Volume 1475, Page 791
APN: 2065178342194

TOTAL LAND AREA:
344,294 Square Feet
7.90 Acres

Now or Formerly:
DAYSOFF INVESTMENTS, LLC, a
New Mexico limited liability company
200808377
Book 1476, Page 437
Parcel: 2065178373215
Tax Account: R4001721

Now or Formerly:
SAN JUAN COUNTY
Book 1357, Page 617
Parcel: 2065178423144
Tax Account: R4001722

Now or Formerly:
STEPHEN W. & SHERLYN K. GLOVER
Book 1246, Page 15
Parcel: 2065178362125
Tax Account: R0012534

Now or Formerly:
CARRIE E. ADAMS
200505391
Book 1406, Page 622
Parcel: 2065178354125

Now or Formerly:
TERESA & EILEEN W. WILLIAMS
Book 1189, Page 89
Parcel: 2065178335125
Tax Account: R0012527

Now or Formerly:
RUTH COLLINS-MEDINA &
CHRISTOPHER MEDINA
200910289
Book 1502, Page 521
Parcel: 2065178320237
Tax Account: R0001422

NOTE:
The subject strips of land shown hereon to be transferred from COTTONWOOD MOBILE HOME COMMUNITY, LLC, to CITY OF AZTEC, via quit claim deeds have not yet been recorded and the ownership rights of said cannot be considered to have relinquished until they have been executed and recorded as part of the County Clerk's Office, San Juan County, State of New Mexico.

**SAN JUAN COUNTY ABSTRACT & TITLE COMPANY
ORDER NO. 149329 - SCHEDULE A:**
The land referred to in this Commitment is described as follows:

Lot 2 of the MINOR SUBDIVISION FOR ART PERKINS ET AL., in the City of Aztec, San Juan County, New Mexico, as shown on the Plat of said Subdivision filed for record April 15, 2004 and recorded in Book 1385, page 927.

**SAN JUAN COUNTY ABSTRACT & TITLE COMPANY
ORDER NO. 149329 - SCHEDULE B, PART II: EXCEPTIONS**

- Numbers correspond with survey-related Schedule B exception items contained in the above referenced Title Commitment.
- Easement(s) to El Paso Natural Gas Company recorded in Book 223, page 65, in Book 225, page 83, in Book 226, page 1, and in Book 230, page 42 of the Records of said County. (AFFECTS SUBJECT PROPERTY - BLANKET IN NATURE)
 - Effects of that certain change of ownership of water rights instrument recorded in Book 1547, page 899, and in Book 1552, page 831 of the Records of said County. (AFFECTS SUBJECT PROPERTY - BLANKET IN NATURE)
 - The land described in Schedule A shall not be deemed to include any house trailer or manufactured home standing on said premises for which the title has not been declassified. (AFFECTS SUBJECT PROPERTY - BLANKET IN NATURE)
 - Disclaimers, terms, conditions, provisions and other matters revealed and depicted on the Plat(s) and/or Replat(s) of said Subdivision.
 - Terms, conditions and provisions of those certain San Juan County Subdivision Regulations recorded in Book 1239, page 518 and in Book 1253, page 328, as amended in Book 1437, page 397 and in Book 1574, page 815 of the Records of San Juan County, New Mexico. (DOCUMENTS NOT PROVIDED)

ZONING:
As of July 7, 2020, we have not yet received the current zoning information for the subject property.

BASIS OF BEARING:
The basis for all bearings shown hereon is the subject's west boundary line, known as being N01°24'22"E, per Plat 1385 Page 927 of the San Juan County Records.

- MISCELLANEOUS NOTES:**
- There is direct access to the subject property via Newman Avenue which is a dedicated public right-of-way.
 - With regard to Table A Item 11, an 811 utility locate request was made and markings found at the site, if any, have been noted. All underground utilities may not be shown and markings found at the site may not depict underground features accurately. Lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response.
 - The posted address on site is 200 Hesperus Avenue, Aztec, New Mexico.
 - At the time of this survey, there was no observable surface evidence of earth moving work, building construction or building additions within recent months.
 - At the time of this survey, there was no observable evidence of the subject property being used as a solid waste dump, sump or sanitary landfill.
 - At the time of this survey, there was no observable evidence of any recent changes in street right-of-way lines either completed or proposed, and available from the controlling jurisdiction.
 - There are no appurtenant easements listed in the above referenced title commitment.
 - There are no wetlands on or adjacent to the subject per the United States Fish and Wildlife Service National Wetlands Inventory web site. This statement should not be used as a substitute for an actual field wetlands delineation or Environmental Assessment Report.
 - The Property surveyed and shown hereon is the same property described in Schedule A of San Juan County Abstract & Title Company Title Commitment No. 149329 with an effective date of June 15, 2020.
 - There are 74 mobile homes in Cottonwood Mobile Home Park.
 - Requested setback of 5 feet on the Northern property line and 5 feet on the Eastern property line with the newly proposed purchase of the encroachment area from the City of Aztec via quitclaim deed.
 - Underground electric line and underground water line are represented approximately via San Juan County GIS

TOTAL LAND AREA:
344,294 Square Feet
7.90 Acres

SURVEYOR'S OBSERVATIONS:
△ Subject's trailers cross the property line by varying distances not exceeding 9.0 ft.
B Subject's improvements cross the property line by 13.7 ft.

PARKING:
There are no parking spaces on the subject property.

FLOOD ZONE:
By scaled map location and graphic plotting only, the subject property appears to lie entirely in Zone X-Unshaded (Areas determined to be outside the 0.2% annual chance floodplain) according to the Flood Insurance Rate Map for the County of San Juan, State of New Mexico, Community Panel No. 35045C0710F, Effective Date August 5, 2010.

SURVEYOR'S OBSERVATIONS:

At the time of this survey, an overlap of 6.9' on the northern end and 11.4' on the southern end of the eastern boundary line with United States of America and Gordon Neal and Dorcas Ann Crane existed. Subject overlap to be remedied via quitclaim deeds.

ZONING:

As of July 6, 2020, we have not yet received the current zoning information for the subject property.

BASIS OF BEARING:

The basis for all bearings shown hereon is the east line of the subject property, known as being South 00°04'29" East, per Book 1590, Page 887 of the San Juan County Records.

PARKING:

There are no striped parking spaces on the subject property.

TOTAL LAND AREA:

419,766 Square Feet
9.637 Acres

**FIDELITY NATIONAL TITLE INSURANCE COMPANY
COMMITMENT NO. 149235 - SCHEDULE A:**

The land referred to in this Commitment is described as follows:

A Tract of Land Located in the Southwest Quarter of the Northeast Quarter of the Northwest Quarter (SW/4NE/4NW/4) of Section Nine (9) Township Thirty (30) North, Range Eleven (11) West, of the N.M.P.M., San Juan County, New Mexico and more particularly described as follows: BEGINNING at the Northwest Corner of Section Nine (9) and being a found Brass B.L.M. Cap marked Section 05 Section 04 Section 09 1969;
THENCE South 68°54'42" East for a distance of 1937.25 feet to a point on the 1/64 Section Line of said Section; and being the True Point of Beginning;
THENCE South 88°46'20" East for a distance of 160.58 feet along the curb of the existing road; THENCE South 00°04'29" East for a distance of 568.81 feet along the 1/64 Section Line of said Section;
THENCE North 88°55'25" West for a distance of 658.18 feet along the 1/64 Section Line of said Section;
THENCE North 00°03'52" East for a distance of 661.07 feet along the 1/64 Section Line of said Section;
THENCE South 88°53'14" East for a distance of 498.63 feet along the 1/64 Section Line of said Section; The True Point of Beginning.
Also known as Tract 2 - Remainder, as shown on the City of Aztec Alternate Summary Plat for Mar-Bel Incorporated recorded in Book 1590, page 887 of the San Juan County records.

**FIDELITY NATIONAL TITLE INSURANCE COMPANY
COMMITMENT NO. 149235 - SCHEDULE B, PART II:**

Numbers correspond with survey-related Schedule B exception items contained in the above referenced Title Commitment.

- Reservations contains in the Patent from the United States of America recorded in Book 1, page 476 of the Records of said County.
(AFFECTS THE SUBJECT PROPERTY - CONTAINS NO PLOTTABLE SURVEY ITEMS)
- Deviation of fence from the Eastern boundary line and reference to deed overlap, right of way and access easements across subject property and all other matters revealed and depicted by that certain Alternate Summary Plat recorded in Book 1590, page 887 of the Records of said County.
(AFFECTS THE SUBJECT PROPERTY - PLOTTED AND SHOWN HEREON)
- Effects of that certain change of ownership of water rights instrument recorded in Book 1607, page 366 of the Records of said County.
(AFFECTS THE SUBJECT PROPERTY - CONTAINS NO PLOTTABLE SURVEY ITEMS)
- Terms, conditions and provisions of those certain San Juan County Subdivision Regulations recorded in Book 1239, page 518 and in Book 1253, page 328, as amended in Book 1437, page 397 and in Book 1574, page 815 of the Records of San Juan County, New Mexico.
(UNABLE TO DETERMINE - DOCUMENTS NOT PROVIDED)



VICINITY MAP
NOT TO SCALE

SYMBOL LEGEND

- R/W - Right-of-Way
- P/L - Adjoiner Property Line
- Centerline
- P.O.B. - Place/Point of Beginning
- P.O.C. - Place/Point of Commencement
- (X) - Schedule B-Part II Item
- Msd. - Measured
- Rec. - Record
- - Monumentation Found as Noted
- - 5/8" Iron Pin w/Cap Set Stamped "FISH 23998"
- ▲ - PK/MAG Nail or Railroad Spike Found as Noted
- △ - MAG Nail or PK Nail Set
- ⊖ - Electric Meter
- ⊖ - Sprinkler Control Valve
- ⊖ - Water Pipe
- ⊖ - Electric Box
- ⊖ - Telephone Pedestal
- ⊖ - Power Outlet
- ⊖ - Catch Basin
- ⊖ - Cleanout
- ⊖ - Sanitary Manhole
- ⊖ - Fire Hydrant
- ⊖ - Water Valve
- ⊖ - Gas Meter
- ⊖ - Air Condition Unit
- ⊖ - Cable T.V. Pedestal
- ⊖ - Electric Transformer
- ⊖ - Utility Vault
- ⊖ - Sign
- ⊖ - Mail Box
- ⊖ - Utility Pole
- ⊖ - Light Pole
- X — - Fence (As Noted)
- □ — - Wood Fence (As Noted)
- // — - Hogwire Fence (As Noted)
- ou — - Overhead Utilities
- [] — - Wall (As Noted)
- [] — - Pavement

MISCELLANEOUS NOTES:

- There is direct access to the subject property via Ruins Road, a public right-of-way.
- The locations of all utilities shown on the survey are from visible surface evidence only.
- The posted address on site is 500, 510 and 516 Ruins Road, Aztec, New Mexico.
- At the time of this survey, there was no observable surface evidence of earth moving work, building construction or building additions within recent months.
- At the time of this survey, there was no observable evidence of the subject property being used as a solid waste dump, sump or sanitary landfill.
- At the time of this survey, there was no observable evidence of any recent changes in street right-of-way lines either completed or proposed, and available from the controlling jurisdiction.
- At the time of this survey, there was no observable evidence of any recent street or sidewalk construction or repairs.
- The Property surveyed and shown hereon is the same property described in Schedule A of Fidelity National Title Insurance Company Title Commitment No. 149235 with a commitment date of June 15, 2020.
- At the time of the survey, no party walls were observed.
- There were no wetlands flagged on the subject property at the time of the survey, nor has the surveyor been provided with maps or an environmental assessment report showing location of potential wetlands.
- There are no appurtenant easements listed in the above referenced title commitment.
- Only permanent structures have been located.
- By visual inspection only, there are 70 manufactured home spaces on the subject property; 69 sites were observed to be occupied and 1 appeared unoccupied.
- At the time of the survey, the surveyor has not been provided the building setback requirements, height and floor space area restrictions by the insurer.
- Villa Serena Mobile Home Park contains 71 mobile home lots.
- Requested setback of 5 feet on the Northern and Southern property lines, 10 feet on the eastern property line, and twenty feet on the western property line.

CERTIFICATION:

To: TR MHP Holdings, LLC, a Colorado Limited Liability Company, Fidelity National Title Insurance Company and San Juan County Abstract & Title Company.

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes items 1, 2, 3, 4, 6(a), 6(b), 7(a), 7(b)(1), 7(c), 8, 9, 10(a), 11 (observed only), 13, 16, 17, 18, 19 (depicted) and 20 of Table A thereof. The field work was completed on June 28, 2020.

Date of Plat or Map: August 18, 2020

By: *Timothy L. Fisy*
Timothy L. Fisy, P.S.
New Mexico Professional Surveyor No. 23998

REVISION HISTORY

BY:	DATE:	COMMENT:



Transforming the Industry
Surveying
Zoning
Environmental
Real Support - Title Review
Millman Surveying, Inc.
Corporate Headquarters
4111 Bradley Circle NW
Canton, OH 44718
Phone: 800-520-1010
Fax: 330-342-0834
www.millmanland.com
landsurveyors@millmanland.com

**ALTA/NSPS LAND TITLE
SURVEY OF:**

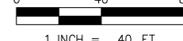
**VILLA SERENA MOBILE
HOME PARK**

Villa Serena
500, 510 and 516 Ruins Road
City of Aztec
County of San Juan
State of New Mexico



NORTH

GRAPHIC SCALE



1 INCH = 40 FT.



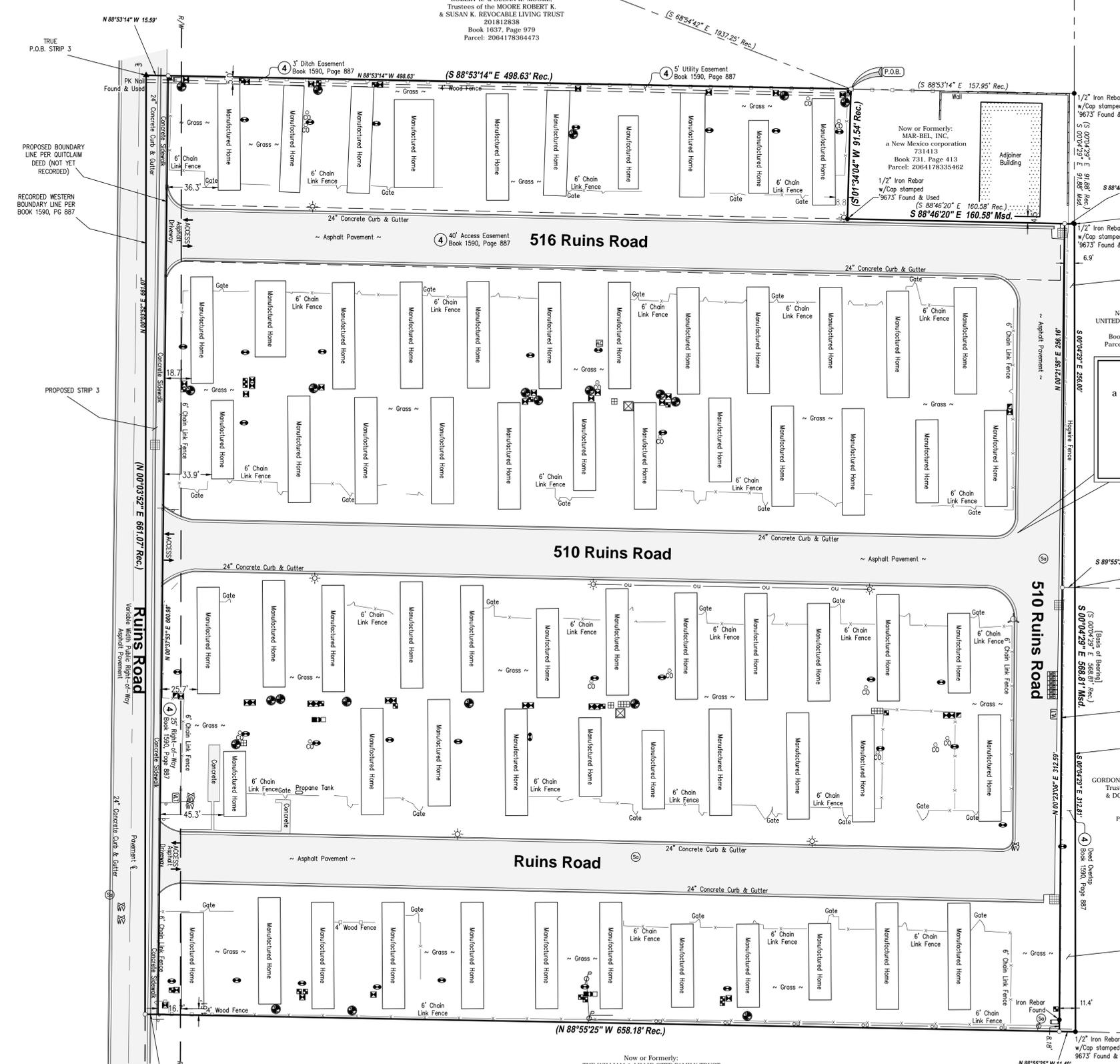
Surveyor's Seal

Sheet No. **1** of **1**

MSI Project No. 47837
PC: ERF
PM: GHS
Drafter: JLO

FLOOD ZONE:

By scaled map location and graphic plotting only, the subject property appears to lie entirely in Zone X-Unshaded (Areas determined to be outside the 0.2% annual chance floodplain) according to the Flood Insurance Rate Map for the County of San Juan, State of New Mexico, Community Panel No. 35045C0710F & 35045C0730F, Effective Date August 5, 2010.



VESTED IN:
K&B NM, LLC,
a New Mexico limited liability company
201510245
Book 1591, Page 616
Parcel: 2064178358435

TOTAL LAND AREA:
419,766 Square Feet
9.637 Acres

Now or Formerly:
GORDON NEAL & DORCAS ANN CRANE,
Trustees of the GORDON NEAL
& DORCAS ANN CRANE TRUST
201314626
Book 1565, Page 42
Parcel: 2064178293416

Now or Formerly:
THE WILLIAM & LILLIE OTTE FAMILY TRUST
9811157
Book 1282, Page 716
Parcel: 2064178349579

NOTE:

The subject strips of land shown hereon to be transferred from K&B NM, LLC to GORDON NEAL & DORCAS ANN CRANE, UNITED STATES, AND CITY OF AZTEC, via quit claim deeds have not yet been recorded and the ownership rights of said cannot be considered to have relinquished until they have been executed and recorded as part of the County Clerk's Office, San Juan County, State of New Mexico.

A G E N D A
Aztec City Commission
January 20, 2004
201 W. Chaco, City Hall

6:00 p.m.

I. CALL TO ORDER

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. ROLL CALL

V. CONSENT AGENDA

Items placed on the Consent Agenda will be voted on with one motion. If any item proposed does not meet the approval of all Commissioners or if a citizen so requests, the item may be heard under "Items from Consent Agenda".

A. Approval of Special Commission Workshop Minutes, December 30, 2003

B. Approval of Commission Workshop Minutes, January 6, 2004

C. Approval of Commission Meeting Minutes, January 6, 2004

D. Travel Request

E. Wastewater Plant Improvements – Resolution 2004-611, Adoption of RUS Bulletin
1780-27, Loan Resolution

Consented due to Road Conditions

F. Resolution 2004-613 Amending Election Resolution 2003-604 (Changing
the Poling Place Location for the Regular Municipal Election of March 2, 2004)

G. Appointment of Precinct Board for the March 2, 2004 Regular Election

H. Contract Change Order #1 for Bid 2004-251 Fire Station Re-Roof

I. Amendment to Skate Park Construction Contract Bid #2003-244

J. Appointment of Planning & Zoning Board Member

K. Appointment of Commissioner to Utility Advisory Board

L. Award of Bid 2004-250 Digger Derrick Truck

VI. PRESENTATION

- A. ~~San Juan Family Justice Center Proposal to the Office of Violence against Women~~

Cancelled

VII. BUSINESS ITEMS

- A. Resubmittal of the Approval of the PUD for the Cottonwood
Mobile Home Park..... Planning

VIII. ITEMS FROM CONSENT

IX. CITIZENS INPUT

COMMISSIONER'S REPORTS

XI. CLOSED SESSION

- A. Pursuant to Section 10-15-1 H (8) Real Property and Water Rights

XII. ADJOURNMENT

ATTENTION PERSONS WITH DISABILITIES: The meeting room and facilities are fully accessible to persons with mobility disabilities. If you plan to attend the meeting and will need an auxiliary aid or service, please contact the City Clerk's Office at 334-7600 prior to the meeting so that arrangements can be made.

Note: A final agenda will be posted 24 hours prior to the meeting. Copies of the agenda may be obtained from City Hall, 201 W. Chaco, Aztec, NM 87410

C

CITY OF AZTEC
COMMISSION MEETING MINUTES
JANUARY 20, 2004

I. CALL TO ORDER

Mayor Pro-Tem Mike Arnold called the meeting to order at 6:00 PM in the Commission Room at City Hall.

II. INVOCATION

The invocation was given by Commissioner Larry Marcum.

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Barbara Aldaz.

IV. ROLL CALL

MEMBERS PRESENT: Mayor Pro-Tem Mike Arnold, Commissioner Larry Marcum, Commissioner Jim Rubow.

MEMBERS ABSENT: Mayor Gail Aspromonte, Commissioner Jerry Hanhardt.

OTHERS PRESENT: City Attorney, Karen Townsend; Finance Director, John Gallegos; City Clerk, Becky Howard; Deputy Clerk, Jackie Maxwell. (Also, see attached list.)

V. CONSENT AGENDA

Item E (Wastewater Plant Improvements—Resolution 2003-611, Adoption of RUS Bulletin 1780-27, Loan Resolution) was removed from the Consent Agenda because one of the presenters was unable to be present due to the weather.

MOVED by Commissioner Rubow, SECONDED by Commissioner Marcum to approve the Consent Agenda consisting of (A) Special Commission Workshop Minutes of December 30, 2003; (B) Commission Workshop Minutes of January 6, 2004; (C) Commission Meeting Minutes of January 6, 2004; (D) Travel Requests; (F) Resolution 2004-613 Amending Election Resolution 2003-604 (Changing the Polling Place Location for the Regular Municipal Election of March 2, 2004); (G) Appointment of Precinct Board for the March 2, 2004 Regular Election; (H) Contract Change Order #1

for Bid 2004-251 Fire Station Re-Roof; (I) Amendment to Skate Park Construction Contract Bid 2003-244; (J) Appointment of Planning & Zoning Board Member; (K) Appointment of Commissioner to Utility Advisory Board; (L) Award Bid 2004-250 for Digger Derrick Truck; excluding (E) Wastewater Plant Improvements—Resolution 2004-611, Adoption of RUS Bulletin 1780-27, Loan Resolution. All present voted aye. The motion passed three to zero.

VI. PRESENTATION

SAN JUAN FAMILY JUSTICE CENTER PROPOSAL TO THE OFFICE OF VIOLENCE AGAINST WOMEN

This presentation was cancelled until another time.

VII. BUSINESS ITEMS

RE-SUBMITTAL OF THE APPROVAL OF THE PUD FOR THE COTTONWOOD MOBILE HOME PARK

Robert Anderson explained that the Planning and Zoning Board (P&Z) and Commission had approved the Site Plan for the PUD for the Cottonwood Mobile Home Park located at 1710 W. Aztec Blvd. However, he said, the access from Highway 516 was denied by the Department of Transportation. He said that P&Z reviewed the new Site Traffic Analysis (conducted by Souder Miller) which studied the two access points at Elm and Mulberry (Willow) Streets. It was, he said, the opinion of Souder Miller that vehicles heading toward Farmington would utilize Western Avenue and South Oliver to the signalized intersection.

After a discussion of how things might have been planned differently, Mayor Pro-Tem Arnold asked what the plans were for Newman Avenue. Art Perkins replied that they volunteered to pave Newman if they could have access off of it into the mobile home park. It was decided, he said, that P&Z wanted a fence there, instead.

In response to questioning by Betty Brown, 310 Newman, it was ascertained that the existing fence would be moved eastward.

There was considerable discussion as to where the fence would be located, and in response to questioning by Ed Laurence, 311 Swire, Art Perkins said that they would not be encroaching beyond the subsurface and that Newman would remain the same size, as they would not be decreasing the usable street. Also, he said that the fence would be chain link with vinyl slats.

Ms Brown asked if residents will still be able to park in front of their houses And Mr. Perkins reiterated that they would not be narrowing the street.

Shelley Latham, 308 Newman, expressed concern that if the fence is moved fifteen feet no one will be able to take care of the irrigation pipe anymore.

MOVED by Commissioner Marcum to table action on the Re-Submittal of the Approval of the PUD for the Cottonwood Mobile Home Park. He said that he had concerns about some of the issues being discussed and that more homework needs to be done. The motion died for lack of a second.

Brandy Candelaria stated that the encroachment has already been approved. Mr. Perkins said that he has followed every procedure, that this was approved at last Tuesday's P&Z meeting, and that no one showed up to voice their concerns. He also said that if the irrigation pipe had been discussed in the P&Z meeting the issue could have been resolved.

Mr. Laurence said that he and other residents were at some of the P&Z meetings, and that he left the meetings with the impression that "everything was pretty well cut and dried and decided ahead of time". He said that there are 40 homes in the Swire Addition, and 43 in Gabaldon, and that he is concerned about the addition of another 78 homes whose residents are going to seek access either up Oliver or Swire.

Commissioner Marcum asked what the options are and Mayor Pro-Tem Arnold replied, regarding the irrigation pipe, that it might be possible to move or redirect it.

Commissioner Marcum said that he has been trying to get an access from the Paramedic Station on to Highway 516 for several years and the Highway Department has refused to allow it. He said that if this much more traffic is allowed to come out from Swire he is concerned that accidents could occur. Also, he said, Oliver is packed in the morning and evening just from people who work there.

Erick Edgerton acknowledged that much of the concern has to do with the amount of traffic in the area. He said, however, that the traffic analysis was conducted, it was accepted, and that he doesn't know what else can be done.

Commissioner Rubow said that the Commission has already approved this and Commissioner Marcum pointed out that that was when it was thought there could be access onto Hwy 516.

Commissioner Rubow asked if it might be possible to have a right-turn only onto 516 to help alleviate some of the traffic concerns. Robert said that ingress/egress is controlled by the NMDOT. He said that the applicant has waited several months and that it takes anywhere from three to six months for the Highway Department to make these kinds of decisions, acknowledging that this option could be explored if that is what the

Commission would like. He said, however, that he thinks chances would be slim that the Highway Dept. would grant approval.

Commissioner Rubow said that he feels that the Commission has no choice but to approve this requested change, but, he did ask that they seek permission to have the above discussed right turn.

Ms Latham said that this would make it more difficult to make a right-hand turn off of Swire, stating that she sometimes has to wait as much as ten minutes in the morning, as it is. She said that the Commission is "putting everything in front of us. You're taking our irrigation. You're taking our turns. You're taking our noise not into consideration." She said that the Commission is trying to make things easier "for them" but that the present residents are going to be delayed another ten minutes.

Commissioner Rubow said that from the Commission's standpoint it tried to answer all the questions, and this is not something that has been rushed into. He said that he doesn't believe the Commission can now tell the developers they can't build the development.

Ms Latham expressed her feelings that at the first P&Z meeting they attended she felt that they were ignored and treated rudely.

Mike Heal offered as "food for thought" about the right-out only, that a lot of times people in this situation will go to the first place and make a U-turn. He said that while this can sound like a good idea, it doesn't always work.

Regarding the irrigation concerns, Mayor Pro-Tem Arnold said that since the developers will have equipment there anyway, maybe they would agree to take care of the irrigation line. Mr. Perkins said that they would not mind doing this. He said that they will work with Shelley Latham.

Mr. Laurence said that references were made to extending Mulberry over to Oliver in three or four years. He said, however, that he would like to see a time line established for this because he believes the trailer park will be fully occupied sooner, rather than later.

Robert said that this would be dependent on the County as the land in question is owned by the County.

Commissioner Rubow stated that in general the County has been very cooperative in working with the City. He also asked if the developers would be willing to extend the road to Oliver if the County says it's okay.

Mr. Perkins said that they have a road on the south side that is going to be paved and curbed. He said that Mulberry would be extended from their property to the west.

MOVED by Mayor Pro-Tem Arnold, **SECONDED** by Commissioner Rubow to Approve the Re-Submittal of the PUD for the Cottonwood Mobile Home Park. Mayor Pro-Tem Mike Arnold voted aye. Commissioner Jim Rubow voted aye. Commissioner Larry Marcum voted nay. The motion passed two to one.

Commissioner Marcum asked if the issues along Newman can be resolved.

Commissioner Rubow said that one of the problems is that Newman probably shouldn't even be a street, noting that the Commission cannot undo something that happened years ago.

Wallace Emery, 302 Newman, said that Elmer (Robinson) signed that part of the property by the fence over to the City and, now, the City is giving it to the developers.

Eric Edrington said that the City is not giving land to the development, stating that they are not changing the width of the street.

Ms Brown said that they gave 25 feet and that Elmer gave 15 feet. Mayor Pro-Tem Arnold said that the property that Elmer gave must not have been recorded.

After further discussion Commissioner Rubow said that he didn't realize that the City was allowing the development to encroach.

Commissioner Marcum said that the vote has been taken and that it looks as if the only thing to do is "beg and implore people to work it out".

Mayor Pro-Tem Arnold said that the irrigation issue is workable, and that the width of the street is not changing.

Commissioner Rubow said that the Commission tries to keep things like this from happening, and reiterated that it is hard to go back and undo things that were done in the past.

VIII. ITEMS FROM THE CONSENT AGENDA

There were no items carried over from the Consent Agenda.

IX. CITIZENS' INPUT

There were no citizens present wishing to speak.

X. COMMISSION REPORTS

COMMISSIONER LARRY MARCUM reported that he attended the ozone meeting in Farmington last week. He said that San Juan County is below the level set by the EPA for toxic emissions. He said that the major part of pollution here does not come from oil and gas generation devices in San Juan County, but rather, from Houston, Texas. Also, he said, a large part comes from vehicles.

COMMISSIONER JIM RUBOW said that the model indicated that not only is San Juan County "okay", but that the model takes in the next twenty years and indicates that San Juan County is "still okay".

Steve Rabourn asked if the fact that ten thousand new wells will be drilled in the Four Corners area was taken into consideration and Commissioner Rubow said that it was.

Commissioner Marcum said that they also addressed the addition of two more power stations.

MAYOR PRO-TEM MIKE ARNOLD reported that the Governor is again trying to remove the gross receipts' tax from food items, promising to find the money to cover this loss.

He also reported that the area is up to 126% of normal in the Animas Water Shed.

COMMISSIONER JIM RUBOW asked the Planning Department to be as detailed and thorough as can be on everything that is presented to the Commission, because, he said, he "hates" situations as occurred this evening—addressing "old wrongs" that cannot be undone. He told the Planning Department to "keep up the good work".

Mayor Pro-Tem Arnold asked the Newman Avenue residents to let him know if they don't receive satisfaction regarding the irrigation line, stating he believes the developers will take care of the problem.

BECKY HOWARD reported that the canvassing of the election was conducted on Friday and the numbers remained the same. She said that the total number of voters was 359.

Becky said that her office is preparing for absentee voting for the March election. She said that January 27 is the first day that absentee ballots may be mailed out.

JOHN GALLEGOS expressed appreciation that the gross receipts taxes passed, stating that the long term benefits will be good for the City. He said that he is in the process of determining the next step in the process.

BARBARA ALDAZ reported that February is "Have a Heart" month.

LEANNE HATHCOCK said that she is very pleased with the outcome of the vote (GRT) and said that there are many people who worked very hard to make the election happen, including Friends of the Library, Library Board, Ed Cooper, Dale Anderson, John Gallegos, Becky Howard, and David Velasquez. She said that she would like to break ground by summer.

MIKE HEAL introduced Carlton Gray as a visitor from Leadership San Juan.

Mike reported that thanks to the hard work of Commissioner Marcum and Sherri Gurule, the Police Department has obtained a defibrillator.

ROBERT ANDERSON reported that he is in the process of completing paperwork to move the Revision of Chapter 15 to Intent to Adopt status, stating that it will be presented to the Commission at the February 3 meeting. Also, he said that the final draft is on the internet.

Robert reported that one of the requirements of a scenic by-way mandates that municipalities rewrite their sign ordinances to match the State billboard restrictions. He said that he is working on this.

KEN GEORGE thanked the Commission for approving the truck, stating that it is money well-spent.

Referencing lack of water in some areas last week, Ken reported that the Public Works Department was attempting to install a valve in the tank above Blanco. He said that it was their hope that the tank below the airport would supply water to the City when the Blanco tank was taken out of service. He said that there are some valve problems and that his staff and Gary Spickelmier's staff are working together to try to find a solution.

GARY SPICKELMIER reported in response to a question from Commissioner Rubow that there is water in the bladder tank and that it is full. Mayor Pro-Tem Arnold asked if it would be possible to feed the town from that tank, and Gary explained that by closing one valve a large portion of the City was isolated; therefore, opening that tank would make no difference.

He said that, somehow, the West tank is tied in with the airport tank, such that when the valve opens the airport tank drains into it and it overflows. He said that they are checking various valves to determine the problem.

Commissioner Rubow asked if the water in the bladder tank is supposed to be circulated and Gary agreed, stating that when the City is ready to use that water they will probably flush about half of it and re-fill it with fresher water that still has a higher chlorine residual.

XI. CLOSED SESSION PURSUANT TO SECTION 10-15-1 H (8) REAL PROPERTY AND WATER RIGHTS

Mayor Pro-Tem Arnold moved the meeting into Closed Session at 7:25 PM Pursuant to Section 10-15-1 H (8) Real Property and Water Rights. Mayor Pro-Tem Arnold voted aye. Commissioner Larry Marcum voted aye. Commissioner Jim Rubow voted aye.

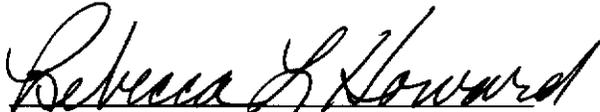
XII. ADJOURNMENT

Mayor Pro-Tem Arnold returned the meeting to Open Session at 7:30 PM, stating that nothing was discussed other than that which is pursuant to Section 10-15-1 H (8) Real Property and Water Rights.

MOVED by Mayor Pro-Tem Arnold, SECONDED by Commissioner Larry Marcum to adjourn the meeting at 7:32 PM.


MAYOR PRO-TEM MIKE ARNOLD

ATTEST:


CITY CLERK REBECCA L. HOWARD

Staff Summary Report

MEETING DATE: August 25, 2020
AGENDA ITEM: X. Quasi-Judicial Hearings (Land Use) (A)
AGENDA TITLE: Conditional Use Permit (CUP) 20-03 - To Allow a Church in a R-1 Single-Family Zoning District.

ACTION REQUESTED BY: Timberland Church
SUMMARY BY: Steven Saavedra

PROJECT DESCRIPTION / FACTS

Applicant Timberland Church
Representative Cody Stovall
Date of Application August 10, 2020
Requested Action CUP 20-03 – Conditional Use Permit - to allow a church in a R-1 District.
Location 311 Ruins RD, Aztec, NM
Dimensions Tax ID # R4007833

Existing Land Use Institutional
Existing Zoning R-1 Limited Retail / Neighborhood Commercial District
Surrounding Zoning North: R-1 / Residential
South: R-1 / Residential
East: PUD / Mobile Home Park
West: R-1 / Residential

Notice Property owners within 100-feet were sent notice by certified mail on August 10, 2020, and a classified ad was placed with the Daily Times on August 17, 2020.

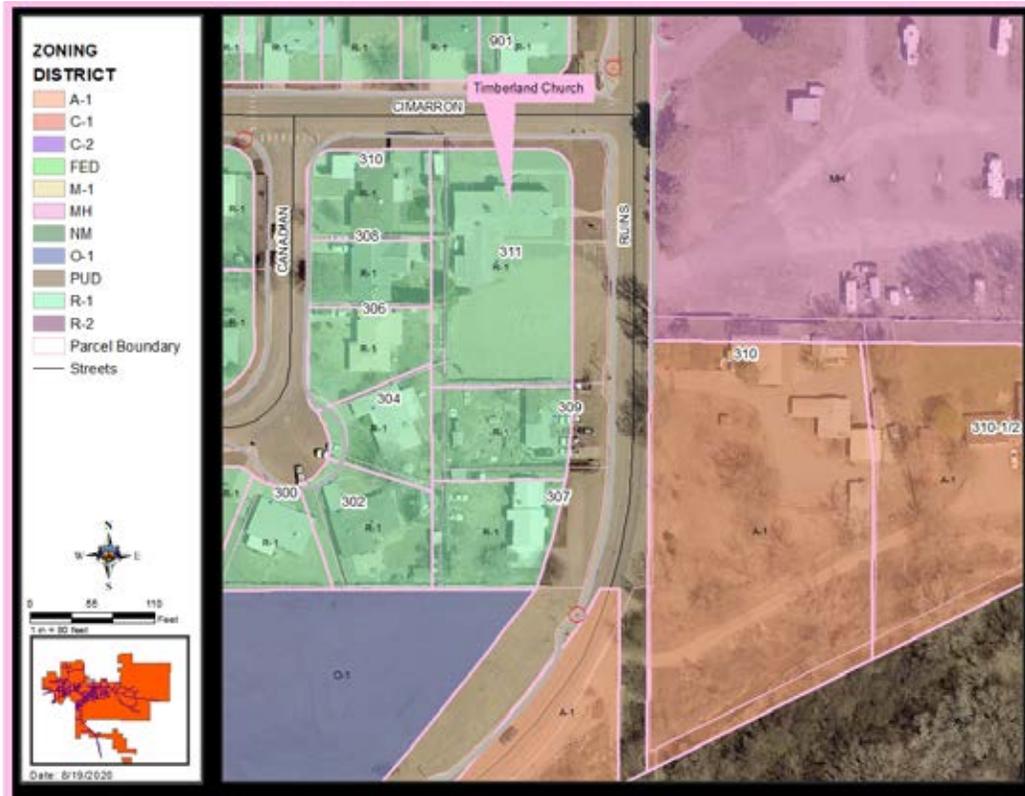
FEMA SFHA No
MRA District No
Access Ruins RD

Summary

The applicant is in the process of remodeling and expanding the Timberland Church at 311 Ruins RD, Aztec, NM. The subject property is located in the R-1 Single-Family Zoning District. Pursuant to COA 26-2-36(8) a church is allowed in an R-1 zoning district, provided that the use has been reviewed by the Community Development Department and approved by the City Commission. In the past 25 years, three churches have resided on the subject property:

1. Timberland Church 2016- present
2. Aztec Oasis 2013-2016
3. Aztec 1st Assembly 2013-1988.

To date, there is no conditional use permit on file for a church on the subject property. Therefore, Timberland Church is seeking approval and compliance per the R-1 Zoning District.



Analysis

The Timberland Church is currently remodeling and expanding its footprint at 311 Ruins RD. Negative externalities, such as noise, smoke, flashing bright lights are not expected, based on the existing use, history, and proposed use. Though City Staff is concerned with the size of the parcel in relation, to the number of parking stalls per the use, Timberland Church has shown seven-one (71) parking stalls, which exceeds the minimum (70) parking stalls required based on their size and seat capacity. Therefore, overflow on-street parking should be mitigated. To date, the Community Development Department has not received any comments, questions, support, or disapproval from those within 100-feet of the subject property.

SUPPORT DOCUMENTS:

1. Application
2. Map
3. Adjacent Property Owner Notification Letter

DEPARTMENT'S RECOMMENDED MOTION: Move to approve CUP 20-03, a request from Timberland Church, for a conditional use permit to allow a church in the R-1 District at 311 Ruins RD, with the following condition:

- 1) Ensure parking for the church is not located on the right-of-way, specifically Ruins RD or Cimarron Ave.



Figure 1: Timberline Church

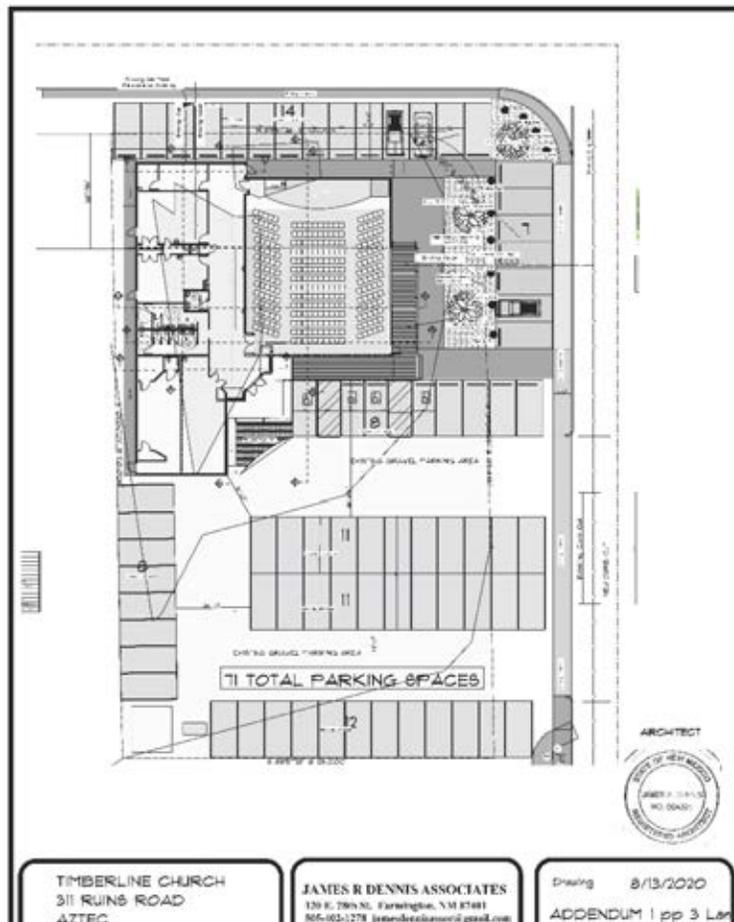


Figure 2: Remodel Plans



CITY OF AZTEC CONDITIONAL USE APPLICATION

Permit #: _____ Date Started: _____ Date Approved: _____ Fees Paid: _____

PROPERTY OWNER CONTACT INFORMATION

Name: Timberline Aztec Inc.
Mailing Address: 311 Ruins Road, Aztec NM 87410
Phone: 505.360.2604
Email: cody.stovall78@gmail.com, mark@merobinson.com

PROPERTY INFORMATION / DEVELOPMENT SITE

Address: 311 Ruins Road, Aztec NM 87410
Tax ID: R4007833 Parcel Size (ac): .6
Zone District: Residential
Current Use: Church assembly and education
Proposed Use: Church assembly, education, community meetings and events
Flood Zone Designation: NA (see SJC Flood Map attached)

REASON FOR REQUESTING A CONDITIONAL USE

To update parcel with current CUP zoning overlay. Historically this property was approved for church use and has operated as such for many years.

APPLICANT SIGNATURE

I, Mark E Robinson representing Timberline Aztec, Inc. hereby certify that I have read this application and hereby dispose and state under penalty of perjury that all statements, proposals, and documents submitted with this application are true and correct and that I shall adhere to the Municipal Regulations of the City of Aztec.

Signature:  Date: August 10, 2020

CITY of AZTEC USE ONLY

City Commission Meeting Date: _____

City Commission Action: _____ APPROVED _____ DENIED

FEES ARE DUE PRIOR TO COMMISSION MEETING

Fees are: \$10 Administration Fee + \$250 Conditional Use Fee = Total \$260



CITY OF AZTEC CONDITIONAL USE CHECKLIST

X **Applicable Fees**

Administrative Fee \$10
Conditional Use Permit Fee \$250

X **Detailed site map which includes the following:**

- Address of property and adjacent properties
- Property boundary (all sides)
- Existing or proposed street(s) adjoining property (labeled)
- North arrow and scale
- All utility easements
- All utility lines
- All utility meters
- Existing and/or proposed structures
- Location of improvement(s)
- Setbacks for front, side and rear yards
- Driveway location (required for new addresses)
- Proposed parking area (if different than driveway)
- Location of all drainages

X **Ownership**

A document that verifies ownership or legal interest in the property (copy of abstract, title certificate, insurance, or contract).

X **Legal Description**

Includes the legal description or physical address of the property.

X **Proposed Use**

Statement describing the proposed use of the buildings, structures, premises, etc.



CITY OF AZTEC CONDITIONAL USE EVALUATION

Permit #: _____

1. Is the Conditional Use necessary for public convenience? No Yes
2. Does the Conditional Use impose a health issue on the public? No Yes
3. Does the Conditional Use impose a safety issue on the public? No Yes
4. Is the Conditional Use detrimental to the property? No Yes
5. Is the Conditional Use detrimental to surrounding properties? No Yes
6. Have a majority of the property owners within 100 ft signed a written protest? No Yes

WARRANTY DEED

New Mexico District Council Assemblies of God, Inc., a New Mexico corporation, for consideration paid, grants to Timberline Aztec Inc., whose address is, 311 Ruins Road, Aztec, New Mexico, the following described real estate in San Juan County, New Mexico:

Lots 19, 20 and 21 of Block 3 of the Florance Addition to the City of Aztec, New Mexico, as plat thereof appears on file in the office of the County Clerk, San Juan County, New Mexico.

Commonly known as 311 Ruins Road Aztec, New Mexico.

Surface rights only.

with warranty covenants.

Witness my hand and seal this 25th day of April, 2018

[Signature] (Seal) (Seal)

[Signature] (Seal) (Seal)

ACKNOWLEDGEMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO }

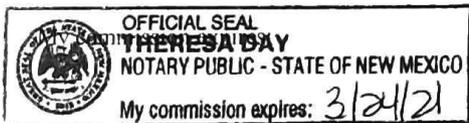
SS.

COUNTY OF SAN JUAN }

The forgoing instrument was acknowledged before me this 8th day of May, 2018,

By Cody Stovall (Name or Names of Person or Persons Acknowledging)

[Signature] Notary Public



ACKNOWLEDGEMENT FOR CORPORATION

For Recorder's Use Only

STATE OF NEW MEXICO }

SS.

COUNTY OF Bernalillo }

This instrument was acknowledged before me on April 25th, 2018

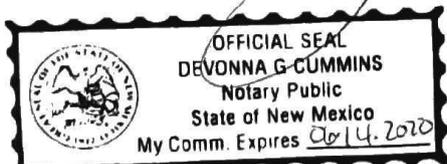
By Michael S. Bidunson (Name of Officer)

President or Non District Council Assemblies of God Inc (Title of Officer) (Name of Corporation Acknowledging)

A non profit corporation, on behalf of said corporation. (State of Incorporation)

My commission expires: (Seal) 06.14.2020

[Signature] Notary Public



201805105 05/08/2018 09:58 AM 1 of 1 B1630 P453 \$25.00

San Juan County, NM TANYA SHELBY



DailyTimes Legal Ad

1. An application has been filed with the City of Aztec-Community Development Department for a Conditional Use Permit to allow a church in an R-1 Single-Family Residential zoning district. The subject property is located at 311 Ruins RD, Aztec NM (TAX ID R6000163). The Aztec's City Commission will hear the petition in a public hearing on Tuesday, August 25, 2020, at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico or on the GoToMeeting Online platform. **Please join my meeting from your computer, tablet or smartphone.** <https://global.gotomeeting.com/join/236514949> **You can also dial in using your phone.** United States (Toll Free): [1 877 309 2073](tel:18773092073) United States: [+1 \(646\) 749-3129](tel:+16467493129), **Access Code:** 236-514-949.

2. An application has been filed with the City of Aztec's Community Development Department for an amendment to the Planned Unit Development (PUD) zoning for the Villa Serena Mobile Home Park. The subject property is located at 500-01 to 516-74 Ruins RD, Aztec, NM (TAX ID R6000163). The amendment identifies and establishes both the setback and dimensional standards for the Planned Unit Development (PUD) zoning district for the mobile home park. The Aztec's City Commission will hear the petition in a public hearing on Tuesday, August 25, 2020, at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico or on the GoToMeeting Online platform. **Please join my meeting from your computer, tablet or smartphone.** <https://global.gotomeeting.com/join/236514949> **You can also dial in using your phone.** United States (Toll Free): [1 877 309 2073](tel:18773092073) United States: [+1 \(646\) 749-3129](tel:+16467493129), **Access Code:** 236-514-949.
 - i.

3. An application has been filed with the City of Aztec's Community Development Department for an amendment to the Planned Unit Development (PUD) zoning for the Cottonwood Mobile Home Park. The subject property is located at 200-318 Hesperus Ave, 200-320 Robinson Ave., 1711 Elm ST., 1715 Elm St., 1717 Elm St., 1719 Elm St., 1721 Elm St., 1723 Elm St., Aztec, NM (TAX ID R4003193). The amendment identifies and establishes both the setback and dimensional standards for the Planned Unit Development (PUD) zoning district for the mobile home park. The Aztec's City Commission will hear the petition in a public hearing on Tuesday, August 25, 2020, at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico or on the GoToMeeting Online platform. **Please join my meeting from your computer, tablet or smartphone.** <https://global.gotomeeting.com/join/236514949> **You can also dial in using your phone.** United States (Toll Free): [1 877 309 2073](tel:18773092073) United States: [+1 \(646\) 749-3129](tel:+16467493129), **Access Code:** 236-514-949.

Mayor
Victor C. Snover

Mayor Pro-Tem
Rosalyn A. Fry



Commissioners
Austin R. Randall
Michael A. Padilla
Mark E. Lewis

A desirable place to live, work and play; rich in history and small town values!

**NOTICE OF PUBLIC HEARING
CONDITIONAL USE PERMIT
PETITION NO. CUP 2020-03**

August 10, 2020,

Dear Property Owner:

Notice is hereby given that an application has been filed with the City of Aztec's Community Development Department for a Conditional Use Permit to allow a church at 311 Ruins Road. The subject property is located in the R-1 Zoning District and a conditional use permit is required pursuant to COA 26-2-36(8). Currently, Timberland Church resides on the property and has proposed an expansion of the structure.

LEGAL DESCRIPTION

**FLORANCE ADDITION REPLAT A LOT 20-A BLOCK 3 BK.1630 PG.453
Otherwise known as 311 Ruins RD, Aztec, NM.
TAX ID R4007833**

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that Aztec's City Commission will hear the petition in a public hearing on Tuesday, August 25, 2020, at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico. All persons shall have an opportunity to be heard why said petition should be granted or denied. All persons are invited to attend the said hearing.

You are receiving this letter because you may own property within 100 feet (excluding public right-of-way) of the proposed request. You are invited to attend the hearings noted above or submit written comments prior to the meeting to the Community Development Department at 201 W. Chaco Street, Aztec, New Mexico 87410. Please be advised that this petition could be canceled or withdrawn prior to the meeting date. If you have any questions regarding this notice or would like additional information regarding this petition, please contact the Community Development Department at 505-334-7605.

Sincerely,

Steven M. Saavedra
Community Development Department
City of Aztec

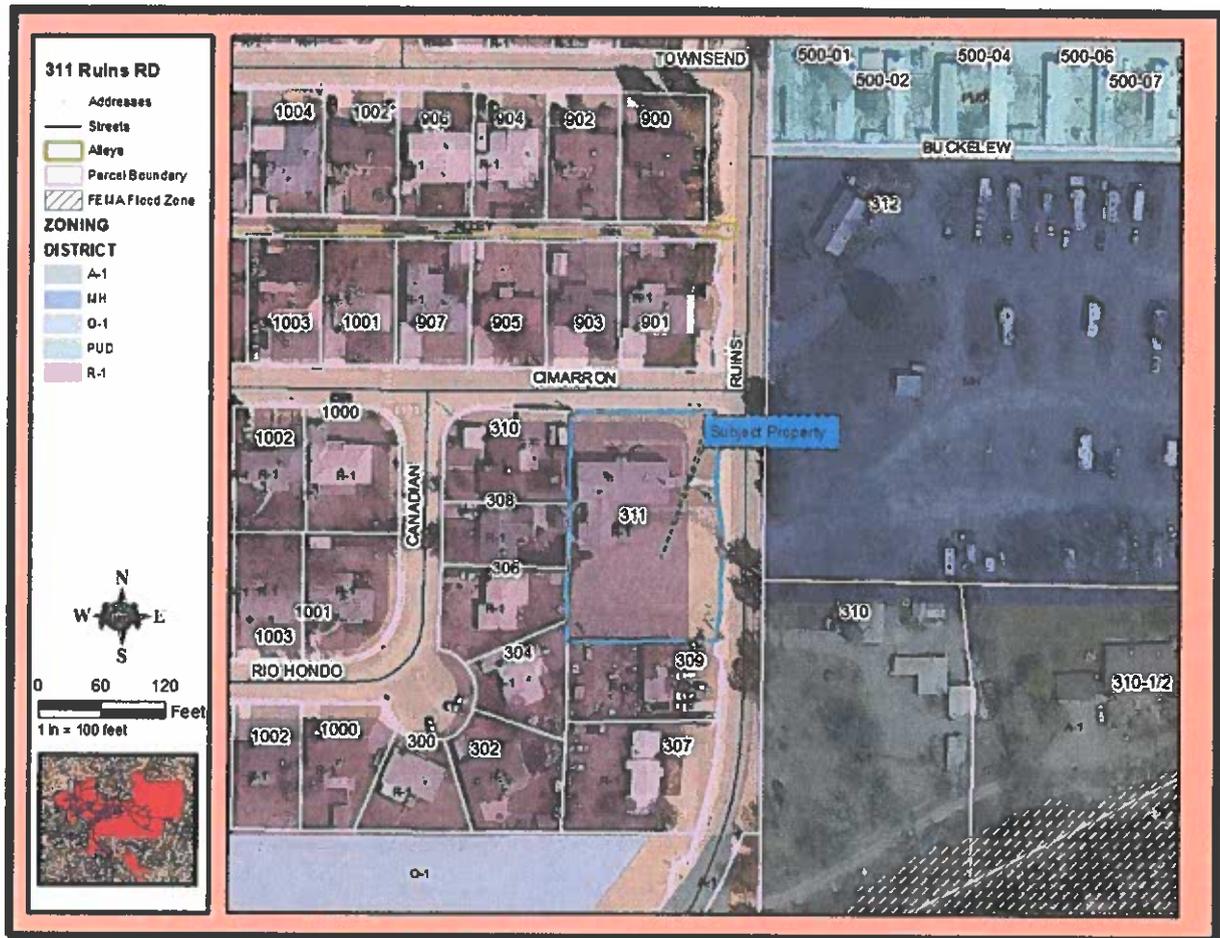
City Commission Meeting Quasi Judicial Hearing
Tue, Aug 25, 2020 6:00 PM - 10:00 PM (MDT)

Please join my meeting from your computer, tablet or smartphone.
<https://global.gotomeeting.com/join/236514949>

You can also dial in using your phone.
United States (Toll Free): [1 877 309 2073](tel:18773092073)
United States: [+1 \(646\) 749-3129](tel:+16467493129)

Access Code: 236-514-949

New to GoToMeeting? Get the app now and be ready when your first meeting starts: <https://global.gotomeeting.com/install/236514949>



Staff Summary Report

MEETING DATE:	August 25, 2020
AGENDA ITEM:	X. QUASI JUDICIAL HEARING (B)
AGENDA TITLE:	ZC 2020-02 Amending a Planned Unit Development (PUD) for the Villa Serena Mobile Home Park, Located at 500-01 to 516-74

ACTION REQUESTED BY:	Eric Edgerton
ACTION REQUESTED:	Approval of the Amended Plan Unit Development (PUD) Zoning
SUMMARY BY:	Steven M. Saavedra

PROJECT DESCRIPTION / FACTS

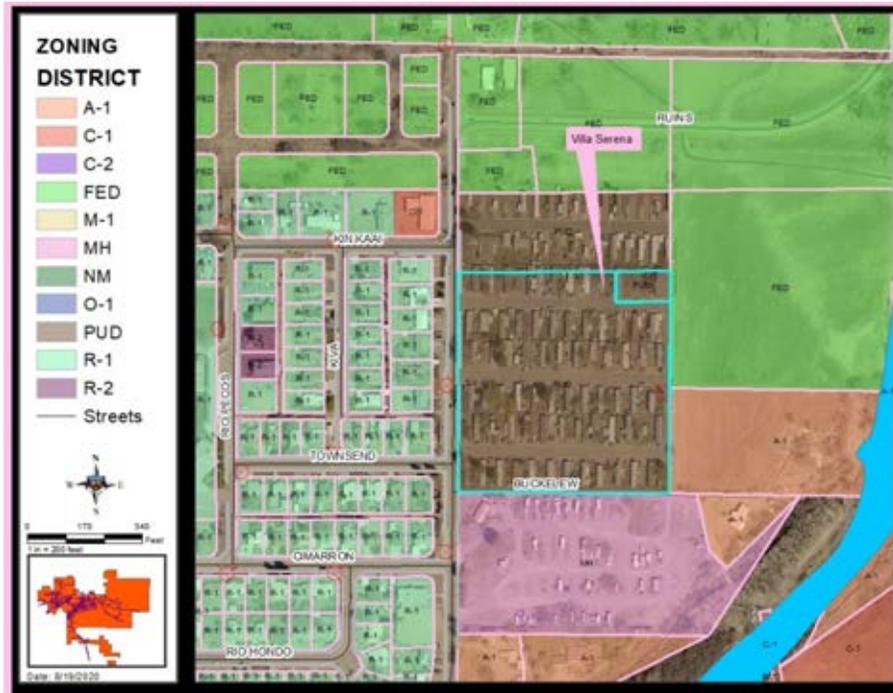
Applicant	Eric Edgerton
Representative	N/A
Date of Application	August 10, 2020
Requested Action	ZC 2020-03 – Amending & Establishing the Planned Unit Development (PUD)
Location	500-01 to 516-74 Ruins Rd. Aztec, NM
Dimensions	Tax ID # R6000163

Existing Land Use	Residential (Mobile Home Park)
Existing Zoning	PUD Planned Unit Development
Surrounding Zoning	North: PUD / Residential
	South: MH / Residential
	East: A-1 / Vacant
	West: R-1 / Residential

Notice	Property owners within 100-feet were sent notice by certified mail on August 10, 2020, and a classified ad was placed with the Daily Times on August 17, 2020.
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FEMA SFHA	No
MRA District	No
Access	Ruins RD

Mr. Eric Edgerton seeks to amend and establish the Planned Unit Development (PUD) for the Villa Serena Mobile Home Park, located at 500-01 to 516-74 Ruins RD, Aztec, NM. Currently, the subject property is zoned PUD. However, there are no listed setbacks or density units listed for this PUD. Unlike other zoning district, a PUD “provides suitable sites for uses, which are special because of infrequent occurrence, effect on surrounding property, safety hazard, or other reasons” COA Sec. 26-2111.



The use, setbacks, parking, and density requirements are established by the developer and approved by the City Commission. According to city code, a setback for PUD states, "Any building or structure associated with this use shall not encroach on the right-of-way line of an established or future street line, whichever is more distant from the street centerline extended. Access and circulation around any structures must be provided for the movement of fire protection equipment" (COA 26-2-115). In other words, the PUD District does not state or lists setbacks as other districts. For example, the MH Mobile Home Districts requires a 20-foot front yard, 15-foot street side, 5-foot side interior, and a 10-foot rear yard setback. If acceptable, the City Commission is to approve the setbacks per this district, based on information from the developer and input from City Staff.

Unfortunately, there are no Finding of Facts documents listing the use, density number, parking or setbacks for this mobile home park or this PUD. Therefore, Mr. Edgerton seeks to establish the PUD zoning with the listed setbacks and density units for the Villa Serena Mobile Home Park.

The request does not change, what currently exists, only amending the PUD, with the listed parking, density, and setbacks for this mobile home park.

Density = Allow up to 71 Mobile Home Residential Units

Parking = Villa Serena Mobile Home Park

Setbacks

North: 5-feet

South: 5-feet

East: 10-feet

West: 18.7-feet

To date, there has been no support or opposition to the request to amend the PUD for the Villa Serena Mobile Home Park.

SUPPORT DOCUMENTS: Application
 GIS Map
 Letter to Property Owners
 POL

DEPARTMENT'S RECOMMENDED MOTION: Move to approve ZC 2020-02 and amend the Planned Unit Development (PUD) zoning for the Villa Serena Mobile Home Park, located at 500-01 to 516-74 Ruins RD, Aztec, NM 87410.

2C 20-02



CITY OF AZTEC PETITION APPLICATION

Community Development Department
201 W. Chaco St.
Aztec, NM 87410
(505) 334-7605
(505) 334-7609 (fax)

PROJECT TYPE (Check those that Apply)

- | | | |
|-------------------------------------------------|--------------------------------------------------|------------------------------------------------------|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Sign Permit | <input type="checkbox"/> Conditional Use Permit |
| <input type="checkbox"/> Alternate Summary Plat | <input type="checkbox"/> Variance | <input type="checkbox"/> Special Use Permit |
| <input type="checkbox"/> Preliminary Plat | <input type="checkbox"/> Commercial Development | <input type="checkbox"/> Well Site Permit |
| <input type="checkbox"/> Final Plat | <input type="checkbox"/> Residential Development | <input checked="" type="checkbox"/> Zone Change |
| | | <input checked="" type="checkbox"/> Other PUD update |

INFORMATION

Applicant's Name: Eric Edgerton Project Location: Villa Serena MHP ⁵⁰⁰
 Address: 193 CR 2900 Aztec Existing Use: Mobile Home Park ^{RUINS}
 E-Mail: edge.xterra@gmail.com Proposed Use: Mobile Home Park
 Telephone: 505 330 7396 Current Zoning: PUD
 Relationship to Property Owner: owner Tax I.D. Number: 47-4155580

Legal Description of Subject Property: SEE Attached BK 1591 PG 616

Is the Property in a Flood Zone? Yes No

Is Property subject to deed restrictions, covenants, or homeowners' association agreements? If Yes, please provide copy with application.
 Yes No
SEE attached Rental Agreement

REPRESENTATIVE / CONTACT PERSON (if other than applicant)

Name: SAME
Address: _____ Phone: SAME

OWNERSHIP

Property Owner <u>SEE Attached Details</u> (Identify General Partners, Managing Partner, Corporation President and Secretary. Specify type of ownership interest: Fee, Real Estate Contract, Option to Purchase)	Mortgage Holders (If any)
Name: <u>K+B NM LLC</u>	Name: <u>Citizens Bank</u>
Address: <u>193 CR 2900 Aztec NM</u>	Address: <u>500 W Broadway</u>
Phone: <u>505 330 7396</u>	Phone: <u>505 599 0100</u>

OWNER CERTIFICATION

I certify that I am an owner and the information and exhibits herewith are true and correct to the best of my knowledge in filing this application, I am acting with the knowledge and consent of all persons in interest and understand that without the consent of all persons in interest the requested action cannot lawfully be accomplished. I give my permission for authorized officials of the City of Aztec to enter the premises described in this application. I understand applications will generally be reviewed by City Commission at their first regular session following City staff review.

Name: Eric Edgerton Address: 193 CR 2900
 Owner's Signature: [Signature] Phone: 505 330 7396
 Email: edge.xterra@gmail.com

City Staff Use Only

Received By:

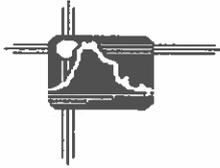
Date:

Fee Received:

Project File No.:

Date of Hearing/Meeting:

- Blueline Copies of Plans
- Ownership Report
- Legal Description & Location
- Detailed Statement of Proposed Use



San Juan County Abstract & Title Company

111 North Orchard Avenue
Farmington, New Mexico 87401
(505) 325-2808 FAX (505) 327-7483

INVOICE

BILL TO		DATE	INVOICE #
Citizens Bank 500 West Broadway Farmington NM 87401 ATTN: Lori Scott Ref #:	300.1723.1	4/30/2018	16651

ORDER INFORMATION	
Buyer/Seller:	K&B NM, LLC
Escrow #:	Title#: 140741
Closing Date:	//
Property:	500,510,516 Ruins Road Aztec NM 87410
Parcel #s:	R6000163

Date	Description	Liability	Charge
4/30/2018	Abstract/Title Search Limited Title Certificate		\$150.00
4/30/2018	Miscellaneous Charge Tax		\$11.44
<i>Please Return Copy of Invoice with Payment</i>			
Balance:			\$161.44

DD
5/3/18

Customer Copy - Original

STATE OF NEW MEXICO)
)ss
COUNTY OF SAN JUAN)

LIMITED CERTIFICATE

SAN JUAN COUNTY ABSTRACT & TITLE COMPANY, Bonded Abstracters of 111 North Orchard Avenue, Farmington, New Mexico, whose bond is in force at the date of this Certificate, hereby CERTIFIES that a search of the Records in the Office of the County Clerk, Probate Court Clerk and District Court Clerk in San Juan County, New Mexico, affecting title to:

A tract of land located in the Southwest Quarter of the Northeast Quarter of the Northwest Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Nine (9), Township Thirty (30) North, Range Eleven (11) West, of the N.M.P.M., San Juan County, New Mexico, and more particularly described as follows:
BEGINNING at the Northwest corner of Section 9 and being a found brass B.L.M. cap marked Section 05 Section 04 Section 08 Section 09 1969;
THENCE South 68°54'42" East for a distance of 1937.25 feet to a point on the 1/64 Section line of said Section and being the "True Point of Beginning";
THENCE South 01°34'04" West for a distance of 91.54 feet;
THENCE South 88°46'20" East for a distance of 160.58 feet along the curb of the existing road;
THENCE South 00°04'29" East for a distance of 568.81 feet along the 1/64 Section line of said Section;
THENCE North 88°55'25" West for a distance of 658.18 feet along the 1/64 Section line of said Section;
THENCE North 00°03'52" East for a distance of 661.07 feet along the 1/64 Section line of said Section;
THENCE South 88°53'14" East for a distance of 498.63 feet along the 1/64 Section line of said Section to the "True Point of Beginning".

Same being Tract 2-Remainder, as shown on the City of Aztec Alternate Summary Plat for Mar-Bel Incorporated recorded August 13, 2015, in Book 1590, page 887 of the records of said County.

reveals the following instruments filed **FROM: August 31, 2015, at 2:48 p.m.**, the date of that certain Warranty Deed recorded in Book 1591, page 616 of the Records of San Juan County **TO: April 25, 2018, 4:30 p.m.**, to-wit:

CURRENT INSTRUMENT(S) OF CONVEYANCE: K&B NM, LLC, a New Mexico limited liability company, who acquired a Fee Simple interest, and title thereto, by Warranty Deed recorded August 31, 2015, in Book 1591, page 616 of the Records of said County (copy attached hereto).

LAST MORTGAGE(S) FILED FOR RECORD: Line of Credit Mortgage executed by K & B NM, LLC, a New Mexico limited liability company, to Citizens Bank, recorded December 27, 2017, in Book 1625, page 407 of the Records of said County (copy attached hereto).

Mortgage executed by K & B NM, LLC, a New Mexico limited liability company, to Citizens Bank, recorded August 31, 2015, in Book 1591, page 617, and re-recorded January 5, 2016, in Book 1596, page 540 of the Records of said County (copy attached hereto).

No transcripts of judgments, Federal or State tax liens, or other liens where found in the records of said County against K&B NM, LLC, except as shown herein.

******* Please see attached Exhibits for a list of all other documents pertaining to the subject property filed in the records of San Juan County, New Mexico during the above stated period. Complete copies of these documents shall be made available to you upon request at no additional charge. *******

NOTE: Pay taxes for the 2nd Half of 2017 in the amount of \$2,285.14, if paid by May 10, 2018, as shown by Statement No. R6000163. Base Amount = \$4,570.28.

NO SEARCH WAS MADE OF THE CHATTEL MORTGAGE, SECURITY AGREEMENT AND/OR FINANCING STATEMENT INDICES OF SAID COUNTY.

THE INFORMATION PROVIDED IN THIS CERTIFICATE IS A LIMITED ABSTRACT OF TITLE AND SHOULD NOT BE CONSIDERED A SUBSTITUTE FOR TITLE INSURANCE OR A LEGAL OPINION BY A LICENSED ATTORNEY.

LIABILITY IS LIMITED TO THE AMOUNT PAID FOR THIS CERTIFICATE.

IN WITNESS WHEREOF, SAN JUAN COUNTY ABSTRACT & TITLE COMPANY, a corporation organized under the laws of the State of New Mexico, has caused this Certificate to be executed by its proper officers and its corporate seal affixed, this day of April 25, 2018.

ATTEST:

SAN JUAN COUNTY ABSTRACT & TITLE COMPANY



By: Autumn Yocum, Abstracter

Legal Description

SITE ADDRESS 500 RUINS RD, 510 RUINS RD, 516 RUINS RD AZTEC

SCHOOL DISTRICT RS 21NRS

BEG AT NW CORNER OF SEC 9 30 11, THENCE S68-54-42E 1937.25FT TO TRUE POINT OF BEG, THENCE S01-34-04W 91.54 FT, S88-46-20E 160.58 FT, S0-04-29E 568.81 FT, N88-55-25W 658.18FT, N0-03-52E 661.07 FT, S88-53-14E 498.63 FT TO BEG. BK. 1591 PG. 616

2019 TAX BILL

SAN JUAN COUNTY TREASURER

100 S. OLIVER, STE 300
AZTEC, NEW MEXICO 87410

K&B NM LLC R6000163
193 ROAD 2900
AZTEC NM 87410-9731



OFFICE HOURS:

7:00 am to 5:30 pm
MON Thru THUR

CLOSED FRIDAYS

Phone: (505) 334-9421

IF THIS BOX IS CHECKED, YOUR MORTGAGE COMPANY HAS REQUESTED YOUR TAX BILL FOR PAYMENT. PLEASE KEEP THIS BILL FOR YOUR RECORDS.

Fee of 2.5% charged on ALL credit card payments
For online payment or to sign up for email notification go to website <http://www.sjcounty.net/elected/treasurer>
Drop box located on east side of building

TAX BILL NUMBER **R6000163**

THE FIRST HALF PAYMENT IS DUE: **December 10, 2019**
THE SECOND HALF PAYMENT IS DUE **APRIL 10, 2020**

PROPERTY CLASSIFICATIONS
RS = RESIDENTIAL NR = NON-RESIDENTIAL

PROPERTY	FULL VALUE	TAXABLE VALUE	AGENCIES	TAX RATE	AMOUNT DUE
RESIDENTIAL LAN	289,200	96,400	STATE OF NEW MEXICO	1.360	212.58
RESIDENTIAL IMP	179,726	59,909	COUNTY OF SAN JUAN-RES	6.936	1,084.15
			CITY OF AZTEC-RES	4.673	730.43
			AZTEC SCHOOL DIST-RES	12.384	1,935.73
			SAN JUAN COMM COLLEGE-RES	3.512	548.96
			COMM COLLEGE BLDG LEVY	0.600	93.79
			FW_WCD		112.04
TOTALS	468,926	156,309	TOTAL TAX RATE	29.465	4,717.68

YEAR	BILL NO.	TAX	INTEREST	PENALTY	AMOUNT DUE

PRIOR TAXES, IF ANY, MUST BE PAID BEFORE ACCEPTING CURRENT YEAR PAYMENT.

Mayor
Victor C. Snover

Mayor Pro-Tem
Rosalyn A. Fry



Commissioners
Austin R. Randall
Michael A. Padilla
Mark E. Lewis

A desirable place to live, work and play; rich in history and small town values!

NOTICE OF PUBLIC HEARING
Zone Change
PETITION NO. ZC 2020-02

August 10, 2020,

Dear Property Owner:

Notice is hereby given that an application has been filed with the City of Aztec's Community Development Department for an amendment to the Planned Unit Development (PUD) zoning for the Villa Serena Mobile Home Park. The subject property is located at 500-01 to 516-70 Ruins RD, Aztec, NM (TAX ID R6000163). The amendment identifies both the setback and dimensional standards for the Planned Unit Development (PUD).

LEGAL DESCRIPTION

BEG AT NW CORNER OF SEC 9 30 11. THENCE S68-54-42E 1937.25 FT TO TRUE POINT OF BEG. THENCE S01-34-04W 91.54 FT, S88-46-20E 160.58 FT, S0-04-29E 568.81 FT, N88-55-25W 658.18 FT, N0-03-52E 661.07 FT, S88-53-14E 498.63 FT TO BEG. BK. 1591 PG. 616.

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that Aztec's City Commission will hear the petition in a public hearing on Tuesday, August 25, 2020, at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico or on the GoToMeeting Online platform, please see page 2 for login information. All persons shall have an opportunity to be heard why said petition should be granted or denied. All persons are invited to attend the said hearing.

You are receiving this letter because you may own property within 100 feet (excluding public right-of-way) of the proposed request. You are invited to attend the hearings noted above or submit written comments prior to the meeting to the Community Development Department at 201 W. Chaco Street, Aztec, New Mexico 87410. Please be advised that this petition could be canceled or withdrawn prior to the meeting date. If you have any questions regarding this notice or would like additional information regarding this petition, please contact the Community Development Department at 505-334-7605.

Sincerely,

Steven M. Saavedra
Community Development Department
City of Aztec

Staff Summary Report

MEETING DATE: August 25, 2020

AGENDA ITEM: X. QUASI JUDICIAL HEARING (C)

AGENDA TITLE: ZC 2020-03 Amending a Planned Unit Development (PUD) for the Cottonwood Mobile Home Park, Located at 200-318 Hesperus Ave, 200-320 Robinson Ave, and 1711 to 1723 Elm St., Aztec, NM, Aztec, NM

ACTION REQUESTED BY: Eric Edgerton

ACTION REQUESTED: Approval of the Amended Plan Unit Development (PUD) Zoning

SUMMARY BY: Steven M. Saavedra

PROJECT DESCRIPTION / FACTS

Applicant	Eric Edgerton
Representative	N/A
Date of Application	August 4, 2020
Requested Action	ZC 2020-03 – Amending & Establishing the Planned Unit Development (PUD)
Location	Please see above
Dimensions	Tax ID # R4003193
Existing Land Use	Residential (Mobile Home Park)
Existing Zoning	PUD Planned Unit Development
Surrounding Zoning	North: C-2 / Commercial South: R-1 / Residential East: R-1 / Residential West: O-1 & Commercial / Office and Vacant land
Notice	Property owners within 100-feet were sent notice by certified mail on August 10, 2020, and a classified ad was placed with the Daily Times on August 17, 2020.
FEMA SFHA	No
MRA District	No
Access	Newman Ave

Mr. Eric Edgerton seeks to amend the Planned Unit Development (PUD) for the Cottonwood Mobile Home Park, located at 200-318 Hesperus Ave, 200-320 Robinson Ave, and 1711 to 1723 Elm St., Aztec, NM. Currently, the subject property is zoned PUD. However, there are no listed setbacks or density units listed for this PUD. Unlike other zoning districts, a PUD "provides suitable sites for uses, which are special because of infrequent occurrence, the effect on surrounding property, safety hazard, or other reasons" COA Sec. 26-2111.



The use, setbacks, parking, and density requirements are established by the developer and approved by the City Commission. According to city code, a setback for PUD states, "Any building or structure associated with this use shall not encroach on the right-of-way line of an established or future street line, whichever is more distant from the street centerline extended. Access and circulation around any structures must be provided for the movement of fire protection equipment" (COA 26-2-115). In other words, the PUD District does not state or lists setbacks as other districts. For example, the MH Mobile Home Districts requires a 20-foot front yard, 15-foot street side, 5-foot side interior, and a 10-foot rear yard setback. If acceptable, the City Commission is to approve the setbacks per this district, based on information from the developer and input from City Staff.

Unfortunately, there are no Finding of Facts documents listed for this PUD District or this mobile home park. However, the 2004 City Commission approved this mobile home park under a business item. The density number, parking, or setbacks for this mobile home park or the Planned Unit Development (PUD) zoning are unknown. Therefore, Mr. Edgerton seeks to amend the PUD zoning with the listed setbacks and density units for the Cottonwood Mobile Home Park.

The request does not change, what currently exists, only amending the PUD the listed parking, density, and setbacks for this mobile home park. Please note that the requested setbacks are based on the assumption that the mobile home park is no longer encroaching on the City of Aztec's right-of-way. If the City of Aztec sales 0.29 AC of property, the setbacks and density units are as follows:

- Density** = Allow up to 74 Mobile Home Residential Units
- Parking** = Cottonwood Mobile Park
- Setbacks**

North: 5-feet
South: 31-feet
East: 5-feet
West: 31-feet

Please note, there have been three (3) calls and two (2) letters from property owners within 100-feet. The calls and the letter were against the sale of 0.29 AC, not specifically against the amendment of the PUD.

SUPPORT DOCUMENTS:

- Application
- GIS Map
- Letter to Property Owners
- POL
- Survey

DEPARTMENT'S RECOMMENDED MOTION: Move to approve ZC 2020-03 and amend the Planned Unit Development (PUD) zoning for the Cottonwood Mobile Home Park, located at 200-318 Hesperus Ave, 200-320 Robinson Ave, and 1711 to 1723 Elm St., Aztec, NM, Aztec, NM 87410.

20 20-03



CITY OF AZTEC ZONE CHANGE APPLICATION

Permit #: _____ Date Started: _____ Date Approved: _____ Fees Paid: _____

PROPERTY OWNER CONTACT INFORMATION

Name: Eric Edgerton
Mailing Address: 193 CR 2900
Phone: 505-330-7396
Email: edgexterra@gmail.com

PROPERTY INFORMATION / DEVELOPMENT SITE

Address: _____
Tax ID: 20-0423066 Parcel Size (ac): 7.9 ac
Current Zone District: _____
Current Use: Mobile Home Park
Proposed Zone District: PUD
Proposed Use: Mobile Home Park - no changes
Flood Zone Designation: No flood zone

REASON FOR REQUESTING A ZONE CHANGE

We would like to clarify the zone for Cottonwood MHP. we would like to establish Cottonwood MHP as a PUD. We are submitting this application due to the lack of documentation for a PUD. We also need to Clarify set backs and density of the park. etc

APPLICANT SIGNATURE

I, ERIC Edgerton representing Cottonwood MHP hereby certify that I have read this application and hereby dispose and state under penalty of perjury that all statements, proposals, and documents submitted with this application are true and correct and that I shall adhere to the Municipal Regulations of the City of Aztec.

Signature: _____ Date: 8/4/20

CITY OF AZTEC USE ONLY

City Commission Meeting Date: _____

City Commission Action: APPROVED DENIED

FEES ARE DUE PRIOR TO COMMISSION MEETING

Fees are: \$10 Administration Fee + \$250 first acre and \$5 each additional acre. Total \$ _____



CITY OF AZTEC PETITION APPLICATION

Community Development Department
201 W. Chaco St.
Aztec, NM 87410
(505) 334-7605
(505) 334-7609 (fax)

PROJECT TYPE (Check those that Apply)

- | | | |
|-------------------------------------------------|--------------------------------------------------|------------------------------------------------------|
| <input type="checkbox"/> Annexation | <input type="checkbox"/> Sign Permit | <input type="checkbox"/> Conditional Use Permit |
| <input type="checkbox"/> Alternate Summary Plat | <input type="checkbox"/> Variance | <input type="checkbox"/> Special Use Permit |
| <input type="checkbox"/> Preliminary Plat | <input type="checkbox"/> Commercial Development | <input type="checkbox"/> Well Site Permit |
| <input type="checkbox"/> Final Plat | <input type="checkbox"/> Residential Development | <input type="checkbox"/> Zone Change |
| | | <input checked="" type="checkbox"/> Other PUD update |

INFORMATION

Applicant's Name: Eric Edgerton Project Location: 1711 Elm - Cottonwood MHP - 1
 Address: 193 CR 2900 Aztec Existing Use: Mobile Home Park
 E-Mail: edgexterra@gmail.com Proposed Use: Mobile Home Park
 Telephone: 505 330-7396 Current Zoning: PUD
 Relationship to Property Owner: Owner Tax I.D. Number: 20-0423066

Legal Description of Subject Property: Act Peckins Moor Subdivision Lot 2 BK 1475 PG. 79

Is the Property in a Flood Zone? Yes No

Is Property subject to deed restrictions, covenants, or homeowners' association agreements? If Yes, please provide copy with application. Yes No

* See attached rental agreement

REPRESENTATIVE / CONTACT PERSON (if other than applicant) - Same

Name: Eric Edgerton
 Address: 193 CR 2900 Aztec, NM 87410 Phone: 505-330-7396

OWNERSHIP

Property Owner - See Attached
(Identify General Partners, Managing Partner, Corporation President and Secretary. Specify type of ownership interest: Fee, Real Estate Contract, Option to Purchase)

Mortgage Holders
(If any)

Name: <u>Cottonwood Mobile Home Comm LLC</u>	Name: <u>Citizens Bank</u>
Address: <u>193 CR 2900 Aztec</u>	Address: <u>500 W. Broadway</u>
Phone: <u>505-330-7396</u>	Phone: <u>505-599-0100</u>

OWNER CERTIFICATION

I certify that I am an owner and the information and exhibits herewith are true and correct to the best of my knowledge in filing this application, I am acting with the knowledge and consent of all persons in interest and understand that without the consent of all persons in interest the requested action cannot lawfully be accomplished. I give my permission for authorized officials of the City of Aztec to enter the premises described in this application. I understand applications will generally be reviewed by City Commission at their first regular session following City staff review.

Name: Eric Edgerton Address: 193 CR 2900 Aztec, NM 87410
 Owner's Signature: [Signature] Phone: 505-330-7396
 Email: edgexterra@gmail.com



CITY OF AZTEC ZONE CHANGE EVALUATION

Permit #: _____

1. Is the Zone Change detrimental to the property? No Yes
2. Is the Zone Change detrimental to surrounding properties or the neighborhood? No Yes
3. Does the Zone Change alter the character of the surrounding neighborhood? No Yes
4. Will the Zone Change set a precedent which may alter the intent of the Land Use regulations? No Yes
5. Does the Zone Change impose a health issue on the public? No Yes
6. Does the Zone Change impose a safety issue on the public? No Yes
7. Does the Zone Change have the approval of surrounding neighbors? No Yes
8. Will the Zone Change be consistent with the Aztec Comprehensive Plan and Master Zone District Map? No Yes
9. Is there an alternate Land Use Action that might be considered to accomplish the applicant's intent without altering the Zone District Map? No Yes

Ownership of Property

Cottonwood Mobile Home Community LLC

Members: Eric Edgerton 50%
 Amanda Edgerton 50%

President: Eric Edgerton

Secretary: Eric Edgerton

Vice Amanda Edgerton

Treas Amanda Edgerton

Type of ownership: Purchased thru bank.



CITY OF AZTEC ZONE CHANGE CHECKLIST

Applicable Fees

Administrative Fee	\$10
Zone Change	\$250 (first acre) \$5 (for each additional acre)

Detailed site map which includes the following:

- Address of property and adjacent properties
- Property boundary (all sides)
- Existing or proposed street(s) adjoining property (labeled)
- North arrow and scale
- All utility easements
- All utility lines
- All utility meters
- Existing and/or proposed structures
- Location of improvement(s)
- Setbacks for front, side and rear yards
- Driveway location (required for new addresses)
- Proposed parking area (if different than driveway)
- Location of all drainages

Ownership

A document that verifies ownership or legal interest in the property (copy of abstract, title certificate, insurance, or contract).

Legal Description

Includes the legal description or physical address of the property.

Proposed Use

Statement describing the proposed use of the buildings, structures, premises, etc.

Remains a mobile home park - PUD - see attached

WAR ANTY DEED

ERIC EDGERTON and AMANDA EDGERTON, husband and wife, and ART PERKINS and LINDA PERKINS, husband and wife
for consideration paid, grants to COTTONWOOD MOBILE HOME COMMUNITY LLC
whose address is 1711 Elm St.
Aztec, N.M. 87410

the following described real estate in San Juan County, New Mexico:

Lot Two (2) of the MINOR SUBDIVISION, in the City of Aztec, San Juan County, New Mexico, according to the Plat thereof filed for record in the Office of the San Juan County Clerk on April 15, 2004.

SUBJECT to easements, reservations and restrictions of record or in place.

with warranty covenants.
WITNESS hand and seal, this 9 day of May, 2008.

[Signature] (Seal) Amanda Edgerton (Seal)
Eric Edgerton Amanda Edgerton
[Signature] (Seal) Linda Perkins (Seal)
Art Perkins Linda Perkins

ACKNOWLEDGEMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO
COUNTY OF SAN JUAN }SS.
This instrument was acknowledged before me on May 9, 2008
by Eric Edgerton and Amanda Edgerton, husband and wife
My commission expires: 1/12/11



[Signature]
Notary Public

ACKNOWLEDGEMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO
COUNTY OF SAN JUAN }SS.
This instrument was acknowledged before me on May 9, 2008
by Art Perkins and Linda Perkins, husband and wife
My commission expires: 1/12/11



[Signature]
Notary Public

200807659 05/15/2008 01:34 PM



Beginning at a point on the northwest right of way line of Newman Avenue where said point is located South 85° 59' 40" West a distance of 0.86 feet from a ½" Iron Rod w/ Cap Stamped MN 11598" found at the intersection formed by the northwest right of way line of Newman Avenue and the dividing line between lands n/f Cottonwood Mobile Home Community, LLC (APN 2065178342194) and lands n/f Christopher & Ruth Collins-Medina (APN 2065178326237), thence

Running through the right of way of Newman Avenue, South 01° 18' 49" West a distance of 962.66 feet to a point, thence

Continuing through the right of way of Newman Avenue, South 89° 48' 05"E a distance of 12.01 feet to a point , thence

Along the west right of way line of Newman Avenue, North 01° 10' 25" East a distance of 993.86 feet to a point, thence

Along the northwest right of way line of Newman Avenue, North 85° 59' 40" West a distance of 14.43 feet to the point and place of beginning.

Containing; 12,690 square feet or 0.29 acres of land more or less.

Mayor
Victor C. Snover

Mayor Pro-Tem
Rosalyn A. Fry



Commissioners
Austin R. Randall
Michael A. Padilla
Mark E. Lewis

A desirable place to live, work and play; rich in history and small town values!

**NOTICE OF PUBLIC HEARING
ZONE CHANGE
PETITION NO. ZC 2020-03**

August 10, 2020,

Dear Property Owner:

Notice is hereby given that an application has been filed with the City of Aztec's Community Development Department for an amendment to the Planned Unit Development (PUD) zoning for the Cottonwood Mobile Home Park. The subject property is located at 200-318 Hesperus Ave, 200-320 Robinson Ave., 1711 Elm ST., 1715 Elm St., 1717 Elm St., 1719 Elm St., 1721 Elm St., 1723 Elm St., Aztec, NM (TAX ID R4003193). The amendment identifies and establishes both the setback and dimensional standards for the Planned Unit Development (PUD) zoning district for the mobile home park.

LEGAL DESCRIPTION

ART PERKINS MINOR SUBDIVISION LOT 2 BK.1475 PG.791

Pursuant to the provisions of Section 3-21-6, New Mexico Statutes Annotated, 1978 Compilation, notice is hereby given that Aztec's City Commission will hear the petition in a public hearing on Tuesday, August 25, 2020, at 6:00 p.m. in the City Commission Chambers at City Hall, 201 W. Chaco Street, Aztec, New Mexico or on the GoToMeeting Online platform, please see page 2 for login information. All persons shall have an opportunity to be heard why said petition should be granted or denied. All persons are invited to attend the said hearing.

You are receiving this letter because you may own property within 100 feet (excluding public right-of-way) of the proposed request. You are invited to attend the hearings noted above or submit written comments prior to the meeting to the Community Development Department at 201 W. Chaco Street, Aztec, New Mexico 87410. Please be advised that this petition could be canceled or withdrawn prior to the meeting date. If you have any questions regarding this notice or would like additional information regarding this petition, please contact the Community Development Department at 505-334-7605.

Sincerely,

Steven M. Saavedra
Community Development Department
City of Aztec 🇺🇸

City Commission Meeting Quasi Judicial Hearing
Tue, Aug 25, 2020 6:00 PM - 10:00 PM (MDT)

Please join my meeting from your computer, tablet or smartphone.
<https://global.gotomeeting.com/join/236514949>

You can also dial in using your phone.
United States (Toll Free): [1 877 309 2073](tel:18773092073)
United States: [+1 \(646\) 749-3129](tel:+16467493129)

Access Code: 236-514-949

New to GoToMeeting? Get the app now and be ready when your first meeting starts: <https://global.gotomeeting.com/install/236514949>

