

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: April 9, 2013

TO: Board of County Commissioners

FROM: Vicki Lucero, Building and Development Services Manager *VL*

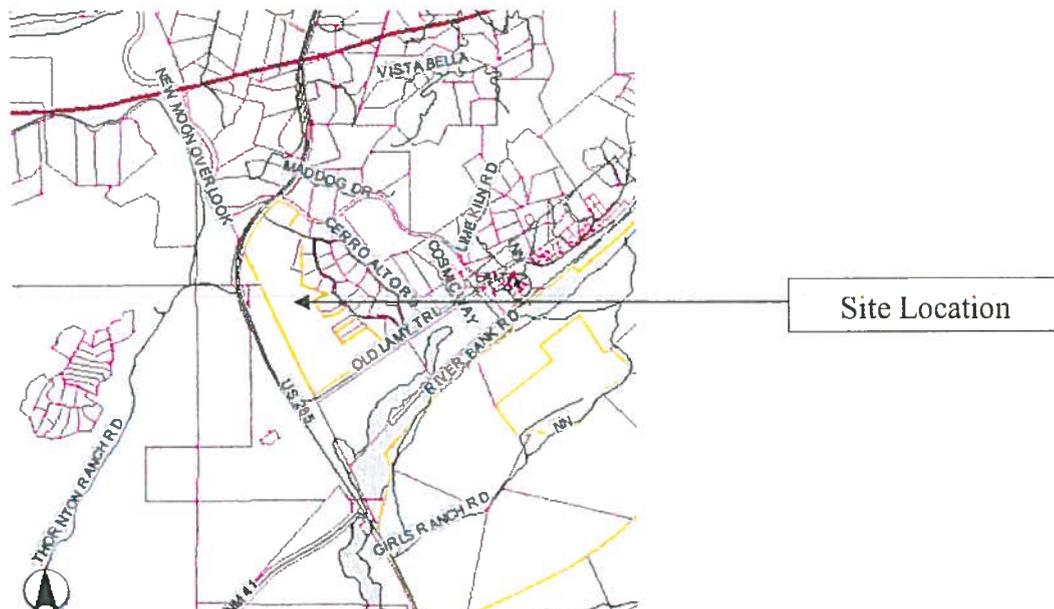
VIA: Penny Ellis-Green, Land Use Administrator *PEG*

FILE REF.: CDRC CASE # Z/S 08-5430 Spirit Wind West Subdivision

ISSUE:

Joseph Miller, Applicant, Danny Martinez, Agent, request Master Plan Zoning approval for a 39-lot residential subdivision (Spirit Wind West) on 133.73 acres \pm and Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of 16 lots. The property is located south of Eldorado, on the east side of US 285, off Old Lamy Trail (CR 33), within Section 5, Township 14 North, Range 10 East and Section 32, Township 15 North, Range 10 East (Commission District 4).

Vicinity Map:



SUMMARY:

On March 12, 2013, the BCC met and acted on this case. The decision of the BCC was to table this request to allow the applicant to meet with the neighbors once again, and to address open space, water conservation and archaeological issues in the subdivision (Refer to meeting minutes in Exhibit 8).

A neighborhood meeting is scheduled for April 4, 2013. The Applicant's Agent will provide an update in regards to this meeting at the April 9th BCC meeting.

The Applicant has provided photographs of the areas of Open Space Dedication along with proposed Pedestrian Trail locations. An updated site development plan has been submitted which shows a portion of the proposed Open Space as a trail head with limited parking and picnic tables for use by the residents (Refer to Exhibit 9).

The Applicant has also submitted an archaeological treatment plan and states that if the plan is not approved by SHPO, the roadway will be realigned in Phase 4 of the development to avoid the archeological site.

In addition, the applicant has submitted water restrictive covenants (Refer to Exhibit 9) which are in conformance with County Code Requirements. At the time of building permit each lot will be required to install rainwater catchment systems in accordance with County Ordinance No. 2008-4.

On March 21, 2013, we received a revised review memo from the OSE which supersedes the previous memo (February 13, 2013), but maintains a negative opinion. Their opinion is based on the EAWSD proving a 100-year supply of water. The County Hydrologist's review and positive recommendation was based on a 40-year water supply.

On January 17, 2013, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of this request (Refer to Meeting Minutes in Exhibit 7).

On December 20, 2012, the CDRC tabled this case to allow the applicant to meet with the neighbors to discuss their concerns, to have the County Hydrologist present at the CDRC meeting to address questions about water, and to have staff contact the OSE to get an update on the status of the request by EAWSD for the additional Point of Diversion (POD) (Refer to Meeting Minutes in Exhibit 6).

A meeting between the Applicant and neighbors was conducted on Thursday, January 10, 2013.

Staff did contact the OSE and was informed that the application for the POD was approved. Staff requested a revised memo from the OSE. The OSE has provided an updated response however, they maintain a negative opinion (Refer to Exhibit 3).

The Applicant requests Master Plan Zoning approval for a residential subdivision located northeast of the intersection of US 84-285 and Old Lamy Trail. The subdivision will consist of 39 single family residential lots on 133.73 acres \pm , which will be developed in 4 phases. The

proposed lots range in size from 2.50-acres to 3.47-acres. The property is located within the Homestead Hydrological Zone where the minimum lot size is 40-acres per dwelling unit with a 0.25 acre foot per year per lot water restriction; unless water availability is proven to support increased density or community water and/or sewer is available.

The Applicant also requests Preliminary and Final Plat and Development Plan approval for Phase I of the subdivision which will consist of 16 residential lots.

This Application was submitted on February 6, 2012. Staff sent the application to reviewing agencies and received several negative responses that required additional information to be submitted by the Applicant. Upon receipt of the additional information staff sent it back to reviewing agencies for comment. During the course of the review period, County staff had several meetings with the Applicant and his Agents to discuss deficiencies and concerns and come up with resolutions on these issues. During the middle of the review process the Applicant also modified his proposal to adjust the number of lots in Phase 1 from 9 lots to the 16 lots that are now part of this request.

Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for this type of request.

APPROVAL SOUGHT: Master Plan Zoning Approval for a 39-lot residential subdivision and Preliminary and Final Plat and Development Plan Approval for Phase I which will consist of 16 lots.

GROWTH MANAGEMENT AREA: Galisteo, SDA-2.

HYDROLOGIC ZONE: Homestead, minimum lot size per Code is 40-acres per dwelling unit with a 0.25 acre foot per year per lot water restriction; unless water availability is proven to support increased density or community water is available which would allow for minimum lot sizes of no less than 2.5 acres.

ARCHAEOLOGIC ZONE: High potential. An archaeological report has been submitted for review. A total of three archeological sites were detected. The two smaller sites (LA 103858 & LA103857) shall be placed in non-disturbance easements. The larger site (LA 103861) will remain in a non-disturbance easement until a treatment plan is submitted and approved by SHPO in phase 2.

ACCESS AND TRAFFIC: The site will be accessed off of Cierro Alto Road on the northern portion of the subdivision and off of Old Lamy Trail (CR 33) on the southern end of the subdivision. A 50' asphalt apron will be required on Paso A Lamy at the intersection of Old Lamy Trail (CR 33).

FIRE PROTECTION:

Eldorado Fire District; The EAWSD will provide the water source for fire protection. Fire hydrants will be located within 1,000 feet of all buildable areas.

WATER SUPPLY:

EAWSD; a ready, willing and able to serve letter has been provided by EAWSD.

LIQUID WASTE:

Individual on-site liquid waste disposal systems are proposed.

SOLID WASTE:

Solid waste disposal will be provided through a contracted Waste Disposal Management Firm that will service Spirit Wind West Subdivision. Individual lot owners will be responsible for all fees associated with the solid waste disposal. Homeowners will also be allowed to handle solid waste by disposing of it at the Eldorado Transfer Station. This must be noted in the Subdivision Disclosure Statement.

**FLOODPLAIN
& TERRAIN MANAGEMENT:**

The site consists mainly of slopes of up to 10% with some minimal areas of slopes between 10% and 20%. Stormwater detention basins are proposed to mitigate runoff from the development. The entire project is outside the limits of the FEMA designated 100-year floodplain.

SIGNAGE AND LIGHTING:

No private subdivision signage or lighting has been proposed at this time.

EXISTING DEVELOPMENT:

The project site is currently vacant.

ADJACENT PROPERTY:

On the North side of the property are private residential parcels of land. To the south is County Open Space land. To the west is a private parcel of land, and to the east is the Spirit Wind Ranch Residential Subdivision which consists of lots ranging in size from 2.92 acres to 9.09 acres.

OPEN SPACE:

A total of 13± acres are proposed as open space which allows for the development of a park as required by code.

AFFORDABLE HOUSING:

The Applicant has signed an Affordable Housing Agreement with Santa Fe County in which the Applicant has agreed to provide 15% affordable housing. Phase 1 is a request for 16 lots and at 15% phase one would require 2 affordable units. The applicant is currently proposing one affordable lot and

will be required to provide one additional affordable housing lot within the Cimarron Village development in accordance with the agreement.

PHASING:

The project will be completed in 4 phases.

AGENCY REVIEW:

<u>Agency</u>	<u>Recommendation</u>
County Fire	Approval with Conditions
County Utilities	Approval with Conditions
NMDOT	Approval with Conditions
County Open Space	Approval with Conditions
County Public Works	Approval with Conditions
OSE	Negative Response
SHPO	Approval with Conditions
NMED	Approval with Conditions
Public School	Approval

STAFF RECOMMENDATION:

Approval of the request for Master Plan Zoning approval for a 39-lot residential subdivision and Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of 16 lots subject to the following staff conditions:

1. The Applicant shall comply with all review agency comments and conditions, **Article V, Section 7.1.3.c.**
2. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per **Article V, Section 5.2.5 and Section 5.4.5.**
3. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months as required by **Article V, Section 9.9.**
4. The letter of commitment from the Eldorado Area Water & Sanitation District shall be amended to include water service for the 39th lot prior to plat recordation of Phase I, **Article VII, Section 6.3.**
5. A market analysis will be required with the Preliminary Plat application for Phase 2 of the development, **Article V, Section 5.2.2.g.2.**

EXHIBITS:

1. Development Report
2. Proposed Plans
3. Reviewing Agency Responses
4. Disclosure Statement & Restrictive Covenants
5. Letters of opposition
6. December 20, 2012, CDRC Meeting Minutes
7. January 17, 2013, CDRC Meeting Minutes
8. March 12, 2013, BCC Meeting Minutes
9. Updated information submitted by the Applicant

DEVELOPMENT REPORTS

PREPARED FOR

SPIRIT WIND WEST SUBDIVISION

(A 39 lot single-family residential subdivision)

Located within a portion of Lot 18 Eldorado at Santa Fe, being identified as Lot 18A – 2A -1A, within the Bishop John Lamy Grant within Projected Section 5, Township 15 North, Range 10 East, New Mexico Principal Meridian, Santa Fe County, New Mexico.

DEVELOPMENT REQUEST FOR MASTER PLAN APPROVAL
FOR THE FULL DEVELOPMENT (39 RESIDENTIAL LOTS)
AND PRELIMINARY AND FINAL APPROVALS FOR PHASE ONE
CONSISTING OF (16) SIXTEEN RESIDENTIAL LOTS

Joseph & Alma Miller Trustees
COW SPRINGS LAND AND CATTLE LLC.
286 Riverbank Road
Lamy, New Mexico 87540

REVISED NOVEMBER 4, 2012

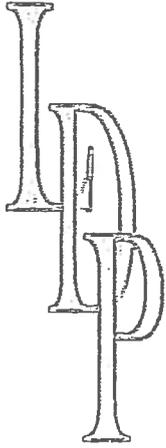
FEBRUARY 2012

DBA-6

EXHIBIT

tabbles

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LAND DEVELOPMENT PLANNING

◆ Planners ◆ Construction Management

7009 Marilyn Ave. N.E. ◆ Albuquerque, New Mexico 87109
Phone: (505)660-5250 ◆ Fax: (505)798.1959
Email: LDPlanning@comcast.net

November 4, 2012

Ms. Vicky Lucero
Santa Fe County Land Use Director
200 Grant Avenue
Santa Fe, New Mexico 87501

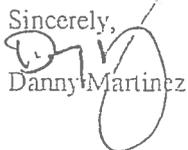
RE: Spirit Wind West Subdivision

Dear Ms. Lucero:

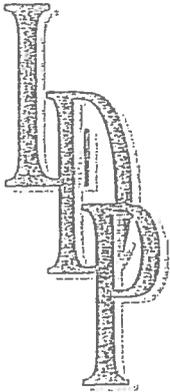
Enclosed, please find two (2) copies of final development reports and plans for the above referenced project. The corrected documents reflect all project changes from our original submittals and also address comments from County Staff and State reviewing agencies.

Based on staff approvals, we are anxiously looking forward to moving forth with the development approval process.

Please feel free to call me or Jorge Gonzales should additional data be required.

Sincerely,

Danny Martinez

07A-7



LAND DEVELOPMENT PLANNING

◆ Planners ◆ Construction Management

7009 Marilyn Ave. N.E. ◆ Albuquerque, New Mexico 87109
Phone: (505)660-5250 ◆ Fax: (505)798.1959
Email: LDPlanning@comcast.net

February 1, 2012

Ms. Vicky Lucero, Development Specialist
Santa Fe County Land Use Department
102 Grant Ave.
Santa Fe, NM 87504

Re: Development submittal for "Spirit Wind West Subdivision", Santa Fe County, New Mexico.

Dear Ms. Lucero

On behalf of Mr. Joseph Miller, please accept this application request as a resubmitted to Mr. Miller's original development request dated December, 2009. We would like to continue with the original submittal as development fees were paid by Mr. Miller, but move forth with our revised development request. The new development application request is to allow for the approval of a "Master Plan for the development of thirty-nine (39) single family residential lots, with preliminary and final development approvals for "Phase One" of the development consisting of nine lots, of which one will comply with the "Affordable Housing Agreement and Plan" for Joe's projects.

Development of Phase One is the most cost effective for Mr. Miller, as water, power telephone and paved roads exist, with minimal need for infrastructure improvements.

Will serve letters from Eldorado Area Water and Sanitation District are enclosed and have been reviewed by Mr. Steven Ross, Santa Fe County Attorney for approval.

Development phasing is identified on the Master Plan, with five phases proposed with approximately seven lots in each phase.

Detailed development plans and Civil Engineering drawings by Mr. George Gonzales,

OBA-3

are enclosed with this submittal along with Traffic Report prepared by Mr. Morey Walker, Walker and Associates. Archaeological Reports prepared by Mr. Steven Townsend, Townsend Archaeological Consultants.

Original Staff comments, along with State reviewing agencies comments from the original submittal have been reviewed and addressed on the new submittals. It is the intent of this submittal to see the development through Phase One final development approvals. Should additional information be required please allow for an open communication with myself or the consultants noted.

Sincerely,

Danny Martinez,
Development Planner

c.c Mr. Joseph Miller, Developer
Mr. George Gonzales P.E.

Project Summary

LOCATION: Lot 18A – 2A – 1A Eldorado at Santa Fe, within the Bishop John Lamy Grant within Projected Section 5, Township 15 North, Range 10 East, New Mexico Principal Meridian Santa Fe County, New Mexico.

OWNER / ADDRESS: Joseph & Alma Miller
Cow springs Land and Cattle LLC.
286 Riverbank Road
Lamy, New Mexico 87540

LANDUSE DESIGNATION: Homestead – Residential minimize area
Two and a half acre lots.

USES PROJECTED: Single Family Residential

SIZE OF PROJECT: 143.035 Acres more or less

NUMBER OF LOTS: 39

Largest Lot: 3.47 Acres more or less (Phase 1)

SMALLEST LOT: 2.49 Acres more or less (Phase 1)

REGULATORY JURISDICTION: Board of County Commissioners,
Santa Fe County, New Mexico

DBA10

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 - C. Topography & Natural Features
 - 1. Grading & Drainage
 - D. Liquid Waste Disposal
 - E. Solid Waste
 - F. Site Utilities
 - G. Public Schools Impact Report
- ATTACHMENT:
- a. Santa Fe Public Schools Impact Form

II. AFFORDABLE HOUSING

- ATTACHMENTS:
- a. Affordable Housing Agreement and Plan

III. TERRAIN MANAGEMENT, SOILS ANALYSIS, GRADING & DRAINAGE

- A. Introduction
 - B. References
 - C. Site Characteristics
 - D. Soils Analysis – Proposed Development – Upstream basin
 - E. Drainage
 - F. Flood Plains
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 - H. Grading & Erosion Control Plan
- ATTACHMENTS:
- a. Vicinity Map
 - b. Drainage map
 - c. Soils Report & Percolation

IV. WATER SERVICE AGREEMENT

- A. Water Availability
 - 1. Water Conservation on Water Use
 - 2. Water Supply Requirements
 - 3. Maximum Annual Water Requirement Calculations
 - 4. Water Restrictions and Covenants
- ATTACHMENTS:
- a. Letter from Eldorado Area Water and Sanitation District
 - b. Quitclaim Deed & Grant of Water Utility Easement
 - c. Development Agreement

ATTACHMENTS:

- a. Vicinity Map
- b. Subdivision Plat for Spirit Wind West Subdivision
- c. FEMA MAP Flood Zone Insurance Rate Map
- d. Warranty Deeds

V. DECLARATION OF RESTRICTIVE COVENANTS & DISCLOSURE STATEMENT

VI. TRAFFIC IMPACT REPORT BY MOREY WALKER AND ASSOCIATES

VII. ARCHAEOLOGICAL REPORT , BY RON WINTERS, M.A. RPA

The following County Ordinance has been enacted since the effective date of the first Eldorado Moratorium. These ordinances are:

- Ordinance No. 1996-13 (Water Right Permit Type I and Type II Subdivisions)
- Ordinance No. 1999-01 (Liquid Waste Disposal)
- Ordinance No. 2000-01 (Height Standards for Walls and Fences for Residential Uses)
- Ordinance No. 2001-01 (Rules and Regulations for County Parks, trails and Open Space Areas)
- Ordinance No. 2001-09 (Wireless Communication Facilities)
- Ordinance No. 2002-13 (Water Conservation for all Residential and Commercial Uses)
- Ordinance No. 2003-06 (Rainwater Harvesting)
- Ordinance No. 2005-08 (US 285 South Highway Corridor)
- Ordinance No. 2006-02 (Affordable Housing) With amendments to the Ordinance
- Ordinance No. 2006-03 (Hot water Recirculation)
- Ordinance No. 2006-08 (Hot Water Recirculation)
- Ordinance No. 2007-06 (Restricting the Use of Domestic Walls for Land Divisions and Subdivisions within the Eldorado Area)
- Santa Fe Land Development Code Article V, Section 5.2.7.a (Expiration of Master Plans)
- Santa Fe Land Development Code, Ordinance 1996-10 (as amended)

VARIANCE REQUESTS

No variance requests are required.

I. INTRODUCTION

Spirit Wind West Subdivision is a proposed thirty-nine (39) lot single-family residential development located on 143.035 acre parcel of land, identified as being within a portion of Lot 18 of Eldorado at Santa Fe, within the Bishop John Lamy Grant, in projected Section 5, Township 15 North, Range 10 East, of New Mexico Principal Meridian, West of the Historical Townsite of Lamy, within the jurisdictional boundaries of Santa Fe County, New Mexico. (See Attachment "A" Vicinity Map)

The property is located along the east right-of-way of US Highway 285 at approximate mile marker 16.6 at the existing intersection of US Highway 285 and the intersection with Cerro Alto Road currently serving Spirit Wind Ranch Subdivision and adjoining private parcels of land. To the north of the development are private residential parcels of land along with Santa Fe Northern Railroad Spur running between the Lamy Train Station and City of Santa Fe. To the South lies Santa Fe County Road 33, running east to west and serving access to the Lamy Town Site, along with a ninety (90) acre parcel of land identified as Santa Fe County Open Space. To the west is a private parcel of land owner by the Dukemeier Family Trust and adjacent US Highway 285. Further west is the proposed Galisteo Preserve, a Master Planned Community Development.

Santa Fe County Land Use designation for the subject property is identified as "Homestead Residential" with a minimum lot size of two and a half acres per lot based on water availability provided by the Eldorado Area Water and Sanitation District. No commercial activities exist or are proposed within the development. Existing commercial activity lies within the Historical Townsite of Lamy approximately 1.5 miles east of the subject development.

"Spirit Wind West Subdivision" will provide access in two separate locations. The main entrance / exit would be located at the existing intersection of US Highway 285 and Cerro Alto Road currently serving "Spirit Wind Ranch Subdivision" and private parcels of land located off Cerro Alto Road. Existing conditions include a 24' paved road (Cerro Alto Road) section within a public dedicated fifty-foot (50') right-of-way that intersects with US Highway 285 which is developed meeting New Mexico Department of Transportation Standards including adequate turn lanes, deceleration lanes for the north and south traffic flow. Phase One of the development would allow for five (5) residential lots to access through this intersection, with future phases of the development to provide access through this intersection. Detailed Traffic Impact Reports were prepared by Morey Walker Engineering and are attached within this report.

Development of the southern portion of "Spirit Wind West Subdivision" includes an additional eleven (11) single family residential lots that would include the construction of a new access road identified as Paso a Lamy and the intersection with Santa Fe County Road 33.

Development of these lots requires interior road access and no other driveway access onto SFC Road 33 is allowed.

Full development of "Spirit Wind West Subdivision" would include construction of Jose de la Paz a new road running from Cerro Alto Road, south through the development, with connection to the intersection of Santa Fe County Road 33 at approximate mile post 1.4 going in an easterly direction from the intersection of US Highway 285 and Santa Fe County Road 33. This future intersection would be developed meeting Santa Fe County Driveway Access Regulations, under phase one of the development.

Development reports as presented are based on meeting Santa Fe County Development Regulations for development of residential uses on minimum lot sizes of two and a half acre parcels. Guest homes will not be allowed and restrictions would not allow further splitting of the lots as identified by Restrictive Covenants and Santa Fe County Development Regulations.

"Spirit Wind West Subdivision" is within the Eldorado Area Water and Sanitation District service boundaries. Existing water mains, fire hydrants are located along Cerro Alto Road, serving other developments in the vicinity. New water service main lines and fire protection will be connected into existing water mains that are located in Cerro Alto Road, serving the full development. An existing 10" water main line exists along the full length of the westerly boundary line running north to south and turning east along Santa Fe County Road 33 towards the Lamy Town Site. These water mains are readily available to serve the development. A detailed water agreement between the developer and Eldorado Area Water and Sanitation District along with "Will Serve Letter" is attached further in this report. There are no existing wells on site and Development Covenants and County regulations will prohibit new wells in the development. The development of "Spirit Wind Ranch Subdivision" incorporated strategic planning of the existing water infrastructure to accommodate for future expansion availability to the proposed "Spirit Wind West Subdivision", including adequate line sizes, fire protection, water pressure reducing apparatuses, along with existing connections readily available for water services extensions for the development.

Liquid waste disposal would incorporate the use of conventional waste water disposal systems, or alternative systems capable of providing circulation reuse systems by capturing gray water for use in meeting individual lot landscaping irrigation. These systems will be developed and permitted meeting New Mexico Environmental Department guidelines and would be the responsibility of the individual lot owners.

liquid waste disposal system. The minimum lot size of 2.50 acres is identified as net developable area including additional areas designates as road right-of-way easements, open space designations, drainage easements which would create an average of 2.75 acre parcel. Spirit Wind West Subdivision is regulated by Santa Fe County development regulations along with various agencies of the State of New Mexico.

A. Development Request

The development request by this application is to receive "Master Development Plan Approval" for a thirty-nine (39) lot residential subdivision identified as "Spirit Wind West Subdivision" and "Preliminary and Final Development Approval" for Phase One consisting of sixteen lots, with five lots located at the northern portion and eleven lots within the southern portion of the subdivision. Development phasing will be done in four phases with public utilities extended in each phase. Final documentation provided meets the requirements outlined by Santa Fe Development Regulations for Master Plan and Final Plat Approvals.

B. Platting

Spirit Wind West Subdivision falls within a portion of lot 18 2A-1A of Eldorado at Santa Fe. Lot 18 was originally a three hundred twenty-three (323) plus or minus acre parcel of land platted for the "Eldorado at Santa Fe" Parcelization survey. Documents were filed in the records of the Santa Fe County Clerks Office in Plat Book 107, Page 6. Lot 18 Eldorado at Santa Fe has been re-platted on various occasions into a total of twenty-six (26) parcels of land, of which twenty-four (24) lots fall within the existing Spirit Wind Ranch Subdivision to the east of this proposed development. The remaining 143.035 acres represents the total area of the proposed subdivision. Prior surveys have dedicated Cerro Alto Road as a public road & utility easement serving all properties within Lot 18 of Eldorado at Santa Fe.

The legal description is identified as Lot 18A-2A-1A, as designated on a "Plat of Survey" entitled "Lot Line Adjustment for Joseph & Alma Miller Family Trust, Richard Beal and Paula Henderson" prepared by Jacobo J. Pacheco, N.M.P.S. NO. 17822, filed in the records of the Santa Fe County Clerks Office, in Plat Book 690, Pages 39-40 as Document No. 1593499. The parcel is currently owned by Joseph F. Miller and Alma M. Miller, Cow Springs Land and Cattle, LLC.

C. Topographic & Natural Features The topographic survey information as provided for Spirit Wind West Subdivision was based on Aerial Photography completed by Thomas R. Mann and Associates dated July of 1996. The topographic data was platted at two foot (2') contour intervals complying with national map accuracy standards. The terrain can best be described as gentle sloping.

The subject property is not impacted by the 100 year flood plain as delineated on FEMA MAP Flood Zone Insurance Rate Map Panel 0675D, Map Number 35049C0675D, effective date June 17, 2008 (See Attachment C). Minor drainage basins run through the parcel in a north-south direction draining towards the southwest corner of the parcel. Off-site drainage along the north boundary is diverted by the construction of the Santa Fe Railroad Spur, eliminating upstream drainage into the subject parcel.

Development of "Spirit Wind West Subdivision" would be completed in a manner that preserves existing terrain with earthwork activity limited to roadways utilities and on-site building pads and driveways. With the minimum lot size of 2.75 acres, each lot will designate limited buildable areas not to exceed over seven thousand (7,000) square feet for each lot.

Existing vegetation consists of scattered juniper, pinion trees, and sage brush. Existing ground cover consists of Blue Grama, Ring Muhlys, and Western Wheatgrass, Needle and Thread, and Indian Rice Grass Shrubs include Rubber Rabbit Brush, Yucca, Cholla and some Broom Snakeweed. The intent of the development is to minimize impacts to natural vegetation by controlling designated construction limits.

Existing natural drainage basins will be protected by the dedication of a ten foot (10') drainage easement together with a no build off-set of twenty-five foot (25') from each side of said easement. Detailed engineering development plans were prepared by Mr. Jorge Gonzales in compliance with Santa Fe County Growth Management regulations. Design Engineering drawings reflect the installation of drainage structures where new roadway crossing impact existing natural drainage basins. Drainage crossings will be installed minimizing the impacts to natural vegetation; erosion control will be incorporated for inlet/outlet flows and erosion protection.

The soils map provided by the Soil Conservation Service identifies that existing soil types are primarily SP Silver/Pojoaque. The soils throughout the development are well suited for the intended use, and present few problems that can be easily overcome with normal engineering practices. Existing slopes within the property are less than ten percent (10%) in grade with minimal areas greater than ten percent (10%) and less than twenty percent (20%).

1. Grading & Drainage

As shown on the Engineering development plans prepared by Mr. Jorge Gonzales. The slope of the land is in a south/southwest flow direction, grading and drainage will be minimized to roadways and on-site residential development. Roadway construction activities will minimize the alteration of natural grades.

Storm water retention basins will be engineered to mitigate runoff caused by the development of new parcel roadways. Calculations and proposed mitigation efforts are identified on the engineering development plans completed by Jorge Gonzales and submitted for "Spirit Wind West Subdivision" preliminary and final development plans.

Individual lot development will require by Restrictive Covenants that stormwater runoff created by the construction of home sites be mitigated by on-site storage for stormwater harvesting to be utilized in meeting landscape irrigation demands. Off-site drainage will not be allowed by individual lot development. All lots will be required to submit detailed stormwater management plans for reviewing by the Homeowners Architectural Review Committee.

Proposed roadway construction grades will range between three percent (3%) to seven percent (5%). Roadway design will follow existing ground profiles as much as possible. Cut and fill slopes will comply with Santa Fe County Standards of 3:1 fill slopes and 2:1 cut slopes.

The limits of construction and construction staging areas will be defined during construction activities. Staging areas will be cleared of debris and re-vegetated at the completion of all construction activities.

Dust and erosion control activities will be required of the contractors to protect the environment and adjoining parcels. Unsuitable materials and debris from site grading will be removed from the site to an approved landfill. All construction activities will comply with requirements of the most recent National Pollution Discharge Elimination System (NPDES) Phase II requirements.

A detailed Storm Water Pollution Prevention Plan (SWPPP) and Report will be completed prior to submittal of final development plans. Phase one construction activities within the southern portion will include development of a new roadway section meeting Santa Fe County development regulations, within the northern portion Cerro Alto Road is an existing paved roadway that will serve Phase One of the development and future phases of "Spirit Wind West Subdivision".

Landscaping will involve re-vegetation of roadway side slopes and areas disturbed during the course of construction. The seeding mix and method of application will be outlined on the landscape plan submittal on future development plan submittals. Development entry ways will incorporate xeroscape development utilizing drought tolerant materials, with native blend vegetation.

D. Liquid Waste Disposal

Liquid waste disposal will be provided by on-site liquid waste disposal systems for all lots within the development containing a minimum of two and one-half acre parcels and meeting Santa Fe County Land Development Regulations along with New Mexico Environmental Department Guidelines. On-site systems will be conventional septic leach field systems, lot owners have the option of modified systems for the collection of effluent gray water to meet outside landscaping need, the design and associated costs are the responsibility of the lot/home owner.

Restrictive Covenants will provide detailed data regarding regulations and compliance to potential homeowners. Installation and payment for individual systems will be sole responsibility of the homeowners. No regional or municipal wastewater systems exist in the general vicinity of Eldorado, or are proposed within this development.

E. Solid Waste

Individual solid waste disposal will be provided through a contracted Waste Disposal Management Firm that will service Spirit Wind West Subdivision. No on-site burning, burial or storage of solid waste will be allowed. Individual property owners will be responsible for all fees associated with the disposal of solid waste.

Development Covenants and Restrictions will provide specifics towards identifying qualified firms certified and accepted by Santa Fe County for handling of solid waste. Individual homeowners will be required to coordinate for the hauling of solid waste. Homeowners are also allowed to handle private disposal within the Eldorado Transfer provided by Santa Fe County.

F. Site Utilities

Utility availability would include Public Service Company of New Mexico, Electric service. Century Link for telephone and internet services, and Comcast Cable for television services. No natural gas services are available within the development. Homeowners would be encouraged to build homes per Green Build Guidelines and design of other alternative sources of renewable energy methods. Primary utility installation will be the responsibility of the developer with homeowners responsible for costs associated to individual services.

Domestic water will be provided through Eldorado Area Water and Sanitation District a privately owned municipal water system. Water service mainlines are existing along Cerro Alto Road, serving the northern portion of the development. Water main lines, fire hydrants and service connections will be installed by the developer. Individual lot service meters and service lines to new residential structures along with associated costs due to Eldorado Water and Sanitation District will be the homeowner's responsibility.

Fire protection including water mains, valve connections and fire hydrants will be installed by the developer. Individual home fire suppression systems may be required by Santa Fe County Fire Protection Guidelines based on type of home construction and would be the responsibility of the homeowners.

G. School Impact Report

A school impact report for Spirit Wind West Subdivision has been submitted to the Santa Fe Public School System for their review and comment.

The closest public school facility is the Eldorado Elementary School located approximately four (4) miles north of the subject development. Mid School and High School facilities are located in Santa Fe approximately 12 miles to the City of Santa Fe Public Schools systems, which require private transportation or Public School bus transportation.

Impacts caused by the development to the Santa Fe Public Schools systems are outlined in the response received from the Santa Fe Public School District. As noted "Spirit Wind West Subdivision" will be completed in four phases with no anticipated schedule for full development build out due to current economic conditions.

James Jenkins, President
Jerry L. Cooper, Vice President
Stephen Wust, Secretary
George Haddad, Director
Roberta Armstrong, Director
Gene Schofield, Treasurer

October 20, 2008

Joseph Miller
286 Riverbank Road
Lamy, New Mexico 87508

Re: Commitment of the Eldorado Area Water and Sanitation District to Provide Water Service to Joseph Miller's Spirit Wind West Development.

Dear Mr. Miller

By this letter, the Eldorado Area Water and Sanitation District ("EAWSO") commits to provide water service to Joseph Miller's Spirit Wind West Development ("Project") in accordance with the District's 2007 New Water Services Policy ("NWSP"), a copy of which is enclosed herewith, the terms stated in this letter, and the Development Agreement ("DA") dated October 8, 2008, between EAWSO and the Joseph and Alma Miller Revocable Trust ("Trust"), which was executed October 17, 2008.

Water service: Subject to completion of the above conditions, EAWSO is ready, willing, and able to provide water service to the Project in an amount not to exceed nine and one half (9.5) acre-feet of water per year. Prior to the initiation of water service, the Trust will have obtained and transferred to the District sufficient water supply and adequate water rights or satisfactory substitutes to the District necessary to meet both the short-term and the long-term needs of the Project.

All requirements of the DA and the 2007 NWSP must be met prior to the initiation of water service to the Project. In accordance with the provisions of the 2007 NWSP and the DA, the Trust will construct the necessary water supply infrastructure, which will become the property of EAWSO upon completion and prior to the commencement of service.

Further, all terms and conditions of this letter of commitment and the above referenced DA have been approved by the EAWSO Board of Directors on October 16, 2008.

EAWSO looks forward to cooperating with the Trust in the provision of water service to the Project. Please do not hesitate to contact us at any time to discuss the details of this project as it moves forward in the planning process.

ELDORADO AREA WATER and SANITATION DISTRICT



James Jenkins, President and Director, EAWSO Board

Cc; EAWSO Board of Directors
Santa Fe County Land Use Dept.: Jack Kolkmeier, Penny Ellis-Green

DBA-20

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
ELDORADO AREA WATER AND SANITATION DISTRICT AND THE BOARD OF
COUNTY COMMISSIONERS OF SANTA FE COUNTY REGARDING MUTUAL
WATER SERVICES COOPERATION**

The Eldorado Area Water and Sanitation District, a political subdivision of the State of New Mexico ("District"), and the Board of County Commissioners of Santa Fe County, a political subdivision of the State of New Mexico ("County"), enter into this Memorandum of Understanding this 9th day of October, 2012.

RECITALS

WHEREAS, the District has rights and responsibilities specified by Law, specifically the Water and Sanitation District Act (NMSA 1978, Section 73-21-1 *et seq.*) and operates a water utility supplying water to its customers within the boundaries of the area served by the District, as shown on Exhibit "A" attached hereto and incorporated herein by reference (the District's "Service Area");

WHEREAS, the County, through its Utility Division, operates a water utility whose principal source of supply is the ~~Buckman Direct Diversion~~, a joint project of the County and the City of Santa Fe;

WHEREAS, the County, through its Land Use Division, administers the New Mexico Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan (SGMP), and the Santa Fe County Land Development Code (LDC);

WHEREAS, the County and the District share a number of important shared goals, including providing safe water to citizens, providing fire protection, sponsoring water conservation and reuse practices, and providing healthy wastewater management;

WHEREAS, consistent with these shared goals, the County, through its Utility Division, ~~is willing to assist the District from time to time to improve the reliability of the District's system in times of drought or mechanical failure or as otherwise agreed to by the parties by providing access to water supplies from the Buckman Direct Diversion or from any other sources;~~

WHEREAS, the County's statutory duty through the Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code is to assure that proposed development within the County is consistent with statutory requirements and with the LDC, and specifically to assure that a 99-year water supply exists for any proposed development within the County's land use jurisdiction;

WHEREAS, the County acknowledges that the District's sources of water supply are more than adequate at the present time to serve its customers, and also acknowledges Partial Licenses No. RGS 18529 and 18556 issued by the Office of the State Engineer and the acknowledgement in those Licenses that the District has available to it 783.43 acre feet per year of water rights with which to supply customers, and further acknowledges that the County's

~~water experts have thoroughly reviewed the District's sources of supply in connection with recent applications to develop property, and have agreed with the District that more than adequate water resources currently exist to serve existing customers and to serve new developments within the District's service area.~~

WHEREAS, from time to time, disagreements have arisen between the County and the District concerning the District's inherent authority under the Water and Sanitation District Act and the County's functions under the New Mexico Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code, and it is desirable that the County and District work to reduce conflicts in the future in a way that is consistent with the County's statutory obligations, but in a way that fully respects the District's status as a political subdivision of the State and an independent public utility accountable to the voters;

~~WHEREAS, a constructive way to assure progress on all of these objectives is for the County to agree that the District has provided sufficient present information concerning the District's water supply to justify the County's acceptance of a will serve letter from the District, that the District is ready, willing and able to provide a customer with water service as adequate for purposes of the Subdivision Act, the Zoning Enabling Act, the Santa Fe County Growth Management Plan, and the Santa Fe County Land Development Code for a minimum of three (3) years; and for the County and the District to agree to work towards providing the District with water from the Buckman Direct Diversion project or other sources as available to assist the District in times of drought, or mechanical failure or as otherwise agreed by the parties;~~

WHEREAS, the parties find that it is in their mutual best interest to avoid misunderstanding and disagreement over the areas to be served by each party, and wish to define a mechanism for deciding whether potential customers outside of the District's current Service Area boundaries will be served by the District or the County;

WHEREAS, the County and District are amenable to making such an agreement and to agreeing to work towards a stronger relationship in subsequent agreements so that these and other issues vital to the health, safety and welfare of the community are effectively addressed.

~~IT IS THEREFORE UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES AS FOLLOWS:~~

1. The County recognizes and understands that the District is a Water and Sanitation District duly organized and existing under the Water and Sanitation District Act, with all the powers, authorities, rights and responsibilities specified therein, and the County recognizes the right of the District under the Water and Sanitation District Act to supply water to existing and new customers and to supply new development within its Service Area boundaries. The County agrees that it will not extend its water facilities into the District's Service Area without the prior written approval of the District.
2. With respect to the previous paragraph, the parties recognize that the County has statutory responsibilities with respect to such new development within the District's

ATTEST:

Valerie Espinoza by VT

Valerie Espinoza, County Clerk

Approved as to form:

[Signature]

Stephen C. Ross, County Attorney



**THE BOARD OF DIRECTORS OF
THE ELDORADO WATER AND SANITATION DISTRICT**

By:

[Signature]

James Jenkins, EAWSD Board President

9-7-12

Date

ATTEST:

[Signature]

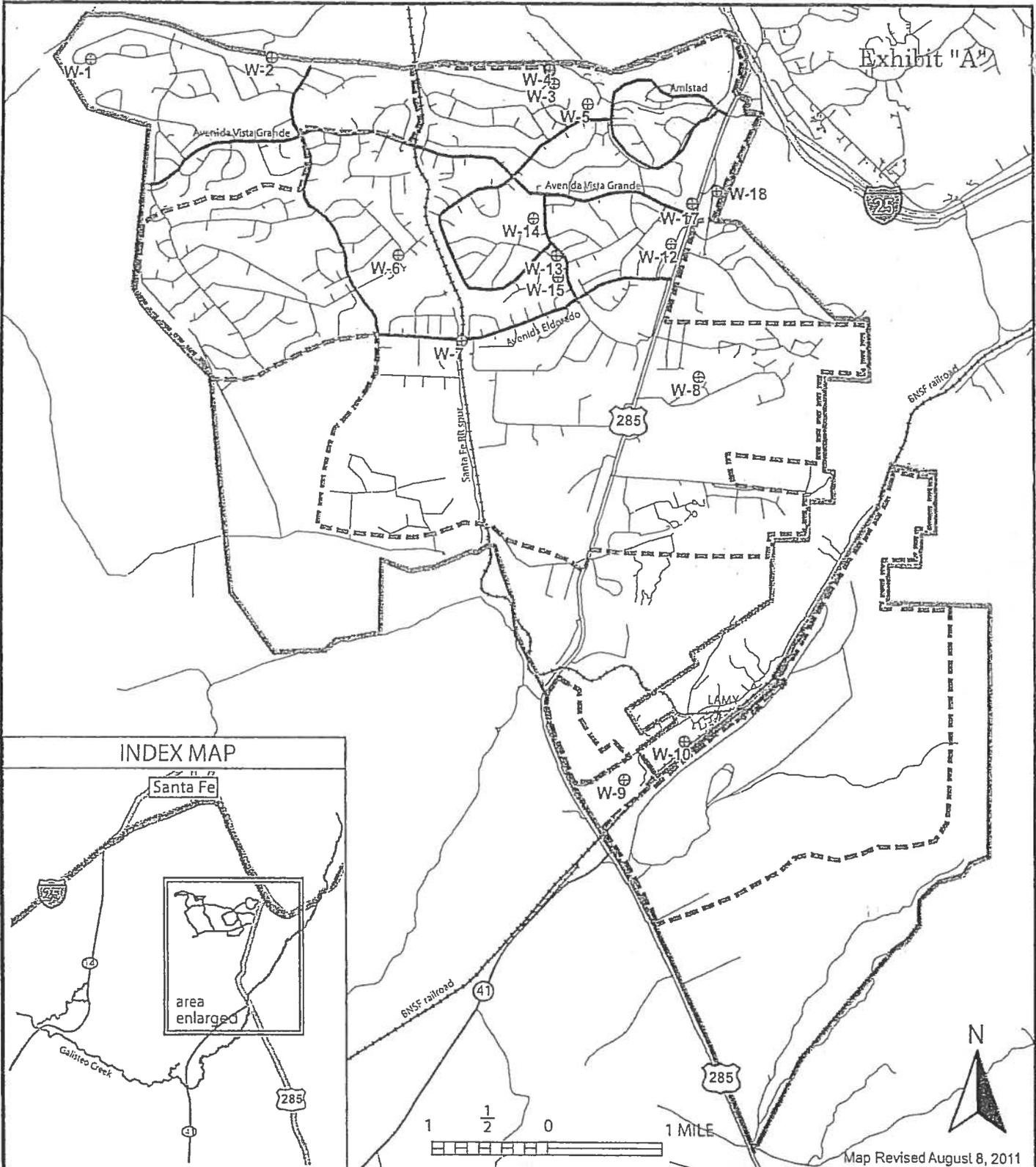
Stephen Wust, Ph.D., EAWSD Board Secretary

Approved as to form:

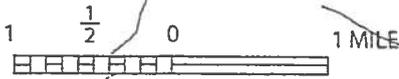
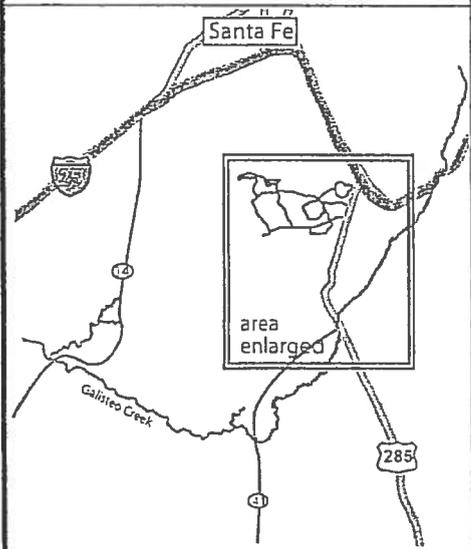
[Signature]

Catherine Robinson, EAWSD Board Attorney

Exhibit "A"



INDEX MAP



Map Revised August 8, 2011

LEGEND

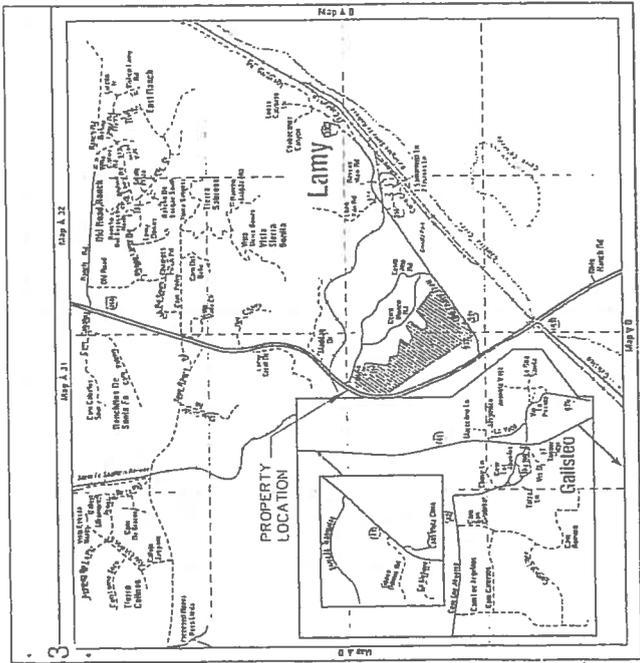
- W-1 ⊕ EAWSD Wells (with well numbers)
- ▭ Boundary of EAWSD Service Area as of September 2010
- ▭ EAWSD District Boundary as of September 2010

GLORIETA GEOSCIENCE, INC.
 P.O. Box 5727, Santa Fe, NM 87502
 (505) 983-5446 Fax (505) 983-6432
 www.glorietageo.com

DEVELOPMENT PLANS
PREPARED FOR
SPIRIT WIND WEST SUBDIVISION
JOSEPH F. MILLER AND ALMA M. MILLER
dba COW SPRINGS LAND AND CATTLE CO., LLC.

REQUESTING MASTER PLAN APPROVAL FOR SPIRIT WIND WEST SUBDIVISION, CONSISTING OF (39) THIRTY-NINE SINGLE FAMILY RESIDENTIAL LOTS AND (2) PRELIMINARY AND FINAL DEVELOPMENT APPROVAL FOR PHASE 1 CONSISTING OF 16 LOTS.

LOCATED WITHIN LOT 18A-2A-1A EL DORADO AT SANTA FE, LOCATED WITHIN PROJECTED SECTION 5, TOWNSHIP 14 NORTH RANGE 10 EAST, AND SECTION 32 TOWNSHIP 15 NORTH RANGE 10 EAST, BISHOP JOHN LAMY GRANT, NEW MEXICO PRINCIPAL MERIDIAN SANTA FE COUNTY, NEW MEXICO



INDEX OF SHEETS

SHEET NO.	SHEET TITLE
1.	COVER SHEET
2.	RECORD LOT LINE ADJUSTMENT SURVEY NOTES
3.	RECORD LOT LINE ADJUSTMENT SURVEY
4.	EL DORADO AT SANTA FE PARCELIZATION PLAN
5.	SITE DEVELOPMENT AND PHASING PLAN
6.	AFFORDABLE HOUSING PLAN
7.	SUBDIVISION PLAT NOTES
8.	SUBDIVISION PLAT (OVERALL SITE)
9.	SUBDIVISION PLAT PHASE 1
C-1	TERRAIN MANAGEMENT PLAN, EXISTING DRAINAGE CONDITIONS
C-2	TERRAIN MANAGEMENT, GRADING AND DRAINAGE PLAN (PHASE 1)
C-3	EXISTING ROAD PLAN AND PROFILE (CERRO ALTO ROAD) (PHASE 1)
C-4	CONCEPTUAL DOMESTIC WATER DISTRIBUTION AND FIRE PREVENTION PLAN
C-5	PLAN & PROFILES PHASE 1 LAMY AND JOSE DE LA PAZ
C-6	SECTIONS AND DETAILS, SIGNAGE, STORM WATER (SWPPP) PLAN
10	LIQUID WASTE DISPOSAL PLAN

USGS QUAD MAP TRANSFERRED
VICINITY MAP
NOT TO SCALE

SURVEY AND PLANS PREPARED FOR:
JOSEPH F. & ALMA M. MILLER FAMILY TRUST &
COW SPRINGS LAND AND CATTLE CO., LLC
216 RIVERBANK ROAD
LAMY, NEW MEXICO 87540

CONSULTANTS:
LAND DEVELOPMENT PLANNING
TELEPHONE: (505) 6805250
JORGE GONZALES, N.M.P.E. NO. 6441
LENORE ARMILIO, N.M.L.L.S. NO. 15511

SANTA FE COUNTY APPROVALS

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS AT THEIR MEETING OF _____ DATE _____

CHAIRPERSON, BOARD OF COUNTY COMMISSIONERS _____ DATE _____

COUNTY FIRE MARSHALL _____ DATE _____

PUBLIC WORKS DIRECTOR _____ DATE _____

LAND USE ADMINISTRATOR _____ DATE _____

RURAL ADDRESSING _____ DATE _____

COUNTY DEVELOPMENT PERMIT NUMBER _____ DATE _____

STATE OF NEW MEXICO IS
COUNTY OF SANTA FE
HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE
_____ DAY OF _____ AT _____ O'CLOCK _____ A.M. AND WAS ONLY
RECORDED IN PLAT BOOK _____ PAGE _____ OF THE RECORDS OF SANTA
FE COUNTY, NEW MEXICO.

WITNESSED BY HONORABLE SEAL OF OFFICE
VALERIE ESPINOSA
COUNTY CLERK, SANTA FE COUNTY, NEW MEXICO

DEPUTY _____

Revised 10/10/17

NO.	DESCRIPTION	DATE	BY

COVER SHEET

SPIRIT WIND WEST SUBDIVISION
SANTA FE COUNTY, NEW MEXICO

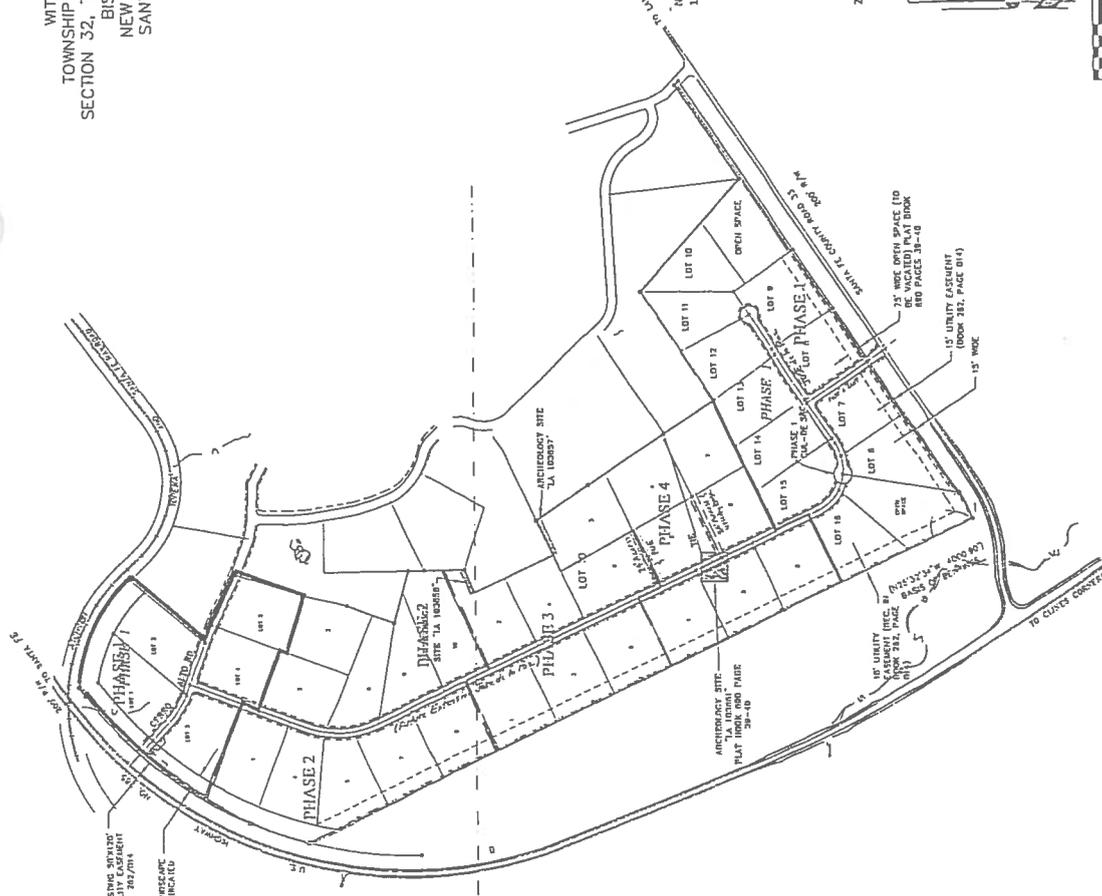
PROJECT NO. _____
DESIGNED BY: _____
DRAWN BY: _____
CHECKED BY: _____
DATE: _____
SCALE: _____
SHEET: _____

EXHIBIT
2

SPRIT WIND WEST SUBDIVISION

LOT 18A-2A-1A
 #85 CERRO ALTO ROAD
 WITHIN PROJECTED SECTION 5,
 TOWNSHIP 14 NORTH, RANGE 10 EAST, AND
 SECTION 32, TOWNSHIP 15 NORTH, RANGE 10 EAST,
 BISHOP'S JOHN LAMY GRANT
 NEW MEXICO PRINCIPAL MERIDIAN
 SANTA FE COUNTY, NEW MEXICO

TOTAL LOT AREA =	13,730.0 ACRES
TOTAL NUMBER OF LOTS =	38
PHASE 1 NUMBER OF LOTS =	5
SOUTHERN PORTION AND 11 LOTS SOUTHWEST PORTION	
PHASE 2 NUMBER OF LOTS =	10
PHASE 3 NUMBER OF LOTS =	8
PHASE 4 NUMBER OF LOTS =	8



APPROXIMATE PROPOSED
 SECTION LINE
 SECTION 32, 1125', N10E, R10E
 SECTION 3, 1140', N10E

EXISTING SERVICE
 UTILITY EASEMENT
 2007/014

15' WIDE SERVICE
 DOPPER & DOWNCAST
 OPEN SPACE

NOTES:
 1. In compliance with New Mexico State Historical Preservation Office, no construction activities will occur within Archaeological Site "LA 103857" without prior approval of this office. A detailed Archaeological Testing of Site "LA 103857" was submitted by Ron Winter, M.A., P.N., NMACS Inc. on 12/24/13, dated June 20, 2012. Archaeological testing revealed no artifacts as "LA 103857", indicating that there is very little depth to the site, with no significant impacts.
 Sites "LA 103857 and LA 103858" will remain undisturbed and placed in an archaeological easement as noted on the subdivision plat.
 2. Development of "Sprit Wind West Subdivision" is in compliance with Santa Fe County Ordinance No. 2005-08, US 285 South Highway Corridor Zoning District.



SCALE: 1"=300'

LSC 10/14/13, 8/1/2011

REVISIONS (OR CHANGE ORDERS)		
NO	DESCRIPTION	DATE

SITE DEVELOPMENT & PHASING PLAN SANTA FE COUNTY, NEW MEXICO

PROJECT NO.	#1501
ISSUED BY:	DLB/STW
CHECKED BY:	JMTW
DATE:	8/14/2014
DPT CODE:	
SHEET:	5

OBA-22

AFFORDABLE HOUSING PLAN
PREPARED FOR

SPRIT WIND WEST SUBDIVISION

LOT 18A-2A-1A
#85 CERRO ALTO ROAD
WITHIN PROJECTED SECTION 5,
TOWNSHIP 14 NORTH, RANGE 10 EAST, AND
SECTION 32, TOWNSHIP 15 NORTH, RANGE 10 EAST,
BISHOP'S JOHN LAMY GRANT
NEW MEXICO PRINCIPAL MERIDIAN
SANTA FE COUNTY, NEW MEXICO

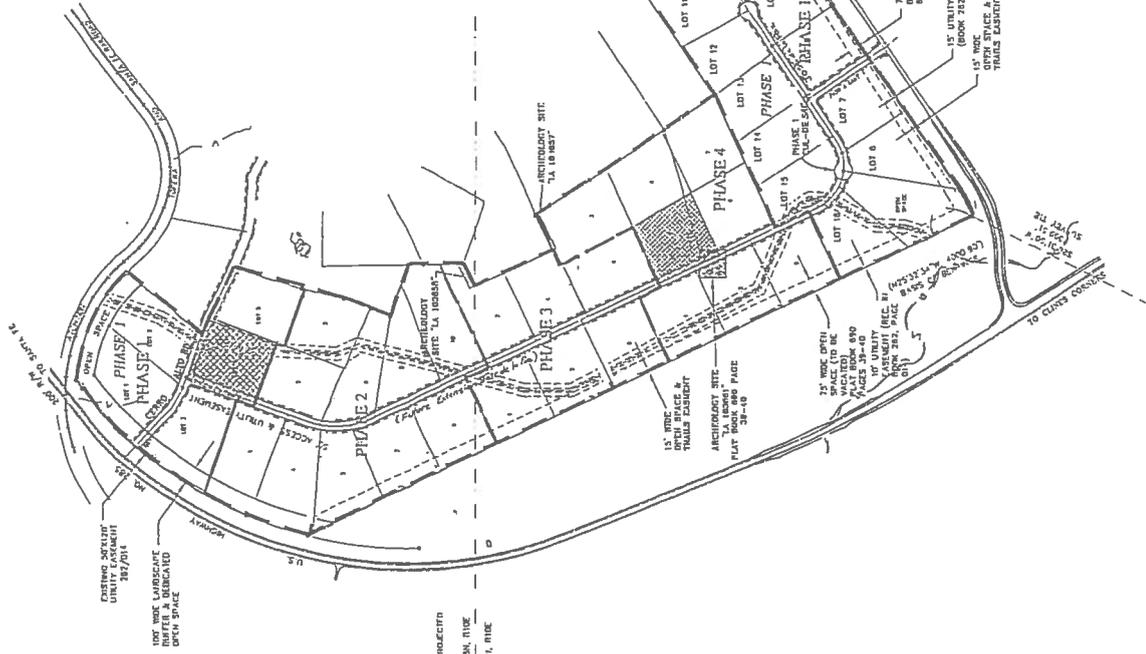
LEGEND

DESIGNATES PROPOSED AFFORDABLE HOUSING LOTS
AND OPEN SPACE AREAS. SEE SCHEDULE AND PLAN
BETWEEN SHEETS 1, 2, 3 AND SANTA FE COUNTY.



IN COMPLIANCE WITH AFFORDABLE HOUSING AGREEMENT
BETWEEN SANTA FE COUNTY AND JOSEPH F. MILLER DATED
JANUARY 10, 2012, THE AFFORDABLE HOUSING UNITS
DESIGNATED IN THIS SUBDIVISION WILL COMPLY WITH INCOME
RANGE FOUR (4).

APPROXIMATE PROJECTIONS
SECTION 18E,
SECTION 32, T15N, R10E
SECTION 3, T14N, R10E



SCALE: 1"=300'

LUC 001 012 01 2012

AFFORDABLE HOUSING PLAN

SPRIT WIND WEST SUBDIVISION
SANTA FE COUNTY, NEW MEXICO

REVISIONS (OR CHANGE NOTICES)	
NO.	DESCRIPTION
1	
2	
3	
4	
5	
6	
7	

PROJECT NO.	05-2012
DRAWN BY:	CHRISTOPHER
CHECKED BY:	JITW
DATE:	01/11/12
BY:	01/11/12
SCALE:	1"=300'
SHEET:	6

OBA-23

DEDICATION AND AFFIDAVIT

PROVIDE THAT THIS INSTRUMENT IS KNOWN BY THE PUBLIC RECORDS OF THE COUNTY OF SANTA FE, NEW MEXICO, AND THAT THE SAME IS A VALID AND LEGAL INSTRUMENT...

JOSEPH F. MILLER, COW SPRINGS LAND DEVELOPMENT, LLC
ALMA N. MILLER, COW SPRINGS LAND DEVELOPMENT, LLC

STATE OF NEW MEXICO | 55
COUNTY OF SANTA FE

THE FOREGOING INSTRUMENT IS ACKNOWLEDGED BEFORE ME ON THIS ___ DAY OF ___ TO ___ BY THE PERSON WHOSE NAME APPEARS ABOVE.

NOTARY PUBLIC

BY COMMISSION EXPIRES ON ___ DATE

UTILITY APPLICANTS

PUBLIC SERVICE COMPANY OF NEW MEXICO DATE

NEW MEXICO GAS COMPANY DATE

CONDOT DATE

COASTAL AREA WATER AND SANITATION DISTRICT DATE

COUNTY APPLICANTS DATE

LAND USE ADMINISTRATOR DATE

PUBLIC WORKS DIRECTOR DATE

MARSHAL, ADJUDICATOR DATE

COUNTY THE MARSHALL DATE

STATE OF NEW MEXICO | 55
COUNTY OF SANTA FE | 55

HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE ___ DAY OF ___ A.D. 19___ AT ___ O'CLOCK ___ M. AND WAS ONLY RECEIVED IN PLAIN BOOK ___ PAGE ___ OF THE RECORDS OF SANTA FE COUNTY, NEW MEXICO.

WITNESSES BY HAND AND SEAL OF OFFICE
COUNTY CLERK, SANTA FE COUNTY, NEW MEXICO
COUNTY CLERK

OWNER: COW SPRINGS LAND AND CATTLE CO, LLC
LOCATION: EL DORADO AT SANTA FE WITHIN THE TOWNSHIP OF NORTH PLAINS EAST, NEW MEXICO PRINCIPAL MERIDIAN SANTA FE COUNTY, NEW MEXICO

SUBDIVISION PLAT NOTES

SUBDIVISION PLAT OF PHASE 1
TIERRA BELLO SUBDIVISION
PREPARED FOR
COW SPRINGS LAND AND CATTLE LLC,
JOSEPH F. MILLER AND ALMA N. MILLER

TRACT B-A
EL DORADO AT SANTA FE, WITHIN THE
COUNTY OF SANTA FE, NEW MEXICO,
TOWNSHIP 15 NORTH, RANGE 9 EAST,
NEW MEXICO PRINCIPAL MERIDIAN
SANTA FE COUNTY, NEW MEXICO

SURVEY GENERAL NOTES

- 1. PLAT OF SANTA FE COUNTY...
2. BOUNDARY...
3. WARRANTY...
4. WARRANTY...
5. WARRANTY...
6. WARRANTY...
7. WARRANTY...
8. TRUSSEES...

SPECIAL BUILDING PERMIT CONDITIONS
RECORDS ON THESE LOTS ARE SUBJECT TO THE URBAN RULING AND DEVELOPMENT PERMITS FOR BUILDING CONSTRUCTION...

PUBLIC UTILITY EASEMENTS shown on this plat are granted for the common use and joint use of:
New Mexico Gas Company for installation, maintenance, and service of natural gas lines, valves and other equipment...



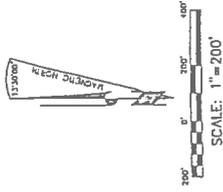
SURVEYOR CERTIFICATE
I, LEONOR ARELLANO, SURVEYOR PROFESSIONAL, LICENSE NO. 1581, DO HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD ON THE ACTUAL DATE OF RECORDATION...

Signature: Leonor Arellano
DATE: 7-23-12
LEONOR ARELLANO 1581
P.O. BOX 1331
P.O. BOX 1331
ALBUQUERQUE, N.M. 87104
PH: 505-261-6735

OBA-24

SUBDIVISION OF PHASE 1 SPIRIT WIND WEST SUBDIVISION
 PREPARED FOR
 JOSEPH F. MILLER AND ALMA M. MILLER
 MILLER FAMILY TRUST

LOT 18A-2A-1A
 #85 CERRO ALTO ROAD
 WITHIN PROJECTED SECTION 5,
 TOWNSHIP 14 NORTH, RANGE 10 EAST, AND
 SECTION 32, TOWNSHIP 15 NORTH, RANGE 10 EAST,
 BISHOP'S JOHN LAMY GRANT
 NEW MEXICO PRINCIPAL MERIDIAN
 SANTA FE COUNTY, NEW MEXICO



SURVEYOR CERTIFICATE
 I, LEONOR ANIÑEZ, NEW MEXICO PROFESSIONAL SURVEYOR NO. 13211, DO HEREBY
 CERTIFY THAT THIS BOUNDARY SURVEY PLAT AND THE ACTUAL SURVEY ON THE
 GROUND THEREON WERE MADE BY ME OR UNDER MY CLOSE PERSONAL SUPERVISION
 AND THAT I AM A RESPONSIBLE AND SOBER PERSON WHO AM NOT UNDER THE
 INFLUENCE OF ANY DRUGS OR ALCOHOLIC BEVERAGES AT THE TIME OF THE
 SURVEY AND THAT I AM NOT PROVIDING THIS INFORMATION AND SUBJECTS OF THE COUNTY OF
 SANTA FE, KNOWINGLY FOR FRAUD AND TO THE BEST OF MY
 KNOWLEDGE AND BELIEF.

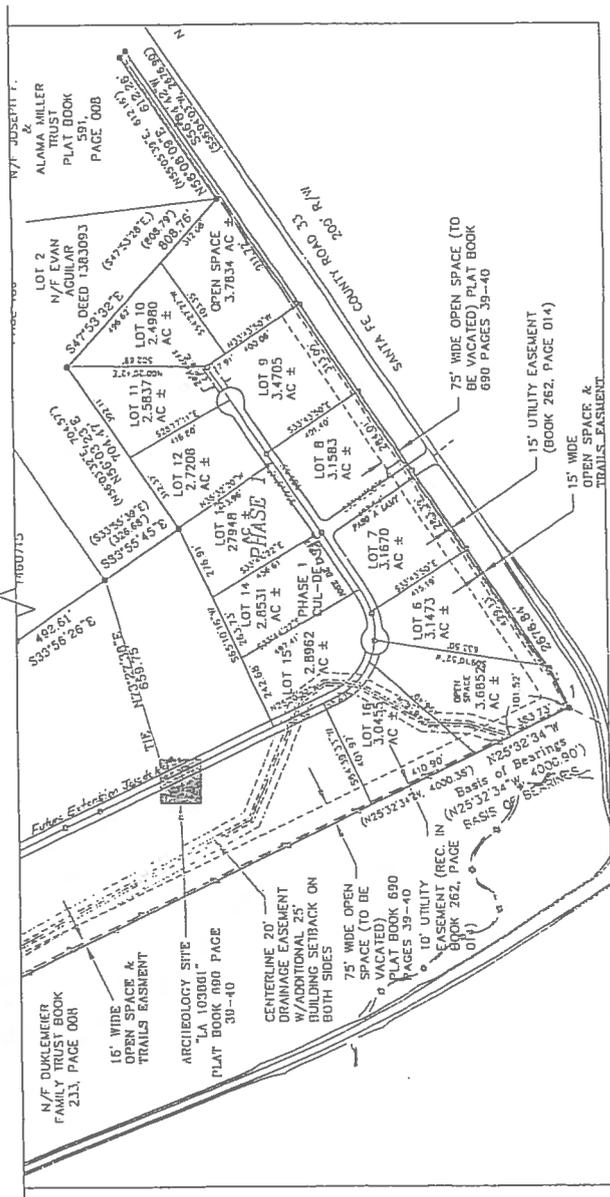
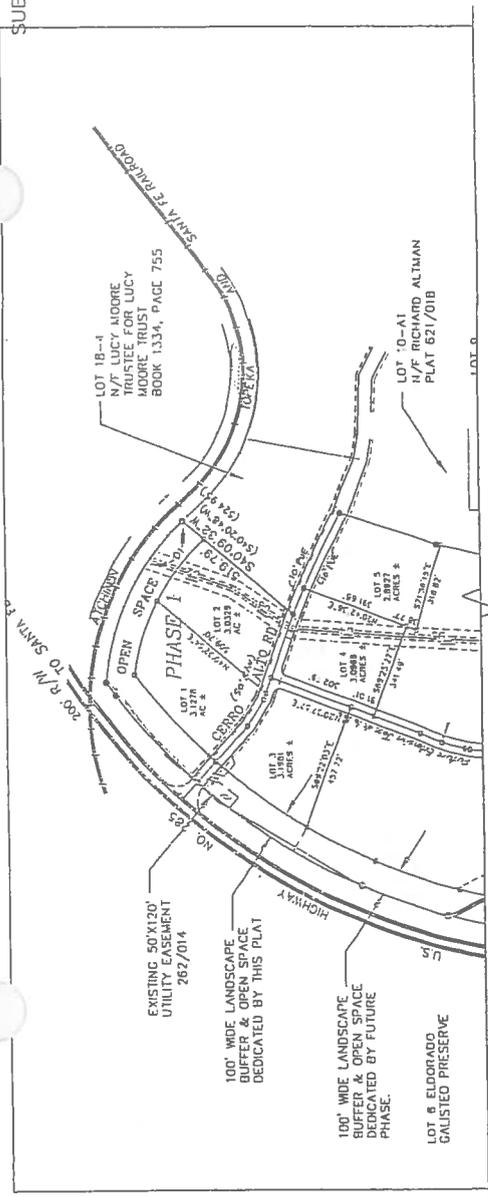
Leonor Aninez
 LEONOR ANINEZ, SURVEYOR
 1147 P.O. BOX 1331
 (17) 2nd FLOOR, ST. NW
 CARMONA, N.M. 87104
 PHONE: (505) 301-4497
 DATE: 1-23-17



LIC. NO. 141684/21301
 UNLICENSED INFORMATION FOR COUNTY CLERK
 COUNTY SPRINGS LAND AND CATTLE CO. LLC.
 ROBERT F. MILLER AND ALMA M. MILLER
 TRUST, KILBURN
 2140 KILBURN ST. NW
 ALBUQUERQUE, NM 87104
 BISHOP JOHN LAMY GRANT

LUP FOR NO. 14 SET

9



OBA-26



REVISIONS

MASTER PLAN DRAINAGE AREAS

SPIRIT WIND WEST SUBDIVISION
SANTA FE COUNTY, NEW MEXICO
TERRAIN MANAGEMENT PLAN—EXISTING DRAINAGE
CONDITIONS, CULVERTS AND PROPOSED ROAD

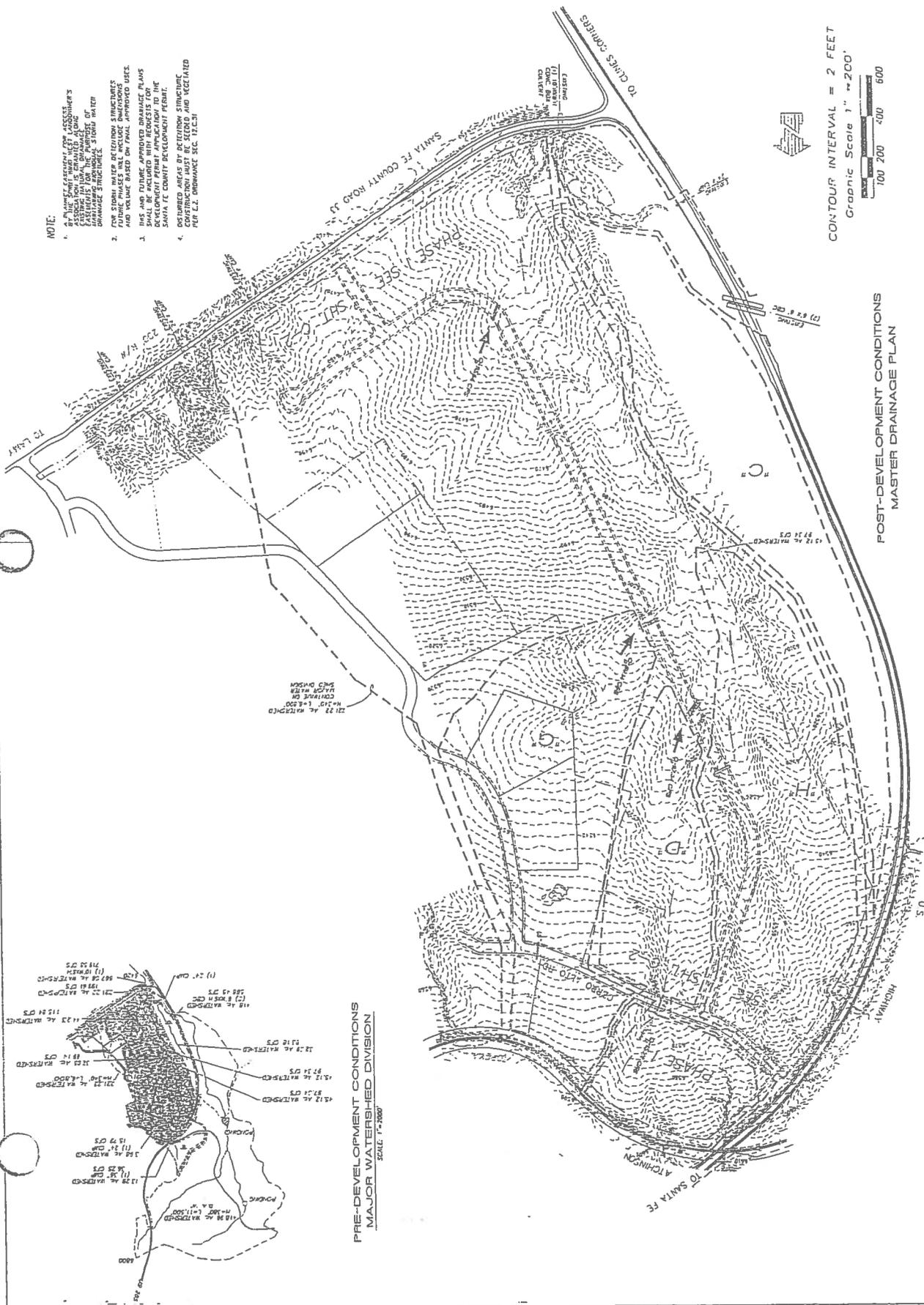
OWNERS:
COW SPRING DEVELOPMENT
JOSEPH F. AND ALMA H. MILLER, TRS.
286 RIVER BANK ROAD
SANTA FE, NM 87504

C-1
SHEET

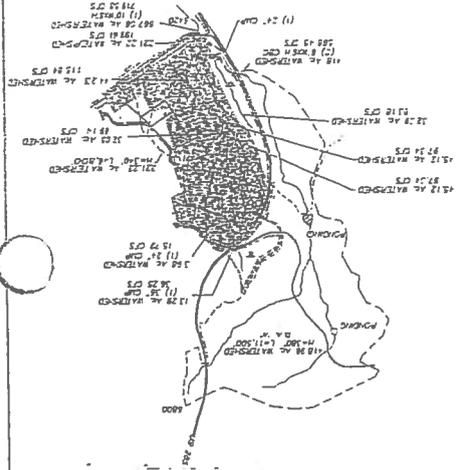
- NOTE:
1. PLANNING ASSUMPTIONS FOR ACCESS TO THE SPIRIT WIND WEST SUBDIVISION ARE BASED ON THE EXISTING DRAINAGE CONDITIONS AND PROPOSED DRAINAGE STRUCTURES.
 2. FUTURE PHASES WILL INCLUDE IMPROVED AND VOLUME BASED ON FINAL APPROVED USES.
 3. THE AND FUTURE APPROVED DRAINAGE PLANS WILL BE BASED ON THE EXISTING DRAINAGE CONDITIONS AND PROPOSED DRAINAGE STRUCTURES TO THE SANTA FE COUNTY DEVELOPMENT PERMIT.
 4. DISTURBED AREAS BY DETENTION STRUCTURE CONSTRUCTION MUST BE SEED, AND VEGETATED PER L.Z. ORDINANCE SEC. 17.1.1.

CONTOUR INTERVAL = 2 FEET
Graphic Scale 1" = 200'
100 200 400 600

POST-DEVELOPMENT CONDITIONS MASTER DRAINAGE PLAN



PRE-DEVELOPMENT CONDITIONS MAJOR WATERSHED DIVISION SCALE 1"=200'



OBA-2-



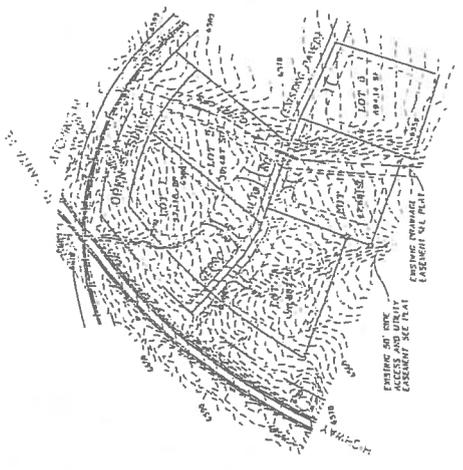
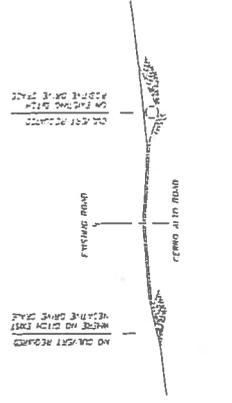
PHASE 1

SPIRIT WIND WEST SUBDIVISION
 SANTA FE COUNTY, NEW MEXICO
 TERRAIN MANAGEMENT PLAN
 GRADING AND DRAINAGE PLAN

DATE: 01/15/2008
 DRAWN BY: J. ANDERSON
 CHECKED BY: J. ANDERSON
 PROJECT NO.: SW-08-001

- NOTE:
1. ALL NECESSARY EASEMENTS FOR ACCESS TO THE PROPERTY SHALL BE OBTAINED FROM THE ASSOCIATION'S ATTORNEY AND A RECORD OF THE EASEMENTS SHALL BE FILED WITH THE COUNTY CLERK'S OFFICE.
 2. FOR STORM WATER DETENTION STRUCTURES AND VOLUME BASED ON FINAL APPROVED LISTS, THIS AND FUTURE APPROVED DRAINAGE PLANS SHALL BE SUBMITTED TO THE COUNTY ENGINEER FOR DEVELOPMENT PERMIT APPLICATION TO THE SANTA FE COUNTY DEVELOPMENT PERMIT.
 3. DISTURBED AREAS BY INTERIOR STRUCTURE CONSTRUCTION MUST BE SEEDED AND VEGETATED PER L.C. DRAINAGE REG. 1100.1.

TYPICAL DRIVEWAY ACCESS



POST-DEVELOPMENT CONDITIONS
 PHASE I - CERRO ALTO RD.

POST-DEVELOPMENT CONDITIONS
 PHASE I - SF COUNTY RD. 33



LEGEND

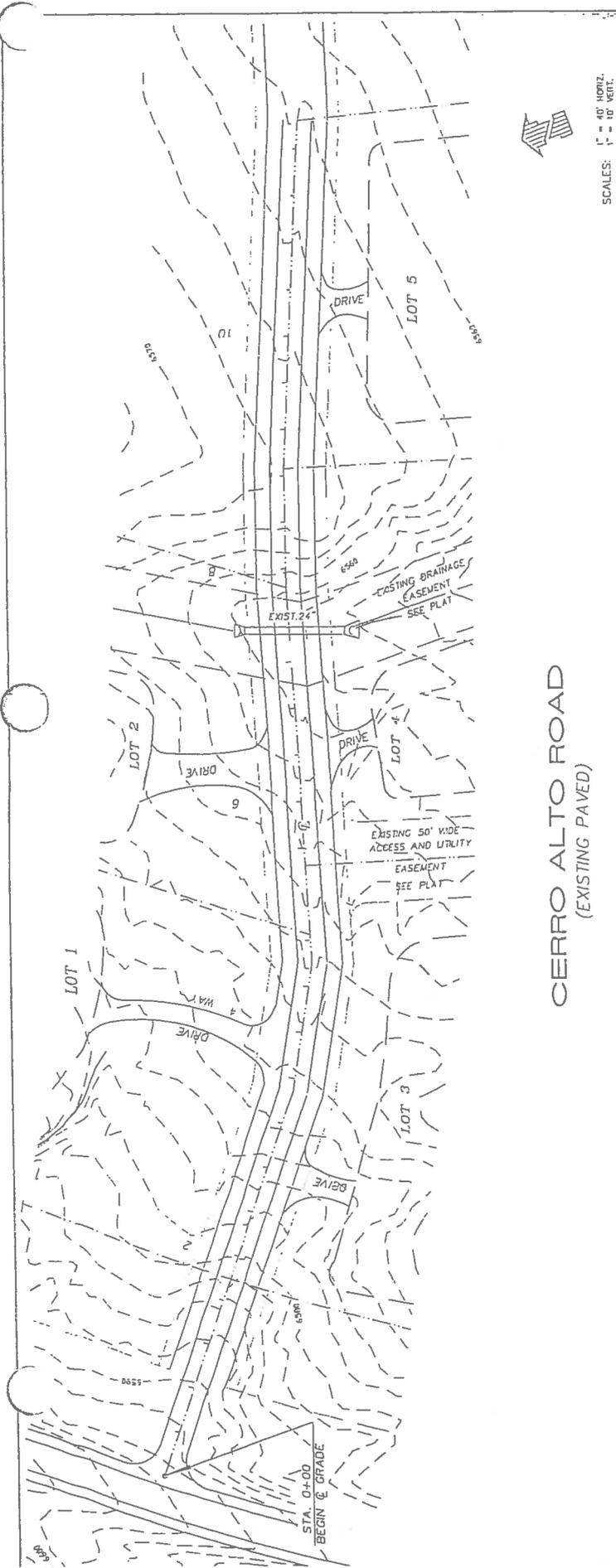


CONTOUR INTERVAL = 2 FEET
 Graphic Scale = 1" = 200'
 100' 200' 400' 600'



DBA-28

C



CERRO ALTO ROAD
(EXISTING PAVED)

SCALES: 1" = 40' HORIZ.
1" = 10' VERT.

STATION	DATE	DESCRIPTION	BY	CHECKED
0+00	11/17/71 <td>START OF GRADE</td> <td>J.P. <td>J.P. </td></td>	START OF GRADE	J.P. <td>J.P. </td>	J.P.
0+10				
0+20				
0+30				
0+40				
0+50				
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LAND DEVELOPMENT PLANNING ASSOCIATES
CLIVE SPRING DEVELOPMENT
SHEPHERD C. HARRIS & WALTER, FEE
208 RIVER BARK ROAD
SAFIA FL. 32904

WEST SUBDIVISION
PHASE 1
EXISTING ROAD
PAVED ROAD GRADE

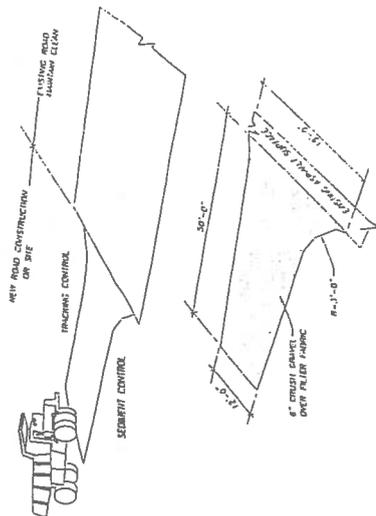
DATE: 11/17/71
SCALE: 1" = 40' HORIZ.
1" = 10' VERT.

OBA-29

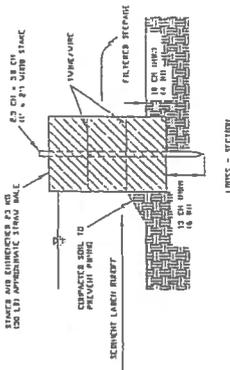
STABILIZATION CONSTRUCTION ENTRANCE

- PURPOSE:** STABILIZING THE POINT OF INTERFERENCE IS AN EFFECTIVE MEANS OF MINIMIZING THE TRACKING OF AND ONTO PUBLIC ROADS BY CONSTRUCTION VEHICLES.
- APPLICATION:** ON SITES WHERE TRACKING ONTO PAVED ROADS FROM DIRT SHIP-OUTS IS A POTENTIAL PROBLEM, THIS STABILIZATION MEASURE SHOULD BE USED.
- INSTALLATION:** PROPERLY GRADE ENTRANCE TO PREVENT RUNOFF FROM CONSTRUCTION SITE. REMOVE TRACKING FROM STABILIZED ENTRANCE THROUGH A SEPARATE FROM WATER DISCHARGE DESIGN TRACKING ENTRANCE TO SUPPORT HEAVY VEHICLE USING THE CONTROL SURFACE. SELECT A ROAD TRUCK COMPACTOR OR OTHER APPROPRIATE EQUIPMENT TO COMPACT THE SURFACE. SELECT A ROAD TRUCK COMPACTOR OR OTHER APPROPRIATE EQUIPMENT TO COMPACT THE SURFACE.
- MAINTENANCE:** MAINTAIN ENTRANCE FOR COLLAGE OR RECONSTRUCTION. REMOVE ALL WEEDS, BRUSH, AND LIMBS. MAINTAIN TRAPPING DEVICES THAT.

ALL TEMPORARY STORM WATER PREVENTIVE RUNOFF MEASURES SHALL REMAIN IN PLACE AND PROPERLY MAINTAINED UNTILL ALL PERMANENT DETENTION/RETENTION STRUCTURES HAVE BEEN INSTALLED AND THE NOTICE OF TERMINATION (NOTICE) IS FILED.

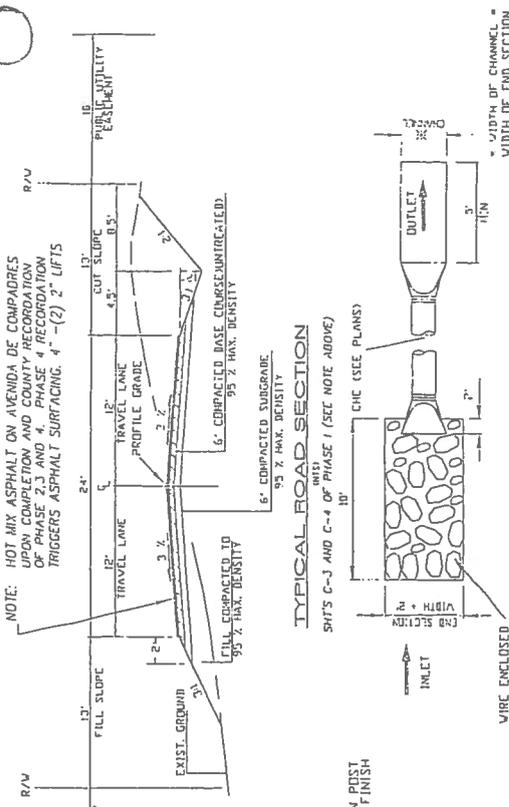


- GENERAL NOTES:**
 - CONSTRUCTION MACHINERY AND EQUIPMENT SHALL BE MAINTAINED SUCH THAT NO FLOODS (OILS, GREASE, OIL, ETC.) ARE PERMITTED TO LEAK ONTO THE PAVEMENT. ACCIDENTAL SPILLS OF FLOODS ARE TO BE CLEANED AND REMOVED FROM THE SITE IMMEDIATELY AS NECESSARY.
 - PREVENT UNFILTERED STORM WATER FROM LEAVING THE CONSTRUCTION SITE.

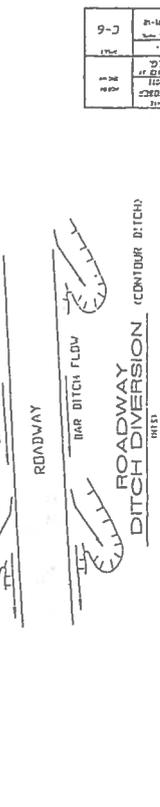


STRAW BALE OR WATTLE INSTALLATION

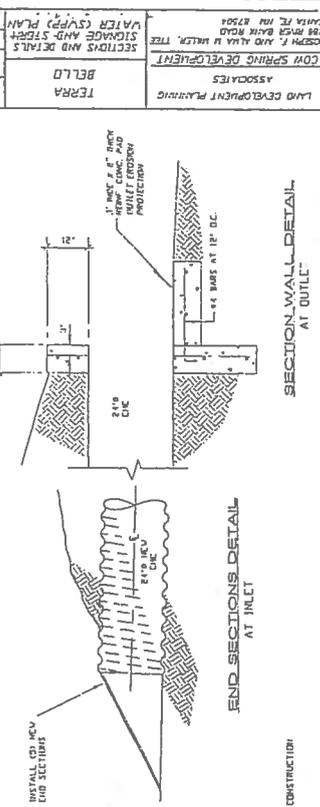
STORM WATER POLLUTION PREVENTION PLAN



TYPICAL ROAD SECTION
SHTS C-3 AND C-4 OF PHASE 1 (SEE NOTE ABOVE)

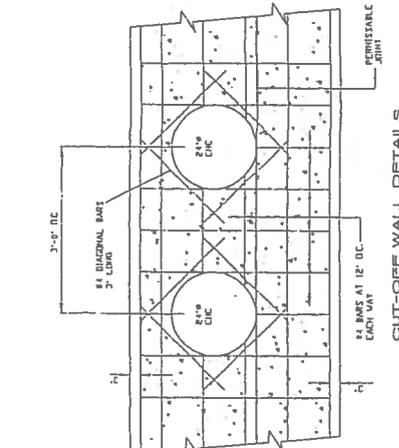
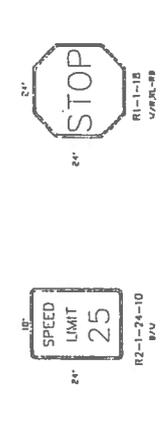


ROADWAY DIVERSION DITCH (CONTOUR DITCH)
LOCATE DIVERSION DITCH OR AT 100' O.C. OR AT PROPERTY LINES TO AVOID DRIVEWAYS.



END SECTIONS DETAIL AT INLET
SECTION WALL DETAIL AT OUTLET

LOCATION OF CONSTRUCTION SIGNS



CUT-OFF WALL DETAILS

NO. 1	DATE	BY	CHKD.	APP. BY
NO. 2	DATE	BY	CHKD.	APP. BY
NO. 3	DATE	BY	CHKD.	APP. BY
NO. 4	DATE	BY	CHKD.	APP. BY
NO. 5	DATE	BY	CHKD.	APP. BY
NO. 6	DATE	BY	CHKD.	APP. BY

OBA-31



December 11, 2012

Vicki Lucero
Development Review Team Leader
Santa Fe County
Santa Fe, NM

Re: Spirit Wind West Subdivision

Dear Ms Lucero:

Santa Fe Public Schools has reviewed information received from Santa Fe County Development Review Team regarding the above referenced project. Given the estimated build out projections for the development plan, current capacities at assigned schools (Eldorado Community School K-8, Santa Fe High School 9-12) will be adequate to serve the anticipated student population from this development. However, there may be additional residential housing projects currently planned or in the development phase that will affect future school capacities in this area.

We appreciate your observance of City Ordinance 2008-32 allowing Santa Fe Public Schools to adequately plan for impact to facilities and operations.

Sincerely,

Shirley McDougall
Property & Asset Management
(505) 699-4369
smcdougall@sfps.info

Educational Services Center
610 Alfa Vista
Santa Fe, NM 87505
Telephone (505) 467-2000
www.sfps.info

OBA-33
EXHIBIT

3



STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
SANTA FE

Scott A. Verhines, P.E.
State Engineer

CONCHA ORTIZ Y PINO BLDG.
POST OFFICE BOX 25102
130 SOUTH CAPITOL
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6091
FAX: (505) 827-3806

March 21, 2013

Vicki Lucero
Building & Development Services Manager
Santa Fe County
P.O. Box 276
Santa Fe, NM 87504-0276

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

Re: Spirit Wind West Subdivision Master Plan/Plat and Development Plan for Phase 1

Dear Ms. Lucero:

The Water Use & Conservation/Subdivision Review Bureau of the Office of the State Engineer has reviewed the referenced subdivision proposal pursuant to the Santa Fe County Land Development Code and the New Mexico Subdivision Act.

Based on the information provided, this office cannot determine that the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses, and that the subdivider can fulfill the proposals in his disclosure statement concerning water, excepting water quality. Accordingly, a **negative** opinion is issued.

A staff memorandum providing specific comments is attached for your information. If you have any questions, please call Julie Valdez at 505-827-6790.

Sincerely,

A handwritten signature in cursive script, appearing to read "John W. Longworth".

John W. Longworth, P.E.
Water Use & Conservation/Subdivision Review Bureau Chief

Encl.

cc: OSE Water Rights Division, Santa Fe Office

MEMORANDUM
New Mexico Office of the State Engineer
Water Use and Conservation Bureau

DATE: March 21, 2013
TO: John Longworth, P.E., Water Use and Conservation Bureau Chief
FROM: Julie Valdez, Senior Water Resource Specialist *JMV*
SUBJECT: Spirit Wind West Subdivision, Santa Fe County

SUMMARY

On February 21, 2013, the Office of the State Engineer (OSE) received a request to re-evaluate the proposal for the *Spirit Wind West Subdivision Master Plan/Plat and Development Plan for Phase 1*.

This office reviewed and provided comments for the Spirit Wind West Master Plan on January 13, 2009, October 28, 2011, March 7, 2012 and February 13, 2013. For details, please refer to these letters.

The applicant seeks approval from Santa Fe County for a Master Plan development of 39 lots and Preliminary/Final approval for Phase 1 of the development. The proposed Master Plan will be developed in four phases with phase 1 consisting of 16 lots.

The Master Plan proposal is a request to subdivide a 133.72 acre parcel into 39 residential lots ranging in size from 2.49 to 3.19 acres. The property is located east of US 285 north of County Road 33 within projected Section 5, Township 15 North, Range 10 East, Bishop John Lamy Grant. The proposed water supply is by the Eldorado Area Water and Sanitation District (EAWSD).

The New Mexico Subdivision Act does not require an opinion from the OSE for Master Plans. Therefore, this opinion is only for Phase 1 of the development.

No additional water supply documents were submitted to this office. The request to re-evaluate the proposal is based on the May 2012, approval of EAWSD's application for an additional Point of Diversion (POD).

The revised nine lot subdivision proposal (Phase 1) was reviewed pursuant to the Santa Fe County Land Development Code (Code) and the New Mexico Subdivision Act (Act). Based on the information provided, the water supply proposal is not in compliance with the requirement of Section 6.4.4 of the Code and Section 47-6-11.F.(1) of the Act. Accordingly, a **negative** opinion should be issued.

WATER DEMAND ANALYSIS AND WATER CONSERVATION

Section 6.6.2 of the Code requires that a detailed water demand analysis be included in the proposal. The developer provided a Water Budget where water requirements for residential use are computed as 0.24 acre-feet per lot and are based on indoor water uses and quantities

presented in OSE Technical Report 48, (Wilson, 1996) assuming 3 persons per dwelling unit and 400 squared ft of Bermuda grass.

Under Section K of the Declaration of Convents and Water Restrictions, the developer limits lawns to 400 square feet and requires that they be irrigated with rainwater or recycled gray water.

WATER AVAILABILITY ASSESSMENT

The proposed water supply is by the Eldorado Area Water and Sanitation District (EAWSD). The water service agreement from EAWSD is a commitment to provide water service not to exceed 9.5 acre-feet per annum. However, the proposal indicates that 9.75 acre-feet per annum of water is needed for the proposed subdivision Master Plan. Based on the February 22, 2013, conversation with the developer, one of the 39 purposed lots has an existing meter and is currently being billed by EAWSD.

Under Item No. 20 of the Disclosure Statement, the developer states that the life expectancy of the water supply is 100 years. No documentation to support this was provided. In May 2012, the OSE approved an application for an Additional Point of Diversion for EAWSD. The approval increased EAWSD's capacity to provide water by 200 acre-feet per annum. The amount of connections EAWSD is currently serving or the number of outstanding service commitments not yet connected was not included in the proposal. Santa Fe County staff estimated the amount of water needed for EAWSD's outstanding service commitments not yet served as approximately 116.75 acre-feet per annum. However, Section 6.4.4.b of the Santa Fe County Land Development Code requires documentation from the **utility** "*showing the quantity of water presently produced annually, quantity of water supply commitments to date, and proof of sufficient water rights to meet both existing commitments and the requirements of the development for at least 100 years*".

Section 47-6-11.F (1) of the Act requires that the developer provide documents demonstrating that water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision is available. The OSE reviews the water rights and the physical water availability when issuing an opinion. Based on OSE records, EAWSD currently holds sufficient water rights to provide service to the proposed subdivision. However, an analysis conducted by the OSE Hydrology Bureau on EAWSD's well capacity over the next hundred years found that six of EASWD wells will fail. For more details regarding this analysis, please see the attached memo.

Based on the information provided, this office has determined, as required by Section 47-6-11.F. (1) of the Act, that the developer cannot fulfill the statements in the proposals concerning water availability at this time.

MEMORANDUM
OFFICE OF THE STATE ENGINEER
Hydrology Bureau

DATE: February 12, 2013

TO: Julie Valdez, Bureau of Water Use and Conservation

FROM: Susan Hoines, CGWP, P.E., Hydrology Bureau *SH*

THROUGH: Mike Johnson, P.G., Chief, Hydrology Bureau *MJ*

SUBJECT: Evaluation of Eldorado Area Water and Sanitation District's
(EAWSD) Production Wells, Over a 100-Year Production Period

The Water Use and Conservation Bureau (WUC) requested that the Hydrology Bureau analyze the hydrologic effects arising from prior service commitments made by Eldorado Area Water and Sanitation District (EAWSD) plus the four more recent subdivisions (Spirit Wind West, Tierra Bello, Cimarron Village, and Cielo Colorado) evaluated by WUC. Discussion with Santa Fe County staff indicated that the prior service commitments and aforementioned subdivisions is approximately 116.75 af/yr (Karen Torres, personal communication, February 11, 2013). Further, WUC requested that the analysis be carried out to 100 years to satisfy section 6.4 of the Santa Fe County Land Development Code.

EAWSD has a partial license for 583.23 acre-feet per annum and the ability to continue to develop an additional 254.37 acre-feet per annum from their Central Well Field. Water Rights Division (WRD) has advised the Hydrology Bureau that as long as EAWSD adheres to each well's diversion limits specified in its license, EAWSD is permitted to divert a total of 837.6 af/yr (583.23 af/yr + 254.37 af/yr) from its wells currently listed on its license, regardless of their hydrologic effects. On May 1, 2012, WRD approved an EAWSD application for an additional Point of Diversion for EAWSD Well #18, also known as Well RG-18528-POD6; permit conditions require that diversions from Well RG-18528-POD6 be limited to 200 af/yr. Metering records for 2012 show that EAWSD diverted only 527.78 af/yr from its central well field. EAWSD's license would allow supplying its prior service commitments in addition to the subdivisions mentioned above.

Prior to WRD's approval of EAWSD's Additional Point of Diversion (Well RG-18528-POD6), Hydrology Bureau reviewed EAWSD's assessment of drawdown and stream depletions due to a 200 af/yr diversion from Well RG-18528-POD6. However, Hydrology Bureau only assessed the effects over a 40-year time period. To comply with section 6.4 in the Santa Fe County Land Development Code, a 100-year time period will have to be assessed. Therefore, Hydrology Bureau assessed the pumping schedule proposed by EAWSD in its Application for Additional Point of Diversion under Partial License Nos. RG-18529 & RG-18556 (the Well 18 application) for a

100-year pumping period. The results show that drawdown at six EAWSD wells will exceed those wells' allowable physical drawdown or allowable economic drawdown after 100 years of diversion of 783.23 af/yr total according to the pumping schedule proposed by EAWSD in its application for its Well 18. Further, if EAWSD were to maintain its 2012 pumping schedule of 527.78 af/yr total for the next 100 years, drawdown at three of its wells would exceed those wells' allowable physical drawdown or allowable economic drawdown. A summary table of the results is presented in Table 1 below; more details are presented in Table 2, which is attached to this memorandum. The allowable physical drawdown and allowable economic drawdown for each well were calculated in accordance with Morrison, 2006. Significant decline in production from a well is expected when drawdown exceeds its allowable economic drawdown or allowable physical drawdown. If EAWSD continues to divert over the next 100 years, it will have to replace some of its wells to maintain 2012 diversions or to achieve its proposed diversion schedule and to fully develop its partially licensed right.

Table 1. Summary of results from the GGI-OSE Settlement Model of the Eldorado Area

Well I.D. RG No.	Well I.D. EAWSD #	2011 Proposed Diversion (afy)	2012 diversion (afy)	Allowable Physical Drawdown (ft)	Allowable Economic Drawdown (ft)	Total predicted 100-yr Drawdown w/ proposed div. (ft)	Total predicted 100-yr Drawdown w/ 2012 div. (ft)
RG 18528	1	2.54	0.00	495.31	367.72	47.88	1.51
RG 18529	2	48	34.61	15.97	32.18	87.11	62.49
RG 18543	3	12.46	0.00	219.35	174.55	54.61	13.38
RG 18550	4	14.07	0.00	261.35	203.95	29.70	12.62
RG 18515	5	24	0.00	54.64	59.25	101.77	14.91
RG 18571	6	45.7	3.42	6.07	25.25	80.18	18.18
RG 18595	7	11	12.89	30.59	42.41	35.58	31.07
RG 18531	8	15	16.45	184.22	149.95	123.41	126.36
RG 18517	12	10	0.00	92.05	85.44	95.50	48.28
RG-18529-S	13	17.46	0.00	39.00	48.30	51.21	28.52
RG-18528-POD3	14	82	100.34	102.03	92.42	58.64	56.51
RG-18528-POD4	15	186	175.86	127.39	110.17	89.41	86.95
RG-18528-POD5	17	115	93.31	535.45	395.82	264.62	187.09
RG-18528-POD6	18	200	90.89	562.09	414.46	158.96	81.10

Note: numbers printed in red are the total predicted drawdowns that exceeded the Allowable Physical Drawdown or Allowable Economic Drawdown for that well.

Proposed Diversion Total = 783.23 af/yr
 2012 Diversion Total = 527.78 af/yr

REFERENCES

Daniel B. Stephens and Associates (2011). *Installation and Testing of District Supply Well #18 (RG-92331)*. Albuquerque, New Mexico: Daniel B. Stephens and Associates

Glorieta Geoscience, Inc (2012). *Eldorado Area Water and Sanitation District Third Quarterly Water Level Monitoring Report of 2012*; Memorandum addressed to Vince Chavez and Jerri Trujillo, OSE. October 15, 2012

Glorieta Geoscience, Inc (2011). *Eldorado Area Water and Sanitation District 2010 Annual Water Level Monitoring Report*; Memorandum addressed to Vince Chavez and Jerri Trujillo, OSE. March 10, 2011

Hodgins, M., and Chudnoff, M., (2007). *Eldorado Area Water and Sanitation District Preliminary Hydrologic Assessment Report*, February, 2007. Santa Fe, New Mexico: Glorieta Geoscience, Inc.

Morrison, T., 2006, Guidelines for the assessment of drawdown estimates for water right application processing: New Mexico Office of the State Engineer Hydrology Bureau Report 06-01, February 1, 2006

Attachment 1.

Table 2. Summary of results from the GGI-OSE Settlement Model of the Eldorado Area.

1	2	3	4	6	7	8	9	10	11	12	13	14	16	17	18	19
Well I.D. RG No.	Well I.D. EAWSD #	2011 Proposed Div. (afy)	2012 Div. (afy)	Estimated Specific Capacity (gpm/ft)	OD (in)	TD (ft)	recent DTW (ft)	Water Column (ft)	Allowable Physical DDn (ft)	Allowable Economic DDn (ft)	Total predicted 100-yr DDn w/ proposed div. (ft)	Total predicted 100-yr DDn w/existing div. (ft)	100 yr-DDn (ft) w/proposed div.	100 yr DDn w/ existing div. (ft)	Estimated Dynamic DDn w/existing div. (ft)	Estimated Dynamic DDn w/ proposed div. (ft)
RG 18528	1	2.54	0.00	0.08	10.75	700.00	174.69	525.31	495.31	367.72	47.88	1.51	15.07	1.51	0.00	32.81
RG 18529	2	48	34.61	0.66	8.63	250.00	161.03	45.97	15.97	32.18	87.11	62.49	11.96	8.31	54.18	75.15
RG 18543	3	12.46	0.00		10.75	320.00	74.65	249.35	219.35	174.55	54.61	13.38	27.05	13.38	0.00	16.00
RG 18550	4	14.07	0.00	4.12	10.75	374.00	73.65	291.35	261.35	203.95	29.70	12.62	26.17	12.62	0.00	3.53
RG 18515	5	24	0.00	0.90	6.00	192.00	107.36	84.64	54.64	59.25	101.77	14.91	74.21	14.91	0.00	27.56
RG 18571	6	45.7	3.42	0.83	8.63	280.00	223.93	36.07	6.07	25.25	80.18	18.18	23.28	13.92	4.26	56.90
RG 18595	7	11	12.89	1.17	10.75	268.00	189.41	60.59	30.59	42.41	35.58	31.07	25.86	19.68	11.39	9.72
RG 18531	8	15	16.45	0.17	8.50	312.00	63.78	214.22	184.22	149.95	123.41	126.36	32.23	26.36	100.00	91.18
RG 18517	12	10	0.00	0.90	6.00	197.00	74.95	122.05	92.05	85.44	95.50	48.28	84.02	48.28	0.00	11.48
RG-18529-S	13	17.46	0.00	1.35	6.63	340.00	221.00	69.00	39.00	48.30	51.21	28.52	37.85	28.52	0.00	13.36
RG-18528-POD3	14	82	100.34	3.74	4.95	400.00	267.97	132.03	102.03	92.42	58.64	56.51	35.98	28.79	27.72	22.66
RG-18528-POD4	15	186	175.86	4.25	8.00	417.00	249.61	157.39	127.39	110.17	89.41	86.95	44.19	44.19	42.76	45.22
RG-18528-POD5	17	115	93.31	0.74	6.00	650.00	80.55	565.45	535.45	395.82	264.62	187.09	104.03	56.79	130.30	160.59
RG-18528POD6	18	200	90.89	4.10	8.63	710.00	107.91	592.09	562.09	414.46	158.96	81.10	108.55	58.19	22.91	50.41

Div. = diversion

DDn = drawdown

Dynamic Drawdown =

self-induced water level decline inside the well's casing

DTW= depth to water

OD= outside diameter

Proposed Div. Total =

783.23 af/yr

TD = Total Depth

2012 Diversion Total =

527.78 af/yr

Notes: Numbers printed in red are the total predicted drawdowns that exceeded the Allowable Physical Drawdown or Allowable Economic Drawdown for that well.

Column6: from Hodgins and Chudhoff (2007) except for well 18 (see DBSA (2011)) and well 17 (based on info in GGI (2011))

Column9: Water level data from GGI (2012) except for EAWSD Well # 4, 5, and 13 (GGI (2011))

Column10 = (depth to base of screen in primary prod. Zone) - Column9

Column11 = column10 - 30 ft.

Column12 =column10 x 0.7

Column13 =column16 + column19

Column14 =column17 + column18

Col.s 18, 19

Equation

Diversion (gpm) + column 6, except for EAWSD Well #3; Well #3 was calculated with Theis



STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER
SANTA FE

Scott A. Verhines, P.E.
State Engineer

CONCHA ORTIZ Y PINO BLDG.
POST OFFICE BOX 25102
130 SOUTH CAPITOL
SANTA FE, NEW MEXICO 87504-5102
(505) 827-6091
FAX: (505) 827-3806

February 13, 2013

Vicki Lucero
Development Review Team Leader
Santa Fe County
P.O. Box 276
Santa Fe, NM 87504-1985

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

Re: Spirit Wind West Subdivision Master Plan/Plat and Development Plan for Phase 1

Dear Ms. Lucero:

The Water Use & Conservation/Subdivision Review Bureau of the Office of the State Engineer has reviewed the referenced subdivision proposal pursuant to the Santa Fe County Land Development Code and the New Mexico Subdivision Act.

Based on the information provided, this office cannot determine that the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision, including water for indoor and outdoor domestic uses, and that the subdivider can fulfill the proposals in his disclosure statement concerning water, excepting water quality. Accordingly, a negative opinion is issued.

A staff memorandum providing specific comments is attached for your information. If you have any questions, please call Julie Valdez at 505-827-6790.

Sincerely,

A handwritten signature in cursive script that reads "John W. Longworth".

John W. Longworth, P.E.

Water Use & Conservation/Subdivision Review Bureau Chief

Encl.

cc: OSE Water Rights Division, Santa Fe Office

MEMORANDUM
New Mexico Office of the State Engineer
Water Use and Conservation Bureau

DATE: February 13, 2013
TO: John Longworth, P.E., Water Use and Conservation Bureau Chief
FROM: Julie Valdez, Senior Water Resource Specialist *JMV*
SUBJECT: Spirit Wind West Subdivision, Santa Fe County

SUMMARY

On January 14, 2013 the Office of the State Engineer (OSE) received a request to re-evaluate the proposal for the *Spirit Wind West Subdivision Master Plan/Plat and Development Plan for Phase 1*.

This office reviewed and provided comments for the Spirit Wind West Master Plan on January 13, 2009, October 28, 2011 and March 7, 2012. For details, please refer to these letters.

The applicant seeks approval from Santa Fe County for a Master Plan development of 39 lots and Preliminary/Final approval for Phase 1 of the development. The proposed Master Plan will be developed in five phases as follows:

- Phase 1 - 9 lots
- Phase 2 - 10 lots
- Phase 3 - 6 lots
- Phase 4 - 8 lots
- Phase 5 - 6 lots

The Master Plan proposal is a request to subdivide a 143 acre parcel into 39 residential lots 2.75 acres in size. In the previous submittal, the lots ranged in size from 2.6 to 4.9 acres. The property is located east of US 285 north of County Road 33 within projected Section 5, Township 15 North, Range 10 East, Bishop John Lamy Grant. The proposed water supply is by the Eldorado Area Water and Sanitation District (EAWSD).

The New Mexico Subdivision Act does not require an opinion from the OSE for Master Plans. Therefore, this opinion is only for Phase 1 of the development.

No additional water supply documents were submitted to this office. The request to re-evaluate the proposal is based on the May 2012, approval of EAWSD's application for an additional Point of Diversion (POD).

The revised nine lot subdivision proposal (Phase 1) was reviewed pursuant to the Santa Fe County Land Development Code (Code) and the New Mexico Subdivision Act (Act). Based on the information provided, the water supply proposal is not in compliance with the requirement of Section 6.6.2 of the Code and Section 47-6-11.F (1) of the Act. Accordingly, a **negative** opinion should be issued.

WATER DEMAND ANALYSIS AND WATER CONSERVATION

Section 6.6.2 of the Code requires that a detailed water demand analysis be included in the proposal. Water requirements for residential use are computed as 0.24 acre-feet per lot and are based on indoor water uses and quantities presented in OSE Technical Report 48, (Wilson, 1996) assuming 3 persons per dwelling unit and 400 squared ft of Bermuda grass.

Previous comments regarding water supply have not been addressed and are reiterated:

- There appears to be a mathematical error in the detailed water demand analyses table. The calculated quantity for toilet usage is not accurate (Table 1. Water Use Projection).
- The developer makes confusing and contradicting statements in Section 2 of the proposal. The developer states that the maximum consumption for the 39 lots shall not exceed 9.5 acre-feet per year, then later computes the maximum consumption for the 39 lots as 9.75 acre-feet per annum.
- Outdoor irrigation is computed assuming 400 square feet of Bermuda grass (Table 1. Water Use Projection). This does not coincide with the Water Conservation Restrictions on Water Use which limited outdoor irrigation to 800 square feet watered with rainwater or recycled gray water.

It is recommended that the developer amended the Water Budget and the Water Service Agreement to reflect the proper assumptions made in quantifying the maximum water demand. These assumptions should be consistent throughout the proposal.

The developer provides confusing and contradicting statements throughout the proposal regarding the size of lots for the proposed subdivision:

- Under Item No. 5 of the Disclosure Statement the developer states that the largest parcel will be 2.750 acres in size.
- Under Item No. 6 of the Disclosure Statement the developer states that the smallest parcel will be 2.750 acres in size
- According to the Plat Map the proposed subdivision will be developed in five phases. Phase 1 is comprised of nine parcels ranging in size from 3.47 acres to 2.89 acres. This is inconsistent with Items No. 5 and No. 6 of the Disclosure Statement. The Plat map does not specify the size of the parcels for the remaining Phases.

The size of parcels should also be consistent throughout the proposal. It is recommended that the developer amend the proposal accordingly.

WATER AVAILABILITY ASSESSMENT

The proposed water supply is by the Eldorado Area Water and Sanitation District (EAWSD). The water service agreement from EAWSD is a commitment to provide water service not to exceed 9.5 acre-feet per annum. However, the proposal indicates that 9.75 acre-feet per annum of

water is needed for the proposed subdivision Master Plan. The water supply commitment by EAWSD does not coincide with the proposal.

In May 2012, the OSE approved an application for an Additional Point of Diversion for EAWSD. The approval increased EAWSD's capacity to provide water by 200 acre-feet per annum. The amount of connections EAWSD is currently serving or the number of outstanding service commitments not yet connected was not included in the proposal. Santa County staff estimated the amount of water needed for EAWSD's outstanding service commitments not yet served as approximately 116.75 acre-feet per annum. However, Section 6.4.4b of the Santa Fe County Land Development Code requires documentation from the utility "*showing the quantity of water presently produced annually, quantity of water supply commitments to date, and proof of sufficient water rights to meet both existing commitments and the requirements of the development for at least 100 years*".

Section 47-6-11.F (1) of the Act requires that the developer provide documents demonstrating that water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision is available. The OSE reviews the water rights and the physical water availability when issuing an opinion. Based on OSE records, EAWSD currently holds sufficient water rights to provide service to the proposed subdivision. However, an analysis conducted by the OSE Hydrology Bureau on EAWSD's well capacity over the next hundred years found that six of EASWD wells will fail. For more details regarding this analysis, please see the attached memo.

Based on the information provided, this office has determined, as required by Section 47-6-11.F. (1) of the Act, that the developer cannot fulfill the statements in the proposals concerning water availability at this time.

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MEMORANDUM
OFFICE OF THE STATE ENGINEER
Hydrology Bureau

DATE:

TO: Julie Valdez, Bureau of Water Use and Conservation

FROM: Susan Hoines, CGWP, P.E., Hydrology Bureau

THROUGH: Mike Johnson, P.G., Chief, Hydrology Bureau

SUBJECT: Hydrologic Evaluation of Eldorado Area Water and Sanitation District (EAWSD)

The Water Use and Conservation Bureau (WUC) requested that the Hydrology Bureau analyze the hydrologic effects arising from prior service commitments made by Eldorado Area Water and Sanitation District (EAWSD) plus the four more recent subdivisions (Spirit Wind West, Tierra Bello, Cimarron Village, and Cielo Colorado) evaluated by WUC. Discussion with Santa Fe County staff indicated that the prior service commitments and aforementioned subdivisions is approximately 116.75 afy (Karen Torres, personal communication, February 11, 2013). Further, WUC requested that the analysis be carried out to 100 years to satisfy section 6.4 of the Santa Fe Land Development Code.

EAWSD has a partial license for 583.23 acre-feet per annum and the ability to continue to develop an additional 254.37 acre-feet per annum from their Central Well Field. Water Rights Division (WRD) has advised the Hydrology Bureau that as long as EAWSD adheres to each well's diversion limits specified in its license, EAWSD is permitted to divert a total of 837.6 af/yr (583.23 af/yr + 254.37 af/yr) from its wells currently listed on its license, regardless of their hydrologic effects. On May 1, 2012, WRD approved an EAWSD application for an additional Point of Diversion for EAWSD Well #18, also known as Well RG-18528-POD6; permit conditions require that diversions from Well RG-18528-POD6 be limited to 200 af/yr. 2012 metering records show that EAWSD has diverted only 527.78 af/yr from its central well field. EAWSD's license would allow supplying its prior service commitments in addition to the subdivisions mentioned above.

Prior to WRD's approval of EAWSD's Additional Point of Diversion (Well RG-18528-POD6), Hydrology Bureau reviewed EAWSD's assessment of drawdown and stream depletions due to a 200 af/yr diversion from Well RG-18528-POD6. However, Hydrology Bureau only assessed the effects over a 40-year time period. To comply with section 6.4 in the Santa Fe Land Development Code, a 100-year time period will have to be assessed. Therefore, Hydrology Bureau assessed the pumping schedule proposed by EAWSD in its Application for Additional Point of Diversion under Partial License Nos. RG-18529 & RG-18556 (the Well 18 application) for a

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100-year pumping period. The results show that six EAWSD wells will drawdown on themselves such that they would exceed their allowable physical drawdown or allowable economic drawdown after 100 years of diversion according to the pumping schedule proposed by EAWSD in its application for its Well 18. Further, if EAWSD were to maintain its 2012 pumping schedule for the next 100 years, three of its wells will drawdown on themselves such that they would exceed their allowable physical drawdown or allowable economic drawdown. A summary table of the results is presented in Table 1 below; more details are presented in Table 2, which is attached to this memorandum. The allowable physical drawdown and allowable economic drawdown for each well were calculated in accordance with Morrison, 2006. Significant decline in production from a well is expected when drawdown exceeds its allowable economic drawdown or allowable physical drawdown.

Table 1.

Well I.D. RG No.	Well I.D. EAWSD #	2011 Proposed Diversion (afy)	2012 diversion (afy)	Allowable Physical Drawdown (ft)	Allowable Economic Drawdown (ft)	total predicted 100-yr Drawdown w/ proposed div. (ft)	total predicted 100-yr Drawdown w/ 2012 div. (ft)
RG 18528	1	2.54	0.00	495.31	367.72	47.88	1.51
RG 18529	2	48	34.61	15.97	32.18	87.41	62.49
RG 18543	3	12.46	0.00	219.35	174.55	54.61	13.38
RG 18550	4	14.07	0.00	261.35	203.95	29.70	12.62
RG 18515	5	24	0.00	54.64	59.25	101.77	14.91
RG 18571	6	45.7	3.42	6.07	25.25	80.18	18.18
RG 18595	7	11	12.89	30.59	42.41	35.58	31.07
RG 18531	8	15	16.45	184.22	149.95	123.41	126.36
RG 18517	12	10	0.00	92.05	85.44	95.50	48.28
RG-18529-S	13	17.46	0.00	39.00	48.30	51.21	28.52
RG-65707-POD4	14	82	100.34	102.03	92.42	58.64	56.51
RG-65707-POD6	15	186	175.86	127.39	110.17	89.41	86.95
RG-88450	17	115	93.31	535.45	395.82	264.62	187.09
RG-92331	18	200	90.89	562.09	414.46	158.96	81.10

Note: numbers printed in red are the total predicted drawdowns that exceeded the Allowable Physical Drawdown or Allowable Economic Drawdown for that well.

If EAWSD continues to divert over the next 100 years, it will have to replace some of its wells to maintain its 2012 diversions or to achieve its proposed diversion schedule.

Table 2.
1

Well I.D. RG No.	2	3	4	6	7	8	9	10	11	12	13	14	16	17	19	20
	Well I.D. EAWS#	2011 Proposed Div. (aty)	2012 Div. (aty)	Est. Specific Capacity (gpm/ft)	OD (in)	TD (ft)	recent DTW (ft)	Water Column (ft)	Allowable Physical DDn (ft)	Allowable Economic DDn (ft)	total predicted 100-yr DDn w/proposed div. (ft)	total predicted 100-yr DDn w/existing div. (ft)	100 yr-DDn (ft) w/proposed div.	100 yr DDn w/ existing div. (ft)	Est. Dynamic DDn w/existing div. (ft)	Est. Dynamic DDn w/proposed div. (ft)
RG 18528	1	2.54	0.00	0.08	10.75	700.00	174.69	525.31	495.31	367.72	47.88	1.51	15.07	1.51	0.00	32.81
RG 18529	2	48	34.61	0.66	8.63	250.00	161.03	45.97	15.97	32.18	87.11	62.49	11.96	8.31	54.18	75.15
RG 18543	3	12.46	0.00	0.00	10.75	320.00	74.65	249.35	219.35	174.55	54.61	13.38	27.05	13.38	0.00	16.00
RG 18550	4	14.07	0.00	4.12	10.75	374.00	73.65	291.35	261.35	203.95	29.70	12.62	26.17	12.62	0.00	3.53
RG 18515	5	24	0.00	0.90	6.00	192.00	107.36	84.64	54.64	59.25	101.77	14.91	74.21	14.91	0.00	27.56
RG 18571	6	45.7	3.42	0.83	8.63	280.00	223.93	36.07	6.07	25.25	80.16	16.16	23.28	13.92	4.26	56.90
RG 18595	7	11	12.89	1.17	10.75	268.00	189.41	60.59	30.59	42.41	35.58	31.07	25.86	19.68	11.39	9.72
RG 18531	8	15	16.45	0.17	8.50	312.00	63.78	214.22	184.22	149.95	123.41	126.36	32.23	26.36	100.00	91.18
RG 18517	12	10	0.00	0.90	6.00	197.00	74.95	122.05	92.05	85.44	95.50	48.28	84.02	48.28	0.00	11.48
RG-18529-S	13	17.46	0.00	1.35	6.63	340.00	221.00	69.00	39.00	48.30	51.21	28.52	37.85	28.52	0.00	13.36
RG-65707-POD4	14	82	100.34	3.74	4.95	400.00	267.97	132.03	102.03	92.42	58.64	56.51	35.98	28.79	27.72	22.66
RG-65707-POD6	15	186	175.86	4.25	8.00	417.00	249.61	157.39	127.39	110.17	89.41	86.95	44.19	44.19	42.76	45.22
RG-88450	17	115	93.31	0.74	6.00	650.00	80.55	565.45	535.45	395.82	264.62	187.09	104.03	56.79	130.30	160.59
RG-92331	18	200	90.89	4.10	8.63	710.00	107.91	592.09	562.09	414.46	158.96	81.10	108.55	58.19	22.91	50.41

Div. = diversion

DDn = drawdown

DTW=depth to water

OD= outside diameter

TD = Total Depth

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

October 26, 2012

TO: Vicki Lucero, Development Review Team Leader
FROM: Karen Torres, County Hydrologist
RE: CDRC Case # Z/S 08-5430: Spirit Wind West Subdivision Master Plan and Preliminary and Final Approval for Phase I – T15N R10E Projected Section 5

The amended development plan for this project was reviewed for technical accuracy and compliance with the SFC Land Development Code. The submittal by the applicant is largely complete, in compliance with the Land Development Code and addressed most of previous review comments. Outstanding comments can be addressed as a condition of final development approval for phase I of this development.

Nature of Project:

The applicant proposes a master plan to create 39 lots ranging in size from 2.89 to 3.47 acres for single family residences. The subject property is located east of New Mexico State Road 285 in the vicinity of the Village of Lamy within projected Section 5 of Township 15 North, Range 10 East N.M.P.M, in the Bishop John Lamy Land Grant. Water supply for this development will be provided by the Eldorado Area Water and Sanitation District with conventional septic tanks for liquid waste disposal. Additionally the applicant seeks preliminary and final approval for phase I of this development consisting of 9 residential lots.

History of Review:

The Spirit Wind West Subdivision Master Plan and Preliminary and Final Approval for Phase I development plan was reviewed on April 20th, 2012 for technical accuracy and compliance with the SFC Land Development Code. Staff review found Eldorado Area Water and Sanitation District has sufficient water rights and well capacity to meet the existing and future demands of the water system and the additional water use proposed by this application. The Master Plan met code requirements but additional information, as outlined below, was required for review prior to preliminary and final approval.

1. Final plat note stating the drilling or use of a well is restricted.
2. Address attached red-line comments on domestic water distribution master plan for, stamped January 30th, 2012 by Gorge Gonzalez P.E.

3. Submission of liquid waste disposal documentation package for individual liquid water disposal systems as required by Article VII Section 2 (as amended by Ordinance 1999-1)
4. Submission of Water Restrictive Covenants for Review prior to final plat approval

Compliance with Previous Review Comments

Addressed 1. *Final plat note stating the drilling or use of a well is restricted.*

The complete proposed final plat was not submitted for review but the applicant has stated in a revised submittal that this has been accomplished

Addressed 2. *Address attached red-line comments on domestic water distribution master plan for, stamped January 30th, 2012 by Gorge Gonzalez P.E.*

Updated domestic water distribution plan was not submitted for review. It is uncertain if the red-line comments were addressed.

Addressed 3. *Submission of liquid waste disposal documentation package for individual liquid water disposal systems as required by Article VII Section 2 (as amended by Ordinance 1999-1)*

Based on the geotechnical report and development plan all soils, slopes and setbacks within Phase I of this development are suitable for a conventional septic system. Other requirements will be met through NMED permitting procedures and will be deferred to in this review.

Addressed 4. *Submission of Water Restrictive Covenants for Review prior to final plat approval*

Redline comments have been submitted to the Land Use Department

If you have any questions, please feel free to call me at 992-9871 or email at ktorres@co.santa-fe.nm.us.

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

April 9, 2012

TO: Vicki Lucero, Development Review Team Leader
FROM: Karen Torres, County Hydrologist
THRU: Rich Silva, Utilities Department *RAS*
Patricio Guerrerortiz, Utilities Director *UFO*

RE: CDRC Case # Z/S 08-5430: Sprit Wind West Subdivision Master Plan and Preliminary and Final Approval for Phase I – T15N R10E Projected Section 5

The subject development plan was reviewed for technical accuracy and compliance with the SFC Land Development Code. Staff review found Eldorado Area Water and Sanitation District has sufficient water rights and well capacity to meet the existing and future demands of the water system and the additional water use proposed by this application. Additionally staff concludes there is sufficient information submitted for Master Plan and Preliminary Development approval but request submission of additional information, as outlined below, for review prior to final approval.

- Final plat note stating the drilling or use of a well is restricted.
- Address attached red-line comments on domestic water distribution master plan for, stamped January 30th, 2012 by Gorge Gonzalez P.E.
- Submission of liquid waste disposal documentation package for individual liquid water disposal systems as required by Article VII Section 2 (as amended by Ordinance 1999-1)
- Submission of Water Restrictive Covenants for Review prior to final plat approval

Nature of Project:

The applicant proposes a master plan to create 39 lots ranging in size from 2.89 to 3.47 acres for single family residences. The subject property is located east of New Mexico State Road 285 in the vicinity of the Village of Lamy within projected Section 5 of Township 15 North, Range 10 East N.M.P.M, in the Bishop John Lamy Land Grant. Water supply for this development will be provided by the Eldorado Area Water and Sanitation District with individual septic tanks for liquid waste disposal. Additionally the applicant seeks preliminary and final approval for phase I of this development consisting of only 9 residential lots.

SFC Land Development Code Requirements for Water and Wastewater:

To address requirements of the SFC Land Development Code the pertinent sections of the Code are written out and are addressed individually as to compliance. Master Plan requirements and

will include preliminary and final plat procedures for Phase I. This review is limited to SFC Land Development Code requirements for water and wastewater.

Master Plan Requirements for Water and Wastewater:

Article V, Section 5.2.2 g, Master Plan Procedures, as amended by Ordinance 2005-2, requires a master plan report to include the following:

1. A preliminary water supply plan and liquid waste disposal plan which identifies the source of water, water budget by phase and water conservation plan.
2. Submission of a water supply plan for the first sustainable phase of development, as required by Article VII, Section 6 of the Code.

Liquid Waste Disposal Plan

The development report submitted by the applicant states the proposed lots will use individual septic tanks.

Article VII, Section 6 - Water Supply Plan

Article VII, Section 6.2 entitled General Requirements and Submittals for a Water Supply Plan sets forth requirements based on the type and scale of the development. Table 7.4, entitled Required Code Sections for Water Supply, states any development which includes construction or expansion of a community water system, which describes the subject development, is required to submit a water supply plan which consists of submittals compliant with the following code requirements

1. *Article VII, Section 6.3 Community Water Systems*
2. *Article VII, Section 6.4 entitled "Water Availability Assessments"*
3. *Article VII, Section 6.5 entitled "Water Quality"*
4. *Article VII, Section 6.6 entitled "Water Conservation"*
5. *Article VII, Section 6.7 entitled "Fire Protection"*

Each of these code requirements are addresses separately as to compliance for phase I of the subject development. 6.3, 6.4, 6.5, 6.6, 6.7 of the Santa Fe County Land Development Code are required to submit information

Article VII, Section 6.3: Water Supply Plan - Community Water Systems

This article states community water systems shall be required for subdivisions according to the number and size of lots as indicated in Article V Section 9.3, Table 5.1. From Table 5.1 developments that propose between 25 - 99 lots between the size of 2.5 and 10.0 acres is required to have a community water system serve the project. The Spirit Wind Development is required to either create or connect to a community water system. The code has specific requirements for submittals and review of community systems as follows:

The applicant shall submit a water supply plan which demonstrates that the [water] system will comply with the requirements of Section 6.3.1 of Article VII. The water supply plan shall be prepared by or under the supervision of a professional engineer and shall include the following:

- a) *Information showing the volume and peak rate of production of water required for each month to supply each use at full use of the development*

The last review of water use for EAWSD included data from 2006 to 2008 and is revised in this review to include the years 2009 – 2011. The goal of this analysis is to understand the average monthly volume of water as a percentage of the annual use for the current demand and apply that percentage to future water use. The highest monthly water use occurred in June with an average of 63 acre-feet. Using the monthly water use data, a monthly peaking factor was derived.

The projected water demand for future near term projects, to be served by EAWSA, is summarized in a 2007 Preliminary Engineering Report by Daniel B. Stephens & Associates. A total of 92.75 acre-feet of water is necessary for planned residential and commercial development which includes the Spirit Wind Development. The annual water budget for the entire Spirit Wind development (9.5 acre-feet) and the other future developments (83.25 acre-feet) was divided by 12 to get a monthly average water use. The monthly peaking factor was then applied and is summarized in the table below. It is estimated the Spirit Wind development and future projects will increase the demand for the month of June by a total of 10.7 acre-feet, where Spirit Wind accounts for 1.1 acre-feet on this demand.

Table 1: Monthly Water Demand for Current and Future Use

Monthly Water Use (acre-feet)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2006	40	39	40	52	61	62	49	42	40	40	35	35	534 af
2007	41	35	37	37	46	60	61	66	61	52	45	35	574 af
2008	38	37	39	44	67	75	55	53	52	40	35	33	568 af
2009	34	33	37	39	58	55	63	59	45	40	34	33	528 af
2010	33	22	31	37	56	62	53	55	54	45	34	34	516 af
2011	35	35	37	45	58	65	63	55	46	41	33	32	544 af
Average	37	33	37	42	58	63	57	55	50	43	36	34	544 af
Monthly Peaking Factor	0.81	0.71	0.80	0.89	1.25	1.39	1.29	1.26	1.13	0.96	0.79	0.73	
Future Projects (83.25 acre-feet)	5.6	5.1	5.6	6.5	8.8	9.6	8.7	8.4	7.6	6.6	5.5	5.1	
Demand – Spirit Wind (9.5 acre-feet)	0.6	0.6	0.6	0.7	1.0	1.1	1.0	1.0	0.9	0.7	0.6	0.6	9.5 af
Total Current and Future Demand (637 acre-feet)	43	39	43	49	67	74	67	64	58	50	42	39	637 af

- b) *Plans and specifications for production or diversion, storage and distribution facilities and a time schedule for their completion, prepared by or under the supervision of a registered professional engineer.*

From the submittal it appears only distribution lines are necessary to serve the Spirit Wind Development. A domestic water distribution master plan for, stamped January 30th, 2012 by Gorge Gonzalez P.E., was submitted by the applicant for staff and NMED to review. This plan is sufficient to meet this code requirement but final plan should incorporate all review comments from NMED and EASWSD.

Any additional infrastructure necessary for this development will be designed and constructed under the terms of the Development Agreement- Spirit Wind West, dated October 17th, 2008, between EAWSD and the applicant.

- c) *A legal description of the location of all construction easements and right-of-way necessary for the installation of the water supply system.*

A domestic water distribution master plan, stamped January 30th, 2012 by Gorge Gonzalez P.E., for Phase I was submitted by the applicant for staff and NMED to review. This plan shows utility easements and is sufficient to meet this code requirement. Final plan should incorporate all easements required by EASWSD and all standards for public water facilities.

- d) *Well plans indicating casing diameter, total depth, screened interval and proposed pump setting.*

EAWSD provided multiple reports on the wells that serve the central well field and the Galisteo wells which document well construction and production. The following table is a summary of well information:

EAWSD Well No.	OSE File No.	Total depth	Casing Diameter	Screened interval (Feet-BGL)	Pump setting (Feet- BGL)
1	RG 18528	700	10-3/4"	350-650	630
2	RG 18529	250	8-5/8"	120-131 160-209	280
3	RG 18543	320	10-3/4"	114-320	214
4	RG 18550	365	10-3/4"	75-360	167
5	RG 18515	192	6"	UNK	175
6	RG 18571	280	8-5/8"	220-265	260
7	RG 18595	280	8-5/8"	180-212 234-255	268
8	RG 18531	312	8-5/8"	165-215 268-275	190

EAWS Well No.	OSE File No. (Continued from previous page)	Total depth	Casing Diameter	Screened interval (Feet- BGL)	Pump setting (Feet- BGL)
9	RG 18556	134	12-3/4"	50-90 100-120	100
10	RG 18524	65	6"	unk	
11	RG 18523	unk	6"	UNK	
12	RG 18517	197	6"	UNK	80
13	RG-18529-S	407	6-5/8"	160-200 220-290	310
14	(RG -18528, RG-18543 & RG-18550)-S	385	8-5/8"	235-315 345-385	315
15	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531)-S	407	8-5/8"	289-400	280
17	RG-88450	675	6 5/8 "od	396-457; 497-637	unk
18	License No. RG-18529 & RG-18556	713	8.625	420 - 700	unk

- e) *An agreement providing for:*
- i. *The construction and operation of the water supply system as shown in the plat documents and plans*
 - ii. *Collateral, in the form of a performance bond or other means, adequately assure the complete construction and operation of the system in accordance with design and time specifications*
 - iii. *Certification of the operator of the system*
 - iv. *Involvement as prescribed in the plat documents of a Homeowner's Association, Mutual Domestic Association, or non-profit corporation for the purpose of operation and maintenance of the system.*

The development will be served by the expansion of an existing water system and the future homeowners will not have the responsibility of operating the water system. Development Agreement between the applicant and EAWS, dated October 17th 2008, assures the construction and operation of the extension of the water system serving this development. Therefore, the code requirement for *Section 6.3.1 of Article VII (e)*, relating to the operation of EAWS, is met.

- f) *If the developer is within a declared basin, the applicant shall obtain a valid water right permit issued by the State Engineer pursuant to Section 6.2.2 of this section.*

Spirit Wind will be served by EAWS so it is not the applicant but rather the water system that is required to obtain a valid water right permit. A review of Office of the State Engineer records demonstrates EAWS has valid water right permits sufficient to serve this development. Any requirement of additional water rights is governed by the development agreement between the applicant and EAWS. Further discussion of water rights is later in this memo.

Article VII, Section 6.3: Required Submittals - Community Water Systems

Requirements for Community Water Systems: *Article VII, Section 6.3.1*

- a) *When a community water system is required, the developer shall provide water from existing or proposed water supply systems for domestic use, fire protection, and any other use that the developer proposes.*

Letter from Eldorado Area Water and Sanitation District dated December 29, 2011 states they commit to provide up to 9.5 acre-feet of water for water service (inclusive of fire protection) to the entire Spirit Wind Development.

- b) *The developer shall provide for the completion of the proposed water supply systems, in accordance with applicable minimum design standards of the New Mexico Environment Department and the Construction Industries Division.*

By the water development agreement between EAWSD and the applicant the completion of the proposed waterline extension is provided for. A domestic water distribution master plan, stamped January 30th, 2012 by Gorge Gonzalez P.E., for phase 1 was submitted by the applicant for staff and NMED to review. This plan is sufficient for master and preliminary plan purposes but final plan should incorporate all review comments from NMED.

- c) *The developer shall meet fire flow requirements set forth in Article VII Section 6.7.*

Section 6.7.6, as amended by Ordinance 1998-10, states residential subdivisions shall have fire hydrants which are designed to flow at least 500 gallons per minute with 20 psi for a two hour minimum. On September 12, 2007 a Technical Memorandum was issued by IDModeling address these code requirements and did not identify any deficiencies in storage or fire flows in Pressure Zone PZ-3R where the proposed development is located.

- d) *The developer shall provide sufficient potable water for full development of all properties within the proposed development*

Addressed in commitment letter from EAWSD.

- e) *If the development is in a Traditional Community District, the community water system shall be designed to minimize the use of local water resources. The applicant shall obtain water rights as the State Engineer requires. The community water system shall be consistent with the Local Land Use and Utility Plan, if any.*

The subject development is not within a Traditional Community District, this requirement is not applicable.

- f) *All distribution mains shall be a minimum of six inches in diameter*

A domestic water distribution master plan for Phase I, stamped January 30th, 2012 by Gorge Gonzalez P.E., shows 8 inch distribution lines for the subject development. Redline comments have been made on this plan. It is recommended the applicant address all red-line comments prior to final approval.

- g) *It shall be noted on the final plat and plans and in the covenants and disclosure statement that the drilling or use of individual or shared wells is strictly prohibited.*

The restriction of drilling or using a well in not noted on the final plat. Minor edits were suggested to the covenants and disclosure and were submitted to the case manager in red line format.

- h) *The developer shall meet all applicable requirements of the Public Utility Act Articles 1 through 6 and 8 through 13 of Chapter 62 NMSA 1978.*

EAWSD does not fall under the jurisdiction of the PRC with the exception of rate adjustments so this part of the code does not appear to apply to this development.

Article VII, Section 6.4 entitled "Water Availability Assessments"

For developments where the source of supply will be an existing community or municipal supply system the applicant shall submit a water availability assessment in accordance with Section 6.6.4. This section requires a willingness to serve letter from the water system, proof of existing water rights, quantity of water presently produced and plans for the existing water system as outlined below

6.4 Water Availability Assessments – Community Water Systems

Article VII Section 6.4.4 entitled community water systems for which existing utility companies are proposed as the source of water supply, the applicant shall submit a water availability assessment which includes the following:

- i. *Name of the utility proposed as the source of supply and letter of intent from the utility that they are ready, willing and able to provide the maximum annual water requirements for the development including fire protection for at least 100 years.*

Eldorado Area Water and Sanitation District (EAWSD) is the source of supply for this development. Letter from EAWSD dated October 20, 2008 states the district is ready, willing and able to provided 9.5 acre-feet per year of water to serve the Sprit Wind Development. Though this letter did not specifically state the district can provide fire protection for at least 100 years it is presumed fire protection is provided as part of the residential water service.

- ii. Documentation showing the quantity of water presently produced annually, quantity of water supply commitments to date and proof of sufficient water rights to meet both existing commitments and the requirements of the development for at least 100 years.

1. Annual Water Use and Future Water Supply Commitments

This item was addressed in the review of Section 6.3.1 of this Article VII on page 3 but is repeated here for ease of reading. The last review of water use for EAWSD included data from 2006 to 2008 and is updated in this review to include the years 2009 – 2011. The goal of this analysis is to understand the average monthly volume of water as a percentage of the annual use for the current demand and apply that percentage to future water use. The average annual water use is 544 acre-feet per year with highest monthly water use occurring in June, with an average of 63 acre-feet. The monthly data was evaluated and a monthly peaking factor was derived.

The projected water demand for future near term projects, to be served by EAWSA, is summarized in a 2007 Preliminary Engineering Report by Daniel B. Stephens & Associates. A total of 92.75 acre-feet of water is necessary for planned residential and commercial development which includes the Spirit Wind Development. The annual water budget for the entire Spirit Wind development (9.5 acre-feet) and the other future developments (83.25 acre-feet) was divided by 12 to get a monthly average water use. The monthly peaking factor was then applied and is summarized in the table below. It is estimated the Spirit Wind development and future projects will increase the demand for the month of June by a total of 10.7 acre-feet, where Spirit Wind accounts for 1.1 acre-feet on this demand.

Table 1: Monthly Water Demand for Current and Future Use

Monthly Water Use (acre-feet)	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2006	40	39	40	52	61	62	49	42	40	40	35	35	534 af
2007	41	35	37	37	46	60	61	66	61	52	45	35	574 af
2008	38	37	39	44	67	75	55	53	52	40	35	33	568 af
2009	34	33	37	39	58	55	63	59	45	40	34	33	528 af
2010	33	22	31	37	56	62	53	55	54	45	34	34	516 af
2011	35	35	37	45	58	65	63	55	46	41	33	32	544 af
Average	37	33	37	42	58	63	57	55	50	43	36	34	544 af
Monthly Peaking Factor	0.81	0.71	0.80	0.89	1.25	1.39	1.29	1.26	1.13	0.96	0.79	0.73	
Future Projects (83.25 acre-feet)	5.6	5.1	5.6	6.5	8.8	9.6	8.7	8.4	7.6	6.6	5.5	5.1	83.25
Demand – Spirit Wind (9.5 acre-feet)	0.6	0.6	0.6	0.7	1.0	1.1	1.0	1.0	0.9	0.7	0.6	0.6	9.5 af
Total Current and Future Demand (637 acre-feet)	43	39	43	49	67	74	67	64	58	50	42	39	637 af

2. Proof of Sufficient Water Rights

The following is a brief summary of the decreed, permitted and licensed water rights for EAWSD wells.

- On March 3, 1971 Eldorado at Santa Fe filed 84 Declarations of Ownership of Groundwater Right for the original wells which served the utility.
- On December 20, 1972 under Cause No. 45612 the nature and limitations of the water rights associated with the original declared wells were decreed. The amount of water that may be diverted from each well was established under various permits issued by the OSE as follows:

EAWSD Well No.	OSE Permit No.	2007 Well Use (afa)	2008 Well Use (afa)	2009 Well Use (afa)	2010 Well Use (afa)	2011 Well Use (afa)	Maximum Diversion of Water as Decreed and Permitted (afa)
1	RG 18528	25.08	0	0	0	0	151.3
2	RG 18529	33.39	67.05	74.8	4.8	37.9	305.9
3	RG 18543	0	0	0	0	0	82.1
4	RG 18550	8.08	6.7	1.6	0	0	82.1
5	RG 18515	0	0	0	0	0	24.0
6	RG 18571	6.47	15.26	6.5	2.9	5.2	45.7
7	RG 18595	.76	4.30	13.4	10.6	17.5	82.0
8	RG 18531	8.09	14.99	16.24	14.2	23.5	46.9
9	RG 18556	163.24	92.06	129	124	2.3	195.4
10	RG 18524	2.21	5.15	4.8	5.1	0	4.8
12	RG 18517	14.90	13.31	4.4	0	0	17.4
13	RG-18529-S	.03	0.62	0	0	0	Supplemental to Well 2.
14	(RG -18528, RG-18543 & RG-18550)-S	110.57	91.44	93	85.5	109	Supplemental to Wells 1, 3 & 4. Diversion shall not exceed 111.7 acre-feet
15	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531)-S	201.58	240.38	185	186.6	198	Supplemental to Wells 1, 2, 3, 4, 5, 6, 7, & 8. Diversion shall not exceed the sum of the 780.7 acre-feet
17	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531 and RG-18517)-S		16.97	.19	43.8	106	Not to exceed 111.07 acre-feet per annum.
18	Permit Pending					36.7	Permit Pending
Total Annual Water Use (af)		574	568	528	516	544	
Total Licensed Water Right (af)		783.43 acre-feet per year					

- On June 4th 2010 Partial License Nos. RG-18529 and RG-18556 was issued by the State Engineer. Partial License RG-18529 allows EAWSD to divert 583.23 acre-feet per year from the central well field and assigns a priority date ranging from 1968 to 1970. Partial License No. RG-18556 allows the diversion of 200.2 acre-feet per year from the Galisteo Creek Wells. (Well Nos. 9 and 10) and assigns a priority date ranging from 1968 to 1970. The total amount of water rights recognized under these licenses is 783.43 acre-feet per year.
- Partial License Nos. RG-18529 and RG-18556 allow for the application of water to beneficial use of 254.37 acre-feet per year above the licensed 783.43 acre-feet. EAWSD was given 20 years to perfect these water rights and submit Proof of Beneficial Use.

Based on the amount of water rights recognized under Partial License Nos. RG-18529 and RG-18556 and projected future demand of 637 acre-feet per year EAWSD has more than enough water rights to meet current and future water demands of the system; as well as the Spirit Wind Development.

iii. For New Mexico Public Utilities Commission (PUC) certified utilities, a copy of the most recent annual report submitted to the PUC.

EAWSD is not required to report to the PUC (now PRC) so this code requirement is not applicable

iv. Plans for the existing water system to which the proposed system will connect into. The plans shall show diversion point locations and water storage and distribution system. The size or capacity of the water system components should also be indicated on the plans.

The May 9, 2007 NMED, *Sanitary Survey Report Eldorado Water & Sanitation District WSS# 37326* states - The Eldorado Water and Sanitation District water system serves a population of approximately 7500, through 2904 service connections and approximately 70 commercial connections. The water system consists of fourteen wells (now fifteen), eight storage tanks, six treatment plants, three booster stations, and distribution. Notes: Well number 11 is no longer part of the system. Wells 3, 5, & 10 are still physically connected but not being used. Well 13 is still connected but no longer used. Meter reading submitted by EAWSD for 2007 and 2008 support NMED's finding that, with the exception of well 10, wells 3, 5 and 11 are not used to supply water to the system.

To estimate well capacity of the water system the design production of the wells currently on-line were obtained from EAWSD and reviewed. Since it is unreasonable to presume well are pumped 100% of the time the well production was reduced by 60% to reflect reasonable well operation. It should be noted that wells 9 and 10 are shallow wells located near Lamy and within the streambed of Galisteo Creek. These wells are sensitive to drought and on several occasions have had a significant reduction in yield. For this reason, wells 9 and 10 are not a reliable supply

of water every year and were not considered in this capacity analysis. Additionally Well 18 is excluded as it is not permitted for use by the State Engineer. A summary of EAWSD well production is as follows:

EAWSD Well No.	OSE File No.	Design Capacity 100% (GPM)	Well Capacity 60% (GPM)	Well Capacity (acre-feet per year)
1	RG 18528	60	36	58
2	RG 18529	130	78	126
3	RG 18543	Disconnected	-	-
4	RG 18550	25	15	24
5	RG 18515	Disconnected	-	-
6	RG 18571	50	30	48
7	RG 18595	25	15	24
8	RG 18531	50	30	48
9	RG 18556	180	108	Lamy Well
10	RG 18524	UNK	-	Lamy Well
11	RG 18523	Disconnected	-	-
12	RG 18517	20	12	19
13	RG-18529-S	200	120	194
14	(RG -18528, RG-18543 & RG-18550)-S	250	150	242
15	(RG -18528, RG-18529, RG-18543, RG-18550, RG-18515, RG-18571, RG-18595 and RG-18531)-S	350	210	339
17	RG-88450	115	69	111
18	License No. RG-18529 & RG-18556	300 (not permitted)	-	-
Total Well Production at 60%			873 gpm	1,233 acre-feet

The amount of water that can be reasonably produced from the EAWSD central well field is estimated at 873 gallons per minute for wells currently on-line and permitted. Based on the highest water use month the estimated daily demand for current and future projects is 558 gpm but this does not account for peak daily use. Daily peaking issues are addressed through the use

of storage. Based on this estimate there appears to be sufficient production from the EAWSD wells to meet current, future and the 9.5 acre-feet of demand proposed for this project.

- v. *Any other information, including any or all of the requirements of Sections 6.4.2 and 6.4.3 required by the Board or the County Development Review Committee to make a determination that the utility has the capability to meet the water requirements of the development.*

Additional information on this water system, as required by sections 6.4.2 and 6.4.3, is not necessary at this time as the water system has demonstrated sufficient capacity and water rights to serve the proposed development.

Article VII, Section 6.5 -Water Quality

No water quality information was submitted to the County to review but as EAWSD is a community water system they are required by NMED to meet all drinking water standards set forth by the Environmental Protection Agency. A review of the latest Sanitary Survey and NMED Drinking Water Bureau website did not indicate any water quality issues.

Article VII, Section 6.6- Water Conservation

Water Budget

The water use budget indicates a total annual water use of 9.5 acre-feet. The method used to calculate the per household water use is acceptable and meets the requirements of the Land Development Code.

Water Restrictive Covenants

The report states that the lots will comply with the Santa Fe County water conservation ordinances. These restrictions should be reflected in the Water Restrictive Covenants for the development. Water conservation covenants reflecting the water conservation practices within LDC Article VII Section 6.6.2, Santa Fe County Ordinances 2002-13, 2004-7, 2003-6, 2006-3, 2006-8 should be submitted. Additionally the restriction of drilling or using a well is not noted on the final plat.

Article VII, Section 6.7- Fire Protection

Article VII, Section 6.7.6, as amended by Ordinance 1998-10, states residential subdivisions shall have fire hydrants which are designed to flow at least 500 gallons per minute with 20 psi for a two hour minimum. On September 12, 2007 a Technical Memorandum was issued by IDModeling address these code requirements and did not identify any deficiencies in storage or fire flows in Pressure Zone PZ-3R where the proposed development is located.

Article VII, Section 2 - Liquid Waste Disposal Requirements

Article V, Section 5.2.2. g, 8 entitled Master Plan Procedures requires a preliminary liquid waste disposal plan for the first sustainable phase of development, as required by Article VII, Section 2 of the Code. It should be noted wastewater requirements were amended by Ordinance 1999-1

The development report submitted by the applicant states the proposed lots will use individual septic systems which will incorporate gray water systems for irrigation. The original language in the report stated gray water will serve to meet individual irrigation but such use was not indicated on the water budget. An e-mail from the applicant's agent received March 29th, 2012, has clarified that such systems will be installed at the discretion of the homeowner and cannot be used to reduce the water budget for each lot. Given this the developer is not required to submit engineering plans for a grey water system.

7.1 of Article VII Section 2 (as amended by Ordinance 1999-1) requires submission of liquid waste disposal documentation package for individual liquid water disposal systems. The documentation submitted by the applicant does not meet this code requirement. It is recommended county staff work with the applicant to outline necessary submittals to meet code requirements. This can be handled administratively as a condition prior to final plat approval.

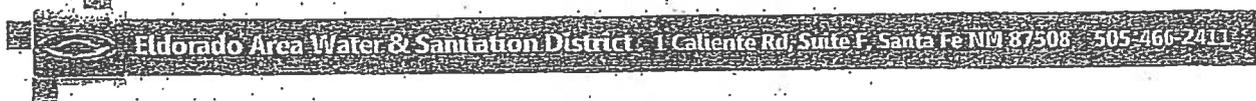
Conclusions

Staff review found Eldorado Area Water and Sanitation District has sufficient water rights and well capacity to meet the existing and future demands of the water system and the additional water use proposed by this application. Additionally staff concludes there is sufficient information submitted for Master Plan and Preliminary Development approval but request submission of additional information, as outlined below, for review prior to final approval.

- Final plat note stating the drilling or use of a well is restricted.
- Address red-line comments on domestic water distribution master plan for, stamped January 30th, 2012 by Gorge Gonzalez P.E.
- Submission of liquid waste disposal documentation package for individual liquid water disposal systems as required by Article VII Section 2 (as amended by Ordinance 1999-1)
- Submission of Water Restrictive Covenants for Review prior to final plat approval

If you have any questions, please feel free to call me at 992-9871 or email at ktorres@co.santa-fe.nm.us.





David Deng-Chakroff
General Manager

James Jenkins, President
Jerry L. Cooper, Vice President
Roberta A. Armstrong, Secretary
Stephen Wust, Director
George Haddad, Director
Gene Schofield, Non-Director

December 29, 2011

Mr. Joseph Miller
286 Riverbank Road
Lamy, New Mexico 87540-7504

Re: Tierra Bello Project

Dear Mr. Miller:

By this letter, the Eldorado Area Water and Sanitation District ("EAWSD") commits to provide water service to your *Spirit Wind West Development* ("Project") in accordance with the District's 2007 New Water Services Policy ("NWSP"), a copy of which is enclosed herewith, the terms stated in this letter, and the Development Agreement ("DA") dated October 17, 2008, and Amendment No. 1 dated August 24, 2010, between EAWSD and the Joseph and Alma Miller Revocable Trust ("Trust") which require the installation of infrastructure water lines and the payment of the service/connection fees ("Requirements").

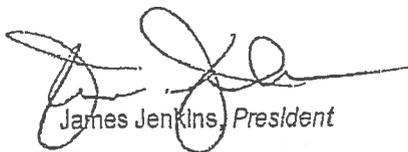
Subject to the satisfaction of the Requirements, EAWSD is ready, willing and able to provide water service to the entire Project or phases of the Project in an amount not to exceed nine and one half (9.5) acre feet per year ("afy") of water.

All Requirements must be met prior to the initiation of water service to the Project. If the project is phased, then fees will be prorated accordingly and the infrastructure will only need to involve that which is necessary to service the phase.

Further, all terms and conditions of this letter of commitment and the above referenced DA and Amendment have been approved by the EAWSD Board of Directors.

EAWSD looks forward to cooperating with you in the provision of water service to the Project.

ELDORADO AREA WATER AND SANITATION DISTRICT


James Jenkins, President

Cc: EAWSD Board of Directors
Santa Fe County Land Use Department

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Submittal Review

Date	Feb. 29, 2010 ¹²		
Project Name	Spirit Wind West Subdivision Master Plat & Development Plan for Phase I		
Project Location	#85 Cerro Alto Road T14; R10; S5		
Description	39 lot residential subdivision master plan w/preliminary & final on lots 1-9 phase I	Case Manager	Vicki Lucero
Applicant Name	Joseph Miller	County Case #	Z/S01-5430
Applicant Address	286 Riverbank Road Lamy, NM 87544	Fire District	El Dorado
Applicant Phone	505-660-5250 Danny Martinez		
Commercial <input type="checkbox"/>	Residential <input checked="" type="checkbox"/>	Sprinklers <input type="checkbox"/>	Wildland <input type="checkbox"/>
Hydrant Acceptance <input type="checkbox"/>	Review Type	Master Plan <input checked="" type="checkbox"/>	Preliminary <input checked="" type="checkbox"/>
Inspection <input type="checkbox"/>	Final <input checked="" type="checkbox"/>	Lot Split <input type="checkbox"/>	

Project Status Approved Approved with Conditions Denial

The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated (*Note underlined items*) :

Summary of Review

To be addressed during construction

• The walking trail system proposed for this development shall have a trail identification number or name and be marked with a number...for the purpose of expediting emergency response. (page #2)

To be addressed during construction

• Curbs adjacent to the, fire hydrants, landscape medians in traffic flow areas and in designated no parking areas shall be appropriately marked..."FIRE LANE - NO PARKING" (page #2)

Addressed.

• Roads shall meet the minimum County standards for fire apparatus access roads within this type of proposed development. (page #2)

Addressed.

• No building permits shall be granted until such time as the fire hydrants have been tested and approved by the Santa Fe County Fire Marshal. (page #4)

To be addressed after construction of infrastructure

• Prior to acceptance and upon completion of the permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes. (page #4)

Fire Department Access

Shall comply with Article 9 - Fire Department Access and Water Supply of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

The/Any walking trail system proposed for this development shall have a trail identification number or name and be marked with a number every 1/10th of a mile (528 feet) for the purpose of expediting emergency response.

- **Fire Access Lanes**

Section 901.4.2 Fire Apparatus Access Roads (1997 UFC) When required by the Chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.

Curbs adjacent to the, fire hydrants, landscape medians in traffic flow areas and in designated no parking areas shall be appropriately marked in red with 6" white lettering reading "FIRE LANE - NO PARKING" as determined by the Fire Marshal prior to final approval. Assistance in details and information are available through the Fire Prevention Division. The Home Owner's and/or the Home Owner's Association will maintain said markings following the final approval and for the duration of the subdivision.

- **Roadways/Driveways**

Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

Cul-de-sacs shall be a minimum 50' radius. SFC Land Use Code, Article V, Section 8.2.1d, (cul-de sacs over 250' in length)

Roads shall meet the minimum County standards for fire apparatus access roads within this type of proposed development. Final acceptance based upon the Fire Marshal's approval.

- **Street Signs/Rural Address**

Section 901.4.4 Premises Identification (1997 UFC) Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.

Section 901.4.5 Street or Road Signs. (1997 UFC) When required by the Chief, streets and roads shall be identified with approved signs.

All access roadway identification signs leading to the approved development area(s) shall be in place prior to the required fire hydrant acceptance testing. Said signs shall remain in place in visible and viable working order for the duration of the project to facilitate emergency response for the construction phase and beyond.

Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot or building site within 72 hours of the commencement of the development process for each building.

▪ **Slope/Road Grade**

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

Driveway/fire access shall not exceed 11% slope and shall have a minimum 28' inside radius on curves.

▪ **Restricted Access/Gates/Security Systems**

Section 902.4 Key Boxes. (1997 UFC) *When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the chief is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the chief.*

To prevent the possibility of emergency responders being locked out, all access gates shall be operable by means of a key or key switch, which is keyed to the Santa Fe County Emergency Access System (Knox Rapid Entry System). Details and information are available through the Fire Prevention office.

Fire Protection Systems

▪ **Hydrants**

Shall comply with Article 9, Section 903 - Water Supplies and Fire Hydrants of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

Fire hydrants subject to possible vehicular damage shall be adequately protected with guard posts in accordance with Section 8001.11.3 of the 1997 UFC.

Per submitted plans sheet C-4 all fire hydrants shall be spaced so that the furthest buildable portion of a parcel shall be within five hundred feet (500') as measured along the access route.

Final placement of the fire hydrants shall be coordinated and approved by the Santa Fe County Fire Department prior to installation.

Fire hydrant locations shall be no further than 10 feet from the edge of the approved access roadways with the steamer connections facing towards the driving surface.

Final fire hydrant locations shall be located in full view for incoming emergency responders. Landscape vegetation, utility pedestals, walls, fences, poles and the like shall not be located within a three foot radius of the hydrant per Article 10, Sections 1001.7.1 and 1001.7.2 of the 1997 UFC.

Supply lines shall be capable of delivering a minimum of 500 gpm with a 20-psi residual pressure to the attached hydrants. The design of the system shall be accordingly sized and constructed to accommodate for the associated demands placed on such a system through drafting procedures by fire apparatus while producing fire flows. The system shall accommodate the operation of two pumping apparatus simultaneously from separate locations on the system.

All hydrants shall have NST ports.

Water supply line sizes, which are connected to supply approved fire hydrants, shall be a minimum of eight inches in diameter.

No building permits shall be granted until such time as the fire hydrants have been tested and approved by the Santa Fe County Fire Marshal.

Automatic Fire Protection/Suppression

For life safety and property protection this office highly recommends the installation of Automatic Fire Suppression systems meeting NFPA 13D standards in any future construction. Assistance in details and information are available through the Fire Prevention Division.

General Requirements/Comments

▪ Inspections/Acceptance Tests

Prior to acceptance and upon completion of the permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes.

▪ Permits

As required

Final Status

Recommendation for Development Plan approval with the above conditions applied.

Tim Gilmore, Inspector



Code Enforcement Official

2-29-12

Date

Through: David Sperling, Interim Chief/Fire Marshal

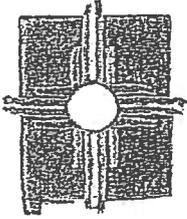
File: DevRev/EL/SpiritWindWest/022912

Cy: Applicant
District Chief
Buster Patty, Capt., Fire Prevention Div. 

Official Submittal Review

4 of 4

OBA-42



New Mexico DEPARTMENT OF
TRANSPORTATION
MOBILITY FOR EVERYONE

R/W Bureau

January 23, 2009

Mr. Joe Catanach
102 Grant Avenue
P.O. Box 276
Santa Fe, NM 87504-0276

RE: Spirit Wind West Subdivision

Dear Mr. Catanach,
The appropriate engineers of the New Mexico Department of Transportation have reviewed the submitted material on the above referenced development and comments or concerns to be addressed are as follows:

- ? **Lands Engineering:** As per request we have identified a number of problems with the right of way owned by NMDOT in the area submitted for review and approval. 1. A highway station shall be shown at the entrance of Cerro Alto RD. on sheet 2 of 2 on the survey plat. 2. The highway centerline shall be shown along the highway on sheet 2 of 2 as shown on the survey plat. 3. The half width (100') of the right of way shall be shown from the highway centerline to the right of way boundary on sheet 2 of 2 of the survey plat. 4. The full width of the right of way (200') shall be shown from the left right of way boundary to the right of the right of way boundary on sheet 2 of 2 of the survey plat.
- ? **Traffic Technical Support Section:** A review has been completed for the Site Traffic Analysis (STA) submitted for Spirit Wind West Subdivision in Santa Fe County near Lamy. Comments are as follows: Page 4 – A more detailed explanation of the trip distribution methodology must be included. The STA states that 75% of the traffic will be using Cerro Alto Road while the remaining 25% will be using Santa Fe CR 33; we find no supporting explanation for this distribution other than that it is based on current traffic patterns. Current traffic patterns are likely to change as a result of the new subdivision. Additionally, the trip distribution should take into account and offer an explanation regarding whether entering and exiting traffic on Cerro Alto Road and Santa Fe CR 33 is related to Northbound or Southbound US 285 travel.
- ✓ **District 5 Traffic Section:** This subdivision warrants left turn lanes for both entrances, Cerro Alto Road and CR 33, however there are existing left turn lanes on US 285 at both locations. District 5 concurs with the Traffic Impact Analysis summary and recommendations and no improvements are required on US 285.

If there are any questions or need further information you may contact me at (505) 476-3652 or by email at jeremy.lujan@state.nm.us.

Sincerely,

Jeremy Lujan
Property Asset Management Agent
Right of Way Bureau

Bill Richardson
Governor

Gary L. J. Giron
Cabinet Secretary
Designate

Commission

Johnny Cope
Chairman
District 2

Jim Franken
Vice Chairman
District 4

Norman Assed
Secretary
District 3

Roman Maes III
Commissioner
District 5

Jackson Gibson
Commissioner
District 6

John Hummer
Commissioner
District 1

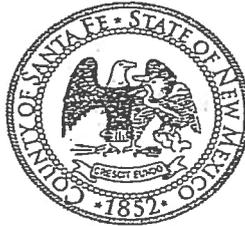
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OBA-43

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Liz Stefanics
Commissioner, District 4

Kathy Holian
Commissioner, District 5

Katherine Miller
County Manager

PUBLIC WORKS DIVISION
MEMORANDUM

Date: October 29, 2012

To: Vicki Lucero, Development Review Team Leader

From: Paul Kavanaugh, Engineering Associate Public Works
Johnny P. Baca, Traffic Manager Public Works *JPB*

Re: CDRC Case #Z/S 08 – 5430 Spirit Wind West Subdivision Master Plan for a 39 lot Residential Subdivision and Preliminary Development Plan for 16 Lots for Phase I.

The referenced project has been reviewed for compliance of the Land Development Code, and shall conform to roads and driveway requirements of Article V (Subdivision Design Standards) and Section 8.1 (General Policy on Roads). The referenced project is located south of Interstate 25 and New Mexico State Road 285 intersection, northeast of the intersection of New Mexico 41 and New Mexico State Road 285 situated within the Bishop John Lamy Grant, in projected, Sections 5, Township 14 North, Range 10 East and Sections 32, Township 15 North, Range 10 East. The applicant is requesting a Master Plan Approval of a thirty-nine (39) single family residential lots on 143.035 acres, with Preliminary and Final Development Approvals for Phase I of 16 single family residential lots.

Access:

The development is proposing access through an existing access for an adjoining subdivision, Spirit Wind Ranch, off of New Mexico State Road 285. The applicant is also proposing to construct a new access off County Road 33 approximately 1600 feet east of New Mexico State Road 285 and County Road 33 Intersection. The applicant is proposing a twenty-four (24') foot paved entryway. The applicant's proposed road, as shown on the plans, intrudes into an existing archeology site located in Phase 4.

Conclusion:

Public Works Staff has reviewed the project and can support the above mentioned project with the following conditions;

To be Addressed
with Phase 4
Submittal

• Applicant shall provide a one hundred foot diameter turnaround for lots 4 & 7 of Phase 4.

To be Addressed
prior to
construction

• Applicant shall be required to obtain a road construction permit from Public Works Department prior to any work on Paso A Lamy to connect onto County Road 33.

Addressed

• Applicant shall modify note # 4 on Page C-1 Terrain Management Plan to Land Development Code Article VII, Section 3.4.6e.

Addressed

• Applicant shall show locations of R2-1 to be installed on both legs of Jose De La Paz.

To be Addressed
prior to
Construction

• Applicants must obtain an Access Permit from Santa Fe County Public Works prior to any construction.

Addressed

• Applicant shall address all REDLINES prior to FINAL DEVELOPMENT PLAN.

To be Addressed
prior to Approval
of Phase 2

• Applicant shall provide Santa Fe County Public Works with an approval from The New Mexico State Historic Preservation Office for disturbance of Archeology Site "LA103869" prior to approval of Phase II as per the recommendation of New Mexico Department of Cultural Affairs Historic Preservation Division letter dated July 20, 2012.

To be Addressed
prior to Approval
of Phase 2.

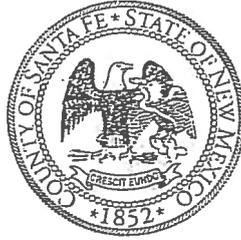
• Applicant shall provide Santa Fe County Public Works with a "FINAL ARCHAEOLOGICAL REPORT" for Archeology Site LA 1033861, as per Article VI, Section 3.4.3.d. of the Land Development Code, prior to approval of Phase II.

OBALYE

Danny Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: April 13, 2012

TO: Vicky Lucero, Development Review Team Leader

FROM: John Lovato, Terrain Management

VIA: Penney Ellis-Green, Interim Land Use Administrator
Wayne Dalton, Building and Development Services Supervisor

FILE REF: CDRC CASE # MP/PDP/FDP Phase I 08-5430 Spirit Wind West

REVIEW SUMMARY

Terrain Management

The referenced project has been reviewed for compliance with the Santa Fe County Land Development Code. The request is for Master Plan, and Preliminary Development Plan, and Final Development Plan for Phase I. The request is for the creation of 39 residential lots for Master plan which includes 9 lots for Preliminary and Final Development Plan approval. The site has slopes 15% or less and slopes from the northern property boundary to southern Boundary.

Storm Drainage and Erosion Control:

The Applicant's proposal shows Existing Topography, Natural Drainage, and a proposed Grading and Drainage Plan. The proposed road off County Road 33 will require approval through The Santa Fe County Public Works Department. The Applicant will also need to provide proposed road plans and profiles for interior roads. Included in these required plans are road sections, Inlet/outlet protection on new and proposed culverts for the newly proposed roads and existing roads. Therefore, the submittal is not in conformance of Article VII, Section 3.4.6 and Ordinance 2008-10 Flood Damage Prevention and Stormwater Management Ordinance with conditions. All Redlined Comments must be addressed. *Addressed*

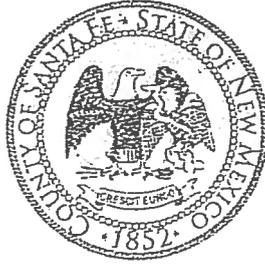
Due to the nature of the comments contained herein, additional comments may be forthcoming upon receipt of the required information

OBA-50

Daniel "Danny" Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathleen Holian
Commissioner, District 4

Elizabeth Stefanics
Commissioner District 5

Katherine Miller
County Manager

MEMORANDUM

DATE: March 9, 2012

TO: Vickie Lucero, Development Review Team Leader, Growth Management Department

FROM: Colleen Baker, Program Manager, Open Space and Trails Program

VIA: Mark Hogan, Director, Projects, Facilities and Open Space Division
Adam Leigland, Director, Public Works Department

RE: CDRC CASE # Z/S 08-5430 Spirit Wind West Subdivision Master Plan/Plat and Development Plan for Phase I

Santa Fe County Open Space and Trails Program staff has reviewed Spirit Wind West Subdivision Master Plan/Plat and Development Plan for Phase I for compliance with the Santa Fe County Land Development Code and has the following comments:

- 1) The Land Development Code (Article V; Section 9.7) states that for "subdivisions of twenty-five (25) lots or more, open spaces shall be provided for parks and recreation on a ratio of ten (10) acres per 1,000 residents; provided that no such open spaces shall contain less than one (1) acre per subdivision. Said open spaces shall be of a nature and location suitable for park development".

Development plans show that a lot in the southwest corner of the property will be designated as open space. The size of the lot is not indicated, and so it is assumed that the lot is 2.75 acres. In the introduction to the Terrain Management section of the submittal the applicant indicates that "Slopes are typically 5 to 10 percent throughout the parcel, with minimal slopes greater then (sic) 20% along the southeast (sic) corner which will be designated as open space".

Addressed If the parcel designated "open space" on the development plans is the same parcel the applicant is referring to in the text then the parcel is large enough to meet the requirement of Article V; Sec. 9.7. However if the parcel is primarily steep terrain (>20%) it may not be suitable for park development. The location of the open space is required to be more central to the development, in more suitable terrain for future park development.

- 2) Open Space staff has reviewed the archaeology report prepared by Stephen Townsend for "A Relocation of Archaeological Site LA 103861 in Relation to an Archaeological Easement in the Spirit Wind Subdivision, Lamy, Santa Fe County, New Mexico". The report recommends

OBA-3

that the easement be relocated to more accurately reflect the location of the site. The report concludes that LA103861 clearly has additional data potential and is considered to be significant under Santa Fe County ordinance and is eligible to the National Register of Historic Places under criterion d of 36 CFR 60.4.

Addressed

The submittal is lacking a recommendation or clearance from the New Mexico State Historic Preservation Office. Open Space staff recommends that the submittal not go forward without the recommendation from SHPO. The revised easement that is currently in place is a "non-disturbance easement" for 23,238.1440 square feet. Given this, the subdivision road that runs through the center of the site (Phase 4) must be realigned to avoid the site. In addition, a building and disturbance footprint should be established for any future lots which include LA103861 in order to ensure avoidance of the site easement.

*Dedicated
as private
trail*

- 3) The "15' Wide Open Space and Trails Easement" along the west and south borders of the subdivision is not suitable for a trail. Staff recommends against the dedication of this easement.

DATE: March 08.2012
TO: Vicky Lucero
FROM: Sarah Ijadi, Community Planner, Growth Management: Planning
Andrew Jandacek, Transportation Planner, Growth Management: Planning
VIA: Robert Griego, Planning Manager

FILE REF.: CDRC Case # Z/S 08-5430 Spirit Wind West Subdivision Master Plan / Plat and Development Plan for Phase I.

REVIEW SUMMARY:

Spirit Wind West Subdivision Master Plan / Plat and Development Plan for Phase I dated February 2012 as prepared by Land Development Planning for Mr. Joseph Miller, has been reviewed for compliance with the Santa Fe County Sustainable Growth Management Plan (SGMP). The development request is for master plan approval for the full development, 39 single family units, and preliminary, final approvals for Phase 1 consisting of 9 lots.

SDA-2 & FLUM

The site for the proposed development is located in SDA-2 and on the Future Land Use Map as Residential Fringe Land Use Category.

The proposed development pattern of the master plan is consistent with the SGMP Rural Fringe Land Use Category:

- Homes on large lots, sometimes as part of rural subdivisions. Provides intermediate steps in development density between more typical open space lands and low residential densities.

Official Map

The dedicated open space is consistent and implements portions of the Preliminary Official Map 2-5 B: Open Space and Trails, providing an easement for connection with County Open Space and regional trails.

SGMP Land Use Goal

Applicant has addressed sustainable land development, by being consistent with the surrounding development pattern of large lot rural development, compatible residential land uses and adequate utilities with water commitments from Eldorado Area Water and Sanitation District.

- *SGMP Goal 2: Sustainable land development should provide for rational development patterns, land use compatibility and adequate facilities and services at adopted levels of service.*

Concerns:

The internal road that is proposed to serve the majority of lots cuts through the center of LA 108631 Archeological Site Non-disturbance easement. Road re-alignment may require a new development layout which may affect access to Phase 1 lots.

Driveways off of CR 33 as shown on sheet C-2 for Phase 1 are not consistent with the request for two common shared driveways on page 2 of the development report or overall Master Plan.

STAFF COMMENT:

With the exception of the Archeological Site issue, the overall Master Plan is in compliance with the SGMP. However, access to Phase 1 lots is not consistent with Master Plan.

STAFF RECOMMENDATION:

Neither Master Plan nor Phase 1 should be approved until the following issues are addressed:

Addressed
per SHPO

• Address issue with LA 108631 Archeological Site Non-disturbance easement and proposed road.

Addressed

• Address issue with access to Phase 1 lots.



STATE OF NEW MEXICO
DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

BATAAN MEMORIAL BUILDING
407 GALISTEO STREET, SUITE 236
SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 FAX (505) 827-6338

July 20, 2012

Vicki Lucero
Building and Development Services Manager
County of Santa Fe
102 Grant Avenue
Santa Fe, NM 87504-0276

RE: CRDC Case #08-5430, Spirit Wind West Subdivision

Dear Ms. Lucero:

I am writing this letter as a follow-up to my letter dated July 18, 2012 and our telephone conversation this morning. As we discussed, the Historic Preservation Division (HPD) is of the opinion that phase 1 of the development can be approved with the condition that archaeological site LA 103861 remain in a non-disturbance easement until phase 2 is ready to move forward. You suggested that when the phase 2 preliminary and final plat are submitted to the County for approval, the treatment plan would also be required. HPD agrees that this process would allow the development to proceed and still protect the archaeological site until the developer is ready to implement treatment of the site and construction of phase 2.

*To be Addressed
with Phase 2
submittal*

Please do not hesitate to contact me if you have any questions. I can be reached by telephone at (505) 827-4064 or by email at michelle.ensey@state.nm.us.

Sincerely,

Michelle M. Ensey
Archaeologist

Follow-up to HPD Log #94822

OBA-5



STATE OF NEW MEXICO
DEPARTMENT OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

BATAAN MEMORIAL BUILDING
407 GALISTEO STREET, SUITE 236
SANTA FE, NEW MEXICO 87501
PHONE (505) 827-6320 FAX (505) 827-6338

July 18, 2012

Vicki Lucero
Building and Development Services Manager
County of Santa Fe
102 Grant Avenue
Santa Fe, NM 87504-0276

RE: CRDC Case #08-5430, Spirit Wind West Subdivision

Dear Ms. Lucero:

Thank you for providing the report, *Archaeological Testing of Site LA 103861, Relocation of Sites LA 103857 and LA 103858 within the Spirit Wind West Subdivision, Lamy, New Mexico*. The Historic Preservation Division (HPD) received this report on July 5, 2012.

In the report, Mr. Ron Winters describes the results of archaeological testing at LA 103861, which will be impacted by a proposed road. Based on the results of his test excavations, Mr. Winters recommends no further investigations at the site because there is no evidence of thermal features or buried cultural deposits. HPD does not concur with this recommendation.

According to the Santa Fe County Land Development Code, a treatment plan must be completed for any significant sites that cannot be avoided. LA 103861 has been determined to be significant by HPD. This significance determination is based on the large number (500+) of surface artifacts, which represent a quarry site. Sites do not need to have thermal features or buried cultural deposits in order to be significant. The testing that has been conducted to date does not constitute treatment. It only serves to provide information on the subsurface deposits. Although the site does not contain buried features, testing demonstrated that artifacts do exist within the upper 5 cm of soil and additional analysis of artifacts can answer questions about the use of quarry sites. It is HPD's opinion that a treatment plan should be prepared for LA 103861.

On page 14, Mr. Winters poses several research questions but he does not address these questions in the testing report. These and other research questions need to be addressed in the treatment plan. The treatment plan should include more background research about similar quarry sites in order to identify potential research questions, a map showing the distribution of the artifacts, a collection of a sample of surface artifacts, additional excavations using a 1/8" screen to collect any small chipped stone artifacts, laboratory analysis of the surface artifacts and artifacts collected from excavations, and surface scraping of the site to ensure that no thermal features exist.

Lastly, Mr. Winters relocated LA 103857 and LA 103858 within the boundaries of the subdivision and recommends that a non-disturbance easement be placed around these sites. HPD concurs with this recommendation.

0BA-5



BILL RICHARDSON
Governor

State of New Mexico
ENVIRONMENT DEPARTMENT

Environmental Health Division
District II-Santa Fe Field Office
#4 Calle Medico

Santa Fe, New Mexico 87505

Telephone (505) 827-1840
Fax (505) 827-1839
www.nmenv.state.nm.us



RON CURRY
Secretary

JON GOLDSTEIN
Deputy Secretary

CARLOS ROMERO
Director

December 30, 2008

Mr. Joe Catanach
Zoning Case Manager
County of Santa Fe
102 Grant Avenue, P.O. Box 276
Santa Fe, New Mexico 87504-0276

Re: CDRC Case # 08-5430 Spirit Wind Ranch – Master Plan

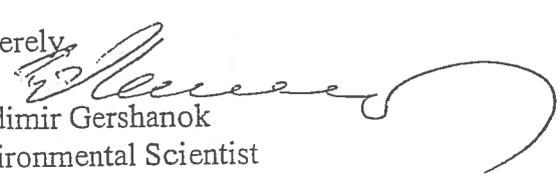
Dear Mr. Catanach:

Per your request I have reviewed the package submitted for CDRC Case # 08-5430 Spirit Wind Ranch- Master Plan. My review covered regulatory and technical requirements within the purview of the New Mexico Environment Department. According to the Master Plan, individual liquid waste systems are proposed for each lot. Each lot owner must apply for a Liquid Waste Permit. Soil analysis has been prepared for the subdivision and appears that conventional LW System or Advanced Treatment System, based on soil evaluation on each individual lot, will be suitable and will meet NMED regulatory requirements.

Please contact NMED Drinking Water Bureau (Phone # 827-8641) regarding requirements for the proposed Eldorado Public Water System water line extensions and modifications.

If conditions as proposed within the Master Plan are not implemented as proposed, further review and evaluation would be needed. Should you have any questions regarding my comments, please contact me at (505)- 827-1840.

Sincerely,


Vladimir Gershanok
Environmental Scientist

cc: Robert Italiano
Reading file

OBA-5

To be Addressed prior to installation of infrastructure

**Spirit Wind West Subdivision
Santa Fe County, New Mexico**

Disclosure Statement

REVISED

March 25, 2013

Revised

April 1, 2013

EXHIBIT

4

tabbles®

For all Subdivisions containing Five (5) or more Parcels

PLEASE READ THIS DISCLOSURE STATEMENT BEFORE YOU SIGN ANY DOCUMENTS OR AGREE TO ANYTHING

This disclosure statement is intended to provide you with enough information to permit you to make an informed decision on the purchase or lease of property described in this statement. You should read carefully all of the information contained in this statement before you decide to buy or lease or otherwise acquire the described property.

Various public agencies may have issued opinions, on both the subdivision proposal and the information contained in this disclosure statement. They may be favorable or unfavorable. You should read them closely.

The Board of County Commissioners has examined this disclosure statement to determine whether the sub-divider can satisfy what the sub-divider has said in this disclosure statement. However, the Board of County Commissioners does not vouch for the accuracy of what is said in this disclosure statement. In addition, this disclosure is not a recommendation or endorsement of the subdivision by the City, the County, or the State. It is informative only.

The Board of County Commissioners recommends that you see the property before buying or leasing it or otherwise acquiring it. **If you have not inspected the parcel before purchasing, leasing or otherwise acquiring it, you have six (6) months from the time of purchase, lease, or other acquisition to inspect the property. After inspecting the parcel within the six (6) month period, you have three (3) days from the date of inspection to rescind the transaction and receive all of your money back from the sub-divider when merchantable title is reverted in the sub-diver. To rescind the transaction, you must give the sub-divider notice of intent to rescind within three (3) days of your inspection of the property.**

County regulations require that any deed, real estate contract, lease, or other instrument conveying an interest in a parcel in the subdivision be recorded with the Santa Fe County Clerk.

Building permits, wastewater permits or other use permits must be issued by State or County officials before improvements are constructed. You should investigate the availability of such permits before you purchase, lease, or otherwise acquire an interest in the land. You should also determine whether such permits are required for construction of addition improvements before you occupy the property. This Disclosure Statement is prepared for Phase 1 of Spirit Wind West Subdivision only. Other phases are Master Plan and not final.

1. **Name of Subdivision**

Spirit Wind West Subdivision

2. **Name & Address of developer**

Cow Springs Land and Cattle

Joseph F. & Alma M. Miller

286 Riverbank Road

Lamy, New Mexico 87540

3. **Name & Address of person in charge of sales or leasing in New Mexico**

Not available

4. **Size of Subdivision both present and anticipated**

Spirit Wind West Subdivision is a (39) thirty nine lot residential development that contains 133.7280 acres located within a portion of lot 18A-2A-1A Eldorado at Santa Fe. Development will be completed in (4) four phases.

5. **Size of the Largest Parcel or Unit offered for sale or lease within the Subdivision**

3.1981 Acres, Lot 3 in Phase 1

6. **Size of smallest parcel offered for sale or lease within the Subdivision**

2.600 Acres, Lot 10 in Phase 1

7. **Proposed range of selling or leasing prices**

Not Available

NOTE: These lot and unit prices are subject to change based on off-site improvements required by the County or other market conditions by formal amendment to this Disclosure Statement.

8. **Financing Terms**

Not Available

9. **Name & Address of holder of legal title**

Cow Springs Land and Cattle
Joseph F. & Alma M. Miller
286 Riverbank Road
Lamy, New Mexico 87540

10. **Name & Address of person having equitable title**

Cow Springs Land and Cattle
Joseph & Alma Miller
286 Riverbank Road
Lamy, New Mexico 87540

11. **Condition of Title**

Free and clear title, fee simple.

12. **Statement of all restrictions or reservations of record subject the subdivided land to any conditions affecting its use or occupancy**

Declaration of Covenants and Water Restrictions for Phase 1, Spirit Wind West Subd.
Declaration of Restrictive Covenants the full development of Spirit Wind West Subd.

13. **Escrow Agent**

Not Available

14. **Utilities Estimated Costs**

Public Utilities main lines including electric, water, cable TV and telephone will be installed by the developer as a part of final development approvals. These utilities will be located within dedicated public right of ways and public utility easements as noted on the subdivision plat

Individual lot services from the public utilities will be the responsibility of the lot/home Owner.

15. **Installation of Utilities**

Electric – Public Service Company of New Mexico
(No Gas Services Are available) Liquid Propane or other alternative source by owner
Telephone – Qwest
Cable TV - Comcast
Water Mains, fire hydrants installed by the developer, individual services by lot owner.
Water Service provided by Eldorado Area Water and Sanitation District

16. **Utility Location**

All utilities are within public right of ways and 10' utility easements adjacent to right of Ways.

17. **Water Availability**

Water distribution for fire protection and domestic water consumption is provided by Eldorado Area Water and Sanitation District, which is designated as a Quasi Municipal Government, with an elected Board of Directors.

Water availability for the development has been completed and accepted in an Agreement by the developer, Cow Springs Land and Cattle, Joseph F. and Alma M. Miller and Eldorado Area Water and Sanitation District,

18. **For Subdivisions with Community Water Systems**

Entity providing water, Eldorado Area Water and Sanitation District whose address is #1 Caliente Road, Suite F, Santa Fe, New Mexico 87508

19. **Source of Water and Means of Delivery**

Individual private wells are not permitted within Spirit Wind West Subdivision. Water use is restricted to 0.25 AC./Ft./Yr. Subject to Water Restrictive Covenants.

20. **Life Expectancy of the Water Supply**

Water supply provided through Eldorado Area Water and Sanitation District, and has demonstrated sufficient water availability as required by the Santa Fe County Land Development Code

21. **Surface Water**

No surface irrigation rights are available.

22. **Water Quality**

Obtained from Eldorado Area Water and Sanitation District.

23. **New Mexico Environmental Departments Opinion on Water Quality**

Not Available.

24. **Liquid Waste Disposal**

Private Septic Systems permitted through New Mexico Environmental Department is each lot owner's responsibility. The types of permitted waste disposal systems is dependant on the types of soils, depth to bed rock and depth to water tables, proximity to natural water courses and steepness of slopes. It is the responsibility of the Homeowner to comply with Santa Fe County Development Regulations and New Mexico Environment Department regulations at the time of building permit submittal.

NOTE: Other liquid waste disposal systems may be used in the subdivision such as advanced on site treatment. Effluent gray water reuse or other systems approved by the New Mexico Environmental Department. Costs associated are the responsibility of the Homeowner not the developer.

25. New Mexico Environmental Department Opinion on Liquid Waste Disposal

See attached letter from State Of New Mexico Environment Department, dated December 30th, 2008 regarding Spirit Wind west Subdivision.

26. Solid Waste Disposal

Each lot owner is responsible for removal of solid waste by contracting with a Commercial firm that deals with solid waste disposal or by direct disposal at the Santa Fe County Solid Waste Transfer Station located in Eldorado.

27. New Mexico Environmental Department Opinion on Solid Waste Disposal

Not available

28. Terrain Management

Gentle slopes, with no adverse impacts, subject property does not fall in a designated 100 Year Flood Plain.

29. Soil & Water Conservation District Opinion of Terrain Management

Not available

30. Subdivision Access

US Highway 285 and Cerro Alto Road intersection to the northern access point and Santa Fe County Road 33 and the future extension of Jose de la Paz and Paseo a Lamy, at the southern entrance of the development.

31. State Highway & Transportation Department's Opinion on Access

No adverse comments, the northern entrance at Cerro Alto Road is developed to NMDOT Standards. The southern entrance falls within the jurisdiction of Santa Fe County Development Regulations and Santa Fe County Public works Department.

32. Maintenance of Public Right of Way within Subdivision.

Spirit Wind West Homeowners Association will be the responsible party for interior road maintenance.

33. Native Growth Preservation

The preservation of native growth in the Subdivision, including but not limited to cacti, live pinon, juniper trees and chamisa is encouraged.

34. New Mexico State Engineer's Opinion on Water Availability

See Attached Memo

35. Water Conservation

Declaration of Covenants and Water Restrictions will be filed in the records of the Santa Fe County Clerk's Office. They require water conservation measures and will effectively limit water consumption to 0.25 acre feet per year.

Catchment of roof waters, stored in cisterns or rain barrels are required by Santa Fe County based on the size of the residence.

36. Landscaping

There shall be no irrigated lawns in excess of (400) four hundred square feet. Lawns of drought resistant grasses are encouraged. It is the intent of the Declarant to preserve an open and unobstructed terrain, free of fences and walls. Accordingly, no fence or wall shall be constructed or allowed to remain on perimeter boundaries. Garden walls and fences are allowed within (40') forty feet of any building structure as approved by the Architectural Committee.

37. Recreation Facilities, Open Space

Dedicated Open Space and Pedestrian Trail System are common areas which are dedicated to the residence of Spirit Wind West Subdivision. They are intended to be preserved in their natural current condition. There will be no motorized vehicles allowed on these areas. The homeowners association will be responsible for the design and development and maintenance of open space areas.

38. Construction Guarantees

Construction Guarantees will be in place for one year by the developer for onsite and offsite improvements made by the developer. No guarantees are made for individual lot improvements made by others.

39. Fire Protection

Fire hydrants maintained by Eldorado Area Water and Sanitation District and Santa Fe County Fire Departments, Eldorado District located in the vicinity of Eldorado.

40. Police Protection

Santa Fe County Sherriff's Department and New Mexico State Police, provide police protection to the vicinity of Eldorado.

41. Public Schools

Santa Fe Public Schools, Eldorado Elementary, Capshaw Middle School and Santa Fe High School is within the Eldorado District. Numerous private and Charter Schools are located within the City of Santa Fe.

42. **Hospitals**

Cristus St. Vincent Hospital is located within the City of Santa Fe, approximately (12) twelve miles from Spirit Wind West Subdivision.

43. **Shopping Facilities**

City of Santa Fe located approximately (12) twelve miles from Spirit Wind West Subdivision, where major shopping facilities are located. Within the Eldorado area are commercial shopping facilities located within (3) three miles of the subdivision.

44. **Public Transportation**

New Mexico Department of Transportation Park and Ride Program is located within the Agora Shopping center in the vicinity of Eldorado with transportation services for job commuters into Santa Fe.

45. **Completion Dates**

Not available.

Sub-dividers:

By: _____
Joseph Miller, Trustee
Cow Springs Land & Cattle, LLC

Acknowledgement

State of New Mexico)
)SS
County of Santa Fe)

The foregoing was acknowledged before me by Joseph Miller, trustee of the Cow Springs Land & Cattle, LLC on this _____ day of _____, 20____.

Notary Public

My Commission Expires: _____

DECLARATION OF COVENANTS AND WATER RESTRICTIONS
FOR Phase 1, SPIRIT WIND WEST SUBDIVISION

(Section 5, T14 N, R10E and Section 32, T15N, R10E)

THIS DECLARATION is made in Santa Fe, New Mexico, this ____ day of _____ 20__, by Joseph F. & Alma M. Miller, hereinafter for convenience referred to as the "Owner(s)".

WITNESSED THAT:

WHEREAS, Joseph F. @ Alma M. Miller c/o Cow Springs Land and Cattle Co. LLC. are the owners of real property in Santa Fe County, New Mexico, which property includes sixteen (16) lots containing a combined total of 133.7280 acres, more or less, according to the plat entitled "SUBDIVISION OF PHASE 1, SPIRIT WIND WEST SUBDIVISION" referred to hereinafter at Article I; and

WHEREAS, the Owners are required to provide for certain water conserving covenants and measures as required per the Santa Fe County Land Development Code; and

WHEREAS, the Owners desire and intend that the owners, tenants, mortgagees, occupants and other persons hereinafter acquiring any interest in said property shall at all times enjoy the benefits of, and shall hold their interest subject to, the rights and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan for the proper and beneficial use of the property.

NOW THEREFORE, the Owners declare, covenant, and agree as follows:

ARTICLE I

Property Subject to this Declaration

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is legally described as Phase 1, Spirit Wind West Subdivision and containing a combined total of 133.7280 acres, more or less, in Section 5, Township 14 North, Range 10 East, and Section 32, T15N, R10E N.M.P.M., Santa Fe County, New Mexico, according to the Subdivision of Survey for Phase 1 Spirit Wind West Subdivision by, Lenore Armijo, N.M.L.S. #15511, dated, _____, recorded _____, 20__, under reception No. _____, Plat Book _____, Page _____, in the records of Santa Fe County Clerk, New Mexico (the "Plat").

ARTICLE II

Water Restrictive Covenants

The following water restrictive covenants shall apply to the use and occupancy of all lots on the plat noted above. (Any Existing dwelling units shown on the plat must meet provisions (B) through (J) at the time of fixture or appliance replacement or installation of additional landscaping; provisions A, K and L are applicable immediately.)

- (A) Domestic water use is restricted to **0.25** acre-feet per year (**81,463** gallons per year) per parcel as required by the Santa Fe County Land Development Code.

DECLARATION OF RESTRICTIVE COVENANTS

FOR:

SPIRIT WIND SUBDIVISION

KNOW ALL PERSONS BY THESE PRESENTS:

ARTICLE 1: DECLARATION

The undersigned, **SPIRIT WIND SUBDIVISION, THE JOSEPH F. MILLER AND ALMA M. MILLER REVOCABLE TRUST, JOSEPH F. MILLER AND ALMA M. MILLER, TRUSTEES**, the owners of real property now duly platted as Spirit Wind Subdivision as shown by a plat thereof filed in the office of the County Clerk of Santa Fe County, New Mexico on the _____ day of _____, 2013, in Plat Book _____, Page(s) _____ under Reception No. _____, HEREBY MAKE THE FOLLOWING DECLARATION as limitations, restrictions and use to which the Lots or tracts constituting said subdivision may be put. HEREBY SPECIFYING that said declaration shall constitute covenants to run with all of the land, as provided by law, and shall be binding on all parties and all persons claiming under them and for the benefit of and with limitations upon all future homeowners in said subdivision, thus keeping said subdivision desirable, uniform and suitable in architectural design and use as herein specified.

NOW THEREFORE that the subject property being identified as "Spirit Wind Subdivision" within Lot 8A, Eldorado at Santa Fe and zoned residential use is hereby subject to the restrictions herein set forth below.

ARTICLE 2: DEFINITIONS

- 2.1. "Lot" shall mean each and every Lot sold or leased to purchase or held for sale in the subject property.
- 2.2. "The Subdivision" means the Spirit Wind Subdivision.
- 2.3. "Architectural Committee" (the Committee): A committee comprising of three (3) members charged with the authority and duty to review and approve or disapprove proposed plans for development within the Subdivision.
- 2.4. "Manufactured Housing." "Based on New Mexico Statutes and Regulations Article 3-21A "Manufactured Housing and Zoning." Multi section manufactured housing means a manufactured home or modular home that is a single family dwelling with a heated area of at least thirty-six by twenty-four feet and at least fourteen hundred square feet and constructed in a factory to the standards of the United States Department of Housing and Urban Development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or the Uniform Building Code, as amended to the date of the unit's construction, and installed consistent with the Manufactured Housing Act [Chapter 60, Article 14 NMSA 1978] and with the regulations made pursuant thereto relating to permanent foundations.

2.5. "Mobile Home" means a moveable or portable housing structure that is not constructed to the standards of the United States department of housing and urban development, the National Manufactured Housing Construction and Safety Standards Act of 1974 and the Housing and Urban Development Zone Code 2 or Uniform Building Code, as amended to the date of the unit's construction or built to the standards of any municipal building code.

2.6. "Board" shall mean the Board of Directors and the governing body for the association.

2.7. "Declarant" shall mean THE JOSEPH F.MILLER AND ALMA M. MILLER REVOCABLE TRUST, JOSEPH F.MILLER AND ALMA M. MILLER, TRUSTEES.

2.8. "Owner and Owners" shall mean and refer to the record owner(s) of a Subdivision Lot or Lots, whether one or more persons or entities, and its or their fee title or an undivided interest therein.

2.09. "Homeowners Association" (the "Association" or "Homeowner Association") means the non-profit association created to represent the common interests of the Owners.

2.10. "Household pets" shall mean no more than three (3) dogs, two (2) cats, small rodents that are caged, birds and reptiles that are caged. Farm animals, poultry and livestock are prohibited except on Lots greater than ten (10) acres.

ARTICLE 3: DURATION

3.1. These Restrictive Covenants shall run with and bind the land, and shall be binding on all Owners and persons claiming under them.

3.2. These covenants may be changed or terminated with the approval of 68% of the Owners of all Lots master planned for the Subdivision. There is only one voter per Lot. Master planned Lots will be considered Lots for voting purposes. ("Voting Power")

ARTICLE 4: SEVERABILITY

4.1. Invalidation of any one or more of these covenants by judgment or court order shall in no way affect any or the remaining provisions, which shall remain in full force and effect.

4.2. In the event that any party violates or attempts to violate any of the covenants contained herein it shall be lawful for the Homeowners Association or any Owner to prosecute any proceedings by law or equity against the person or persons violating or attempting to violate any such covenant in order to prevent them from further violation and to recover damages for such action.

ARTICLE 5: PERMITTED USES

5.1. The following are permitted in the Subdivision: Single-family dwellings together with such structures and out buildings as are commonly and customarily constructed in a residential setting. The foregoing notwithstanding there may only be one single out building used as a studio, storage or workshop not to exceed two hundred (200) square feet in size with exterior stucco finishes to match the home finishes. Garages of reasonable size are allowed and at least a single car garage is required. Any dwelling may be used for home occupied business provided all the requirements of the Santa Fe County Development Regulations are met.

5.2. On site custom built homes and offsite stick built modular homes, placed on permanent foundations with exterior earth tone color stucco finishes are allowed if approved by the Architectural Board. Detached garages or studio, workshop or storage facilities shall be placed within twenty (20) feet of the main residence. Stick Built Modular homes will be constructed off site and meet five star energy ratings and all standards set forth by the NM Construction Industries Division, and will be required to meet Architectural Committee approvals.

5.3. Home construction shall be completed within one (1) year. A single construction work trailer will be allowed during construction phase. No onsite living units are allowed during construction.

5.4. Compliance with National Standards for Star Energy Efficient, Green Build Development Planning is encouraged.

5.5. "Minimum square footage"¹ Two story residences are not permitted. The main structure shall be no less than one-thousand four hundred (1,400) square feet. The square footage requirements relate to heated residential areas. Height of structures will be governed the Santa Fe County Development Regulations.

5.6. "Set backs"- No structures shall be placed nearer than twenty-five (25) feet from side Lot lines, one hundred feet (100) from rear Lot lines (lot lines furthest from the access road) and not closer than one hundred fifty (100) feet from the centerline of a road. No other structures, walls or fencing shall be built closer than twenty-five (25) feet from any sideline. Barbed wire or metal field fencing is prohibited.

ARTICLE 6: PROHIBITIONS

6.1. Single wide, double wide and triple wide Mobile Homes of any make or model are prohibited as permanent housing. RV's, camp trailers, boats or other trailer homes are prohibited from being stored on each Lot.

6.2. "Types and use"- No campers, tents, shacks, garages, barns or trailers shall at any time be used as a permanent residence.

6.3. "Oil and Mineral Operations"- No oil drilling, oil development, quarry or mining operations of any kind shall be permitted upon any Lot.

6.4. "Hunting"- No hunting shall be permitted and no firearms shall be discharged, except in self-defense, in Spirit Wind Subdivision.

6.5. "Signage"- No sign, except signs no larger than three (3) square feet in size, indicating the name, address or residence or as identification for home business purposes shall be permitted without approval of the Architectural Committee. However any owner may without such approval erect one (1) sign not more than six (6) square feet advertising the Lot or house for sale or rent. Signs required by legal proceedings are permitted. Contractor identification signs not more than three (3) square feet are permitted.

6.5.1. Appropriate safety, directional, and identification and safety signs installed adjacent to the Common Easements and public rights-of-way by Declarants, the County of Santa Fe, the Association, or as required by law are permitted.

6.5.2. The Declarant and/or his real estate broker is exempt from these rules.

6.6. "Storage"- No storage of any material, except building material during construction, shall be permitted, unless stored in a permitted structure out of sight. Parking spaces in garages shall remain accessible and available for parking.

6.7. "Lighting"- No exterior lighting more than eight (8) feet above ground designed to illuminate an area from dusk to dawn may be placed on a Lot unless it is adequately shielded, and not to exceed 75 watts to prevent being a nuisance to surrounding Owners. No flood lights, high resolution lighting will be allowed. Ground lighting for landscaping not to exceed 25 watts will be allowed. Other types of lighting may be approved by the Architectural Committee, if it is within the spirit of these Covenants.

6.8. "Tanks"- No above ground storage tanks shall be placed in any manner or use. Below ground storage tanks for rainwater harvesting, septic tanks and leach fields will be allowed, No other commercial, industrial or environmental storage tanks are permitted.

6.9. "Nuisance"- No noxious or offensive activity can be carried on in any Lot, nor shall any activities be done thereon which may become an annoyance or nuisance to the owners or renters in the approved subdivision. This provision shall be liberally construed to include activities, which are offensive to reasonable persons such as disposal or retention of junk vehicles and carrying on loud activities. Activities which produce interferences with ordinary TV reception such as improperly tuned HAM or CB reception transmission stations, etc. are prohibited. Any activities that interferes with the peace and tranquility of the residence of Spirit Wind Subdivision is prohibited.

6.10. "Other uses"- No uses inconsistent with the residential character of the Subdivision shall occur, as determined by the Homeowners Association.

6.11. "Subdivision of Lots" - No Lot shall be subdivided as to create an additional Lot.

6.12. "Access to Lots" - All Lots will be accessed from roads as shown on the recorded Plat.

6.13. "Waivers"- Any prohibition may be waived by the Committee when the proposed waiver is not inconsistent with the purpose and intent of these covenants

ARTICLE 7: CONSTRUCTION

7.1. "Approval"- Architectural Committee must approve all plans prior to construction on site structures, or placing of structures built offsite, or exterior modification, or additions to any structure on any Lot in Spirit Wind Subdivision. The Architectural Committee shall render its decision relating to the proposed construction within ten (10) days following the date of submission of plans and specifications. If no decision is forthcoming within this time the plans and specifications shall be deemed to have been approved. Development applications and permits are required from Santa Fe County and New Mexico Construction Industries Division for on site and off site stick built homes, along with New Mexico Environment Improvement Division for liquid waste disposal systems.

7.2. **“Standard”** - The type of architecture design for on site constructed homes shall be based upon, but not strictly adhering to, Santa Fe style and Pueblo style.. Reasonable innovative and creative ways are permitted and encouraged for solar energy uses. Construction materials shall be of normal construction standards, with exterior earth tone colors and stucco finishes, no color tones will be allowed that are visually offensive. The only requirement of the decision to approve modifications in the standard is that the committee shall act in good faith for the benefit of all residents of Lots in the Subdivision.

7.3. All Utilities shall be underground.

7.4. All construction shall be completed within twelve (12) months from the date such work is started.

7.5. One temporary construction trailer is permitted, but must be removed immediately when the home is occupied. During construction the Owner or construction contractor of the site must ensure that the area will be clear of debris and use reasonable efforts to minimize noise, dust and fumes and blowing trash. A temporary trash container may be used for a period not to exceed five working days at a time

7.6. **“Construction”** - During construction, the Lot owner must ensure that they or the builder shall be required to refrain from damaging or removing trees and other vegetation except as may be reasonably necessary in clearing the building site or the construction of driveways and parking areas.

7.7. **“Solid Waste Disposal”**- All Lot owners are to dispose of their solid waste in an approved sanitary landfill or to contract for solid waste pick-up service by an approved waste management firm.

7.8. Any property owner, tenants and members of their family, and guest may have use of the common areas. No motorized vehicle of any type shall be operated on any open space or common area.

Failure to enforce any covenant herein shall in no event be deemed as waiver of the right to do so thereafter

ARTICLE 8: ARCHITECTURAL COMMITTEE

8.1. The developer and his appointees shall serve as the Architectural Committee until six (6) Lots have been sold. The developer will then appoint a three (3) member interim committee. A vacancy in the committee will be filled by appointment of new members agreed upon by the remaining committee members. All members of the committee must be Owner(s) or Lessee(s) of Lots.

When a Homeowners Association is formed, then all members of the Architectural Committee must be elected by the Homeowners Association. All members of Architectural Committee must be notified of any meeting of the Committee at least 5 days before the meetings. Each of the three members of the Committee shall have one equal vote. A quorum of the Committee shall exist when a majority of the members are present at properly called meeting. The initial members of said Committee are:

Position 1: Architect or Owner of Declarant' choice

Position 2: Cathy Miller
Position 3: Danny Martinez

Declarant may remove and replace members of the Committee at any time, at its sole discretion, for the first three (3) years, or until the sixth (6th) Lot has been conveyed to other than a builder developer or the Owners take over the responsibility of managing the Association (collectively "Three Year Period"), whichever is earlier. At any time Committee members may resign. Upon the expiration of the Three Year Period, the Association Board shall appoint the three (3) members of the Committee, who shall then serve for the following terms:

Position 1: Three (3) years
Position 2: Two (2) years
Position 3: One (1) year

If there is a vacancy on the Committee, it shall be filled by the Association Board. The person selected shall serve only the remainder of the term he or she is replacing. Until such time that the Board is elected, 68% of the Owners will act as the Board. The affirmative vote of a majority of the members of the Committee shall be required for approval of any matter, provided, however, that a majority of the members of the Committee may designate one member to act on behalf of the Committee. (our thought is that if a committee member wants to quit, he/she can, but if someone wants to remain on for 3 years, the historical knowledge will be valuable)

8.2. Submittal and Review Requirements. Before anyone shall commence the erection, installation of off site built structures, construction, reconstruction, remodeling, or alteration of, or addition to any improvement or structure of whatsoever nature which affects the outside appearance of the structure, including but not limited to, a fence, wall, entrance gate, sign, roadway, utilities, etc. and before anyone shall paint, texture, repaint or retexture the exterior surfaces of any improvement or structure, he/she shall submit for approval to the Architectural Committee two (2) complete sets of plans showing all sides, site location, driveway, outside colors, building style and similar information and specifications as required by Committee rules clearly showing the nature of the work proposed and the location thereof, as shall enable the Architectural Committee to evaluate whether the proposed construction, alteration, installation, etc., will comply with terms and provisions of this Declaration.

Regular maintenance of previously approved structures and improvements which do not materially alter the color or appearance of the structures or improvements shall not require Architectural Committee approval.

The Architectural Committee shall approve or disapprove, in writing, the plans and specifications submitted to it within ten (10) days after receipt. Approval of such plans and specifications shall be evidenced by the written endorsement of the Architectural Committee made on one copy of said plans and specifications with such copy delivered to the Owner or the Owner's agent or representative submitting the same. The other set of plans and specifications shall be retained by the Architectural Committee. If the Architectural Committee shall fail to approve or disapprove the plans and specifications within ten (10) days after receipt of complete plans and specifications, then approval shall be deemed given, provided that any work proposed to be done shall be done in a manner which does not violate any of the terms and provisions of this Declaration.

During construction the Architectural Committee shall have the right to periodically review progress of the work to ensure its compliance with the approved plans and specifications. All

material changes involving the exterior elements of the planned improvements shall be submitted to the Architectural Committee at least ten (10) days prior to construction of any such change. Upon completion of a dwelling, structure or improvements, the plans for which have been approved, the Owner shall notify the Architectural Committee in writing that the work is complete.

The Architectural Committee will, within ten (10) days of receipt of the notice of completion, inspect the completed work and either: (i) send the Owner a written notice of approval of the work, if the work is in conformity and compliance with the approved plans and specifications, or (ii) send the Owner a notice of disapproval of the work, if the work is not in conformity and compliance with the approved plans and specifications, stating the particular grounds for such disapproval, and the Owner shall be obligated to take such action as may be necessary to effect such compliance and conformity without delay.

At the completion of any necessary corrections; the Architectural Committee will then reinspect the work within ten (10) days after written notice of the completion of such correction work, to again approve or disapprove of the correction work. If the Committee does not act in a timely manner they waive their right to review, approve, modify and inspect the phase they have been asked to review.

8.3. Review Fee. In connection with any submission for plan approval, the Committee may require the Owner to pay a review fee sufficient to pay the Committee's costs and expenses incurred in having the materials submitted and examined by a person or firm designated by the Committee. Such fee shall not exceed One Hundred Fifty Dollars (\$150.00).

8.4. Approval Standards. The Committee shall have the right to disapprove any plans and specifications submitted to it for anyone or more of the following reasons:

8.4.1. If the plans and exterior specifications are not in sufficient detail, or are incomplete.

8.4.2. If the plans and specifications are not in compliance with all requirements and provisions of this Declaration.

8.5. Architectural Guidelines. A copy of the Committee guidelines, as they exist from time to time, shall be kept with the Association's records, and shall be available to the Owners, upon request by the Owners.

8.6. Construction process and site maintenance. During construction, Owners and/or their contractors shall maintain a dumpster, of adequate size, on the Lot for the dumping of construction debris, and shall arrange for appropriate pick-up of debris in such dumpster.

Violation of this Section will result in clean up at the Owner's expense, initially out of the Construction Deposit, and thereafter by special assessment against the offending Owner. It will be the Owner's responsibility to manage his contractor, sub-contractors and employees in a manner consistent with a residential community (i.e. a clean building site, no loud music, and keeping construction traffic off other Lots and in compliance with the posted speed limits.)

8.7. Liability. Neither the Committee, the Board or the Declarants shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of:

8.7.1. The approval, conditional approval or disapproval of any plans, drawings, and specifications whether or not defective;

8.7.2. The construction or performance of any work, whether or not pursuant to approved Plans, drawings and specifications.

8.7.3. The development or manner of development of any property within the Subdivision. By the acquisition of title to any Lot in the Subdivision, and in consideration thereof, each Owner thereby waives any right, and agrees not to file suit against the Declarant, the Architectural Committee, the Board, or any member thereof, to recover damages in connection with any of the foregoing events.

8.8. Variances. When naturally or artificially occurring circumstances or the necessities of reasonable use and enjoyment of a Lot require, the owner of the Lot may apply to the Architectural Committee for variance approval, and the Architectural Committee, upon showing of good cause and necessity therefore without significant possibility of detriment to other Lots and Owners, and by the affirmative vote of a majority of its members, may allow reasonable variances with respect to any provision of this Declaration, on such terms and conditions as the Committee shall specify by written report.

8.9. Appeal of Committee Action. An Owner may appeal a Committee action to the Board by requesting in writing, delivered to the President of the Association, a hearing before the Board or 68% of the Owners if the Association has not been formed. Upon such a request, the Board shall schedule a special meeting, pursuant to the Bylaws of the Association, no later than twenty (20) days from the date of the Board's receipt of such a request. At such special meeting, the Owner's evidence will be heard, and the Board, or 68% of the Owners, as the case may be, will decide whether or not to uphold the Committee's decision.

ARTICLE 9: COMMON SCHEME RESTRICTIONS AND REQUIREMENTS

9.1. Native Growth Preservation. The native growth of the Subdivision, including but not limited to cacti, live pinon and juniper trees, and chamisa is encouraged.

9.2. Water Conservation Covenants and restrictions will be filed in the records of the Santa Fe County Clerks Office. They require water conservation measures and will effectively limit water consumption to .25 acre feet or less.

9.3. Catchment of roof waters is required in the form of rain barrels or cisterns depending on the size of the residence.

9.4. LANDSCAPING.

9.4.1. There shall be no irrigated lawns in excess of four hundred (400) square feet. Lawns of drought resistant grasses are encouraged.

9.5. Fences and Walls. It is the intent of the Declarant to preserve an open and unobstructed terrain, free of fences and walls. Accordingly, no fence or wall shall be constructed or allowed to remain on any Lot except as have been approved by the Committee, subject to the following standards.

9.5.1 Owners shall not fence or wall any portion of the perimeter or boundary of a Lot except yard like compound enclosures that are set back from the property lines a minimum of twenty five (25) feet and approved by the Architectural Committee. Fences and walls, not exceeding five (5) feet in height shall be allowed to enclose a yard, garden or the like.

9.6. GARAGES AND PARKING OF VEHICLES.

9.6.1. A garage of sufficient size to accommodate at least one automobile shall be constructed and maintained with each House.

9.6.2. The garage primarily shall be used for parking of vehicles and not storage. Storage in garages cannot take precedence over the garage's primary function of parking automobiles. No garage shall be used or converted for any use other than parking of vehicles, without the prior or simultaneous construction of a replacement garage.

9.6.3. All garages shall be equipped with an automatic opener. All garage doors shall be kept closed except when in actual use.

9.6.4. No commercial vehicles, motorcycles, campers, recreation vehicles, motor homes, boats, trailers, horse trailers or similar vehicles shall be kept or maintained in the Subdivision. Lot owners with these vehicles are encouraged to find offsite storage.

9.6.5. No vehicles, parts of vehicles of any type, or large unsightly equipment or machinery shall be permanently or semi-permanently parked in any portion of the Subdivision visible from other Lots, Common Easements and public roads, for purposes of repairs, reconstruction or storage.

9.6.6. No vehicle or any type, except maintenance vehicles and machinery, or as otherwise authorized by the Board, shall be operated on any open space depicted on the Plat. No automobiles or other motor vehicles shall be parked in any open space or in any public street within the Subdivision. No vehicles shall be kept or stored on any Common Easement.

9.7. ANTENNAS, WIND GENERATORS, AND TOWERS.

9.7.1. No exterior antenna of any sort, except television antennas and satellite dishes (not to exceed 34" in diameter), shall be installed or maintained on any Lot, those devices which are erected, installed, will be if at all possible screened from view from other Lots, Common Easements and public roads or which are otherwise specifically authorized by this Declaration or Subdivision Rules. No radio or television transmission towers shall be erected, placed or permitted in the Subdivision.

9.7.2. No wind-driven machinery shall be permitted within the subdivision.

9.8. HOME OCCUPATIONS.

9.8.1. No business or commercial activity of any nature shall be conducted upon or from any Lot, except that so-called home occupations shall be permitted if such activity does not disturb Owners of other Lots or increase traffic upon public or private roadways to undesirable levels.

9.9. Drainage. Surface drainage courses within Lots must be kept free and clear of debris or obstructions which prevent free flow of storm waters. Owners shall, prior to construction of any

structure, submit to the Committee, for approval, the design and engineering of appropriate drainage control structures that will retain excess water runoff from the impervious surfaces within said Lot. Owners shall also obtain the approval of the County of Santa Fe for design and engineering of said drainage control structures.

Prior approval of both the County of Santa Fe and the Committee are required, as conditions for construction. Drainage control devices may include yard ponding, grading, landscaping, French drains and other appropriate structures or devices which shall be located inside the courtyard walls or otherwise screened so as not be visible from other Lots or the Common Easements. Notwithstanding the foregoing Committee and County approval, the responsibility for on-Lot drainage control is and shall be that of the Lot Owner and no one else.

9.10. LOT SPLITTING AND CONSOLIDATION.

9.10.1 No Lot within the Subdivision shall be split, except subject to the Board's written consent and Santa Fe County's approval.

9.11. WAIVER OF PROVISION.

9.11.1. Any of the prohibitions or requirements set forth in this Article may be waived by the Committee where the proposed waiver is not inconsistent with the purpose and intent of this Declaration, and said waiver is granted pursuant to variance procedures.

ARTICLE 10: COMMON EASEMENTS: USES; RESTRICTIONS

10.1. COMMON EASEMENTS.

10.1.1. The Common Easements shall be maintained by the Association for the benefit of all Owners, and, in the case of the Spirit Wind Subdivisions Roads, the public, pursuant to this Declaration to enhance the value and desirability of the, Subdivision, subject, however, to the following limitations and restrictions:

10.1.2. The area designated on the Plat as open space and/or drainage easements shall not be open to public use, but shall be available only to all Owners, and their tenants, guests and invitees. No motorized vehicles are allowed.

10.1.3. Use of the Common Easements shall be subject to the Subdivision Rules as they may be adopted from time to time.

10.1.4. The Common Easements shall be subject to the following:

10.1.5. The right of the Association to suspend the right of an Owner (and his licensees, invitees and tenants) to use the Common Easements, for any period during which any assessment levied by the Association against the Owner's Lot remains unpaid, or for a reasonable period for any infraction of the Bylaws, Rules, or this Declaration, as amended from time to time;

10.1.6. Each Owner shall be liable to the Association for all damage to the Common Easements, or improvements or facilities situated thereon, caused by such Owner, his invitees, licensees or tenants.

10.1.7. There is hereby reserved to Declarants, non-exclusive easements over the Common Easements and the facilities located thereon for all construction and sale activities relating to their development of the Subdivision. It is anticipated that said construction and sale activities shall relate to individual projects developed from time to time on portions of the Subdivision and to the promotion or enhancement of either all or a portion of the Subdivision by Declarants. Declarants reserve the right to use space in the Common Easements or within the building setbacks along the roads.

10.2. DECORATIVE FEATURE EASEMENTS. The Declarants and the Association shall have a blanket easement within the building set back lines on the corner of Lot 2 and 3 at the entry of Spirit Wind Roads into the Subdivision, for purposes of the location, construction, maintenance and repair of a decorative entrance feature to the Subdivision, common post office boxes or other receptacles for the delivery to the United States mail to Lots, and similar improvements.

10.3. DECLARANTS' RESERVATION OF EASEMENTS. Declarants reserve an easement and right-of-way in, through, over, under and across all portions of the Subdivision for the purpose of completing its development and improvement work on the Subdivision, and towards this end, Declarants reserve the right to grant easements and rights-of-ways in, through, under, over, on and across the Subdivision, for the installation, maintenance and inspection of lines and appurtenances for public or private water, drainage, cable television, gas or other utilities and for any other materials or services necessary for the completion of said development and improvement work.

Declarants reserve the right to connect with and make use of the utility lines, wires, pipes, conduits, cable television, sewers and drainage lines which may from time to time be in or along the streets and roads located within the Subdivision. In addition, Declarants reserve the right to continue to use the Subdivision and any sales offices, model homes, signs and parking spaces located on the Subdivision in its effort to develop and market portions of the Subdivision. This Section may not be amended without the prior written consent of Declarants. Any of the easements and rights reserved by Declarants in this section may be assigned to others and may be exercised by Declarants' agents, employees and representatives.

ARTICLE 11: THE ASSOCIATION

11.1. At such time that the Declarant has conveyed six (6) Lots, the Owners, at their option, may form an Association, elect the Board of Directors, adopt Bylaws, Articles of Incorporation, and levy annual Lot assessments. However, the Declarant will be exempt from any assessment or modifications to the Covenants. Until such time that the Board is elected association decisions will be made by an affirmative vote of 68% of the Owners.

11.2.2. The President and Secretary of the Association, or any two (2) members of the Board of Directors, may execute, acknowledge and record, in the real property records of Santa Fe County, New Mexico, a certificate of identity stating the names of all of the members of the then current Board and the then current Architectural Committee. The most recently recorded affidavit shall be conclusive evidence of the identity of the persons then composing the Board and Architectural Committee in favor of any person relying thereon in good faith.

11.2.3. The affairs of the Association shall be managed by the Board of Directors, which shall exercise all of the rights and powers and perform all of the duties and responsibilities, set out in this Declaration and the Articles and Bylaws for the Association.

11.2.4. The Board shall take such action as may reasonably be necessary to enforce or carry out the purposes of this Declaration and the Subdivision Rules.

ARTICLE 12: ASSESSMENTS

12.1. MUTUAL COVENANTS TO PAY ASSESSMENTS. Each Owner, by acceptance of a deed to a Lot or a contract of sale therefore, covenants and agrees with each other Owner and with the Association, to pay all assessments levied by the Association against such Owner's Lot, as provided under this Declaration or the Bylaws. The Declarants, at the Declarants sole option, will be exempt from any annual or special assessment fees. Until such time that the Bylaws are adopted assessments will be levied by the consent of 68% of the Owners.

12.2. LIEN FOR NON-PAYMENT OF ASSESSMENTS. All sums assessed and fines imposed by the Association, but unpaid, chargeable to any Lot or its Owner, shall constitute a continuing lien on such Lot. If any assessment shall remain unpaid for thirty (30) days after the due date thereof, the Board or managing agent shall assess a late fee of One Hundred Dollars (\$100.00), together with interest on the unpaid assessment at a rate equal to twenty percent (20%) per annum, commencing on the date such assessment was due, together with reasonable costs and any attorney's fees incurred in connection with the collection thereof. In any suit for collection or foreclosure of such lien, the prevailing party shall be entitled to payment of all costs and expenses of such proceeding, all reasonable costs of collection and all reasonable attorneys' fees.

The Owner shall also be required to pay to the Association any assessment due for the Lot during the period of foreclosure. The managing agent or Board shall have the power to bid on the Lot at foreclosure sale, and to acquire, hold, lease, mortgage and convey the same. Any encumbrance holding a lien on a Lot may pay, but shall not be required to pay any unpaid assessments due with respect to such Lot, and upon such payment such encumbrance shall have a lien on such Lot of the same rank as the lien of encumbrance for the amounts paid.

12.3. PERSONAL DEBT OF OWNER. The amount of any assessments assessed against each Lot shall be the personal and individual debt of the Owner thereof at the time the assessment is made. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien securing same. Notwithstanding anything to the contrary contained herein, the Association shall seek any sums due for the unpaid assessments from a person in possession of a Lot pursuant to a real estate installment sale contract for a period of forty-five (45) days following notice to such Person on unpaid assessments, before seeking such sums from the legal Owner of such Lot.

12.4. Joint Liability for Assessments Upon the Transfer of Lot, the grantee of a Lot shall be jointly and severally liable with the prior Owner for an unpaid assessments up to the time of the grant or conveyance; provided, however, that upon payment of a reasonable fee established by the Board, and upon written request, any such prospective grantee shall be entitled to a statement from the managing agent or Board setting forth the amount of the unpaid assessments, if any, with respect to the subject Lot; the amount of the current yearly assessment, the date that such assessment becomes due, and credits for advanced payments or for prepaid items, including but not limited to insurance premiums, which statement shall be conclusive upon the Association. If such statement is not tendered by the Association within ten (10) business days of its actual receipt of such request, then such requesting grantee shall not be liable for, nor shall the Lot conveyed be subject to a lien for any unpaid assessments against

the subject Lot unless such lien has been recorded with the Santa Fe County Clerk prior to the date the request is received by the Association.

12.5. NO WAIVER OF ASSESSMENT. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Easements on his Lot, by abandonment of his Lot or by any other means whatsoever.

12.6. Initial Assessment Upon Lot Purchase. Upon the closing of the initial purchase of each Lot from the Declarant, each Owner shall pay an initial assessment to the Association in the amount of One Hundred Dollars (\$100.00), which assessment shall be added to and held with the general funds of the Association.

ARTICLE 13: DUTIES AND RESPONSIBILITIES OF OWNERS

13.1. Maintenance of Landscaping. Each Owner shall maintain the landscaping of his Lot in a neat and attractive manner.

13.2. Rights of Action. The Board of the Association shall have a right of action against Owners, and the Owner's family, agents, guests, contractors, employees and any person renting or leasing the Owner's House or Lot, for failure to comply with the provisions of this Article 13 of the Declaration. In addition to any other enforcement rights, if an Owner fails to fulfill his maintenance responsibilities, after reasonable notice from the Association and an opportunity for the Owner to cure such failure, the Association may enter the Lot and perform such maintenance. The Board shall be entitled to recover all costs, expenses and reasonable attorney's fees incurred in the enforcement of this Article 8, and the same shall constitute a special assessment against such Lot.

ARTICLE 14: RESPONSIBILITIES OF ASSOCIATION

14.1. Maintenance of Private Roads. The Association shall maintain, in good condition and repair, roads and appurtenant drainage structures within the Subdivision. The Association shall also equitably participate in the maintenance of Cerro Alto Road from SR 285 to the end of Lot 5 of the Subdivision.

14.2. Maintenance of Other Common Easements. The Association shall own, maintain and keep in good repair all improvements constructed by Declarants of the Association within other Common Easements, including without limitation signage, mailboxes and trails

14.3. Maintenance of Drainage Structures; Easement. Declarants and the Association are each granted a perpetual easement to enter upon each Lot for purposes of correcting drainage problems or structures. Prior notice of entry shall be given to the occupant, except in an emergency.

ARTICLE 15; GENERAL PROVISIONS

15.1. The Association (acting by and through the Board), Declarants and an Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by a party to enforce any covenant or restriction herein contained shall in no event be deemed to be a waiver of the right to do so thereafter. Anything foregoing notwithstanding, the

prevailing party (ies) in any action brought to enforce the provisions of this Declaration shall be entitled to recover all costs, expenses and reasonable attorneys fees incurred in such action.

15.2. Notices. Any notices required or permitted under this declaration shall be delivered to the respective addressee or deposited in the United States mails, postage prepaid, certified or registered mail, return receipt requested, addressed to the owners at the respective addresses as shown in records maintained by the Association. Each Owner will be responsible for providing the Association with such Owner's current address. Any Owner may change his address by giving notice thereof to the Association. Address change will be done by certified mail. Should an Owner not notify the Association of a change in address, the Owner forfeits any right he may have concerning notice and vote.

15.3. Severability. Invalidation of any provision of this Declaration by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

15.4. TERMINATION OR AMENDMENT: The covenants and restrictions of this Declaration shall run with and bind the land. An affirmative vote of 68% of the Voting Power may change, amend, modify, terminate or revise any of said restrictive covenants. Every amendment must be recorded in the Office of the County Clerk, Santa Fe County, New Mexico.

15.6. BINDING EFFECT: This Declaration shall be binding upon and shall inure to the benefit of Declarants, the Owners, and their respective heirs, successors and assigns, and shall run with the land.

IN WITNESS WHEREOF, DECLARANTS HAVE EXECUTED THIS DECLARATION THIS _____ DAY OF _____, 2013.

**THE JOSEPH F. MILLER AND ALMA M. MILLER REVOCABLE TRUST,
JOSEPH F. MILLER AND ALMA M. MILLER, TRUSTEES,**

Joseph F. Miller

Alma M. Miller

November 10, 2012

County Land Use Administrator
P.O. Box 276
Santa Fe, NM 87504-0276

RE: Spirit Wind Ranch West (proposed development)

Dear Administrator,

It has come to our attention that Mr. Joseph Miller is planning to submit to the Santa Fe County Development Review Committee a revised plan for the development of a new phase of Spirit Wind, called Spirit Wind Ranch West. This is located on the east side of the 285 corridor, south of Eldorado and the Art Barns, toward the Galisteo Basin and the road into Lamy.

It is our understanding that Mr. Miller's new plan allows for the use of modular homes, and permits the open storage of boats and RV's on properties within the new development. We would like to state with utmost vigor our strong objection to these proposed covenants.

The current Spirit Wind subdivision (also Mr. Miller's) is a development of beautiful upscale homes under reasonable covenants restricting, among other things, property usages such as modular homes and large vehicles parked outside the homes. We are requesting that Mr. Miller be denied the opportunity to adversely impact our real estate values with these unequal proposed covenants, which would forever alter the integrity of our properties. Since they were not used (or permitted) in the covenants for the initial phase of his Spirit Wind development, it would seem irresponsible and inconsistent to permit a negative change for the next phase, directly adjacent to and in full view of our homes.

We also take issue with proposed lot size and configuration for the new development, also a change for the worse. Mr. Miller seems cavalier and insensitive towards those of us who purchased real estate in his initial development. His request for changes will impact the overall beauty and serenity guaranteed by the first phase Spirit Wind covenants by which we abide. It will also destroy the views for which we have all paid so dearly and which are of primary importance to the current homeowners.

We ask that you take note of our strenuous objection to his proposed covenants and plat. We hope you will examine these with sensitivity toward the current homeowners of Spirit Wind.

Very truly yours,

Steve and Clare Carmichael

Steve and Clare Carmichael
70 Cerro Alto Rd.
Santa Fe (Lamy), NM 87540
505-466-1820



Adrienne E. Ross & Ronald S. Ross
19 Cerro Blanco Road
Lamy, NM 87540-9525
505.466.1456

September 27, 2012

County Land Use Administrator
P.O. Box 276
Santa Fe, NM 87504-0276

RE: CRDC Case # S 08-5430

Dear Sir or Madam:

We are writing this letter for your consideration of questions we have concerning Mr. Joe Miller's request of Master Plan Zoning approval for a 39-lot residential subdivision (Spirit Wind West) on 133.73 acres \pm and Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of 16 lots.

The original Spirit Wind Ranch community has been fortunate to enjoy an amicable and cooperative relationship with Mr. Miller and hope that it will continue in spite of our concerns regarding Spirit Wind Ranch West.

Road and Traffic Safety

Mr. Miller plans on accessing the new development from US 285 by using Cerro Alto, the existing entrance into the original Spirit Wind Ranch. At some point along Cerro Alto will be the entrance to Cerro de los Pinos, the road through the subdivision whose other entrance will be from Old Lamy Trail (CR 33). We would appreciate Mr. Miller providing the document that grants easement for use of the part of Cerro Alto that is on his property.

The intersection of 285 and Cerro Alto is in close proximity, approximately 100 yards, to the Santa Fe Southern Railroad Crossing. There is a history of serious traffic accidents including fatalities along this stretch of 285 down to and past Old Lamy Trail. Have traffic safety engineers been consulted about how the increase in traffic might affect 285?

The intersection of 285 and Cerro Alto is very steep and there are existing mailboxes on a concrete pad along Cerro Alto. Have traffic safety engineers been consulted to determine the safest place to put Cerro de los Pinos and if the existing intersection of 285 and Cerro Alto can safely accommodate the projected increase in traffic?

Has it been determined if there is sufficient room for large emergency vehicles to safely enter or exit onto Cerro de los Pinos from Cerro Alto and Old Lamy Trail and for their turnaround within the development? Is Cerro de los Pinos sufficiently wide for the subdivision's size?

On a topographical map of the area, parts of Cerro de los Pinos appear to run through two arroyos. Have drainage issues been addressed?

OBA-7:

Open Space

Has Mr. Miller complied with the County's open space requirements and set aside the appropriate amount of land? Which lots are set aside for open space?

Affordable Housing

According to Santa Fe County Ordinance no. 2006-02, has Mr. Miller submitted an Affordable Housing Plan that has been incorporated into the Affordable Housing Agreement with a final development plan since he is required to enter into an Affordable Housing Agreement with the County before a final plat can be recorded?

Has Mr. Miller exercised an alternate means of compliance? If so, what means did he use to fulfill the compliance?

If not, has he submitted a plat that shows which lots are allotted for the total of 30% required housing as divided into 7.5% each for income ranges 1, 2, 3 and 4?

Archaeological Sites

Although the original plat shows only one recognized archaeological site, there are two other recognized archaeological sites within the subdivision.

What is being done to protect the site in the road from being destroyed by the creation of Cerro de los Pinos and to protect the other two sites from being destroyed?

Are the protective easements being honored? Has the New Mexico State Historic Preservation Division been apprised of and commented on Mr. Miller's plans?

Has Mr. Miller updated his original submitted plat and submitted a new plat that includes the following: if applicable, the number and apportionment of lots per the Affordable Housing Plan; the three archaeological sites and their protective easements; the exact location of the intersection of Cerro Alto and Cerro de los Pinos?

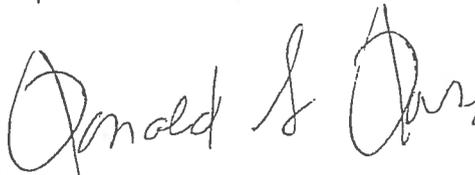
In addition to receiving answers to all the questions posed above, we desire to know exactly how many of the 39 lots are saleable and the size of each lot.

Thank you for your consideration and cooperation.

Sincerely,



Adrienne E. Ross



Ronald S. Ross

cc: Kathy Holian, Santa Fe County Commissioner District 4
Richard Beal, President, Spirit Wind Ranch HOA

OBA-7'

Vicki Lucero

Santa Fe County Development Review Committee

District 4

102 Grant Ave.

Santa Fe, New Mexico 87501- 2061

September 11, 2012

RE: Joseph Miller 39- Lot Residential Subdivision between Route #33 and #285 South in Lamy, New Mexico

Attention: Ms. Vicki Lucero

Please be advised that Melissa and Fred Brownell object strongly to this purposed subdivision purposed by Joseph Miller.

We have our home for sale which is adjacent to the Spirit Wind Subdivision. Our lot is 10 acres. Despite massive advertising and Realtor participation we have had no offers on our beautiful home. As of this date there are two homes and three lots for sale in Spirit Wind Ranch which have not sold. By lowering their prices they have already devalued our developed land. (we are agricultural with a vineyard)

The current Real Estate market cannot support another influx of homes, much less low income homes that will add to the destruction of the value of the current homes built on larger lots.

This purposed subdivision will put a burden on the existing traffic, result in an unwanted growth and devalue the existing homes plus place a huge demand on the already conserved water supply.

We were of the understanding there was a moratorium on building in Santa Fe County due to the seven year draught. Where is his water source? El Dorado Water Works? Our water source is dependent on our well. The new El Dorado Well is already over taxed and could and would directly affect our water supply.

Three years ago this board denied my daughter, who at that time owned 10 acres in the Spirit Wind Subdivision permission to divide her land into two 5 acre lots. Why would you three years later allow Joseph Miller to divide his land up into 39 small parcels?

Please deny Joseph Miller's proposal. It will ruin all chances we have of selling our home.

OBA-75

Sincerely,



Melissa and Fred Brownell

20 Cerro Alto Road

Lamy, New Mexico 87540

505 466-1988

C
OBA-76

Spirit Wind Ranch Homeowners Association
7 Avenida Vista Grande B7-268
Santa Fe, NM 87508

November 9, 2012

County Land Use Administrator
PO Box 276
Santa Fe, NM 87504-0276

RE: CRDC Case # S 08-5430 Spirit Wind Ranch West (Mr. Joe Miller)

Dear Sir or Madam:

Mr. Joe Miller has been a good neighbor and friend of his original Spirit Wind Ranch development but we find ourselves opposing his new concept for a Spirit Wind Ranch West development between us and Highway 285. There are many items that will directly negatively affect the current residents.

We have encouraged residents and neighbors to participate in the public hearings and to write letters about their views. Below are the specific concerns of the Spirit Wind Ranch Homeowners Association Board of Directors.

1. **Notification.** At least one person (Carolyn Robards) with property immediately adjacent to the proposed development did not receive any notification.

Because this development will directly affect an entire neighborhood (including Galisteo, Lamy and the Galisteo Basin Preserve) we think a broader notification should be required.

2. **Whole Development.** This specific proposal only identifies a few properties on the edges of a much larger 39 lot development. We think the entire development details should be approved before approval of any smaller part of it.

3. **Water.** The original Master Hydrologic Plan was recently revised to reflect a real dropping water table. The more the Eldorado Water District pumps, the lower the water table gets for everyone.

We request a study of how the addition of the 39 potential homes would affect Eldorado Water's acknowledged aging physical plant and equipment in light of what is already annual water rationing for the residents of Lamy Village, the Galisteo Preserve and Spirit Wind Ranch.

4. **Road and Traffic Safety.** The development apparently will be accessed via the existing Cerro Alto Road, greatly increasing traffic at that intersection with Highway 285. There have been accidents and indeed fatalities directly in front of our stretch of 285. It is evident cars and 18-wheelers accelerate when going North from CR33 to get up the hill, and thus are increasing the risk of accidents to vehicles coming from the development from a dead stop.

It about 100 yards from the Santa Fe Southern Railroad Crossing and of course Highway 285 routinely is used by Los Alamos to transport dangerous nuclear materials.

.O.B.A.-71

Why not have access to the proposed development via the existing 285 intersection with a turn off lane in the middle of the development and over a small piece of property owned by the State of New Mexico but leased by Joe Miller?

5. Affordable Housing. Which specific lots will be affordable housing? They need to be specifically identified so that existing residents who have adjacent property can voice their opinions.

We will be jointly using roads that must be supported by the new Homeowners Association. Will the low-income buyers have the ability to pay dues and large assessments for things like road maintenance, which can be very expensive?

6. Density. The 39 proposed lots are approximately 3 acres each, the smallest 2.5 acres. Density in the existing Spirit Wind Ranch area is much closer to 5+ acres, neighboring large horse farm at 52 acres, and several other neighbors at 10-15 acres. Most of the lots in the adjacent Maddog area are much larger. Down County Road 33 into Lamy are many larger properties.

When the first Spirit Wind Ranch development was done Mr. Miller also proposed small lots but was forced to increase the sizes after the 285 Corridor group objected. This is an area with large openness. It's why we all live here. How will 39 new small lots change the neighborhood?

7. Number Of Properties For Sale. There are five houses and two lots in the immediate Spirit Wind Ranch area currently for sale. That's about 1/3rd of the current SWR properties. Plus there is another adjacent 10-acre home and a 50-acre horse farm for sale. There is neither market demand, nor any absence of supply of homes in the price range and his development might add to the local over-supply.

8. Covenants. The proposed covenants are much less restrictive than the existing Spirit Wind Ranch development. Modular homes, RV and boat parking, above ground propane tanks, no horses or chickens, etc. would be allowed. This is a major change to the existing neighborhood and should not be permitted.

9. Other Issues. There are many other details about the development that as residents concern us.

- Destruction of archaeological sites
- Compliance with Cultural Crossroads intentions
- Lack of realistic open space (two identified sites are full of hills and valleys making them unsuitable for actual use)
- Cumulative impacts (broader understanding of its impact on the larger community)

Thank you for the opportunity to raise questions about the proposed development.

Cordially,

Richard Beal, President, Spirit Wind Ranch Homeowners Association

CC: Kathy Holian, Santa Fe County Commissioner District 4

Richard Moore, Vice President, Spirit Wind Ranch Homeowners Association

Linda Fillhardt, Secretary, Spirit Wind Ranch Homeowners Association

Richard Farabaugh, Treasurer, Spirit Wind Ranch Homeowners Association

OBA-78

September 7, 2012

Re: Case #S 08-5430

Dear Santa Fe County Land Use Administrators,

I received your notice concerning the proposed 39-lot residential subdivision (Spirit Wind West) development, and have reviewed the file at the county Land Use Office. I live in the first development, Spirit wind Ranch, and I am concerned about the issue of water out here.

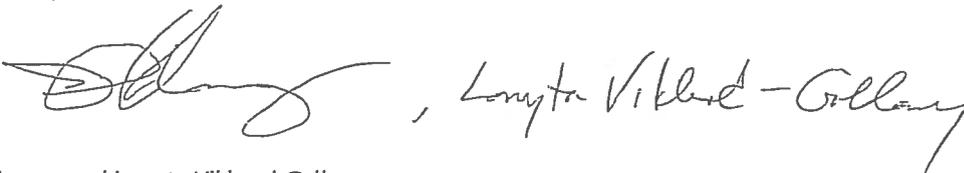
Our water comes from Eldorado's water system, but we are at the far south end of the lines. In times of severe drought we have been ordered to comply with strict water rationing while the bulk of Eldorado itself has not. In the summer of 2008, the water company sold water to nearby movie companies, and they used the fire hydrant at the entrance of our subdivision to fill their 500-gallon trucks at least three times a day for about 5 days. The following week, Eldorado water company put us on water restrictions. As it is, because our neighborhood is outside the core Eldorado area, we pay a \$30.00 surcharge each month on top of our water bill. If my family is away from the home (such as on vacation) and the water bill is thus only \$20.00, we actually pay \$50.00 as a result.

I noticed in the proposed Spirit Wind West neighborhood restrictive covenants that the new homeowners have strict water conservation recommendations. Their pipes are to be wrapped, they have limitations on plantings, only Energy Star rated toilets and washing machines can be used in the homes. Since the developer himself is not building nor supplying these homes, who on earth is going to police such decrees?! Are they even legal? Obviously, the amount of water this new development will use is of tremendous concern, and I am surprised such half-hearted "Band-Aids" to our existing water problem are being seriously considered.

Before plans for any phase of this subdivision are approved, I would ask for a more complete water study and an assurance our already-established neighborhood water supply is not, and will not be, compromised beyond what it is already.

Thank you for your time and consideration.

Sincerely,



David Galloway and Lonyta Viklund-Galloway

54 Cerro Blanco Rd, Lamy, NM 87540

(505) 466-3504

OBA-79

September 7, 2012

Re: Case #S 08-5430

Dear Santa Fe County Land Use Administrators,

I received your notice concerning the proposed 39-lot residential subdivision (Spirit Wind West) development, and have reviewed the file at the county Land Use Office. I am concerned the protective treatment of the three archaeology sites within the larger development is not being adequately addressed. Indeed, the issue is being somewhat ignored.

All three sites (LA103857, LA103858, and LA103861) have recently been discovered to have been misplotted during their original discovery and are within the boundaries of the proposed development, although not specifically for Phase I (for background information see Legare 1994 archaeology report *Harris Tract Subdivision Cultural Resources Survey of 80 Acres in Santa Fe County Near Lamy, New Mexico*, Legare 1995 archaeology report *Joseph Miller Tract Lot Split Cultural Resources Survey of 166 Acres Near Lamy, Santa Fe County, New Mexico*, Townsend 2008 archaeology report *A Relocation of Archaeological Site LA103861 in Relation to an Archaeological Easement in the Spirit Wind Subdivision, Lamy, Santa Fe County, New Mexico*, and Winters 2012 archaeology report *Archaeological Testing of Site LA103861, Relocation of Sites LA103857 and LA103858 Within the Spirit Wind West Subdivision, Lamy, New Mexico*). All three sites were determined eligible for inclusion into the National Register of Historic Places (on file at the State Historic Preservation Office, Santa Fe, NM) and placed in non-disturbance archaeological easements as noted on early plats dating at least 2008. Their protected status remains as of July of this year (see letters in the case file from the SHPO representative Michelle Ensey to Vicki Lucero).

However, the latest plats in the case files depict LA103861 without its protective easement and being obliterated by the main road through the development, and these same plats do not depict the relocated locations of either LA103857 nor LA103858, much less the protective notation of their easements. While these archaeology sites are not located within the current boundaries of Phase I, I believe they need to be noted on all current and future plats with notations of their protected status.

Most importantly, I could find nothing in the case file that depicts locations of access roads and utilities in for Phase I. Since LA103861 is noted as being crossed by the main road through the development and links both the north and south portions of Phase I, I am concerned with the site's continued protection. Concerning LA103857 and LA103858, are they in areas of utility line developments? How will they be protected?

I would like to be assured LA103861 will be fenced or otherwise physically protected DURING Phase I in the event the proposed main road through the property is used so it is not accidentally impacted. It is an unusual archaeological site for the area and does not extend deep into the ground, so even driving over it will impact it severely.

Thank you for your time and consideration.

Sincerely,



Lonyta Viklund-Galloway

54 Cerro Blanco Rd, Lamy, NM 87540

(505) 466-3504

DBA-81

Sept. 8, 2012

To the County Land Use Administrator,

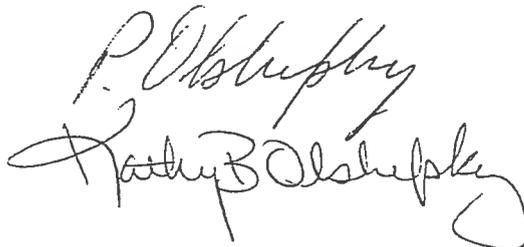
This is about CDRC Case #S 08-5430, Joseph Miller applicant.

We have several thoughts, and complaints, about this development.

- #1, I was mailed a property location map that is different than the master subdivision map a neighbor provided me. Two of the lots, closest to my property are not shown on the map sent to me. This seems a bit deceptive, on someone's part.
- #2, With the economy the way it is, this is not the time for expansion of the community. There are plenty of homes, and lots for sale in this area, and sit empty now.
- #3, This project, by the map, looks like it is trying to piggy-back on the Spirit Wind development that already exists. The developer doesn't seem to be giving much in the way of open space, trails, or access for Police or Fire calls. There is also an archeological site LA 103861 on the property that will be destroyed. This will obviously create a lot more traffic and the possibility of a lot of accidents at the intersection of Cerro Alto and Hwy 285. The map shows Cerro Alto as the only road for ingress and egress to all 39 lots, including all of Spirit Wind. There is also a R/R crossing on Hwy. 285 extremely close to the intersection potentially creating a hazard if there were a back up of traffic turning left from Hwy. 285 unto Cerro Alto.
- #4, The lot sizes of Mad Dog Dr. are a minimum of 12.5 acres. The lot sizes of most of the surrounding homes in the area are of good size. By letting such small lot sizes develop in our community will surely decrease our home values, specially in these times. This will decrease the property taxes that will be paid, decreasing revenue for the county. Especially if the lots don't sale because of the glut of homesites on the market.
- #5, There is a whole community planned across Hwy 285, called Galisteo Basin Preserve. They are doing it right. They are promoting good stewardship toward the community allowing for plenty of open space, trails and other recreational opportunities . This Mr Miller's project will no doubt, also hinder the development and progress of the Conservancy.

Thank you so much for considering our concerns.

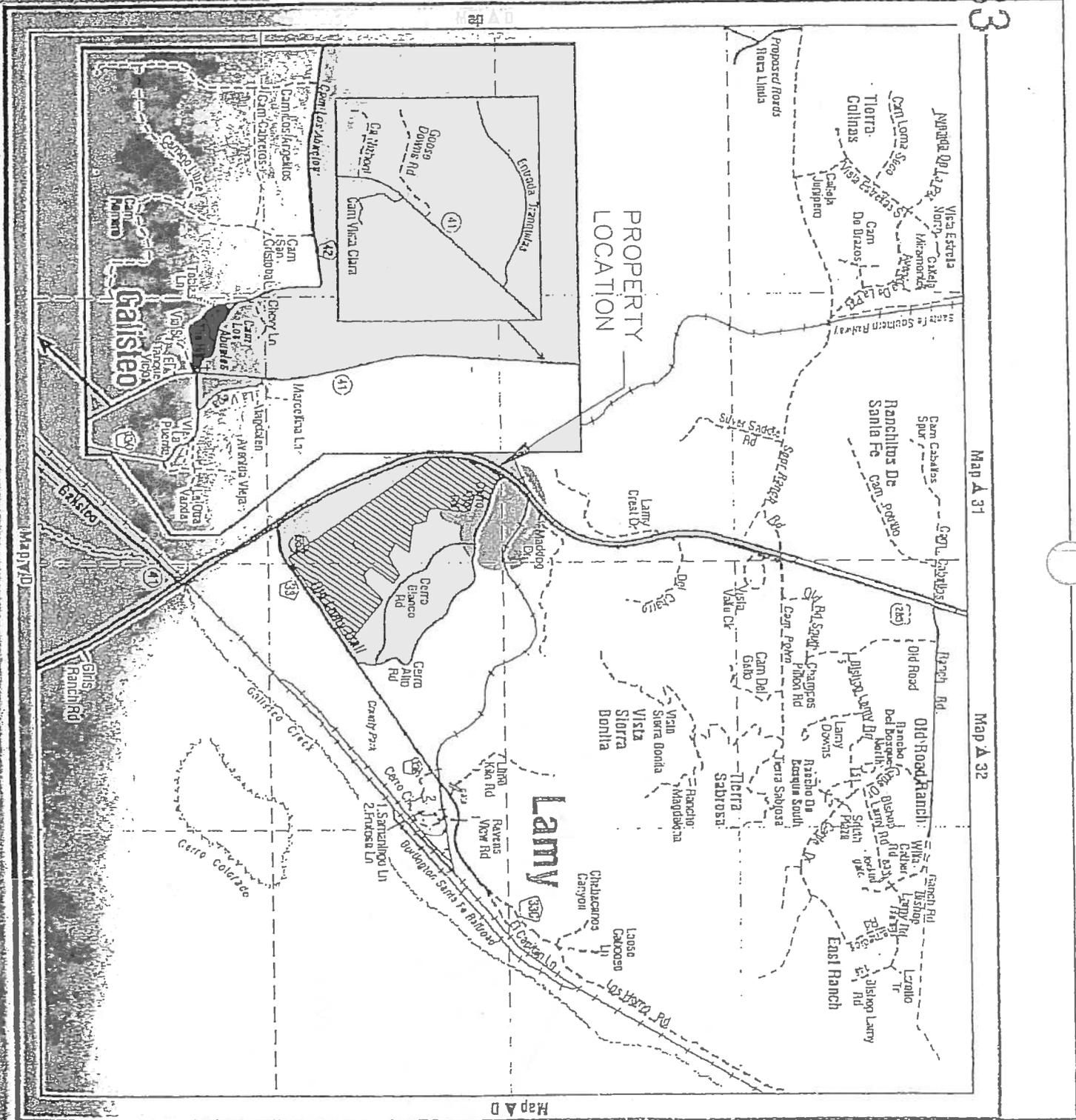
Paul & Kathy Olshefsky
22 Mad Dog Rd
Lamy, NM, 87540



OBA'-'

copy that was sent not showing lots

3



Map A 31

Map A 32

Map A D

OBA-82

Joseph and Gladys Guerrero

September 10, 2012

J.J. Gonzales, At Large
County Development Review Committee (CDRC)
Santa Fe County
102 Grant Avenue
Santa Fe, NM 87501

Re: CDRC Case # Z/S 08-5430 Spirit Wind West Subdivision (For CDRC Review 9/20/2012)

Dear Committee Member:

As adjacent residents to the proposed Spirit Wind West development, we request that the CDRC postpone any approval in this development until the applicant, Joseph Miller, addresses a number of concerns and deficiencies in the proposal. These concerns include issues associated with water resources, traffic congestion and safety, inconsistencies with the County's Sustainable Growth Management Plan (SGMP), and potential cumulative impacts from combined subdivision development in the immediate region. (See Attachment A for general area of proposed development and Attachment B for a proposed plat map)

Water Resources

The Eldorado Water District currently provides water supplies to our adjacent subdivision and will, no doubt, supply water to the 39 residences in the proposed subdivision. This service area, at the extreme southern end of water district, has a past history of problems including aged water supply piping, major water supply leaks, and over-burdened pumping infrastructure. In recent years, the entire district has known periods of required water rationing. At the current time, we understand the district is considering plans to extend service to communities to the east of its current service area increasing pressure on existing supplies.

In light of the current and projected draught and the continuing residential growth in existing service areas, we believe that a Water Service Availability Report should be prepared by the applicant to demonstrate no adverse impacts to water supplies and service to current residents in the area of the proposed development.

Traffic Congestion and Safety

Under the plat design of the proposed development, it appears that road access to all 39 lots may be via Cerro Alto Road, a two-lane road which intersects U.S. Highway 285 approximately 150 ft south of a railroad crossing servicing the rail spur between Santa Fe and Lamy, NM. Currently, this intersection provides access to 20 homesites in the existing subdivision area, including a horse stables business. Admittedly, this section of Cerro Alto Road is on the applicant's property, but since he was the developer of the existing subdivision, he should be sensitive to potential safety issues from the added traffic on existing use.

Since Cerro Alto Road was installed in 2004, the Spirit Wind Ranch homeowner's association has been responsible for annual road maintenance, repair, and snow removal for the entire road including that portion owned by the applicant. To date, the applicant has not discussed possible traffic congestion and safety issues with existing homeowners using Cerro Alto Road for access to their homes. For these reasons, we request that the applicant be required to prepare a Traffic Impact Assessment addressing how traffic from the proposed development will be managed in conjunction with existing use.

Inconsistent with County's SGMP

The apparent lack of details on the proposed Spirit Wind West subdivision, at least the details shared with neighboring existing communities, indicates an absence of thoughtful planning and assessment of potential

impacts from the development. This information deficiency is inconsistent with the overall goals of the SGMP, which in reviewing previous county land use planning identified a "lack of coordination between new developments and existing communities" as a key issue (Key Issue #12, Chapter 2).

The scope of the proposed development is more than a minor development and, as such, should meet at least the basic SGMP Keys to Sustainability (Chapter 2, Land Use Element):

"10. Assure that all new discretionary development applications prepare appropriate studies and reports including fiscal impact, transportation impact, fire, sheriff and emergency response and adequate public facilities studies. . ."

"11. Require that all development proposals demonstrate private or public utility water supply availability. . ."

In addition, the proposed plat map for the entire proposed development (Attachment B) shows an access road passing direction through an identified archaeological site, LA 103861, registered with the State of New Mexico Department of Cultural Affairs Historic Preservation Division. Allowing this encroachment is inconsistent the SGMP's goals of identifying and preserving archaeological sites in the Galisteo Basin (Key Issue #1 and Keys to Sustainability #1, Chapter 5).

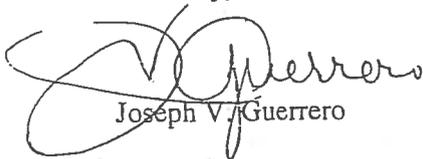
Failure to Consider Potential Cumulative Impacts

To our knowledge, no planning studies have considered the cumulative traffic congestion and safety impacts, view shed impacts to Galisteo Basin open space, and other potential impacts from this proposed development combined with the proposed Galisteo Basin Preserve development plans, located immediately across U.S. Highway 285. In 2010, the county approved phase one development of the Trenza, The Village, for construction of a 149 homesites. In addition, the Galisteo Basin Preserve includes two other planned communities, the Southern Crest and the New Moon with additional homesites.

In contrast to the proposed Spirit Wind West subdivision, the communities planned by the Galisteo Basin Preserve are supported by extensive environmental studies and extensive neighboring community involvement, which should serve as a model for any proposed development in the area. Increased density growth proposals need to be supported by more comprehensive study and analysis of the concerns and impacts of this growth.

We believe that the proposed development has not sufficiently addressed key issues that the County has identified in both the SGMP and the proposed County Sustainable Development Code on the concerns addressed in this letter, and we request the CRDC postpone any approval of any part of the development subdivision plat until these issues are addressed. Thank you for your consideration of our concerns. You can reach us at (505) 983-6073 if you have questions.

Sincerely,


Joseph V. Guerrero


Gladys P. Guerrero

Enclosure

Cc with enclosure:

Kathy Holian, Santa Fe County Commissioner, District 4
Michelle Ensey, State of New Mexico Department of Cultural Affairs Historic Preservation Division
Richard Beal, President, Spirit Wind Ranch Homeowners Association
Paul Oleshefsky, Homeowner, Community on Mad Dog Lane

Attachment B

Land Use Office

2.75 to 3.09 acre lots

- says 39 lots on 138 ac
- report covers variance water archaeology etc

*Note: project is ON HOLD AS OF 3-3-09

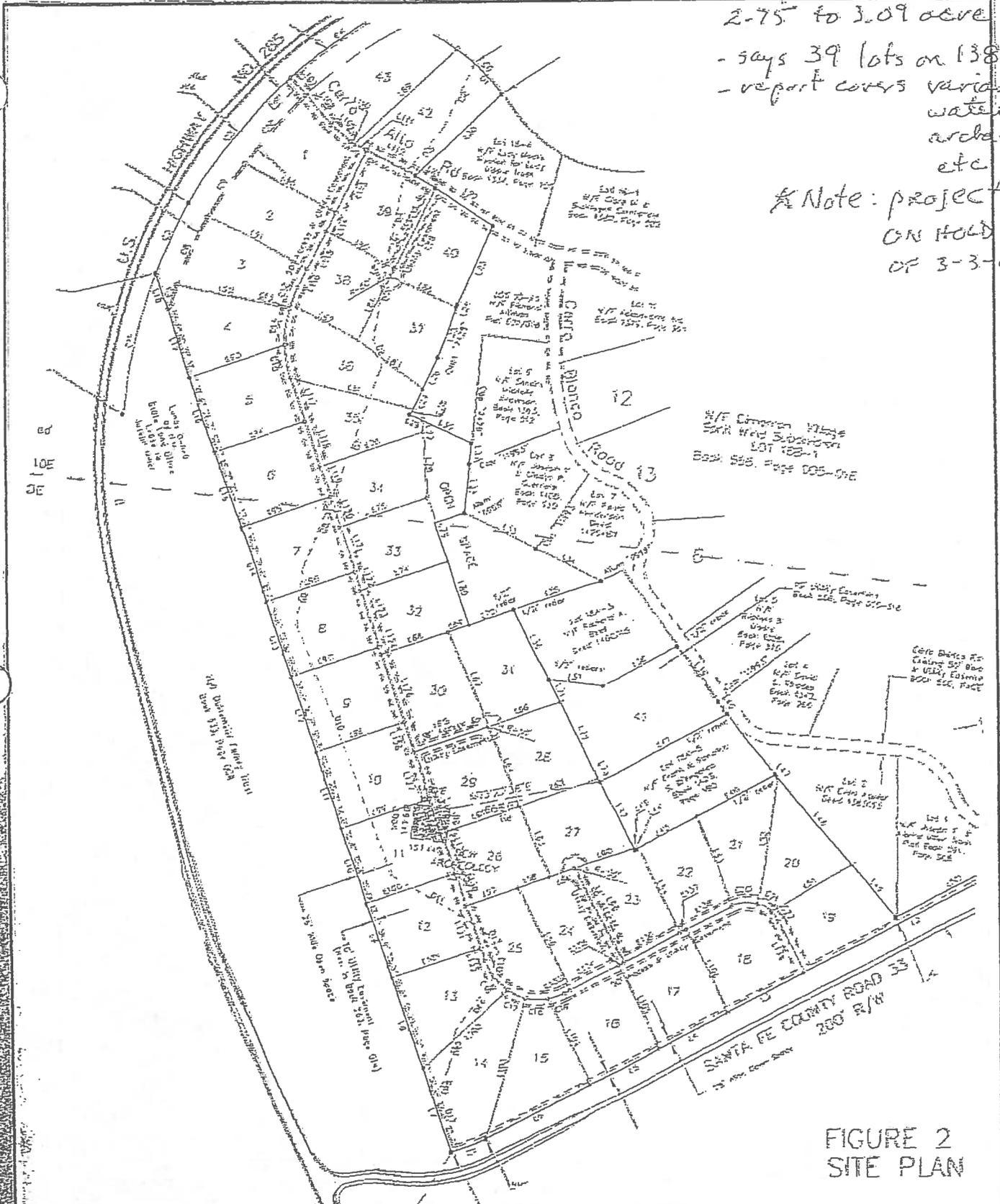


FIGURE 2
SITE PLAN

Spirit Wind West Subdivision
 Civil Engineering • Water Resources • Traffic Engineering

W-E Walker Engineering

203-826-7000
 FAX 505-826-1170

601 Camino Sierra Vista Santa Fe, NM 87501

OBA-87

Amanda L. Romero

To: Wayne Dalton
Subject: RE: CDRC Case No. S 08-5430

FROM: Miller, Robert@AIG Global Services [mailto:Robert.Miller4@aig.com]
Sent: Wednesday, December 19, 2012 10:00 AM
To: Wayne Dalton; 'waynedalton@santafecounty.org'
Subject: FW: CDRC Case No. S 08-5430

Please see below. I am forwarding to you as I understand that Ms. Lucero is out of the office until after Christmas and that this matter has been rescheduled to be heard on December 20th. Thank You.

From: Miller, Robert@AIG Global Services
Sent: Wednesday, December 19, 2012 11:56 AM
To: 'vlopez@santafecounty.org'; 'vlucero@santafecounty.org'
Subject: CDRC Case No. S 08-5430

Dear Ms. Lucero,

Thank you for taking the time recently to show me the file on this matter, CDRC Case No. S 08-5430. I understand that the public hearing has been rescheduled for December 20, 2012. I had hoped to be at the meeting, but unfortunately, I will be out of town due to the holidays. When we met last month, you told me I could send you any objections or concerns that I have on this matter to you via e-mail to vlopez@santafecounty.org.

In reviewing the file on this matter, I am still very concerned about, and need to object to, Mr. Joseph Miller's application for a Master Plan Zoning approval and a Preliminary and Final Plat and Development Plan Approval for a 39-lot residential subdivision, called Spirit Wind West, on his property located South of Eldorado, on the East side of US 285, off Old Lamy Trail (CR 33), within Section 5, Township 14 North, Range 10 East and Section 32, Township 15 North, Range 10 East (Commission District 4), NMPM, Santa Fe County.

While I appreciate that Mr. Miller (no relation) wants to develop his property, I don't believe that any zoning exceptions should be made. When I purchased my property, which borders Mr. Miller's property, I did it with full knowledge of the zoning requirements and covenants. I assume that Mr. Miller did too.

I know that the County did several assessments to address certain impacts, particularly increased traffic and water access, that such proposed subdivision may have on the area and the community, I don't believe that these assessments address all of the concerns or can be totally relied upon, especially given the limited amount of time spent on these evaluations. My property is just off US 285 and I know, from living at my house, that the times evaluated for increased traffic are not necessarily consistent with current traffic flow. In addition, having suffered through significant droughts over the last few years, I don't believe that the Eldorado Water and Sanitation District is really prepared for or can accommodate a significant increase in homes to support in the area. Nor do I believe that the local waste management station can accommodate any increase in the homes in the area. Too many times I have had to come back to the waste management station to drop off my recyclables because their bins were too full. Quite simply, in my opinion, Mr. Miller's proposal has too many homes in too small an area for the community and the local service providers and resources cannot support such an increase in the number of home.

I am also particularly concerned about the impact on property values with so many homes in such a small area. Mr. Miller's proposal, as revised, will allow modular homes, RVs and boat storage. My property overlooks Mr. Miller's

property, and, frankly, I don't want to look out on to the back yards of 39 homes with RVs and boats on trailers. In addition, I paid a significant amount of money for my home and property and bought my property with the expectation that the homes in the area would be of the same quality so that my property would maintain, at a minimum, the value that I paid for it. With Mr. Miller's proposal, there is no guarantee that the homes built will be of the same quality and be consistent with the rest of the community. In addition, I expect that property values will decrease if this proposal is approved. This will probably mean very little, I expect, to Mr. Miller because once he sells his parcels of land he will not need to live with the results. However, my neighbors and I will need to live with any decision made by the County Development Review Committee.

I sincerely hope that the County Development Review Committee takes into consideration the other land owners in the community and deny Mr. Miller's proposal.

Sincerely,

Robert Miller
6 Maddog Drive
Lamy, NM 87540

December 11, 2012

Re: Case #5 08-5430

Dear Santa Fe County Land Use Administrators,

I received your notice concerning the proposed 39-lot residential subdivision (Spirit Wind West) development, and have reviewed the file at the county Land Use Office. I am concerned the protective treatment of the three archaeology sites within the larger development is not being adequately addressed. It appears the issue is being somewhat ignored.

All three sites (LA103857, LA103858, and LA103861) have recently been discovered to have been misplotted during their original discovery and are currently within the boundaries of the proposed development, although not specifically for Phase I (for background information see Legare 1994 archaeology report *Harris Tract Subdivision Cultural Resources Survey of 80 Acres in Santa Fe County Near Lamy, New Mexico*, Legare 1995 archaeology report *Joseph Miller Tract Lot Split Cultural Resources Survey of 166 Acres Near Lamy, Santa Fe County, New Mexico*, Townsend 2008 archaeology report *A Relocation of Archaeological Site LA103861 in Relation to an Archaeological Easement in the Spirit Wind Subdivision, Lamy, Santa Fe County, New Mexico*, and Winters 2012 archaeology report *Archaeological Testing of Site LA103861, Relocation of Sites LA103857 and LA103858 Within the Spirit Wind West Subdivision, Lamy, New Mexico*). All three sites were determined eligible for inclusion into the National Register of Historic Places (on file at the State Historic Preservation Office, Santa Fe, NM) and placed in non-disturbance archaeological easements as noted on early plats dating at least 2008. Their protected status remains as of July of this year (see letters in the case file from the SHPO representative Michelle Ensey to Vicki Lucero).

However, the latest plats in the case files depict LA103861 without its protective easement and being obliterated by the main road through the development, and these same plats do not depict the relocated locations of either LA103857 nor LA103858, much less their protective easements. While these archaeology sites are not located within the current boundaries of Phase I, I believe they need to be noted on all current and future plats with notations of their protected status.

Most importantly, I could find nothing in the case file that depicts locations of access roads and utilities in the files for Phase I. Since LA103861 is noted as being crossed by the main road through the development and links both the north and south portions of Phase I, I am concerned for the site's continued protection. Concerning LA103857 and LA103858, are they in building envelopes or in areas of utility line developments? How will they be protected?

I would like to be assured LA103861 will be fenced or otherwise physically protected DURING Phase I in the event the proposed main road through the property is used so it is not accidentally impacted. It is an unusual archaeological site for the area and does not extend deep into the ground, so even driving over it will impact it severely.

Thank you for your time and consideration.

Sincerely,

Lonyta Viklund-Galloway

54 Cerro Blanco Rd, Lamy, NM 87540

(505) 466-3504

OBA-90

December 11, 2012

Re: Case #S 08-5430

Dear Santa Fe County Land Use Administrators,

I received your notice concerning the proposed 39-lot residential subdivision (Spirit Wind West) development, and have reviewed the file at the county Land Use Office. I live in the first development, Spirit wind Ranch, and I am concerned about the issue of water out here.

Our water comes from Eldorado's water system, but we are at the far south end of the lines. In times of severe drought we have been ordered to comply with strict water rationing while the bulk of Eldorado itself has not. In the summer of 2008, the water company sold water to nearby movie companies, and they used the fire hydrant at the entrance of our subdivision to fill their 500-gallon trucks at least three times a day for about 5 days. The following week, Eldorado water company put us on water restrictions. As it is, because our neighborhood is outside the core Eldorado area, we pay a \$30.00 surcharge each month on top of our water bill. If my family is away from the home (such as on vacation) and the water bill is thus only \$20.00, we actually pay \$50.00 as a result.

I noticed in the proposed Spirit Wind West neighborhood restrictive covenants that the new homeowners have strict water conservation recommendations. Their pipes are to be wrapped, they have limitations on plantings, only Energy Star rated toilets and washing machines can be used in the homes. Since the developer himself is not building nor supplying these homes, who on earth is going to police such decrees?! Are such decrees even legal? Obviously, the amount of water this new development will use is of tremendous concern, and I am surprised such half-hearted "band-aids" to our existing water problem are being seriously considered.

Before plans for any phase of this subdivision are approved, I would ask for a more complete water study and an assurance our already-established neighborhood water supply is not, and will not be, compromised beyond what it is already.

Thank you for your time and consideration.

Sincerely,

David Galloway and Lonyta Viklund-Galloway

54 Cerro Blanco Rd, Lamy, NM 87540

(505) 466-3504

OBA-91

Vicki Lucero

From: VICTORIA SEALE [vseal@me.com]
Sent: Wednesday, December 19, 2012 5:11 PM
To: Vicki Lucero
Subject: Joe Miller's Proposal for Spirit Wind Ranch West

Dear Ms. Lopez and County Commisioners,

I am a land owner just north of the proposed Subdivision on 285S. I have 3 lots totaling 131 acres on the same side of the road as this proposed development. I feel Mr. Miller has the right to develop his property, but NOT as the current proposal stands. IT is too dense for the area and would bring our property values down, not to mention the added traffic. In the past, Mr. Miller has not been concerned about how his actions have effected his neighbors. For example, the mobile homes he placed along 285 S between Avenida Amistad and Avenida Vista Grande, were inappropriate for the area and brought down property values. Two that were in disrepair were finally removed after being spray painted with graffiti. I hope you will pass my comments along to the county commissioners and enter them in to the record. I will be out of town for the meeting on Dec. 20th, otherwise I would be there to speak out against this development.

thank you
Victoria Seale
Jewel Revocable Trust
466-2441

please acknowledge receipt

From: Linda Fillhardt [linda@lindafillhardt.com]
Sent: Tuesday, March 05, 2013 10:56 AM
To: Daniel Mayfield
Subject: Joe Miller's Spirit Wind Ranch West Subdivision

Joe Miller's Spirit Wind Ranch West Subdivision will be reviewed at the March 12 County Supervisors meeting. I want to say that I am against this subdivision. The subdivision is too dense for the neighborhood. He wants to allow modular and two stories homes which is not appropriate for the neighborhood. There are way too many lots and homes for sale in the area. We don't need more lots and homes for sale. Please vote no.

Sincerely,

Linda Fillhardt
45 Cerro Alto Road
Lamy, NM 87540

From: Stephen Easley [speasley4@me.com]

Sent: Monday, March 11, 2013 3:36 PM

To: Liz Stefanics; Kathy S. Holian; Robert A. Anaya; Daniel Mayfield; Miguel Chavez

Cc: Beal Richard; palaimabean@yahoo.com

Subject: Fwd: Water versus development

Commissioners-

As a resident of Eldorado and the State Representative for District 50, which includes both Eldorado and Lamy, I strongly support the comments of Mr. Palaima (see below). Thank you for your consideration.

Stephen Easley, PhD

Representative

House District 50

NM State Legislature

Santa Fe, NM 87501

Stephen.Easley@nmlegis.gov<<mailto:Stephen.Easley@nmlegis.gov>>

505-990-2044 voice/vm

<http://www.electstepheneasley2012.com>

Sent from my iPad

Begin forwarded message:

From: Richard Beal <richard@beal-net.com<<mailto:richard@beal-net.com>>>

Date: March 11, 2013, 2:44:23 PM MDT

To: Stephen and Sue Easley

<Stephen.Easley@easleyassoc.com<<mailto:Stephen.Easley@easleyassoc.com>>>

Cc: mike palaima <palaimabean@yahoo.com<<mailto:palaimabean@yahoo.com>>>

Subject: Fwd: Water versus development

Representative Easley,

This is the best summary I've seen to date concerning the issues before our community.

As you know there is a Santa Fe County Commissioners hearing Tuesday at 5pm specifically about Joe Miller's Spirit Wind Ranch West proposal. If you support Mike's ideas it would be extremely helpful to let the Commissioners know that before the meeting.

Thank you!

Richard

----- Forwarded message -----

From: mike palaima <palaimabean@yahoo.com<<mailto:palaimabean@yahoo.com>>>

Date: Mon, Mar 11, 2013 at 9:28 AM

Subject: Water versus development

To: "stephen.easley@nmlegis.gov<<mailto:stephen.easley@nmlegis.gov>>"

<stephen.easley@nmlegis.gov<<mailto:stephen.easley@nmlegis.gov>>>

Sir,

Tomorrow, Tuesday, 3/12/2013, the Santa Fe County commissioners will meet to decide whether or not 1 of 2 housing developments will be allowed to go forward in the Lamy Eldorado area. Both these proposed developments represent 118 homes, in 2 locations, Lamy and Eldorado. The following are my concerns regarding.

1. Water, first and foremost. Estimated 1.5 million gallons per month additional usage to the local Eldorado and Lamy community water systems. Both systems currently institute mandatory rationing for the past 3 years, some local wells have already gone dry. In the face of an historic drought, when towns, villages and ranches throughout the NE portion of NNM are already experiencing water shortages, and what to do about this is a serious major topic, development and utilization of this resource without some contemplation seems counterproductive, if not downright ill advised. Can anyone guarantee existing water users, a supply into the foreseeable future? Why exacerbate an already very tenuous resource situation?

2. Development to be primarily manufactured, low cost housing. No problem with low cost housing, unless the neighboring comps are not, which is the case in both Eldorado and Lamy. Home values, already deteriorated and not recovered from the recession, will flatten, or go down when \$150,000 manufactured and mobile homes sit adjacent to and surrounding, \$800,000 homes. That is simply reality.

It is also simply reality that Eldorado/Lamy does not have, presently, a preponderance of mobile and manufactured homes in existence. Construction has always been comparative.

3. According to the Santa Fe County attorney, codes are being redrawn to reflect, new development compatibility with existing structures, additional green building requirements, rainwater capturing, xeriscaping, etc. Those codes are not yet in effect. Why should the developer, (Joe Miller) be allowed to develop under old codes when the new ones are in the works and will be serving the rest of community at some point in the near future?

4. No covenants, no development plan other than what the county requires as a bare minimum. It is one thing to develop residentially willy nilly, or to develop residentially with a responsible plan for some uniformity in construction, site locations and density, green space, fencing requirements, setbacks, landscaping and additional structure additions, RV parking, light and noise pollution, trash and garbage

elimination, traffic flow, etc. Mr Miller has done, as of this writing, none of this. Develop and sell individual lots for mobile or prefabricated housing is the thrust of both his proposed developments. In other words, in a climate and time when quite the opposite could be the case, Mr Miller is developing, selling and running.

Mr Miller has every right to develop his property. However, in the face of environmental, financial, and resource concerns within the immediately surrounding communities, Mr Miller has no right to develop irresponsibly, which, in my opinion, are the cases here. Tomorrow's meeting is only over the Lamy project, but precedent is precedent and if he gains permission for the Lamy development, than the Eldorado is certain to follow.

Where do you stand in this, Representative Easley?

Stop Joe Miller!

Sincerely,

Mike Palaima
Liz Cervio

Lamy, NM

~~Responding to Member DeAnda's question, Mr. Valker said rain barrels would be used for water catchment and a berm may be constructed.~~

~~Mr. Valker confirmed there was no plumbing proposed within the barn. Water for the horses will come from a spigot approximately 25 feet from the barn. The height of the structure is 15 feet and the maximum allowable height is 24 feet.~~

~~There was no one from the public wishing to speak regarding this case.~~

~~Member DeAnda moved to approve #ACCS 12-5390 with staff conditions. Her motion was seconded by Member Martin and passed by unanimous [6-0] voice vote.~~

- C. CDRC CASE # Z/S 08-5430 Spirit Wind West Subdivision Joseph Miller, Applicant, Danny Martinez, Agent, request Master Plan Zoning approval for a 39-lot residential subdivision (Spirit Wind West) on 133.73+ acres and Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of 16 lots. The property is located south of Eldorado, on the east side of US 285, off Old Lamy Trail (CR 33), within Section 5, Township 14 North, Range 10 East and Section 32, Township 15 North, Range 10 East (Commission District 4) [*Exhibit 1: Guerrero letter opposing the subdivision dated 9/10/12; Exhibit 2: Letters expressing concerns regarding proposed development: Robert Miller, Lonyta Viklund-Gallowa and Victoria Seale*]

Ms. Lucero provided the staff report as follows:

"The Applicant requests Master Plan Zoning approval for a residential subdivision located northeast of the intersection of US 84-285 and Old Lamy Trail. The subdivision will consist of 39 single-family residential lots on 133.73+ acres which will be developed in 4 phases. The proposed lots range in size from 2.49 acres to 3.47 acres. The property is located within the Homestead Hydrological Zone where the minimum lot size is 40 acres per dwelling unit with a 0.25 acre-foot per year per lot water restriction, unless water availability is proven to support increased density or community water and/or sewer is available.

"The Applicant also requests Preliminary and Final Plat and Development Plan approval for Phase I of the subdivision which will consist of 16 residential lots. This Application was submitted on February 6, 2012.

"Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for this type of request."

OBA-90



Ms. Lucero said staff recommends approval of the request for Master Plan Zoning for a 39-lot residential subdivision and Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of 16 lots subject to the following staff conditions:

1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.
2. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per Article V, Section 5.2.5 and Section 5.4.5.
3. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months as required by Article V, Section 9.9.

Member Katz referred to a negative memo from the OSE dated March 2012. He asked whether the issues had been addressed regarding those issues. Mr. Lucero said she has not received any recent response from the OSE and was unaware whether the requested divergence was acted upon.

Member DeAnda asked staff to address the use of modular housing. Ms. Lucero said the County received letters in opposition to modular homes in the subdivision. She said the code does not restrict modular housing

Member DeAnda said the application does not provide a sense of what the subdivision will be. She expressed concern that the disclosure statement supplied within the application was lacking in information. Ms. Lucero said the applicant has submitted restrictive covenants. The covenants were reviewed for compliance with the Code but the County does not enforce the covenants.

Member DeAnda said the applicant's disclosure statement contains conflicting information citing the largest lot size 2.62 acres and the smallest lot is 2.75 acres. Ms. Lucero said staff recognized discrepancies in the application and the applicant has revised their development report to reflect current conditions for Phase 1. Ms. DeAnda said it was very difficult to grasp the application information.

Ms. Lucero said discrepancies in the disclosure statement would be addressed prior to recordation.

Recognizing the applicant's history regarding property development with the County, Member Martin asked whether this subdivision was subject to litigation or negotiation with the parties. Ms. Lucero responded in the negative.

Member Drobnis said the liquid waste that staff refers to in its report contradicts the applicant's statement that lot owners have the option rather than the requirement to

install a modified system. Ms. Lucero said the Code does not require a circulation reuse system.

Responding to the Chair's question regarding open space, Ms. Lucero said a site visit was conducted with the applicant and County Open Space staff and it was determined there was an adequate site for a park.

Chair Gonzales said the required affordable lots are in different subdivisions and he requested that staff comment on that. Ms. Lucero said the applicant has entered into an affordable housing agreement with the County and the agreement allows the transference of affordable units to different subdivisions owned by the applicant.

According to Ms. Lucero, the portion of a road that encroaches an archaeological site will not be constructed until a later phase. SHPO is requiring a non-disturbance easement around the site pending submission of a treatment plan.

Member Katz said the archaeological site could cause a need to realign the access road. He said that could impact Phase 1 and asked how the CDRC could act on the application with that possible change. Ms. Lucero said Phase 1 will have no impact on the archaeological site – the roads constructed for Phase 1 are outside of the area. SHPO is requiring a treatment plan at Phase 2.

Duly sworn, Danny Martinez, Albuquerque, agent for the applicant, said work on this subdivision has been ongoing for four years. Regarding the OSE issues, Mr. Martinez said there are two processes that are tied together having to do with the transfer of a "highly productive" well drilled in the Cimarron subdivision that was adjudicated by the OSE for use by the Eldorado Area Water and Sanitation District. The well pumps over 300 gpm and the water rights were transferred to EAWSD. He said there were agreements between the applicant and EAWSD acknowledging the transfer of the well, etc. Mr. Martinez said the applicant has satisfied issues raised by the OSE but a final opinion has not been issued. He said EAWSD has provided a "will serve" letter for 39 lots at .25 acre-feet per year for consumptive use only. Mr. Martinez said exterior irrigation is regulated by EAWSD. No new wells will be permitted in the subdivision.

Referring to the liquid waste issues, Mr. Martinez said the homeowners have system options. He addressed the affordable housing issue by stating the applicant has an agreement with the County that allows for transferring units to Cimarron and it meets the Ordinance. There will be two affordable units in Spirit Wind and the other units will be in Cimarron. The first unit will be developed in Phase 1.

Mr. Martinez pointed out that the State Subdivision Statute does not allow for discrimination against modular homes. Modular homes provide an opportunity for a segment of the population to own homes who otherwise may not have that opportunity. He said the homes will be stuccoed and there will be stick-built houses in the subdivision as well. He said manufactured/mobile homes have been removed from the subdivision.

The applicant offered County Open Space a trail easement that was not accepted by the County. The development will include a park which he located on a site map and said the homeowners association will make decisions regarding amenities.

Mr. Martinez said an archaeological study was conducted by Ron Winters and he determined the site to be insignificant. SHPO has requested an archaeologist monitor the site during road excavation.

According to Mr. Martinez, this subdivision is a spin-off of the original Spirit 1 Subdivision east of the property. He acknowledged the error Member DeAnda referred to regarding lot size and said the small and large lot sizes were reversed.

Mr. Martinez said they were in agreement with staff conditions and would meet all County fire requirements and provide the required financial guarantees. He said the applicant was prepared to continue to work with County staff.

Member DeAnda asked about the relationship between the previously approved Spirit Wind Subdivision and this subdivision. Mr. Martinez said Sierra Alta will be a common roadway. He said at this point no fencing or barriers were anticipated between the subdivisions.

Mr. Martinez addressed disclosure statement issues and said the County water restrictive covenants will be part of the documents. Member DeAnda requested that the applicant expand the disclosure statements to better educate the lot owner on the requirements.

Mr. Martinez said the developer encourages green building and the subdivision architectural committee will make those decisions.

Mr. Martinez said the OSE issues relate to EAWSD, not this application.

According to the OSE's March 7, 2012 letter, Member Drobnis said the office cannot determine that the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision. He said he was unable to follow Mr. Martinez' discourse on the wells and the available water.

Mr. Martinez said the issue is very limited with water rights being transferred between EAWSD and the OSE and Mr. Miller had no control over that. He said it took four years to clear up. He said did not have supporting documentation, however, the County's hydrologist did and provided a final report stating there was sufficient water.

Member Drobnis said he was aware of the difficult relationship between the EAWSD and OSE. He was concerned that this problem can affect the homeowners receiving water from the EAWSD.

Chair Gonzales asked about the Spirit Wind Subdivision. Mr. Martinez said it started seven years ago and was not within the original Eldorado moratorium area because it had prior preliminary plat approval. He said the lots are larger because of an arroyo running through them.

In response to the Chair's question of whether the applicant held meetings with the area neighbors, Mr. Martinez said the project started over four years ago and meetings were held at that time.

Duly sworn, applicant Joe Miller of Lamy, said this project has been in development for quite some time. Spirit Wind East was part of his ranch that was sold off and Mr. Miller bought it back.

Duly sworn, Joe Herrera, 46 Cerro Blanco, a resident of the original Spirit Wind Ranch subdivision and former president of the homeowners association said his main concern is that the covenants his subdivision is subject to are considerably more restrictive than the covenants of the current proposal. Propane tanks are buried in his subdivision and that will not be required in the current application, which is a safety issue.

Mr. Herrera said the applicant did not make an effort to work with his subdivision. He expressed concern about traffic impact and water issues.

Member Katz said he appreciated the speaker's disappointment in having a development next door that is not as nice as his, however, the applicant is meeting Code.

Mr. Herrera said as residents of the original subdivision they would have thought Mr. Miller would have given them consideration when he moved forward. He reiterated that there was a litany of development concerns with water and traffic. The applicant's mention that an architectural review committee would be making decisions was not a sufficient response. He said the area should be viewed as a region and he expected the CDRC to make that review.

Mr. Herrera said most of the Eldorado district has been under water restrictions for the past few years.

Duly sworn, Richard Beal of Lamy said he was speaking on behalf of his homeowners association that has 24 single-family homes immediately adjacent to the proposal. He said they opposed the application. He said Mr. Miller developed the subdivision in which he lives and he loves living there. The subdivision is made up of very large lots (largest 50+ acres) with strict covenants. The proposal allows for modular homes and has 2.5-acre lots. He said the proposed covenants are weak and the development will adversely affect the character of the area.

Mr. Beal said the water table is dropping in the area and without a positive comment from the OSE the application should be denied. The water issues need to be resolved prior to action.

Duly sworn, Carolyn Robard, resident of Spirit Wind Ranch, said she moved from northern Virginia/Washington DC area which has become a area of jig-saw development and lack of respect for the land and aesthetics. She said the area of Santa Fe she lives in is beautiful and at some point we have to preserve the area's natural beauty.

Kathy Olshefsky, under oath, of 22 Mad Dog Drive, just north of Spirit Wind, said she fears the new development will not be a community asset. She said her lot was 15 acres. The development does not offer amenities and she was surprised the County

rejected the trail offered by the applicant. The development will “ruin views, bring more traffic and put stresses on our utilities...”

Duly sworn, Lucy Moore, Seton Village, said she owns a lot adjacent to the proposed development and is a member of the current Spirit Wind HOA. Aside from water and traffic issues, Ms. Moore said she questioned the integrity of the development. She cited Mr. Martinez’ comment that the proposal was an offshoot of the original development and said that concerned her in its accumulative effect on the existing development. She requested that if this is an extension of Spirit Wind that it have the same covenants and lot size.

Ms. Moore said she did not receive notification regarding the proposed development.

Ms. Lucero said Ms. Moore’s name was not on the receipt list of certified letters. She said it was possible that the Assessor’s Office did not have Ms. Moore’s correct address. The County is in receipt of 16 notices and one unclaimed letter.

Melissa Brownell, duly sworn, said she is not part of the Spirit Wind Subdivision, but rather lives on the last piece of the Lamy Land Grant and has a private well. Many people in the area have private wells and are affected by the water issues in the area. She said the quality of the water decreases as the drought increases. She said although they have a vineyard and an agricultural well they are very conservative with their water. She raised concern that additional homes will impact her well and other private wells in the area.

Carolyn Robard said she did not receive notification about this development. She was made aware of the meeting via an email from an area resident.

Fred Brownell of Lamy, duly sworn, said the last time he saw a yellow notification sign was in November. He learned about this meeting at an area holiday meeting. He said he lives adjacent to the proposal and his issue is traffic. He said it was unacceptable to the people living in the area that the proposal is for small lots and modular homes.

Paul Olshefsky, under oath said his basic concern was the size of the lots in comparison to the surrounding lots.

Another speaker expressed concern that the area could not handle small lots and it would contribute greatly to the traffic.

That concluded the public testimony.

Mr. Martinez said the applicant welcomes the comments of the area residents.

Chair Gonzales recommended tabling the case and allowing the residents and applicant to meet and discuss the issues raised this evening. Mr. Beal agreed to do so.

Member Katz said the OSE is the expert on water availability and he was concerned that the County hydrologist's report was in conflict with the expert. Ms. Lucero said staff can contact the OSE.

Member DeAnda moved to table with direction to the applicant to meet with the area residents, that staff contact the OSE for additional information and that the County hydrologist be present at the next meeting.

Mr. Martinez requested that the CDRC forward the case to the BCC without a recommendation rather than tabling.

Member Katz seconded and the motion to table until the January 17 meeting passed by majority [5-1] voice vote.

~~VII. PETITIONS FROM THE FLOOR~~

~~None were offered.~~

~~VIII. COMMUNICATIONS FROM THE COMMITTEE~~

~~Holiday cheers were shared.~~

~~IX. COMMUNICATIONS FROM THE ATTORNEY~~

~~None were presented.~~

~~X. COMMUNICATIONS FROM STAFF~~

~~Terms of committee members Anaya, Katz, Valdez and Drobniš expire in January and those wishing to continue to serve will need to send letters stating such.~~

~~The next CDRC meeting: January 17, 2012 at 4 p.m.~~

~~XI. ADJOURNMENT~~

~~Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 6:35 p.m.~~

Approved by:

J.J. Gonzales, Chair
CDRC

V. APPROVAL OF THE MINUTES: December 20, 2012

Member Drobnis clarified his intent on page 6: "Member Drobnis said he was aware of the difficult relationship between the EAWSD and OSE at times."

With that change Member Katz moved to approve the minutes. His motion was seconded by Member Martin and passed by unanimous [6-0] voice vote.

VI. OLD BUSINESS

- A. CDRC CASE # Z/S 08-5430 Spirit Wind West Subdivision. Joseph Miller, Applicant, Danny Martinez, Agent, Requests Master Plan Zoning Approval for a 39-Lot Residential Subdivision on 133.73+ Acres and Preliminary and Final Plat And Development Plan Approval for Phase 1, Which Will Consist of 16 Lots. The Property is Located South of Eldorado, on the East Side of US 285, off Old Lamy Trail (CR 33), Within Section 5, Township 14 North, Range 10 East And Section 32, Township 15 North, Range 10 East, Commission District 4 [Exhibit 1: Staff Memo; Exhibit 2: Viklund-Galloway Letter; Exhibit 3: Sommer/Karnres Letter]

Ms. Lucero announced this case was on the agenda for deliberation only, having been tabled following public hearing and discussion at the previous meeting. The County Hydrologist is present to give an explanation on questions raised about water. The appellate court mediator, Robert Rambo, is also present to provide a summary of the January 10th neighborhood meeting. The Office of the State Engineer informed staff that the point of diversion was approved. Staff is recommending approve of master plan zoning and preliminary and final plat and development plan approval of phase 1, subject to three conditions,

1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.
2. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per Article V, Section 5.2.5 and Section 5.4.5.
3. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months as required by Article V, Section 9.9.

Plus a further condition:

4. The letter of commitment from the Eldorado Area Water & Sanitation District shall be amended to include water service for the 39th lot prior to plat recordation prior to recordation of phase 1.



County Hydrologist Karen Torres stated she read the March 7, 2012 letter from the OSE. Member Drobnis said he believed there was a more recent letter. Ms. Torres indicated she does not have a copy of a later letter but has seen the permit of Well #18 for 200 acre-feet. This well, which is across from the Agora is for the entire water system. The point of diversion is that well.

Duly sworn, Robert Rambo said he attended but did not facilitate the January meeting. He has been mediating the case, resulting in a settlement agreement regarding the affordable housing. Mr. Miller has agreed to bury the propane tanks and exclude mobile homes.

Citing the favorable response from the State Engineer, Member Katz moved to approve the request with the conditions plus the fourth conditions. Member Valdez seconded and the motion carried unanimously [6-0]. [Subsequently, Member Martin changed her vote to a nay vote, resulting in a 5-1 vote. See page 15.]

There was disagreement from audience members regarding the representations made. Chair Gonzales said the case will go in front of the BCC, probably in March

VII. NEW BUSINESS

A. CDRC Case #V 12-5430 Susan Sutton Variance. Susan Sutton, Applicant, Requests a Variance Of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow Two Dwelling Units on 2.492 Acres. The Property is Located At 8 Ute Lane, Within Section 20, Township 16 North, Range 10 East, Commission District 4

Mike Romero gave the staff report as follows:

“The subject lot was created in 1974, and is recognized as a legal non-conforming lot. There are currently two dwelling units on the subject property. The structures consist of a main residence, a studio containing a kitchen and bathroom, and a shed. There are no records of the main residence or the studio being permitted by Santa Fe County.

“On October 19, 2012, Santa Fe County Building and Development Services Department received a written complaint regarding the Applicant’s studio. On October 25, 2012, the Applicant received a Notice of Violation from Santa Fe County Code Enforcement for Exceeding Density requirements.

“The Applicant states that when she bought the property at 8 Ute Lane in 2007 the house was listed below the appraisal value and the property was advertised as is, having a main house and a heated studio with a kitchen and bathroom. According to the Applicant’s knowledge the house was built in the early 1970’s and the original owners lived there from 1974 to 1988. The property has since been sold



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also denied the applicant's request by a 5-0 vote. So my motion would support the CDRC recommendation and deny approval of this lot split.

CHAIR HOLIAN: Is there a second?

COMMISSIONER STEFANICS: I'm going to second.

CHAIR HOLIAN: Okay. I have a motion and a second. Is there any discussion? I will just say that I am going to vote against this variance. I do not find a very compelling reason to grant the variance, and this does seem to me to be an area in which large lot sizes are to be desired because of the fire danger in that area, the lack of water in that area, as well as the wildlife corridors in that area. So I have a motion and a second.

The motion to deny passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

XVI. A. 5. CDRC CASE # V/Z/PDP-12-5340 Family Dollar Store. Glenwood Development Company, Applicant, Request Master Plan Zoning and Preliminary Development Plan Approval for an 8,320 Square Foot Structure to Be Utilized as a Family Dollar Store on 0.87 Acres. The Request Includes Final Development Plan Be Approved Administratively. The Applicant Also Requests a Variance of Article III, § 4.4.3c (Parking Lot Location) to Allow the Parking Lot to Be Located in Front of the Proposed Building and a Variance of Article VIII, §'S 7.3, 7.8 and 7.14 (Design Standards for Permanent Signs) to Allow a Sign to Exceed the Height and Set Back Requirements and to Allow a Wall Mounted Sign to Exceed 70 Square Feet in Sign Area. The Property is Located at 18094 US 84/285, within the Pojoaque Valley Traditional Community, within Sections 6 & 7, Township 19 North, Range 9 East (Commission District 1) Jose E. Larrañaga, Case Manager (**TABLED**)

XVI. A. 6. CDRC Case # Z/S 08-5430 Spirit Wind West Subdivision. Joseph Miller, Applicant, Danny Martinez, Agent, Requests Master Plan Zoning Approval for a 39-Lot Residential Subdivision on 133.73+ Acres and Preliminary and Final Plat and Development Plan Approval for Phase 1, Which Will Consist of 16 Lots. The Property is Located South of Eldorado, on the East Side of US 285, Off Old Lamy Trail (CR 33), within Section 5, Township 14 North, Range 10 East and Section 32, Township 15 North, Range 10 East (Commission District 4)

VICKI LUCERO (Case Manager): Thank you, Madam Chair. On January 17, 2013, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of this request.

On December 20, 2012, the CDRC tabled this case to allow the applicant to meet with the neighbors to discuss their concerns, to have the County Hydrologist present at the CDRC

EXHIBIT
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meeting to address questions about water, and to have staff contact the OSE to get an update on the status of the request by EAWSD for the additional Point of Diversion.

A meeting between the Applicant and neighbors was conducted on Thursday, January 10, 2013. Staff did contact the OSE and was informed that the application for the point of diversion was approved. Staff requested a revised memo from the OSE. The OSE has provided an updated response however, they maintain a negative opinion.

The Applicant requests Master Plan Zoning approval for a residential subdivision located northeast of the intersection of US 84-285 and Old Lamy Trail. The subdivision will consist of 39 single-family residential lots on \pm 133.73 acres, which will be developed in four phases. The proposed lots range in size from 2.50 acres to 3.47 acres. The property is located within the Homestead Hydrological Zone where the minimum lot size is 40-acres per dwelling unit with a 0.25 acre foot per year per lot water restriction; unless water availability is proven to support increased density or community water and/or sewer is available.

The Applicant also requests Preliminary and Final Plat and Development Plan approval for Phase I of the subdivision which will consist of 16 residential lots.

Staff recommendation is for approval of the request for Master Plan Zoning approval for a 39-lot residential subdivision and Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of 16 lots subject to the following staff conditions. Madam Chair, may I enter those conditions into the record?

CHAIR HOLIAN: Yes, you may.

MS. LUCERO: Thank you. I also want to state for the record that we did hand out some letters of opposition that we recently received. [*Exhibit 7*]

[The conditions are as follows:]

1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.
2. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per Article V, Section 5.2.5 and Section 5.4.5.
3. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months as required by Article V, Section 9.9.
4. The letter of commitment from the Eldorado Area Water & Sanitation District shall be amended to include water service for the 39th lot prior to plat recordation of Phase I, Article VII, Section 6.3.

CHAIR HOLIAN: Thank you, Vicki. Are there any questions of staff at this point? Okay, seeing none, is the applicant here?

RON VANAMBURG: Madam Chair, if please the Commission, I'm Ron VanAmburg on behalf of Sprit Wind and with me is Danny Martinez.

CHAIR HOLIAN: Mr. VanAmburg, would you like to start with the presentation?



MR. VANAMBURG: Yes, I will start. I represent Spirit Wind Subdivision which has been in the progress for a long time. It was tabled once at the CDRC and then received approval from the CDRC, and we are here today. One of the things I would like to explain is the cooperation that Mr. Miller has shown with the representatives of the homeowners association, a Mr. Beal, and in particular, the concessions involved the covenants that Mr. Miller had planned for his subdivision.

On February 28th we sent Mr. Beal a copy of the subdivision covenants and that is shown on the first page of the Exhibit 4, which is a series of emails. [Exhibit 8] These covenants were sent without particular attention paid to the suggestions that Mr. Beal had made previously and the reason for that was because we had to get these covenants to the County for review. On the second page Mr. Beal reflects that he was not a happy camper because his suggestions were not properly considered. On February 28th I responded that the reason there was not sufficient consideration given was because we were in a hurry trying to get those covenants to the County, but then I stated that we would then give them the most consideration we could.

In that letter I also attached a red-line modified version of the covenants and explained to him that we had essentially adopted the changes that he had suggested except that Mr. Miller did not have a prohibition against modular homes and had a covenant which did not prevent two-story homes. Mr. Beal responded, We are almost there. Thank you for making the changes. In the subsequent email exchanges we explained that Mr. Miller, who wanted to have two stories because they are something that are desired by people, some people, but he would be willing to drop the two-story homes if he could get the support from Mr. Beal and his community.

Mr. Beal asked in subsequent emails whether or not the changes that we had already agreed to were also conditioned on his support and his association's support and we explained to Mr. Beal that we would make those changes anyhow out of consideration for Mr. Beal and his neighbors, even if they did not show up at the meeting and support us. And accordingly, that is what we have done. We have modified the covenants to a large extent in full satisfaction of Mr. Beal's comments and we have submitted those changes to the County and we are prepared to adhere to our commitment.

CHAIR HOLIAN: Mr. VanAmburg, I have a question about the covenants, since you brought them up. When I was reading through the packet there was some concern expressed by the people in the neighboring subdivision regarding storage of recreational vehicles and boats on the proposed lots in the new subdivision. What is your position on that at this point? Or what is Mr. Miller's position on that?

MR. VANAMBURG: Well, if it was raised by Mr. Beal we consented to it. I think the position is that there are two subdivisions going on. There is the Tierra Bello one and then there's Spirit Wind, and I believe that we do not permit storage of recreational vehicles. Mr. Martinez confirms that we do not permit the storage of recreational vehicles and trailers on the lots. And if that's not clear in the covenants we'll make it clear.

CHAIR HOLIAN: Okay. Thank you. Please proceed.

MR. VANAMBURG: Okay. I'm not exactly sure what the issues are that may be raised but in the past one of the issues that was raised was the issue of water. Mr. Miller has a will-serve from the Eldorado Water and Sanitation District and I'd point out that in

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Exhibit 1 [*Exhibit 9*] there has been a study done by County staff, by a hydrologist by the Water & Sanitation District which relate to water rights and which relate to water capacity. The water rights, I think it is virtually unchallengeable exist to support this subdivision and other subdivisions that may come on board. These water rights are sort of unique. This property was formerly ranch land. All the Eldorado area was, and when AMREP bought the property there were a number of wells that were drilled throughout the area, and the question came up as to what water rights were attached to those wells.

In 1972 there was a court decree which established what the water rights were, and it broke it down into three categories. Some of the wells had the right to production and the right to water rights in four of the wells to the extent that production existed as of December 30, 1970. Some of the wells were allowed to be completed and repaired and rehabilitated and then the capacity of those wells would also be included as water rights. And some wells were allowed to be enlarged but not deepened, and then the capacity of those wells was added to the total of the water rights.

It then took a while to figure out exactly how that would compute, but right now, the State Engineer recognizes 783.4 acre-feet of water rights and of that, 254.4 acre-feet are within one of the wellfields and if you look at Exhibit 1 [*Exhibit 9*] which are the Eldorado *Water Notes* it says EAWSD's current water rights have been established at 783.4 acre-feet for withdrawing groundwater via the Office of the State Engineer's license issued June 4, 2010, and I'll get to that. The license also allows EAWSD to develop up to an additional 254.4 acre-feet of water rights in the central wellfield over the next 18 years if and as water demand and thus production increases. So there are a certain amount of water rights that are recognized and then there is reserved an additional acre-feet of water which can be developed as the need arises.

Out in the Eldorado are the annual production is averaged about 545 acre-feet for the last eight years but has decreased below the average in the past eight years to a range of 516 to 544 acre-feet. So there is a cushion in water rights of about 493 acre-feet.

These Water Notes also explain that it is anticipated that the Water & Sanitation District will be increasing its water capacity and has done so and it notes that for additional water production, two new wells have been drilled into the fractured granite adding 298,000 gallons per day of sustained production. It's also noted in here that ratepayers are actually reducing their consumption by about five to 15 percent.

Exhibit #2 [*Exhibit 10*] is a memorandum of understanding that has been entered into between the County and the Eldorado Water and Sanitation District, and this was signed by the County Commission on October 9, 2012. And in this there are a number of whereas clauses which recite the basis for the final agreement and then the final agreement itself. This is the product of a study that was done involving hydrologists and County staff. The fifth whereas says Whereas, consistent with the shared goals, the County through its Utility Division is willing to assist the District from time to time to improve the reliability of the District's system in times of drought or mechanical failure, or as otherwise agreed to by the parties by providing access to water supplies from the Buckman Direct Diversion or from any other sources.

What's happening now as I'm sure the Commission understands is there are negotiations going on now between the Water & Sanitation District and the County about

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bringing waterlines which would be supplied with water from the Rio Grande diversion out to the Eldorado area. It would be there as backup in the case of any need, and as I understand it it is also anticipated that it's going to be going east to the Cañoncito area which is having problems.

The second whereas provides that the County has a statutory duty to the Subdivision Act, the Zoning Enabling Act and the Santa Fe Growth Management Plan and the Santa Fe County Land Development Code to assure that proposed development within the county is consistent with statutory requirements and that the LDC and specific to assure that a 99-year water supply exists for the proposed development within the County land use jurisdiction. Accordingly, the 99-year water supply requirement was investigated by the County and the conclusion was that this memorandum of understanding would satisfy that requirement.

The next whereas clause recites that the County acknowledges that the District's source of water supply are more than adequate at the present time to serve its customers and also acknowledges partial license RG-18529 and 18526 issued by the Office of the State Engineer, and the acknowledgement in those licenses that the District has available to it 783.43 acre-feet per year of water rights.

It continues and says that water experts have reviewed the District's source of supply and connection with recent applications to develop property and have agreed with the District that more than adequate water resources currently exist to serve existing customers and to serve new developments within the District's service area.

Finally, the whereas clause provides that, Whereas, a constructive way to assure progress on all of these objectives is for the County to agree that the District has provided sufficient present information concerning the District's water supply to justify the County's acceptance of a will-serve letter from the District, that the District is ready, willing and able to provide a customer with water service as adequate for purposes of the Subdivision Act and the Zoning Enabling Act, the Santa Fe County Code Growth Management Plan, and the Santa Fe County Land Development Code for a minimum of three years, and for the County and the District to agree to work together toward providing the District with water from the Buckman Direct Diversion or other sources as available to assist the District in times of drought or mechanical failure.

The County then – or this memorandum of understanding then says it is therefore understood and agreed by and between the parties as follows. One of the agreements is that for a minimum three years from the date of execution of this agreement no further information is needed and the County will accept a will-serve letter from the District that it is ready, willing and able to provide a customer with water service as adequate for purposes of the requirement, required review under the Subdivision Act, Zoning Enabling Act, and the Land Development Code without further technical review or inquiry.

The agreement also states that the County and the District agree to work together towards a subsequent agreement whereby the County provides the district with water from the Buckman Direct Diversion project to assist the district in times of drought or mechanical failure or as otherwise agreed by the parties on terms specified in the subsequent agreement. The last clause says this agreement shall be perpetual.

So we understand that there are concerns about water but we also understand that this has been thoroughly examined by the County, by the Water & Sanitation District, which is a

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quasi-municipality, and that there's a contractual agreement here that will-serve letters will be accepted by this County for a period of three years from October 9, 2012. Exhibit 3 [Exhibit 11] is for your reference and that is the partial license from the State Engineer's Office which goes through the mechanics of how the 783 acre-feet are established and recognized in the Water & Sanitation District.

Mr. Miller, who is the principal involved in this subdivision application has been working on this for a long time. He has held meetings, he has cooperated, he has responded to all County inquiries, has met all the requirements and we're asking for approval for his phase 1 of his Spirit Wind and for his preliminary and master plan approval. Are there any questions?

CHAIR HOLIAN: Thank you, Mr. VanAmburg. Are there any questions for the applicant or for staff? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair. We can start with the applicant first. There's 133.73 acres, correct?

MR. VANAMBURG: Right.

COMMISSIONER STEFANICS: And the subdivision will consist of 39 residential single-family residential lots.

MR. VANAMBURG: Right.

COMMISSIONER STEFANICS: So the – and I didn't do the math, but will the 39 residential sites take up the entire area or will there be green space and how much green space?

MR. VANAMBURG: I would like Mr. Martinez to respond to that who is the planner.

[Duly sworn, Danny Martinez testified as follows:]

DANNY MARTINEZ: Danny Martinez, agent for Mr. Miller. Madam Chair, members of this Commission, yes, there are 133 acres in the development, 39 lots with an average of 2.8 acres, more or less, and that's just average. There's a total of 13 acres of open space that will eventually be utilized within the development. In the immediate first phase there's a total of seven-plus acres that will be part of the open space. In addition, the 285 Corridor Ordinance is very specific that any development along 285 would have a 100-foot setback. We have also dedicated that area as open space. So we feel that we have met the criteria for our open space.

COMMISSIONER STEFANICS: Madam Chair, the next question I have is that some of the responses that you provided to us and that I'm reading from other people have to do with two-story versus one-story, and also manufactured housing. So could you clearly address each issue?

MR. VANAMBURG: The covenants do provide for two stories. The reason for that is it could be desired by some people. I would point out that the first part of the Spirit Wind West that the portion of the subdivision that was developed years ago is at a much higher elevation, so it's not as though the two-story would be blocking their views. Modular homes are allowed. Your mobile homes are not allowed. The modular homes have to be put on foundations; they have to be stuccoed; they have to pass the architectural committee and the intent is that they really – you can't tell the difference between that and a site-built house. They are built in accordance with building codes. They are built the same way and actually

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better constructed than onsite houses because they have to be reinforced because of their travel. Again, they are placed on their own stem walls and stuccoed and they can be any size that you want. There's a 1,400 square foot minimum so –

COMMISSIONER STEFANICS: Great. Thank you, Madam Chair. That's all for right now.

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, I'm reading through the packet this past week and I think there were a couple questions already broached, but as far as some of the covenants, sir, and maybe covenants from the adjacent Spirit – I may get the name wrong. But you touched on manufactured homes. You can't discriminate against manufactured homes, I think under state law, correct?

MR. VANAMBURG: There is a state statute that prohibits discrimination against them by a governmental entity. We could ban them through the covenants, likely, but it should not be a reason for turning down a subdivision.

COMMISSIONER MAYFIELD: How could you ban them through covenants if state statute prohibits that?

MR. VANAMBURG: Well, that's an interesting question.

COMMISSIONER MAYFIELD: Okay. Let me ask our attorney then. Mr. Ross, how could covenants ban a manufactured home if state statute does not allow that as discriminatory?

MR. ROSS: Madam Chair, Commissioner Mayfield, the state statute only prohibits us from making that a condition of development approval, but private people operating on their own with private contracts like private covenants can, in my opinion.

COMMISSIONER MAYFIELD: Okay. So that was answered. Thanks. Then a question about RV's and boats. Covenant restrictions say nobody can have an RV or boat on the property? In their driveway? On their lot?

MR. VANAMBURG: Yes, they're allowed to say that and that's not an uncommon covenant provision.

COMMISSIONER MAYFIELD: Okay, but then if the applicant then wanted to designate an area – five acres or maybe ten acres to say this is where the community can park their RV or their boat, that's permissible? That's not permissible?

MR. VANAMBURG: It's permissible if it were part of the application but it's not part of this application.

COMMISSIONER MAYFIELD: Okay, so I'm just going to ask this question. So then if people in the community have RV's and boats, but they don't want them in arguably that neighborhood, where are they supposed to park them? Are they going to move them – and I'm just going to say this – to my neighborhood?

MR. VANAMBURG: Well, there's another subdivision that we're proposing which has a commercial aspect to it and also have a storage area for boats and RV's which I think is really needed out there in the Eldorado area.

COMMISSIONER MAYFIELD: Okay. And then reading through a lot of just what I've read, I know there's a lot of questions about water and about the restrictions of .25 on each lot. I know there was an agreement or MOU that the County passed, I think back in October, knowing that we have our BDD and we're working with the Eldorado – and I might

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get their water district wrong. There were some agreements I think. Our Utility Director might be kind of working a little different avenue now. And the reason I bring all this up because there might be an opportunity for the Eldorado area to tie in with our water utility. But I also recall that the applicant – and I don't want to say donated. That might be the wrong term.

MR. VANAMBURG: I think it's the right term.

COMMISSIONER MAYFIELD: Okay, then donated is the right term. I stand to be corrected by anybody. But did something where he donated them a lot of water rights or some wells to the Eldorado water situation for the actual water system. What was the amount of water that was given to that association? Donated, sold, whatever the term is? To help improve that whole system.

MR. VANAMBURG: Mr. Miller had a well which was tied in, not to the river, but is tied into the aquifer. There are two sources out there, one draws off the Galisteo River and the other draws off an aquifer. And it was a huge producing well. He donated that well to Eldorado and also gave them essentially the site. Well, there was a total of five wells that he donated to Eldorado and one of them was a very high producer. And then right next to that well the Water & Sanitation District spent a million dollars in drilling a large casing well which is probably going to be capable of servicing most of the needs out there. So there's been a substantial amount of wet water that has been added to the system.

COMMISSIONER MAYFIELD: And whatever this Commission decides to do with this application, these 39 lots would be subject to tying into that water system? Or would they still be permitted to drill their own private wells on these lots?

MR. VANAMBURG: No. The plan is to tie into the water system and that's why we got the will-serve letter from the Water & Sanitation District.

COMMISSIONER MAYFIELD: And then, Madam Chair, Mr. Ross or Ms. Ellis-Green, there's still that potential possibility that the Eldorado – and correct me again if I'm wrong – would still have the potential of working with the MOU that's in our packet with our County water authority through the BDD if there was ever that shortfall of water anticipated in the future. Correct?

MR. ROSS: Madam Chair, Commissioner Mayfield, since that MOU was passed we've had several meetings with the Water & Sanitation District, the most recent of which was last week, and there was the intent for the Water & Sanitation District to tie into the Buckman line in two places, probably fairly soon.

COMMISSIONER MAYFIELD: Thank you. That's all I have, Madam Chair. Thank you.

CHAIR HOLIAN: Okay. Thank you, Commissioner. Commissioner Chavez.

COMMISSIONER CHAVEZ: I did have a question. Commissioner Stefanics touched on this a minute ago but I want to revisit that. It has to do with open space. You had a number, Mr. Martinez that you gave us on open space, and then I have another number here in the packet which is different. But maybe I'll start with that. The open space – the packet indicates that a total of 7.4686 acres is proposed as open space. That's dedicated as a park. So will that be passive? Will it be active? And then I think the number you gave earlier was larger than that.

MR. MARTINEZ: Madam Chair, Commissioner Chavez, so I can be clear,

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what we're dealing here is we're dealing with a phase 1 final that dedicates actual open space under phase 1. The future phases also dedicate a trail easement along the western boundary for a width of 25 feet that has the potential to be classified as open space also. So what I'm looking at – I was trying to give you the number of what we're dedicating under phase 1 and what the future potential could be dedicated. We were working with the Open Space and Trails Committee and they opted to not take on the dedication of the trail easement, which we thought was ample for the County to utilize because what it does is it ties in the 285 trail end and it would take it all the way into the Lamy or Santa Fe County Road 33 which ultimately ends up in Lamy. So again, we thought what we had was going to be an agreement to dedicate that trail but we still have it listed as part of our open space.

So again, immediately under phase 1 we're dedicating the 100-foot right-of-way section. We also have 100 feet that has to be separated between the railroad track and the first properties adjacent to the railroad track. So our total of open space, and I don't have it right off with me, is well over seven acres.

COMMISSIONER CHAVEZ: So this seven acres would just be for the first phase?

MR. MARTINEZ: Well, again, what we're doing in the first phase is we're actually dedicating two parcels along the south side of the highway, plus the 100-foot setback.

COMMISSIONER CHAVEZ: Okay. So that didn't track so that's part of why I wanted to ask the question. And it's hard not having – I don't know if you have a preliminary plan done or not but not having seen one it's hard to visualize it myself. Are we looking at phase 1 there or is that the whole development?

MR. MARTINEZ: Madam Chair, Commissioner Chavez, this is the whole development. Again, the 100-foot separation we have from the railroad track and along the 285 corridor, that's one set of open space. We will have an additional 100 feet on a future phase, and then we have the trail easement that would run along the west boundary that would tie into the south part of the development. To corner parcels over here, those are our dedicated open space parcels. Our preference at this stage of the game is there's an existing park right directly across from this property that's County owned park. It has picnic tables, it has the amenities of a park. We'd like to leave that open so that the homeowners association has the option of deciding how they want to develop their open space. So that's the extent of our open space is this parcel, this parcel, this strip all along the west side, and then the setbacks we have for the 285 and the railroad parcel.

COMMISSIONER CHAVEZ: Thank you, Madam Chair.

CHAIR HOLIAN: Okay. Thank you. Any further questions for the applicant or for staff? Okay, seeing none, this is a public hearing. Is there anyone here from the public who would like to speak on this case, either for or against. Please raise your hands so I can get a feeling for how many would like to speak. Okay. Perhaps you can all stand up to be sworn in and then when you come forward you can state your name for the record.

[Those wishing to speak were administered the oath.]

CHAIR HOLIAN: Okay, so who would like to start? Somebody please come forward and please state your name.

[Previously sworn, Kathy Olshevsky testified as follows:]

KATHY OLSHEVSKY: Hello. My name is Kathy Olshevsky and I live at 22 Mad Dog Drive. Mr. Miller supposedly met with the neighbors and he did with Spirit Wind but he unfortunately didn't meet with us at Mad Dog and we're actually adjacent to one of the first phase sections. Mr. Miller's agent talked about the trail easement that they had offered to the County and I thought that was really curious because I had spoke to Colleen Baker in the past and I knew that she really wanted to put a trail easement in from the rail easement which is across 285 into Lamy from east to west. And so I called her and eventually got to talk to her and she said that the trail easement that they offered was not suitable for what they required based on code. They needed it to follow terrain and it didn't. It was just basically a 15-foot easement, according to her, that followed the boundaries of the property and was not an east-west connection.

And of course I am concerned about water and I'm not quite sure that our concerns are being addressed per se. I know that there's at least three other developments, one of which is not Mr. Miller's that are going in or being proposed to go in. I just hope that the hydrologist is right because it would be really devastating to run out of water in 50 years. Anyway, I would really like to see larger lots being considered. I really do not want to see two-story buildings. I know that that maybe won't interfere with some of Spirit Wind but it could conceivably interfere with us, because the section closest to us is higher up. It's not as low down as they are referring to, the majority of Sprit Wind West.

So anyway, thank you.

CHAIR HOLIAN: Thank you, Ms. Olshevsky. Who's next?

[Previously sworn, Paul Rice testified as follows:]

PAUL RICE: My name is Paul Rice. I live at 35 Cerro Alto Road, and the first thing I'd like to address is Mr. Beal is not here tonight because of illness and his name was mentioned several times by Mr. Miller's counsel. And while I won't comment on whether the quotes were correct I feel strongly that the spirit of what Mr. Beal was trying to address his concerns were not well represented. While many of the things were talked about that was not the main concerns of not just the people in Spirit Wind, but we're only a small percentage of all the neighbors that will be affected and the community that will be affected by this project.

We are concerned about the water in spite of the fact that the County's water bureau has found to some extent in favor of this project. We know that laws that were passed and zoning that was passed in the 1970s could not have anticipated the crisis that we're in the midst of now in the southwest. And we know what the trend is for water. We understand. We live it daily. I've watched my water pressure drop from 2007 when I bought my home significantly over the years. So I am very, very concerned.

I'm also concerned – I don't see the economic value for the community. When my house was built in 2007, between 2006 and 2007, it employed upward of 20 people over the period of a year, countless contractors and people that lived and worked in Santa Fe were part of that construction. I don't see how modular homes that are coming from some other area are going to benefit our community.

I also think that – I'd like to understand how the spirit of the zoning code that requires a home in excess of 2,500 square feet to have a cistern. Now, I was just under 2,500 square feet but I put a cistern in because I felt it was the responsible thing to do. However, these 39 homes in such a dense area are clearly going to use more water than the surrounding area is

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using because we don't have that kind of population, and yet I haven't heard anything in the covenants about cisterns of planning for water going forward.

So these are the concerns I think that many of us that are here and that have signed the petitions have. Thanks very much.

CHAIR HOLIAN: Thank you, Mr. Palmer. Who's next?

[Previously sworn, Paul Olshevsky testified as follows:]

PAUL OLSHEVSKY: Hello, Madam Chair and Commissioners. My name is Paul Olshevsky and I live at 22 Mad Dog Drive just adjacent to the proposed Spirit Wind West. The first question I'd like to ask all you Commissioners is if you received my letters that I sent to every one of you.

CHAIR HOLIAN: Yes. I think that was included in our packet.

MR. OLSHEVSKY: Okay. So I won't have to go over any of the facts in there. However, I did want to bring up it was talked about that there was less water being used by the people in the area. And I believe the reason for that is because the rates have gone up so much that it's a penny a gallon, over a penny a gallon now for our water. And so that's why I believe that people are using less water in the area.

And also I want to talk about the EAWSD, that's the water district that services us. They, in the past, their maintenance program, and I don't believe that they're that much better, has caused water restrictions in the last four years in their maintenance program that they're lacking in. They have exposed lines. They've had leaks, and they have these pressure valves that have been leaking on the south end of the district that have caused water restrictions where we couldn't even wash our cars. The landscape, cars, and I'm afraid that all the building that these proposed developments – like my wife said there are going to be four of them that are proposed in our area, serviced by this water district. We'll not be able to meet that demand and if we have a leak or a severe rupture in one of those 8" lines that go down by our property we'll be in big trouble and Spirit Wind will be in big trouble too because they're serviced by that. I want to thank you for your time.

CHAIR HOLIAN: Thank you, Mr. Olshevsky. Who's next?

[Previously sworn, Kathy Beal testified as follows:]

KATHY BEAL: Hi. My name is Kathy Beal, and I just wanted to talk about three points pretty quickly. One was the higher elevation – I'm sorry. I live in Spirit Wind Ranch and our property is adjacent to the new proposal and we don't have a height difference of 20 feet. We have a height difference of maybe three feet. Our property is right next door, so I would definitely not like to see two-story houses. And I wanted to demystify the myth that all Spirit Wind properties are at such a high elevation that a two-story house would not matter.

The other thing along those same lines is since these properties, these subdivisions are adjacent I'm wondering why there's no open space between the subdivisions. That would certainly have helped in our support of the project.

And lastly, everyone is concerned about water and while the wells from Mr. Miller's donation have been pumping in Eldorado we've still been on water restrictions as it is. Every summer we've had water restrictions. A couple years ago we couldn't plant any new plants for landscaping. Just because those wells are there and are pumping doesn't necessarily mean they can support all these new homes. Thank you.

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CHAIR HOLIAN: Thank you, Ms. Beal. Is there anyone else who would like to speak from the public? Okay. The public hearing is now closed. Are there any – well, first of all, Mr. VanAmburg, would you like to make some closing statements?

MR. VANAMBURG: Just I understand that concerns were presented but I didn't hear the intensity of these issues as much as sometimes you hear in these proceedings. I would just like to point out that Mr. Martinez and Mr. Miller did what they could to meet with anybody who had some concerns. We were hopeful that Mr. Beal could round up everybody in the neighborhood and if he did not do that certainly I understand why. But we tried to meet with everybody we could just so we wouldn't have to hear at this meeting that we didn't meet with someone. So we apologize if we were at fault at all but we did our best.

This is not a response on the trail connection. My understanding from Mr. Martinez is we have not been told the reason why the trail was not accepted. We're still willing to talk to the County about having the connecting trail. On modular homes not providing jobs – these will not all be modular homes, I'm sure. I'm sure people are going to want to build their homes on site. It's just that if somebody wants to have a modular home it's not precluded.

The water rates are up. Yes, this is a high price for water that people are paying out there and the result is that people cut down on the water use. I don't think that's all bad. EAWSD, the Water & Sanitation District is a quasi-municipality that was approved by the courts. It inherited a system that was in disrepair. They are making repairs; they are adding wells. It's a professional organization and is not following the same patterns that maybe some of its predecessors did. So I don't think that we need to have concerns over EAWSD doing its job in the future.

That's it. If there are any questions –

CHAIR HOLIAN: Thank you, Mr. VanAmburg. Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, thank you, Madam Chair. Could you tell us how the development will handle conservation and things like water harvesting?

MR. MARTINEZ: Madam Chair, Commissioner Chavez, again, we're pretty much identifying on our subdivision plat that the development will comply with Santa Fe County ordinance, whatever it is, which is very clear. Water harvesting, cisterns. That's how we approach it is we approach it by stating on the subdivision plat that this development will comply with Santa Fe County ordinances. And again, that's the best way we can approach it because when they come in for a building permit pretty much mandates cisterns. They identify water harvesting. They identify the things necessary to follow those particular ordinances and that's what we're doing.

COMMISSIONER CHAVEZ: Okay, Madam Chair. I appreciate that, Mr. Martinez. I didn't see that in staff recommendations and I don't know if this is not the place for that right now, but would staff consider adding that or is that language that is somewhere else that I don't see?

MS. LUCERO: Madam Chair, Commissioner Chavez, it's not listed as a condition of approval but it is an ordinance that will be enforced with they come in for building permit. So we could add it but it will be done because they will be required to comply with our ordinance.

COMMISSIONER CHAVEZ: So if it's a standard it will be part of the review process and they go through the final development of the actual subdivision.

MS. LUCERO: Madam Chair, Commissioner Chavez, it will actually be – the water harvesting will be enforced at the time of building permit, because at this point we don't know the size of the structures that are going to be on each lot. So that's what regulates whether or not cisterns are required or if rain barrels would be sufficient.

COMMISSIONER CHAVEZ: Okay. Thank you, Madam Chair.

CHAIR HOLIAN: Any further questions? Commissioner Stefanics.

COMMISSIONER STEFANICS: Madam Chair, it's more a statement than a question at this point. There are many community concerns and we can identify – well, first the comment. When people buy property they have the right to develop it within the codes and the ordinances. And we've had many difficult cases come in front of us that haven't been received well by communities. And it comes down to whether or not – no one can just buy a piece of property and do whatever they want. They have to abide by the code and by the ordinance. And we are in the process of changing the ordinance, but they have a right to do something within their property.

So we've had difficult situations where oftentimes developers and existing residents have not always had the opportunity to negotiate or reach agreements. So sometimes we have postponed decisions to allow for further time and effort to be put into the process, and we did one just recently with Rancho Viejo. We've done it with Commonweal to actually a couple years. Saddleback. The Girls and Boys Ranch. We've had many, many, many land use decision cases that were even much more controversial than this. And the one thing I'm not quite sure about is whether or not the developer and the communities – plural – have really had the chance to be at the table.

I've heard today that Mr. Miller or representatives met with Spirit Wind but I'm not sure they met with some other areas somebody spoke today about. So I think there might still be some opportunity to work out some issues. I do think we also have been in situations before where we don't want something in our own backyard, and that's a very difficult issue. People say, oh, it's going to wreck my property value. Oh, this is going to happen. Oh, this is going to happen. Well, I'm the same way. I had somebody who was a fracker who wanted to move in next door to me and I was going ballistic.

So one of the things that happens though is trying to work with the code, the ordinance, to work with the community and the developer. And so I'm interested in hearing what my colleagues have to say but this also might be a situation that isn't ready to decide. Thank you.

CHAIR HOLIAN: Thank you, Commissioner. And actually, Mr. VanAmburg, would you like to respond to that?

MR. VANAMBURG: I would, but first I would ask the Commission's indulgence and maybe have Robert Rambo from the Court of Appeals address the efforts of trying to connect with the community.

CHAIR HOLIAN: Okay.

[Duly sworn, Robert Rambo testified as follows:]

ROBERT RAMBO: Robert Rambo, appellate mediator for the New Mexico Court of Appeals. I would – what I can add, Madam Chair and Commissioner Stefanics, is in the course of this process in the last two years of mediating with Mr. Miller and the County there have been opportunities that have been established to try and respond to the community.

As part of that I've been in two meetings that Mr. Miller has conducted with community members. One that was in the Agora Shopping Center in the community room there with members of Spirit Wind Ranch, is I believe the homeowners association and other folks as well. My understanding is the County Land Use has tried to coordinate opportunities to meet Mr. Beal. I've been in touch with him. He's the representative of Spirit Wind Ranch folks.

There have been continuing discussions and we continue to try and provide opportunities for conversations to take place. Any questions?

CHAIR HOLIAN: Thank you, Mr. Rambo. Any questions? And Mr. VanAmburg –

COMMISSIONER STEFANICS: Madam Chair, let me ask a question.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: In your estimation, is there anything that the developer did not attempt that could have been tried with the surrounding neighbors?

MR. RAMBO: I'm not familiar with the process beyond that the Land Use Department does try to collect information from community members and provide that information to the developer. I think there was a list that Land Use has of individuals that may want to speak. I'm not exactly sure how that part of the process works. I was just asked at one point to attend two meetings that were held and was in contact with Mr. Beal about continuing discussions. I guess maybe the answer is I've assisted with monitoring that process and being available if anybody wanted facilitated meetings I engaged in one of those.

COMMISSIONER STEFANICS: And Madam Chair, one other question. Was there great attendance at either of these meetings?

MR. RAMBO: The meeting at the Agora Shopping Center, the community room, I think there was about 20 to 30 people that were in attendance at that meeting. The other meeting involved another project, Tierra Bello, and that was out at the Community Center, I believe, the Eldorado Community Center and there was about a dozen or so folks attending that meeting.

COMMISSIONER STEFANICS: And Madam Chair, was there any changes made in the plans based upon the interactions?

MR. RAMBO: Yes. My understanding is changes were made following both of those meetings and there were continued discussions with Mr. Beal and the Spirit Ranch folks and changes were made all the way up to and including yesterday, there were some additional changes made based on those discussions.

COMMISSIONER STEFANICS: Thank you very much.

CHAIR HOLIAN: Okay. Thank you. Any further questions for staff or for the applicant?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, just for the applicant and staff. I don't know what position the Commission is going to take in a few minutes but my suggestion, just as an added staff condition is as far as the trailhead space, the 15-foot wide easement, if staff hasn't gotten back to the applicant or if there's still some language that needs to be addressed, that if you can make the topography of that land accessible as it was brought up I think – and I apologize, Ms. Olshevsky, if I pronounce your name wrong. But if

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there's some inclines and stuff that makes that inaccessible in speaking with our staff that you would all address that. I think that's kind of what I've heard. I don't know if Ms. Ellis-Green if that's an issue with you all.

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, are you talking about the proposed trail easement?

COMMISSIONER MAYFIELD: Yes, the 15-foot wide – that's what I've heard.

MS. ELLIS-GREEN: Okay. I understand that the Open Space Department had said that they didn't think it was accessible, so are you asking them to move –

COMMISSIONER MAYFIELD: I'm just asking if that could become a staff condition if this Commission moves forward with this, that has to be addressed. It has to become an accessible 15-foot easement to access that open space.

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, the property in general doesn't have this up and down situation. There's a power line and waterline actually within the same area in this trail easement. The power line, again, like I say, it's very gentle sloping terrain. In this agreement, in this effort to negotiate with Open Space there's an additional parcel that Mr. Miller offered to the County as a parking area coming off of the 285 trailhead that would have allowed anybody to come off and park off of 285 and utilize a trail, plus, they still have the access going south or north into the community of Eldorado. So that property was available to the County and the County just basically said we just don't feel that this trail meets our needs at this time. We're still dedicating it, but the County just felt that they didn't need it at that point. So even in regards to the parking, there was a request for proposals that was out to determine where they could put a parking easement at the beginning of this trail easement. Again, that issue never went anywhere. The County just decided they weren't interested in the trail at this time and they weren't interested in the parking. So that offer that Mr. Miller offered on this parcel of land, outside of this development, up against 285, basically went away.

So you can see, it's been a continuous effort to try to satisfy the trail easement part and we're still open to working with the County on this. It's just they've made the determination that they don't want the trail.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, Mr. Martinez. You bring up another point now, just on some other issues I've dealt with up north. But as far as the parcel of open space – again, I don't know how big it is. Is it a few acres? Ten acres? Twelve acres? We're talking maybe with a picnic area?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, two of the parcels are greater than 3 ½ acres that would allow for picnic areas and development of the open space as a park for the community of the subdivision.

COMMISSIONER MAYFIELD: Okay. Great. And then it could access some also trail space.

MR. MARTINEZ: Correct.

COMMISSIONER MAYFIELD: And then you may have just broached this, but – because an issue that I deal with up north is parking. Because I would hope then when people decide to park there, because you're going to get other community members outside of this community that will go there, but the issue that I deal with is that there are community

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members saying, well, we don't want people parking in our driveways or on our streets. So you guys are then respectfully affording for parking spots within this community also, so people are not parking in somebody's driveway.

MR. MARTINEZ: Madam Chair, Commissioner, that's correct. In these open spaces they would have their own parking spaces allotted for them is what they would do.

COMMISSIONER MAYFIELD: Thank you. Thank you, Madam Chair.

CHAIR HOLIAN: Okay.

MR. MARTINEZ: Madam Chair, if I could just point out one thing that's really important. As of yesterday, two-story houses are no longer in the subdivision. That's the biggest issue that we saw that was hanging over us. We have agreed to eliminate two-story homes entirely.

CHAIR HOLIAN: Okay. Thank you, Mr. Martinez. Okay, what are the wishes of the Board? Okay, well, I will just say that the developer has complied with a number of requirements by the County including protection of archeological sites, access requirements by the Department of Transportation, open space, affordable housing, terrain management, and they have met with the neighbors to try to address some of the concerns that the neighbors had and they have modified the covenants.

With regard to the water, I will acknowledge that there is a memorandum of understanding between the County and the EAWSD. In fact that MOU states the County will accept a will-serve letter from the District, that it is "ready, willing and able to provide a customer with water service." So we cannot really question that letter.

But, in my opinion, this is a development that is not in keeping with the vision of the Sustainable Growth Management Plan. It is sprawl. There's no way around that. That means that it has expensive to maintain infrastructure. It's expensive to travel to work, school, shopping, other things, and there's very little opportunity for efficient use or re-use of water.

This is the kind of development that we've had a lot in our county over the years, and it was very common practice 10, 20 years ago. But in my opinion it's not the kind of development that we really need or want at this point in time. So I really cannot in good conscience vote for this. So I guess I make the motion to deny CDCR Case #Z/X 08-5430, Spirit Wind West Subdivision. Is there a second? Okay, seeing none, the motion dies. Would anybody else like to make a motion?

COMMISSIONER MAYFIELD: Madam Chair, I will make a motion. My substitute motion would move that we would postpone this to our next land use meeting asking that the developer go back and work with the community, one last opportunity, seeing if there could be more differences that could be ironed out, hearing what was stated tonight, and they would come back to us at our next land use meeting, and we could have this case for final action at that meeting.

CHAIR HOLIAN: Is there a second?

COMMISSIONER CHAVEZ: Second.

COMMISSIONER STEFANICS: Madam Chair, I would add something, if the maker of the motion would consider this friendly. I would like to have identified when the applicant comes back the very specific conservation measures that plan to be taken with open space, water conservation, archeological sites and anything else that staff could recommend. But just so that we have very specific comments about it. Thank you. Is that friendly?

CHAIR HOLIAN: Commissioner Mayfield, are you okay with that?

COMMISSIONER MAYFIELD: I am, Madam Chair, but after we take this vote I just need before we adjourn to make one other point. Because that land use meeting will be on what day again, Steve?

MS. ELLIS-GREEN: April 9th.

COMMISSIONER MAYFIELD: And if you all will just indulge me, I'm going to just make another clarifying point after we take this vote please.

CHAIR HOLIAN: Okay. We have a motion and a second with an amendment for postponing this case until April 9th, with direction given.

COMMISSIONER STEFANICS: Well, Madam Chair, the only thing I would say is we might not need to put a date yet, because we didn't actually put a date on the other postponement we did, and it really is working. The developer and the community is meeting, but it took them almost six weeks to get it together to meet.

CHAIR HOLIAN: Okay. Fair enough. So this is an indefinite postponement until various issues can be worked out. So I have a motion and a second.

The motion to postpone passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

CHAIR HOLIAN: So, Commissioner Mayfield, you wanted to make a point?

COMMISSIONER MAYFIELD: Well, I was just going to say if it was to the 9th I would just call in and take care of that other case on the 9th also.

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: I think just to clarify though, the applicant can ask to get back on the agenda at any time. So the applicant has that right to say I'm ready to come back, and we'll find out if anything has changed or not, in the one month or the three months or the six months. So thank you.

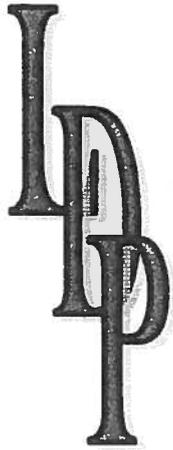
COMMISSIONER MAYFIELD: And then, Madam Chair, on that point, Commissioners. Steve, on that earlier case that we tabled because of the improper noticing, if that's the case I will make myself available by phone on the 9th of April that we can hear both of these cases. So I know that we asked to push that other case out, but if that's the case for April 9th if that other case has to be brought forward to us, I will just make myself Skype or phone to bring that case back. It is what it is. I'll call in from out of the country last time.

MR. ROSS: Madam Chair, Commissioner Mayfield, if that's the case maybe we notice it for the next available meeting so that we have flexibility.

COMMISSIONER MAYFIELD: Or even for that other case that we pushed back because it can just be heard of. That's fine then. Just so we can make that point of clarification right now please.

MS. ELLIS-GREEN: Madam Chair, Commissioner Mayfield, so can I confirm that that is CDRC Case 12-5340, the Family Dollar Store?

COMMISSIONER MAYFIELD: That's fine. If it's acceptable by this Commission, that's fine that we hear that case as soon as it can be heard, but I just want everybody to know, I will more than likely be participating telephonically. If you guys want



LAND DEVELOPMENT PLANNING

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March 24, 2013

Ms. Vicky Lucero
Santa Fe County Building and
Development Services Manager
102 Grant Avenue
Santa Fe, New Mexico 87504

RE: Spirit Wind West Subdivision

Dear Ms. Lucero:

In response to your letter to Mr. Joseph Miller dated March 21, 2003. In our continued efforts to meet with the adjoining neighbors and others in the vicinity of Spirit Wind West Subdivision we have tentatively scheduled a meeting for the 28th of March at 6:30 pm at the ECIA Railroad Building in Eldorado. Our contact person has been Mr. Richard Beal of Spirit Wind Ranch Subdivision. He has indicated that a group of neighbors is also working on setting up a meeting, yet Mr. Beal has no contact information for us. (See attached email). Our efforts have been ongoing, as Ron Van Amberg has also been coordinating with Mr. Beal in the revisions to the Development Restrictive Covenants and any other issues that remain.

Attached you will also find revised copies of the latest Declaration of Restrictive Covenants, Disclosure Statement and Declaration of Covenants and Water Restrictions. The revised documents reflect revisions agreed to by Mr. Joe Miller and Mr. Beal through Ron Van Amberg.

Also attached are site photos of the areas of Open Space Dedication along with proposed Pedestrian Trail locations running between the three areas of open space to be dedicated as private easements for the benefit of the residence of Spirit Wind. We are also in communication with Colleen Baker of SFC Open Space and Trails Department, regarding our development dedications. In a previous field visit of which you were in attendance, the department indicated that there was not an interest on the County's acceptance of the trail easement or the adjoining parking area that Mr. Miller was offering, leading us to dedicate the areas as private.

EXHIBIT

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Attached, within this submittal is a preliminary development plan for developing a portion of the Open Space as a trail head with limited parking and three picnic shelters for use by the residence. It is the desire of Mr. Miller to allow the future Homeowners Association to develop the park area with their input. The areas of Open space will be dedicated by the Phase 1 Subdivision Plat, however development of any park areas will happen once six lots have been sold and the Homeowners Association has been created.

Mr. Ron Winters is the development Archaeologists working on the Treatment Plan for the Archaeological Site located within Phase four (4) of the development and coordinating with SHIPO's office. Attached you will find a report that identifies the treatment plan for this site as presented by Mr. Winters. A conclusion to this plan is not available and will be made available when completed and accepted by SHIPO. A letter from Ms. Michelle Easey of SHIPO's Office was provided to you regarding this site and how there are no adverse affects by the approval of Phase One of the development on the site. If a treatment plan is not approved, the developer would be required to realign the roadway in Phase 4 of the development.

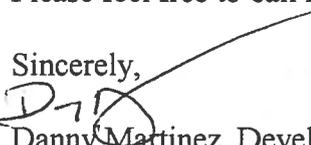
In addition the development setbacks require a (100') one hundred foot rear setback for all lots that will establish a green zone between the two subdivisions that can be identified as "No Build Zones or Green Zones" which ever label is acceptable. Development setbacks require 75' front setback from the center of the road, 25' side lot setbacks and the 100' for the rear setback.

We are requesting that Spirit Wind West Subdivision be placed on the agenda for the April 9, 2013 meeting based on the attached documentation and our continued efforts to meet with the neighbors.

We are anxiously waiting for this project to receive final approvals as allowed by SFC Development Regulations. Further delays indicate a violation of the Settlement Agreement between the County and Mr. Miller to work in good faith to approve Mr. Miller's development.

Please feel free to call me should you have any questions.

Sincerely,


Danny Martinez, Development Planner

cc Mr. Joseph Miller
Mr. Ron Van Amberg, Attorney
Mr. Robert Rambo, Mediator, NM Court of Appeals

DECLARATION OF COVENANTS AND WATER RESTRICTIONS
FOR Phase 1, SPIRIT WIND WEST SUBDIVISION

(Section 5, T14 N, R10E and Section 32, T15N, R10E)

THIS DECLARATION is made in Santa Fe, New Mexico, this ____ day of _____ 20__, by Joseph F. & Alma M. Miller, hereinafter for convenience referred to as the "Owner(s)".

WITNESSED THAT:

WHEREAS, Joseph F. @ Alma M. Miller c/o Cow Springs Land and Cattle Co. LLC. are the owners of real property in Santa Fe County, New Mexico, which property includes sixteen (16) lots containing a combined total of 133.7280 acres, more or less, according to the plat entitled "SUBDIVISION OF PHASE 1, SPIRIT WIND WEST SUBDIVISION" referred to hereinafter at Article I; and

WHEREAS, the Owners are required to provide for certain water conserving covenants and measures as required per the Santa Fe County Land Development Code; and

WHEREAS, the Owners desire and intend that the owners, tenants, mortgagees, occupants and other persons hereinafter acquiring any interest in said property shall at all times enjoy the benefits of, and shall hold their interest subject to, the rights and restrictions hereinafter set forth, all of which are declared to be in furtherance of a plan for the proper and beneficial use of the property.

NOW THEREFORE, the Owners declare, covenant, and agree as follows:

ARTICLE I

Property Subject to this Declaration

The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is legally described as Phase 1, Spirit Wind West Subdivision and containing a combined total of 133.7280 acres, more or less, in Section 5, Township 14 North, Range 10 East, and Section 32, T15N, R10E N.M.P.M., Santa Fe County, New Mexico, according to the Subdivision of Survey for Phase 1 Spirit Wind West Subdivision by, Lenore Armijo, N.M.L.S. #15511, dated, _____, recorded _____, 20__, under reception No. _____, Plat Book _____, Page _____, in the records of Santa Fe County Clerk, New Mexico (the "Plat").

ARTICLE II

Water Restrictive Covenants

The following water restrictive covenants shall apply to the use and occupancy of all lots on the plat noted above. (Any Existing dwelling units shown on the plat must meet provisions (B) through (J) at the time of fixture or appliance replacement or installation of additional landscaping; provisions A, K and L are applicable immediately.)

- (A) Domestic water use is restricted to **0.25** acre-feet per year (**81,463** gallons per year) per parcel as required by the Santa Fe County Land Development Code.

- (B) Water conserving appliances and fixtures as outlined in Ordinance 2002-13 as amended shall be installed and used at the time of construction or replacement.
- (C) Toilets shall use no more than 1.6 gallons per flush. Urinals shall use no more than 1.0 gallon per flush.
- (D) Lavatory and kitchen faucets shall be equipped with aerators and faucet flows shall not exceed 2.5 gallons per minute. Showerhead-flows shall not exceed 2.5 gallons per minute.
- (E) Hot water pipes shall be insulated.
- (F) Evaporative coolers must circulate bleed-off water.
- (G) No more than one automatic dishwasher per dwelling unit may be used, provided that it is a model designed to use no more than 13 gallons per cycle and shall have a cycle adjustment, which allows reduced amounts of water to be used for reduced loads.
- (H) No more than one automatic clothes washing machine per dwelling unit may be used, provided that it is a model that uses no more than 43 gallons per cycle and shall have a cycle or water level adjustment that permits reduced amounts of water to be used for reduced loads.
- (I) Water system leaks from private water lines shall be repaired by the owner or property manager within fifteen (15) days of initial notification by the County or the owner's knowledge of the leak. Proof of repair shall be provided to the County upon completion of the repair when such notification is requested.
- (J) Low water use landscaping techniques applying the principles of xeriscaping shall be utilized. Drip irrigation and mulching are encouraged whenever possible. Low water use grasses, trees and shrubs may be watered as needed during the first and second years of their growth to become established. Thereafter, such vegetation shall receive only minimal water as needed by each species.
- (K) Planting sod or grass seed that contains Kentucky bluegrass is not permitted. Lawns of other non-native grasses shall not exceed 400 square feet per parcel and shall only be watered with rainwater collected by means confined to the property or with recycled household gray water. Gray water systems shall meet the requirements of the New Mexico Environment Department and the Uniform Plumbing Code.
- (L) Swimming pools, of a permanent or temporary nature, are not permitted. Temporary wading pools of a diameter not to exceed eight feet and a depth not to exceed one foot and covered spas are acceptable at each dwelling unit. All existing swimming pools, hot tubs and spas must be covered to prevent evaporation when not in use. ~~Swimming pools may only be emptied once a year.~~
- (M) No private wells shall be permitted within this development.
- (N) Outdoor Irrigation is prohibited between 11am to 7pm from May through September of each year. The following sources and water and types of irrigation methods are exempt from the irrigation hour restrictions:
 - a.) Plants being irrigated for retail or wholesale transactions.
 - b.) All manual watering by landscape maintenance and contracting personnel, however landscaping personnel setting timed irrigation systems must ensure that the systems comply with the irrigation hour restrictions.
 - c.) Any water derived through rainwater catchment systems or any permitted water re-use system.
 - d.) Rainwater Harvesting techniques shall comply with Santa Fe County Ordinance No. 2003-06.
 - e.) All lot owners will be required to employ water conservation methods to reduce consumption per Santa Fe County Ordinance No. 2002-13.

- (O) Hot water recirculation techniques are required per Santa Fe County Ordinances No. 2006-03 and 2006-08.
- (P) These water restriction covenants shall run with the land and bind all successors in Interest.

ARTICLE III
General Provisions

3.1 Duration; Covenants Running with the Land. The covenants of this Declaration shall run with and bind the land, shall inure to the benefit of and be enforceable by the owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns and the County Land Use Administrator.

3.2 Enforcement. Enforcement of these covenants and restrictions shall be by the County Land Use Administrator or any owner of property as shown on the Plat in any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction or to restrain any such violation. Any failure by the County Land Use Administrator or any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. If the County Land Use Administrator or an owner prevails in any action against any person or persons to enforce any provision hereof, they shall be entitled to recover from such person or persons his costs and reasonable attorneys fees.

3.3 Severability. The invalidity or unenforceability of any covenant, restriction, term or other provision hereof as determined by a court of competent jurisdiction shall not impair or adversely affect the validity or enforceability of any other covenant, restriction, term or provision hereof, which shall be and remain valid and enforceable to the fullest extent permitted by law.

3.4 Miscellaneous. This Declaration shall be governed by and interpreted under the laws of the State of New Mexico. This Declaration shall be binding upon each tract owner, his successors and assigns.

IN WITNESS WHEREOF, the Owners have caused this Declaration to be signed as of the date first above written.

STATE OF NEW MEXICO)
) ss.
COUNTY OF SANTA FE)

Joseph F. Miller

Alma M. Miller

On this _____ day of _____, 20____, the foregoing instrument was acknowledged before me by the person(s) whose name(s) appear above.

Notary Public

My commission expires:

APPROVED BY COUNTY LAND USE ADMINISTRATOR

XFINITY Connect

ldplanning@comcast.net

± Font Size -

Re: Spirit Wind

From : Richard Beal <richard@beal-net.com>

Sat, Mar 23, 2013 07:39 PM

Sender : richardbeal@gmail.com**Subject :** Re: Spirit Wind**To :** ldplanning@comcast.net

Danny,

There's a larger group of neighbors who met last week to discuss various issues and they selected leaders who apparently are meeting this coming week to setup a meeting with Joe and the community. SWR will plan on attending that meeting. Don't have any more details than that but I'm sure they'll be in contact.

Richard

On Sat, Mar 23, 2013 at 8:55 AM, <ldplanning@comcast.net> wrote:

Just trying to make sure we're covering all the issues and keeping open the line of communication as directed by the BCC. Other long term issues should be natural gas and high speed internet. It's going to require full community support, If you don't see a need to meet then we will continue to push forth.

Thanks

Danny

Land Development Planning

PHONE: (505) 660-5250

FAX: (505) 798-1959

e-mail ldplanning@comcast.net

From: "Richard Beal" <richard@beal-net.com>**To:** ldplanning@comcast.net**Sent:** Friday, March 22, 2013 2:36:50 PM**Subject:** Re: Spirit Wind

What issues would you like to talk about?

On Fri, Mar 22, 2013 at 10:03 AM, <ldplanning@comcast.net> wrote:

Hi Richard,

In an effort to follow up with you, we would like to schedule a meeting with you and others to go over Spirit Wind and try to resolve any issues that remain.

I will be calling ECIA to see if we can use the railroad building on Thursday the 28th at 6:30 pm. If this works could you please let me know.

SPIRIT WIND WEST SUBDIVISION

LOT 18A-2A-1A
 #85 CERRO ALTO ROAD
 WITHIN PROJECTED SECTION 5,
 TOWNSHIP 14 NORTH, RANGE 10 EAST, AND
 SECTION 32, TOWNSHIP 15 NORTH, RANGE 10 EAST,
 BISHOP'S JOHN LAMY GRANT
 NEW MEXICO PRINCIPAL MERIDIAN
 SANTA FE COUNTY, NEW MEXICO

NOTES:

- DEVELOPMENT OF OPEN SPACE AND TRAILS WILL BE THE RESPONSIBILITY OF THE SPIRIT WIND HOMEOWNER'S ASSOCIATION.
- TOTAL AREA OF OPEN SPACE AND TRAILS = 12,260 AC.
- A 100' NO BUILD BUFFER IS CREATED BETWEEN ALL COMMON BOUNDARY LOTS WITH SPIRIT WIND RANCH SUBDIVISION.

DESIGNATED PICNIC

TRAIL HEAD

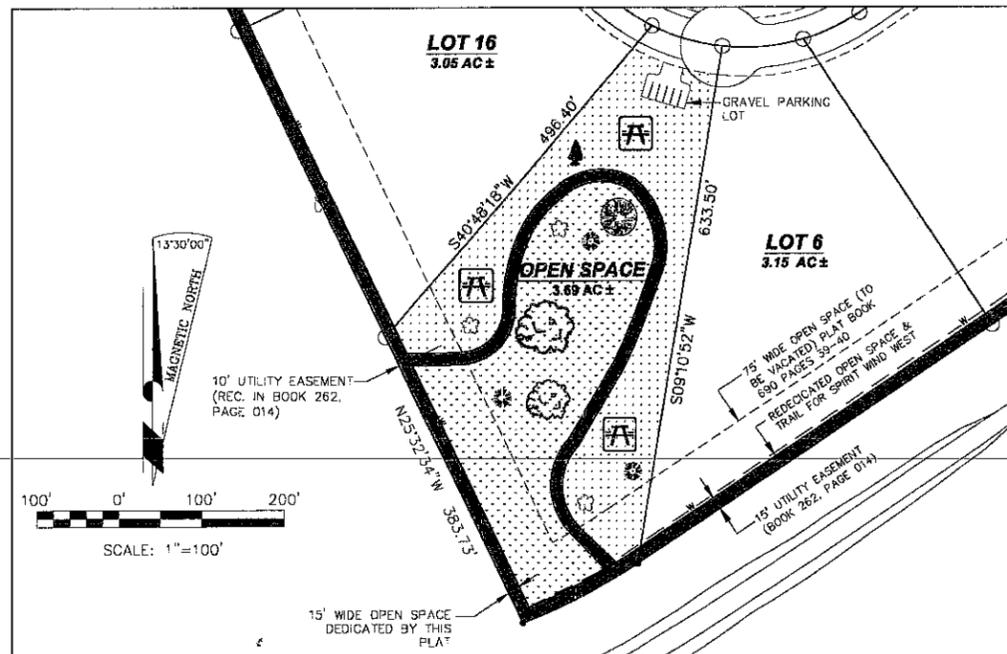
EXISTING 50'X120'
 UTILITY EASEMENT 282/014

100' WIDE LANDSCAPE
 BUFFER & OPEN SPACE
 DEDICATED BY THIS PLAT
 213,112.42 SQFT / 4.89 ACRES ±

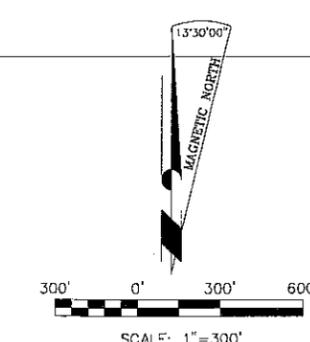
APPROXIMATE PROJECTED
 SECTION LINE
 SECTION 32, T15N, R10E
 SECTION 5, T14N, R10E

TYPICAL LOT SETBACKS:
 100' FROM CENTERLINE OF ROAD
 100' REAR LOT LINES
 25' SIDE LOT LINES

DEVELOPMENT OF OPEN SPACE TO BE
 COORDINATE BY SPIRIT WIND WEST
 SUBDIVISION HOMEOWNER'S ASSOCIATION.



OPEN SPACE DETAIL



NO.	DESCRIPTION (OR CHANGE NOTICES)	DATE	BY
7			
6			
5			
4			
3			
2			
1			

LAND DEVELOPMENT PLANNING
 PLANNERS CONSTRUCTION MANAGEMENT
 P.O. BOX 94886
 ALBUQUERQUE, NM 87199
 FAX: (505) 788-1959
 EMAIL: ldplanning@comcast.net

**SPIRIT WIND WEST SUBDIVISION
 SANTA FE COUNTY, NEW MEXICO**

SITE DEVELOPMENT & PHASING PLAN

PROJECT NO.: 05-3022
 DESIGNED BY: DM/MTW
 DRAWN BY: JHP
 CHECKED BY: GK
 DATE: 3/24/2013
 DPI CHK:

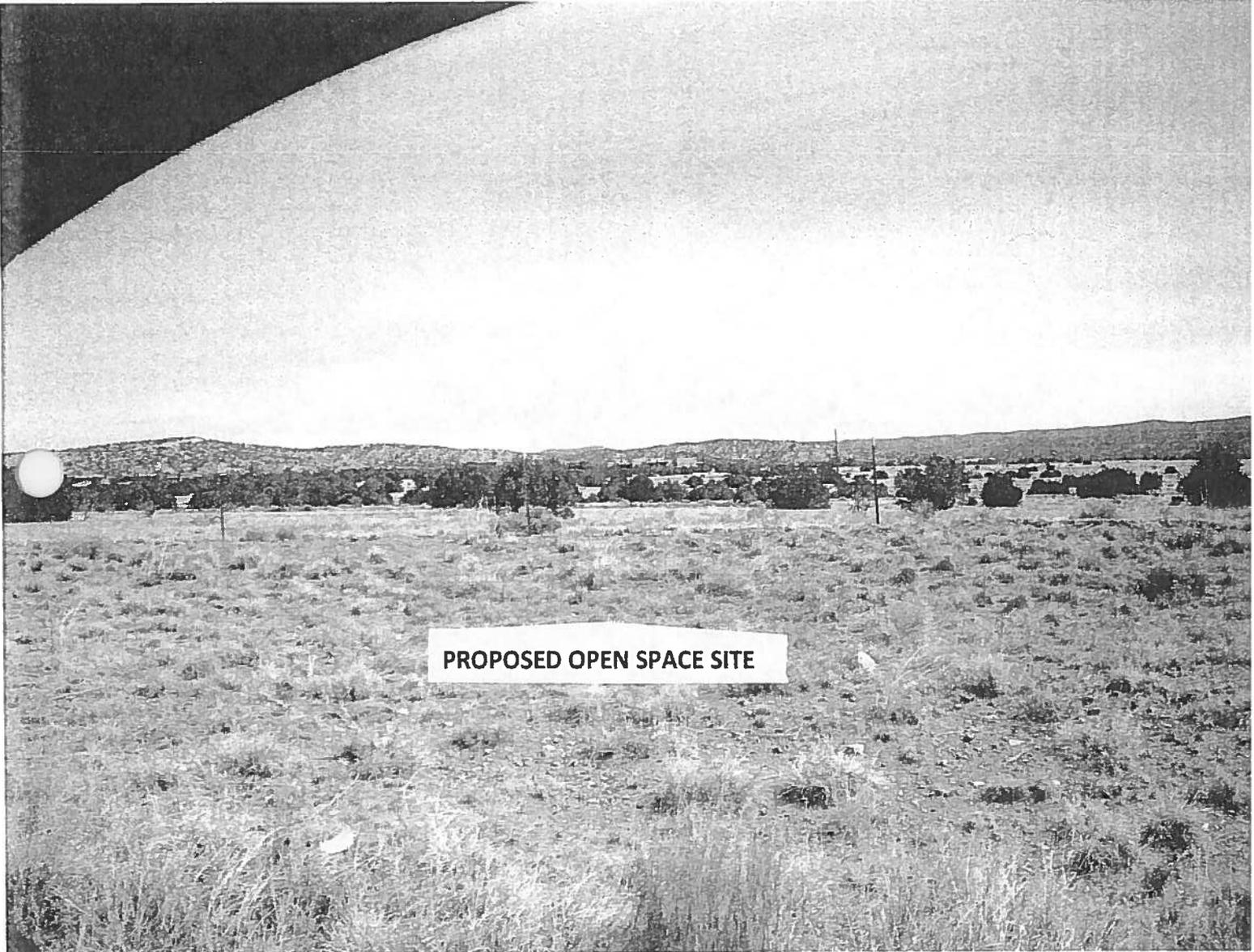
SHEET
5



NORTH VIEW PARALLEL US HIGHWAY 285



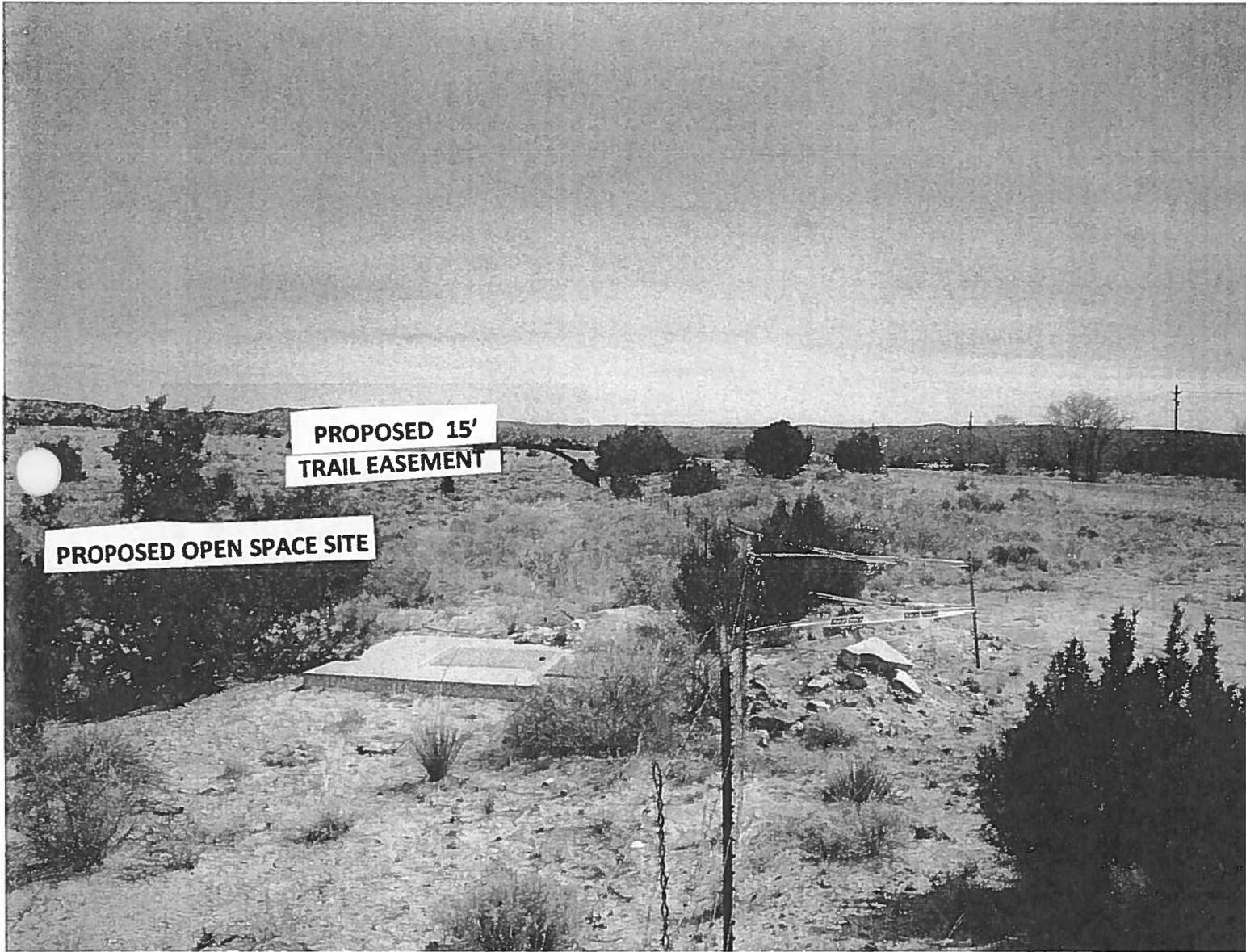
PROPOSED 15' TRAIL EASEMENT LOOKING SOUTH ALONG POWER LINES



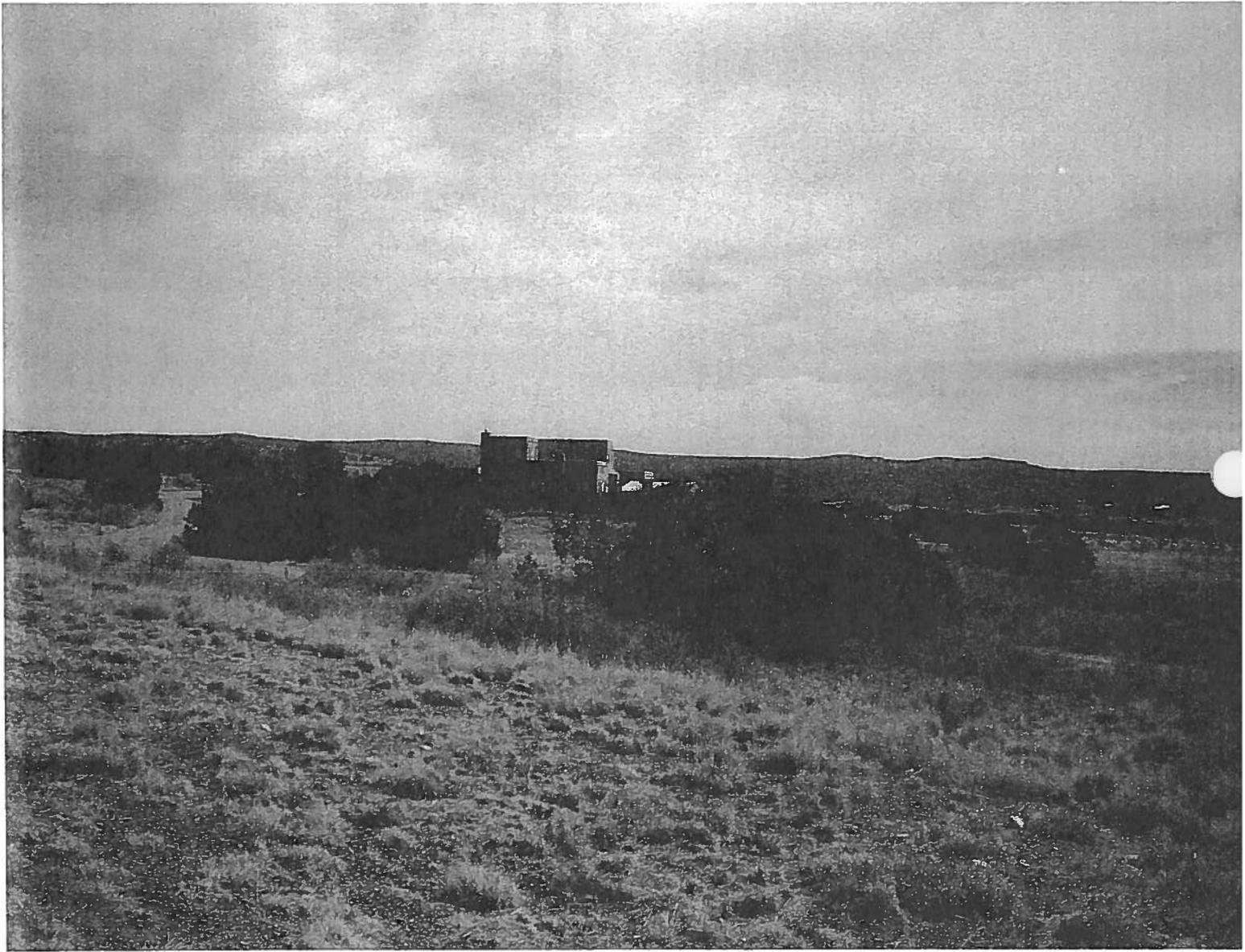
PROPOSED OPEN SPACE SITE



VIEW LOOKING NORTH FROM SANTA FE COUNTY ROAD 33 TO LAMY



PROPOSED TRAIL EASEMENT LOOKING EAST ALONG SANTA FE COUNTY ROAD 33 TO LAMY



RESIDENCE ON MAD DOG ROAD



SOUTHERN VIEW FROM MAD DOG ROAD

