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

DATE:

October 30, 2013

TO:

Board of County Commissioners

FROM:

John Lovato, Development Review Specialist Senior

VIA:

Katherine Miller, County Manager

Penny Ellis-Green, Land Use Administrator

Vicki Lucero, Building and Development Services Manager

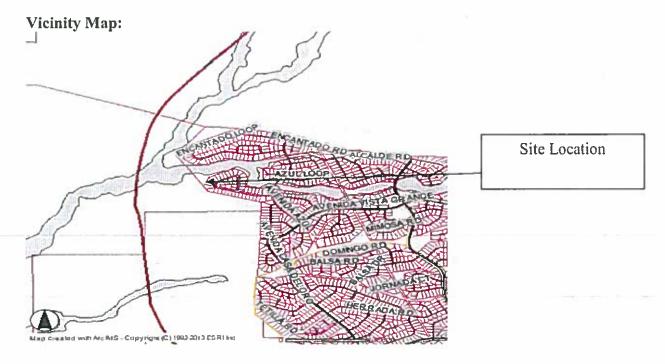
Wayne Dalton, Building and Development Services Supervisor

#### FILE REF.: CDRC CASE # V 13-5110 Ellen Jacobs Variance

#### **ISSUE:**

Ellen Jacobs, Applicant, Joseph Karnes Agent, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 2.29 acres.

The property is located at 55 Camerada Loop, in the vicinity of Eldorado, within Section 10, Township 15 North, Range 9 East, (Commission District 5)



102 Grant Avenue · P.O. Box 276 · Santa Fe, New Mexico 87504-0276 · 505-986-6200 · FAX: 505-995-2740 www.santafecounty.org

#### **SUMMARY:**

The subject property is located in the Eldorado at Santa Fe Subdivision and is within the Basin Fringe Hydrologic Zone where the minimum lots size is 12.5 acres per dwelling unit. Code Enforcement received a complaint regarding multiple dwelling units on the property. On November 18, 2011 Code Enforcement conducted an inspection and issued a Notice of Violation for exceeding density requirements. Since that time, the kitchen has been removed from the detached structure and the structure has been brought back into compliance as a studio. However, located on the property is a duplex which does not meet code requirements and the property is exceeding density.

The Applicant states, all the structures were constructed in the early 1980's so she could provide care for her mother who lived in the main residence. The Applicant further states, she relied on her contractor who advised her that the duplex was allowed by Code. Furthermore, the Applicant states she anticipates being in need of the same type of care and plans to have a caretaker live in the main house while she continues to live in the attached unit.

The Applicant's Agent states that strict compliance with the requirements of the Code would result in extraordinary hardship for the Applicant, particularly given that the attached unit has existed on the subject property for over 20 years.

Article 11, § 3 (Variances) of the County Code states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This Section goes on to state "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified." The variance criteria does not consider financial or medical reasons as extraordinary hardships

This Application was submitted on March 27, 2013.

On June 20, 2013, the CDRC met and acted on this case, the decision of the CDRC was to recommend denial of the Applicant's request by a 6-0 vote.

On August 13, 2013 the Board of County Commissioners tabled this case while the Applicant met with the Eldorado Community Improvement Association. The Applicant received a letter of Denial from the Eldorado Community Improvement Association's Attorney stating that the proposal did not comply with the ECIA's private covenants.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and find the project is not in compliance with County criteria for this type of request.

APPROVAL SOUGHT:

Approval of a variance from Article III, §10 (Lot Size

Requirements) of the Land Development Code.

**GROWTH MANAGEMENT AREA:** Galisteo, SDA-2

**HYDROLOGIC ZONE:** 

Basin Fringe Hydrologic Zone, minimum lot size per Code is 12.5 acres per dwelling unit. The two existing dwelling units exceed the number of units allowed on the subject

property.

FIRE PROTECTION:

Eldorado Fire District.

WATER SUPPLY:

Domestic Well, with water restrictions of 0.25 acre foot per year which is only sufficient for a single dwelling unit.

LIQUID WASTE:

Conventional Septic System.

**VARIANCES:** 

Yes

**AGENCY REVIEW:** 

<u>Agency</u>

Recommendation

County Fire

None

STAFF RECOMMENDATION:

Denial of a variance from Article III, §10 (Lot Size Requirements) of the Land Development Code.

If the decision of the BCC is to approve the Applicant's request, staff recommends imposition of the following conditions:

- 1. Water use shall be restricted to 0.25 acre feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
- 2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, § 2).
- 3. The Applicant shall provide an updated liquid waste permit from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1a.1 (a) (iv).
- 4. The placement of additional dwelling units or Division of land is prohibited on the property. (As per Article III, § 10).

5. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (As per 1997 Fire Code and NFPA Life Safety Code).

#### **EXHIBITS:**

- 1. June 20, 2013 CDRC Minutes
- 2. Letter of request
- 3. Article III, §10 (Lot Size Requirements)
- 4. Article II, § 3 (Variances)
- 5. Site Photographs
- 6. Site Plan
- 7. Aerial of Site and Surrounding Area
- 8. Letter of Opposition

not an option. He added the extension cannot go forward without the severance. "In order to segregate the property we need to address the reality that the County doesn't control the wells or the water rights that were the subject of the original application... If we were to ask and receive approval of a master plan that purported to use those wells and water rights the resulting order would be void."

Member DeAnda indicated she supported what the County is attempting to do, but given the level of confusion she moved to table for one month to give the La Cienega community the opportunity to meet with the steering committee. Member Katz seconded.

Member Drobnis said he supported the motion to table as it is consistent with what has been asked of other developers.

Member Anaya said he supports the County in its adventure. He mentioned seeing the fire earlier in the day and noted fire protection is included in the County's proposal.

Member Katz indicated Mr. Sommer provided a good roadmap and he supported a one-month tabling.

The motion passed by majority [5-1] voice vote with Member Anaya casting the dissenting vote. [Member Martin was not present for this action.]

A. CDRC CASE # V 13-5040 Ellen Jacobs Variance. Ellen Jacobs, Applicant, Joseph Karnes Agent, Request a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow Two Dwelling Units on 2.29 Acres. The Property is Located at 55 Camerada Loop, in the Vicinity of Eldorado, within Section 10, Township 15 North, Range 9 East, Commission District 5 [Exhibit 7:Letter of Opposition]

Mr. Lovato gave the staff report as follows:

"The subject property is located in the Eldorado at Santa Fe Subdivision and is within the Basin Fringe Hydrologic Zone where the minimum lots size is 12.5 acres per dwelling unit. There is currently a residence, an attached dwelling unit, and a detached studio on the property. The current studio was previously a dwelling unit, and a notice of violation was issued to the applicant for exceeding density. The dwelling has now been converted into a studio and the kitchen has been removed. The units are currently being served by an onsite well and a conventional septic system.

"The Applicant states, all the structures were constructed in the early 1980's so she could provide care for her mother who lived in the main house. The Applicant further states, she relied on her contractor who advised her that the attached unit was allowed by code. Furthermore, the Applicant states she anticipates soon of being in need of the same type of care and plans to have a caretaker live in the main house while she continues to live in the attached unit.

EXHIBIT

"The Applicant's agent states that strict compliance with the requirements of the Code would result in extraordinary hardship for Ms. Jacobs, particularly given that the attached unit has existed on the subject property for over 20 years.

"Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and find the project is not in compliance with County criteria for this type of request."

Mr. Lovato indicated staff was recommending denial of a variance from Article III, §10 of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicant's request, staff recommends imposition of the following conditions:

- 1. Water use shall be restricted to 0.25 acre-feet per year per home. A water meter shall be installed for each residence. Annual water meter readings shall be submitted to the Land Use Administrator by January 1<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
- 2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, § 2).
- 3. The Applicant shall provide a liquid waste permit from the New Mexico Environment Department with the Development Permit Application (As per Article III, § 2.4.1 a.1 (a) (iv).
- 4. The placement of additional dwelling units or division of land is prohibited on the property. (As per Article III, § 10).
- 5. The Applicant shall comply with all Fire Prevention Division requirements at time of development permit Application (As per 1997 Fire Code and NFPA Life Safety Code).

Member Katz asked why this was considered two units since everything is within one structure. Mr. Lovato said because the addition contains a kitchen and a bathroom it is considered a dwelling unit.

Karl Sommer, counsel for Ms. Jacobs, said this case arose out of a criminal action filed against the applicant who is in her late 80s. She was cited by the County for having three dwellings on her property. A "mother-in-law" quarters was added for someone to care for her, and she relied on her contractor that it was legal. Later, a permitted studio was built and a kitchen was included. It was rented once, resulting in a complaint by that tenant. The kitchen in the studio has been disabled.

Ms. Jacobs needs someone close by as she ages physically and mentally which constitutes a hardship.

Member Drobnis noted that he lives in the same community and has served on the Architectural Committee. He asked how long Ms. Jacobs had rented the unit. Mr.

Sommer said he understood it was under a year, adding he understood the new code would clarify guesthouse regulations. He suggested a condition in this case specifying the property shall comply with the new code and the property will not be rented separately.

Member DeAnda asked what the square foot of the original residence is and that of the attached section. Mr. Sommer said he did not know. Member DeAnda noted they appear to be of comparable size. Mr. Lovato said the original structure was 1,100 square feet and the adjoining part appears to be slightly less than that.

Member DeAnda asked whether these would be considered one dwelling if there was a doorway between them. Mr. Lovato replied that is not clear in the code, but he believed it would still be considered two separate dwellings. Mr. Sommer said there is a doorway between them now.

Member Anaya got confirmation both were under one roof.

Member Katz said he felt there was a compelling reason to grant the variance but he would like it to evaporate. Ms. Brown said nothing in the code allows temporary variances.

Duly sworn, Lacy Kyle, an adjacent neighbor, said her family has owned the property where she lives since 1988. In that time Ms. Jacobs' units have been 90 percent occupied. Although Ms. Jacobs claims only close friends and relatives rent from her, Ms. Kyle said that has never been the case. She has had run-ins with the ECIA. The small, separate unit was originally a garage. The doorway in the larger house is generally closed off.

Ms. Kyle agreed, based on her personal interactions, that Ms. Jacobs is in need of assistance. She recommended that one of the kitchens be removed since Ms. Jacobs is not competent to deal with it and a caretaker could use the single kitchen.

Mr. Sommer said he only knew of one rental, the one resulting in the complaint. He asked that the variance be granted and that it be subject to the constraints of a future code. "Immediate termination of that will place her in great risk."

Member Katz asked why one kitchen could not be used by a caretaker. Mr. Sommer said she had no one to care for her at this time.

Member Drobnis indicated there was one kitchen too many. Mr. Sommer said currently a renter lives there who is not a caretaker but is in close proximity so she is not entirely alone.

Member Drobnis mentioned his life experience where his wife was injured and required full-time care. It was important that the caretaker use the same kitchen. He noted that Eldorado is now under water restrictions, pointing up the stresses on the water supply so that allowing greater density would be an unfortunate precedent.

Member Drobnis moved to recommend denial of the variance. Member Katz seconded and the motion passed by unanimous [6-0] voice vote. [Member Martin was not present for this action.]

#### VIII. PETITIONS FROM THE FLOOR

None were presented.

#### IX. COMMUNICATIONS FROM THE COMMITTEE

In response to a question from Member Drobnis, Ms. Lucero said she was unsure when the new code would be presented. Ms. Brown estimated it would be a matter of months.

#### X. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

#### XI. COMMUNICATIONS FROM STAFF

The next meeting was scheduled for July 18, 2013.

#### XII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 8:45 p.m.

TC .	Approved by:
	Juan José Gonzales, Chair CDRC

Submitted by:

Debbie Doyle, Wordswork

### SOMMER KARNES & ASSOCIATES LLP

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Telephone: (505) 989.3800 Facsimile: (505) 982.1745 April 5, 2013

John Lovato
Santa Fe County Growth Management Department
102 Grant Avenue
Santa Fe NM 87504

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Mychal L. Delgado, Certified Paralegal mld@sommer-assoc.com

James R. Hawley, Attorney at Law Of Counsel Licensed in New Mexico and California jrh@sommer-assoc.com

Re: Barbara Ellen Jacobs Variance Application – 55 Camerada Loop

Dear Mr. Lovato:

On behalf of property owner Barbara Ellen Jacobs, this application requests approval of a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow two dwelling units on 2.29 acres.

The subject property is located in the Eldorado at Santa Fe and is within the Basin Fringe Zone, where the maximum density is one dwelling unit per 5 acres. The structures on the property were built in the early 1980's and consist of a main house, an attached dwelling unit and a detached studio. The units are served by an on-site well.

Ms. Jacobs requests issuance of the variance so that that the existing attached unit may remain as a second dwelling unit on the property. The attached unit was originally constructed so that Ms. Jacobs could live in that unit and provide care for her mother, who lived in the main house, which was done for several years. Ms. Jacobs relied on her contractor, who erroneously advised that the attached unit was allowed by Code. Ms. Jacobs now understands and acknowledges that this was in error.

Furthermore, Ms. Jacobs anticipates soon being in need of the same need of care as she provided to her mother. Ms. Jacobs' plans to have a caretaker live in the main house, while she will continue to live in the attached unit.

Strict compliance with the requirements of the Code would result in an extraordinary hardship on Ms. Jacobs, particularly given that the attached unit has existed on the subject property for over 20 years.



# Sommer, Karnes & Associates, LLP

John Lovato April 5, 2013 Page 2 of 2

Please contact me if you have questions or need additional information.

Joseph M. Karnes

TYPE OF USE	NUMBER OF PARKING SPACES
Retail Centers	1 per 1 employee plus per 200 sq. ft.
Restaurants, Bars	1 per 1 employee plus per 150 sq. ft.
Gas Stations	1 per I employee plus 1 per 300 sq. ft. of garage space.
Industrial	I per employee plus I per 500 sq. ft.
Small Scale Centers, Home Occupations	1 per 1 employee plus 1 per 400 sq. ft. of commercial space.
Large Scale Residential, Institutional, Residential Resorts	2 per dwelling unit
Churches, auditoriums, theaters, arenas, spaces used for public assembly	1 for each 4 seats
Uses not listed	As determined by the County

- 9.2 Multiple use projects shall calculate cumulative parking needs for each type of use in the project to be developed.
- 9.3 Minimum size of parking space shall be 300 square feet which includes the parking stalls and aisles.
- 9.4 Commercial, industrial, other non-residential and large scale residential uses shall provide for handicap parking.

History. 1980 Comp. 1980-6. Section 9, Parking Requirements was amended by County Ordinance 1990-11 adding requirements for auditorium uses, multiple uses and handicap access.

## SECTION 10 - LOT SIZE REQUIREMENTS

#### 10.1 Relationship of Lot Sizes to Water Policies

The General Plan sets forth the policy that future population growth in the County should be supported by adequate long term water availability and concentrate population growth in Urban and Metropolitan Areas and Traditional Communities. Development within these areas will generally be served by one or more regional water systems, or community water systems. Development outside of the Urban, Metropolitan Areas and Traditional Communities using domestic wells (Section 72-12-1 wells) should consider estimated long term water availability and protect water resources for existing County residents having domestic wells. Development may also be permitted if the applicant for a development permit demonstrates that he/she has water rights, excluding rights permitted under 72-12-1 NMSA 1978 or 75-11-1 NMSA 1953, recognized and permitted by the Director of Water Resources Department of Natural Resources Division to the State of New Mexico which are approved for transfer by the Director of Natural Resources Division to the site of the Development, and the permitted water rights are sufficient to support the proposed development.



# 10.1.1 Water Policies Governing Lot Sizes Where the Development will Utilize Permitted Water Rights

Applicants seeking a development permit may base their application on water rights authorized and permitted by the Director of Water Rights Division of the Natural Resources Department of the State of new Mexico, (with the exception of water rights permitted under Section 75-11-1 NMSA 1953 or 75-12-1 NMSA 1978). The applicant shall provide evidence that he/she owns or has an option to purchase the permitted water rights in an amount adequate to meet the needs of the development as shown by Article Vil. Section 6.6.2. Water Budgets and Conservation Covenants. Any development permit approved and issued by the County shall be expressly conditioned upon the applicant obtaining final non appealable order or final non appealable approval from the Director of Water Rights Division of the Natural Resources Department of the State of New Mexico authorizing the change in use and change in point of diversion to meet the needs of the proposed development. The minimum lot size permitted by this Section shall be 2.5 acres, unless the proposed development is within an Urban, or Metropolitan Area or a Traditional Community, in which case further adjustments of the lot size shall be permitted as provided by Sections 10.4, 10.5.2 and 10.5.3.

# 10.1.2 Water Policies Governing Lot Sizes Where Developments Will Not Utilize Permitted Water Rights

BASIN ZONE: Minimum lot size shall be calculated based upon ground water storage only. Water that is in storage beneath the lot in the Basin Zone may be depleted over a 100-year lifetime. The lot must be large enough to have ground water in storage beneath the lot for a 100 year supply of water without consideration of recharge of the ground water.

BASIN FRINGE ZONE: Same as Basin Zone.

HOMESTEAD ZONE: Minimum lot size shall be calculated based either upon ground water storage or recharge of ground water, but not both. Water that is in storage beneath the lot in the Homestead Zone may be depleted over a 100 year lifetime. The lot must be large enough to have ground water in storage beneath the lot for a 100 year supply of water. Calculation of recharge in any specific case shall be done in a manner approved by the County Hydrologist. Recharge should be sufficient to supply water over a 100 year lifetime. However, applicants should be aware that studies done in the development of the General Plan indicated that in most areas of the Homestead Zone minimum lot sizes based on storage in this zone would be larger than those based on recharge.

MOUNTAIN ZONE: Same as Homestead Zone.

METROPOLITAN AREAS-BASIN AND BASIN FRINGE: For Basin and Basin Fringe zones within a Metropolitan Area as shown on Code Maps 12, 14 and 15, it is anticipated that regional water systems will eventually be developed. Therefore, water that is in storage beneath a lot within a Metropolitan Area may be depleted over a 40 year lifetime. The lot must be large enough to have ground water in storage beneath the lot for a 40 year supply of water without consideration of recharge of the ground water.

METROPOLITAN AREAS-HOMESTEAD AND MOUNTAIN ZONE: For Homestead and Mountain Zones within a Metropolitan Area, the minimum lot size shall be calculated based either upon ground water storage or recharge of ground water, but not

both. Water that is in storage beneath the lot in the Homestead Zone may be depleted over a 40 year lifetime. The lot must be large enough to have a ground water in storage beneath the lot for a 40 year supply of water. Calculation of recharge in any specific case shall be done in a manner approved by the County Hydrologist. Recharge should be sufficient to supply water over a 40 year lifetime. However, applicants should be aware that studies done in the development of the General Plan indicated that in most areas of the Homestead and Mountain Zones, minimum lot sizes based on storage in these zones would be larger than those based on recharge.

#### 10.2 Calculation of Minimum Lot Size

Calculation of the minimum lot size under Section 10.1.2 shall be determined by the formula:

Acre Feet
Use (Year) x acres

Minimum Lot Size (Acres)=Water Available in acre feet per acre/year

 $MLS = \underbrace{U \times acres}_{A}$ 

Where:

MLS is the minimum lot size in acres; it is the size of a lot needed to supply anticipated water needs.

<u>U</u> is the anticipated water needs for the lot; it is the use of water which will occur from the intended development of the lot, measured in acre-feet per year. The standard values listed for A were derived using the procedures set forth in the water appendix of the Code. The standard value for U is set forth in Section 10.2.2. <u>A</u> is the amount of water available in the acquifers which are beneath the lot, measured in acre-feet per acre per year using recharge or storage as described in 10.1.2.

10.2.1 Standard Values for A and Adjustments. The standard values for A shall be as follows:

BASIN ZONE:

0.1 acre-feet per acre per year

BASIN FRINGE ZONE:

.02 acre-feet per acre per year

MOUNTAIN ZONE:

.0125 acre-feet per acre per year

HOMESTEAD ZONE:

,00625 acre-feet per acre per year

The minimum lot sizes which result from the use of these standard values are as follows:

BASIN ZONE:

10 acres

BASIN FRINGE ZONE:

50 acres

MOUNTAIN ZONE:

80 acres

HOMESTEAD ZONE:

160 acres

The standard values of A may be adjusted if the applicant submits a hydrology report, either a detailed report (see Section 6.4 of Article VII), or a reconnaissance report (see Section 6.7 of Article VII). Values of A determined in such reports shall be reviewed by the County Hydrologist, who shall recommend to the Code Administrator whether or not

III - 90

the value is reasonable, and if not, shall recommend a value appropriate for the use in determining minimum lot size.

The actual value of A used shall be based on the information submitted by the applicant, by the County Hydrologist or by others submitting information. If water conservation measures are used, as provided in Section 10.2.4b, and an actual value of A is determined, in most cases minimum lot sizes will be reduced below those listed in Section 10.2.1. However, applicants are advised that because of varying geologic conditions in Santa Fe County there is no assurance that a hydrology report will determine that the water supply in an area is more abundant than indicated by the standard value of A. In cases where the actual study shows a value of A which is less than the standard value (that is, there is less water available than assumed by the standard value), minimum lot size requirements may be increased beyond those indicated in this Section.

#### 10.2.2 Calculation of Use

U shall have a standard value of 1.0 acre feet per year per dwelling unit for residential use. For all other uses U shall be equal to the actual anticipated consumptive use for the development. The standard value for residential use may be adjusted if an applicant proposes to utilize water conservation measures. There shall be no adjustments for conservation in Urban, Traditional Community and Agricultural Valley Areas.

The Code Administrator shall maintain an application form upon which are listed potential water conservation measures. This form shall indicate the effect of each conservation measure of the value of U. As a minimum, the measures shall include: restrictions on use of water for irrigation purposes (including watering of lawns, gardens and shrubbery): restrictions on use of water for swimming pools; restrictions on the number of bathrooms per dwelling unit; restrictions on garbage disposal units; devices which reduce the utilization of water by appliances, kitchen fixtures, and bathroom fixtures; and pressure-reduction devices on in-coming water lines.

Any applicant who uses the application form as a basis for proposing conservation measures shall be allowed to reduce U in accordance with the effectiveness of the measures proposed. The maximum reduction in U which shall be considered achievable using this approach shall be a reduction of U to no less than 0.25 acre feet per year per dwelling unit. An applicant who proposes water conservation measures sufficient to reduce U to less than 0.25 acre feet per year per dwelling unit shall be required to prepare a water conservation report: See Section 6.6 of Article VII.

The actual value of U, and the minimum lot sizes which result, will depend on the conservation measures proposed by the applicant. In general, applicants who substantially restrict the use of irrigation (lawn and garden) water will be assumed to have a U of 0.5 acre feet per year per dwelling unit, while those who further restrict other types of water use will be assumed to require even less water. For reference purposes, the following lot sizes would be allowed if U is equal to 0.5 acre feet per year per dwelling unit.

BASIN ZONE:	5 acres
BASIN FRINGE ZONE:	25 acres
MOUNTAIN ZONE:	40 acres
HOMESTEAD ZONE:	80 acres

For reference purposes, the following lot sizes would be allowed if U is equal to 0.25 acre feet per year per dwelling unit.

BASIN ZONE: 2.5 acres
BASIN FRINGE ZONE: 12.5 acres
MOUNTAIN ZONE: 20 acres
HOMESTEAD ZONE: 40 acres

- 10.2.3 Special Standards for Calculation of Use for Small Scale Commercial Development Special standards which set forth specific limitations on use for small scale commercial developments are set forth in this subsection. Applicants who propose small scale commercial development are required to prepare a written estimate of water use. The value of U shall be determined by that estimate unless otherwise determined by the Code Administrator. The Code Administrator shall have on file, a list of standard water consumption requirements for commercial activities. The applicant may use these figures in licu of the written estimate of water use. Applicants may use standardized values for A as set forth in Section 10.2.2, or they may submit a hydrology report which contains an actual estimate of A for the land which is to be developed.
- 10.2.4 Special Standards for Calculation of Water Availability for Metropolitan Areas
  Special standards which set forth limitations on water availability for metropolitan areas shown in Code Map 12, 14, and 15 are set forth in this Sub-section.
  - a. <u>Standard Values of Water Availability</u>
    Because the policy for water management in Metropolitan areas allows for depletion of storage over a 40 year period, standard values for A are as follows:

BASIN ZONE: .25 acre feet per acre per year
BASIN FRINGE ZONE: .05 acre feet per acre per year
MOUNTAIN ZONE: .0125 acre feet per acre per year

The minimum lot sizes which result from the use of these standard values are as follows:

METRO BASIN ZONE: 4 acres
METRO BASIN FRINGE ZONE: 20 acres
METRO MOUNTAIN ZONE: 80 acres

b. Adjustments for Water Conservation

For the division of land into four (4) or less lots, the minimum lot size may be adjusted using the procedures set forth in Section 10.2.2. For reference purposes—the minimum lot sizes which result if U = 0.25 acre feet per year per dwelling unit or commercial use are:

BASIN ZONE: 2.5 acres
BASIN FRINGE ZONE: 5 acres
MOUNTAIN ZONE: 20 acres

#### 10.3 Exceptions to Minimum Lot Size Requirements

The minimum lot sizes calculated under Sections 10.1 and 10.2 shall not apply to the areas described in this Section and the minimum lot size contained in this Section shall control.

10.3.1 Metropolitan Area - Community Water Systems

Where a community water system provides water service to a development within the Metropolitan Areas, as shown on Code Maps 12, 14 and 15, the minimum lot sizes shall be:

BASIN ZONE:

l acre

BASIN FRINGE ZONE:

2.5 acres

MOUNTAIN ZONE:

5 acres

10.3.2 Agricultural Areas

In the Estancia Valley Agricultural Area, minimum lot sizes shall be 50 acres for the Basin Fringe Zone and 10 acres for the Basin Zone. Adjustments for water conservation and water availability will not be allowed. In the Northern Valley Agricultural Area, the minimum lot size for lands with permitted water rights shall be five (5) acres. Adjustments to lot sizes in these areas are conditioned on the finding in each case by the County Development Review Committee that it is in the best interest of the County to convert water rights from agricultural to commercial or residential use.

10.3.3 Traditional Communities

The minimum lot size in traditional communities as shown on Code Maps 40-57, shall

be .75 acres, except as follows:

14.000 sq. ft. - Where community water service and community sewer service systems are utilized, or a Local Land Use and Utility Plan is adopted.

10.3.4 Urban Arcas

The minimum lot size in Urban Areas shall be 2.5 acres, except as follows:

I acre - Where community water or community liquid waste disposal systems are utilized.

.50 acre - Where community water and community sewer systems are utilized.

#### 10.4 Density Transfer

The minimum lot sizes specified in this Section 10 shall be taken as gross figures for the purposes of determining the total number of dwellings allowed in a particular development. The arrangement of dwellings in clusters or in such locations as to take advantage of topography, soil conditions, avoidance of flood hazards, access and reduced cost of development, shall not violate the lot size requirements of the Code so long as the total number of acres per lot conforms with the requirements of the Code.

### SECTION 11 - IMPORTING OF WATER

#### 11.1 Location Requirements

Developments which import water from the surface Rio Grande or other locations outside Santa Fe County to any location in Santa Fe County designated in the Development Code as other than urban or metropolitan locations are permitted to locate anywhere in the County provided they meet all requirements of the Code, except that in lieu of the density requirements as specified in Article III, Section 10, the proposed development shall meet the following criteria.

2.5 Zoning

in connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.

2.6 Subdivisions

In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided for in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters.

2.7 Other Requirements

The time limits set forth in this Article II shall be extended in order to somply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code

#### SECTION 3 - VARIANCES

3.1 Proposed Development

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

3.2 Variation or Modification

In no case shall any variation or modification be more than a minimum easing of the requirements.

3.3 Granting Variances and Modifications

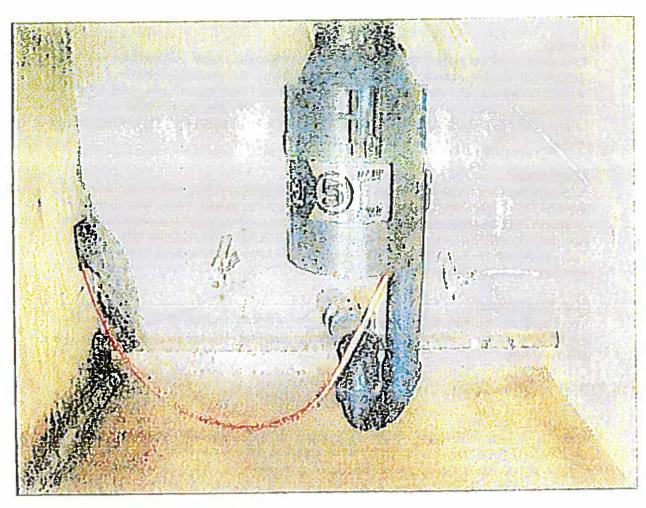
In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

3.4 Height Variance in Airport Zones

All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the



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BARBARA ELLEN JACOBS
55 CAMERADA LOOP





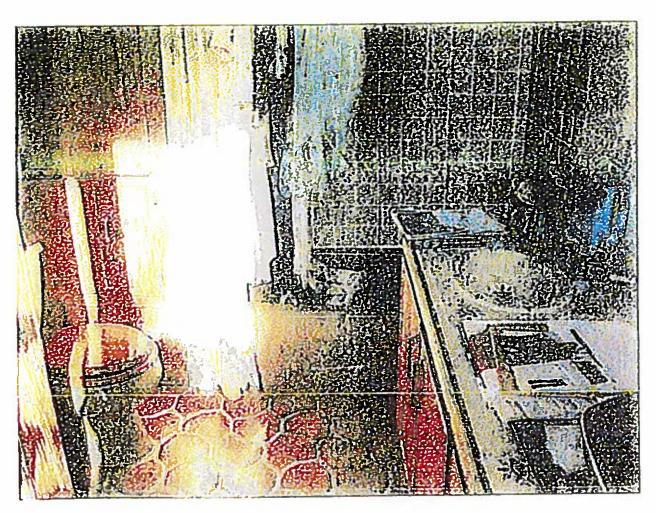
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55 CAMERADA LOOP



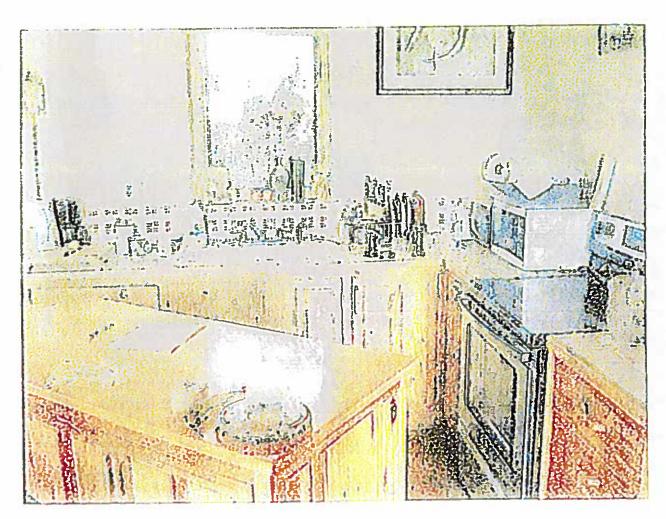
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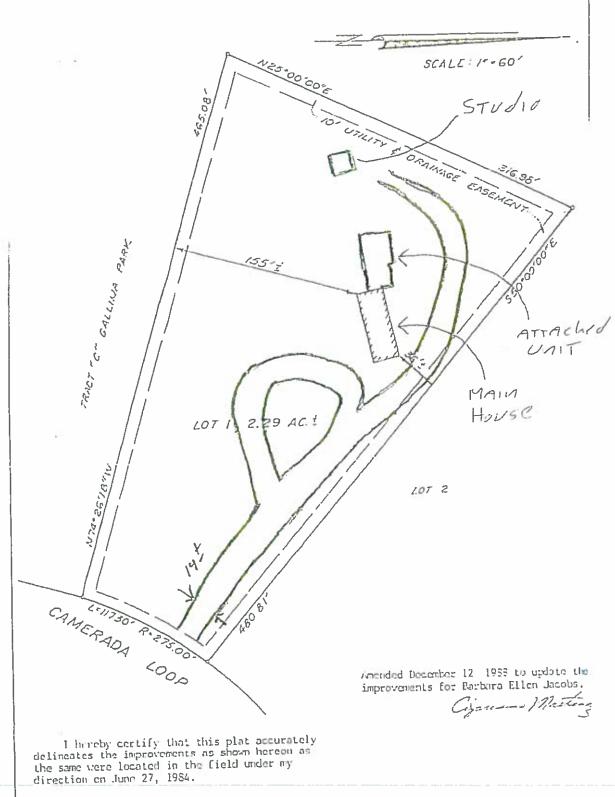
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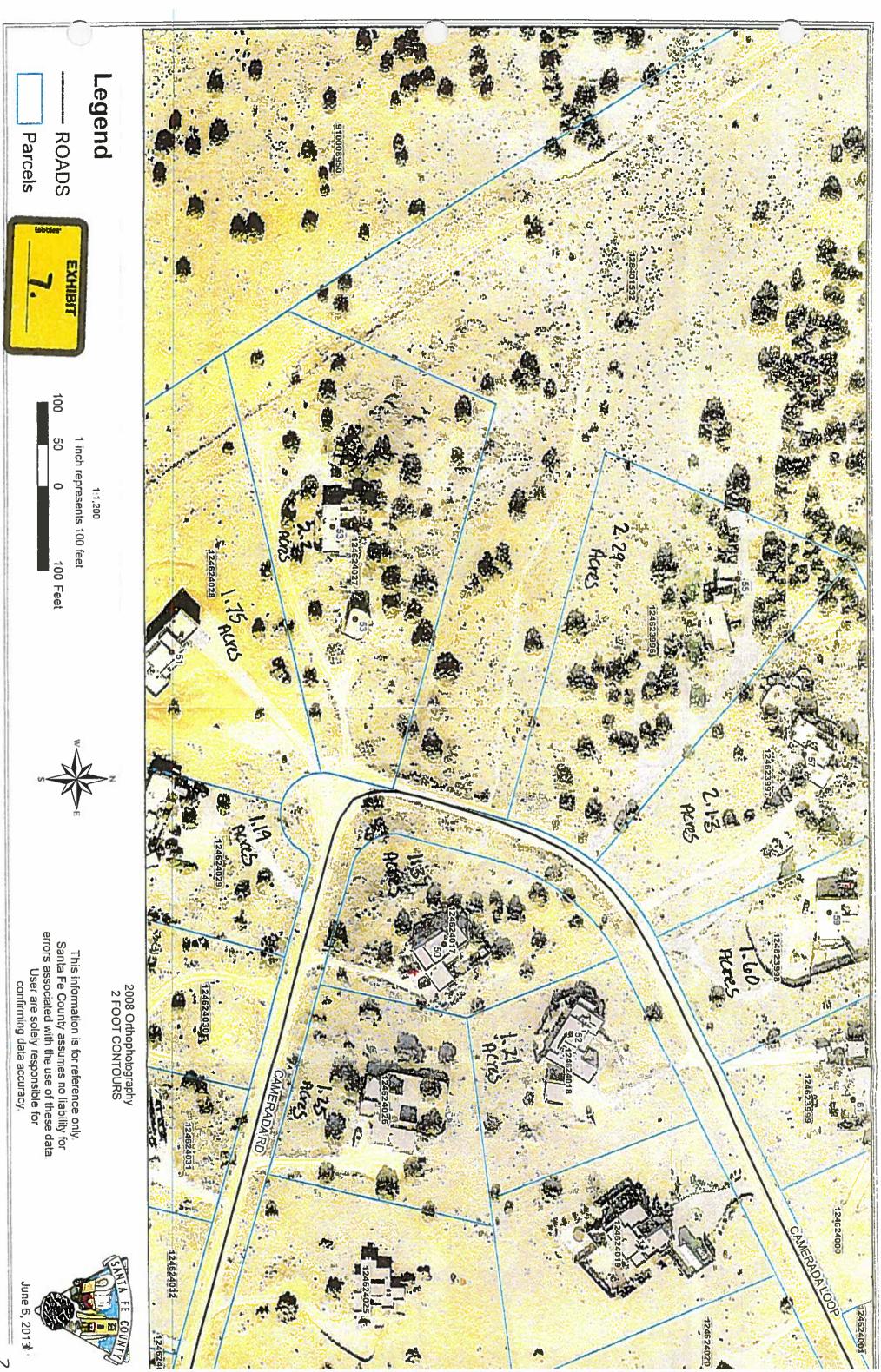


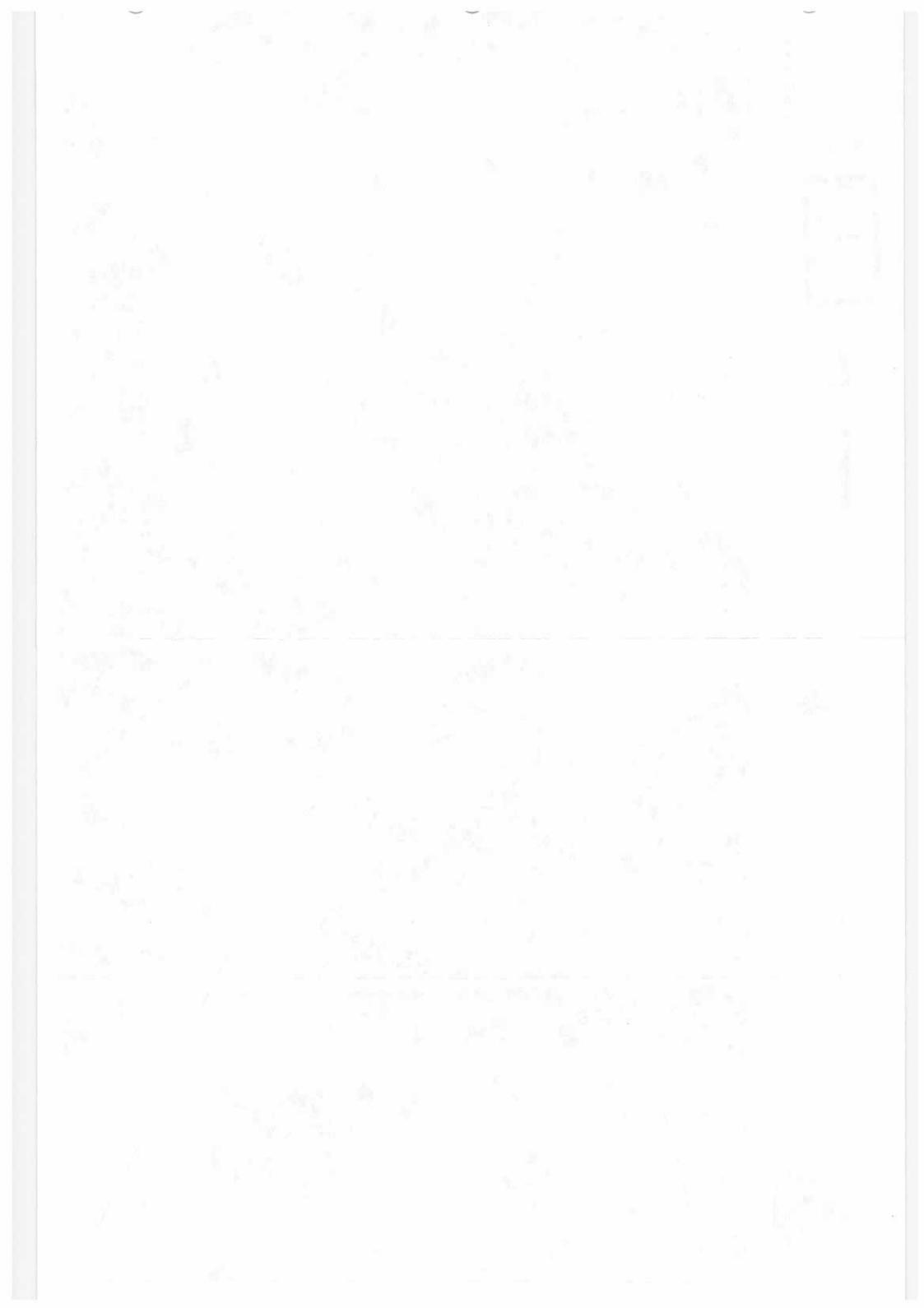


IMPROVEMENT SURVICE FOR EARBARA FILLEN JACOBS
LOT 1, BLOCK 6
ELPORATO AT SANTA FE UNIT 1
SANTA FE COUNTY, NEW MEXICO



64F57





# CASSUTT, HAYS & FRIEDMAN, P.A.

ATTORNEYS AT LAW

www.chflaw.com

Kenneth J. Cassutt\* John P. Hays\* Gary S. Friedman\*\* 530-B Harkle Road Santa Fe, NM 87505 (505) 989-1434 FAX (505) 992-8378

#### **Hand Delivered**

September 12, 2013

John Lovato Development Review Specialist Senior County of Santa Fe 102 Grant Avenue Santa Fe, New Mexico 87501

Re

Barbara Ellen Jacobs Variance CDRC Case #V 13-5110

Dear Mr. Lovato:

I am writing on behalf of the Eldorado Community Improvement Association regarding the variance request of Barbara Ellen Jacobs to allow two dwelling units on her property in the Eldorado at Santa Fe Subdivision located at 55 Camerada Loop, Santa Fe, New Mexico 87508.

While it is the ECIA's position that Ms. Jacobs' two dwelling units violate the restrictive covenants for the Subdivision, which allow only one single-family dwelling per lot, the ECIA further understands that covenant violation issues are not a matter for the Board of County Commissioners. The ECIA therefore does not object to the Board hearing the variance request.

The ECIA does, however, oppose the Board granting Ms. Jacob's variance request. As the ECIA will present in more detail to the Board at the public hearing, neither the County's Ordinance nor New Mexico case law allow a variance to be granted for financial hardship. In addition, there are alternatives to having two dwelling units on the



John Lovato September 12, 2013 Page - 2

property that would still allow Ms. Jacobs to address her stated need for a caretaker.

Sincerely,

John\P. Hays

**ECIA** 

Joseph Karnes, Esq.

Commissioner Liz Stefanics

#### John F. Lovato

From:

Vicente Archuleta

Sent:

Wednesday, August 07, 2013 1:04 PM

To:

John F. Lovato

Subject:

FW: Case #V 13-5110 - Santa Fe County Board of Commissioners Meeting - August 13, 2013

----Original Message-----From: Penny Ellis-Green

Sent: Wednesday, August 07, 2013 12:57 PM

To: Vicente Archuleta

Cc: Vicki Lucero; Wayne Dalton

Subject: FW: Case #V 13-5110 - Santa Fe County Board of Commissioners Meeting - August 13, 2013

Please add this to the case file and include in CDRC and BCC packets.

Penny Ellis-Green Growth Management Director Santa Fe County (505) 986 6221

----Original Message-----

From: Julia Valdez On Behalf Of Liz Stefanics Sent: Wednesday, August 07, 2013 12:20 PM To: Penny Ellis-Green; Stephen C. Ross

Subject: FW: Case #V 13-5110 - Santa Fe County Board of Commissioners Meeting - August 13, 2013

Land Use case coming to BCC.

Sincerely, Julia 505.986.6202

----Original Message-----

From: claudia daigle [mailto:cdaigle2003@comcast.net]

Sent: Wednesday, August 07, 2013 11:44 AM

To: Liz Stefanics; Kathy S. Holian; Daniel Mayfield; Robert A. Anaya; Miguel Chavez

Subject: Case #V 13-5110 - Santa Fe County Board of Commissioners Meeting - August 13, 2013

Dear Santa Fe County Commissioners,

I am writing you to express my concerns with a variance request, case # is V 13-5110, to add a second residential residence to an existing property in Eldorado. The request was submitted to the County Land Use Department on behalf of Ms. Ellen Jacobs, 55 Camerada Loop, Eldorado, Santa Fe County. I have spoken with Mr. Vincente Archuleta in the Land Use Dept, Land Divisions. Mr. Archuleta stated that the Land Use Department was recommending denial of the variance to the Board of County Commissioners for your consideration.

I sincerely request that you affirm the Land Use Dept's decision to deny this variance for the reason(s) they state and because the Covenants in our common interest development subdivision of Eldorado, where 55 Camerada Loop and Ms. Jacobs reside, do not allow for separate entrance fully equipped rental units on our single dwelling residential lots. Ms. Jacobs was fully aware that what she was doing was not allowed when she added a separate entrance, a kitchen and a bath to her home in order to create a separate residential rental unit, but she chose to do it anyway. If Ms. Jacobs would like a rental property, she should sell her home and purchase another property in an area which allows attached fully equipped rental units that are properly equipped with the required electrical, water, septic, and parking. She should not be requesting a variance for such a unit in an area that does not allow it, thereby putting thousands of her neighbors properties at risk.... neighbors who also pay an assessment in addition to property taxes and also willingly signed on to our Covenants when they purchased their homes in Eldorado and fully agree with their limitations, which is why they chose to live here.

Based on the recommendations of the County Land Use Department as well as the Covenants of the Eldorado Community Improvement Association, Inc. subdivision, which, again, Ms. Jacobs willingly signed on to when she purchased her home here, I again sincerely request the Board of County Commissioners affirm the recommendation of the Land Use Dept. and deny Ms. Jacobs' variance request. Thank you.

Sincerely, Claudia Daigle lot owner in Eldorado at Santa Fe County

#### Rachel A. Brown

From:

Daniel Mayfield

Sent:

Wednesday, August 14, 2013 12:08 AM

ect:

Rachel A. Brown FW: V 13-5110,

For the record.

-dm

From: Ramon Parcells [rparcells277736mi@comcast.net]

Sent: Friday, August 09, 2013 8:30 PM

To: Liz Stefanics; Kathy S. Holian; Daniel Mayfield; Robert A. Anaya; Miguel Chavez

Subject: V 13-5110,

Dear County Commissioners:

Even though I understand that the county Land Use Dept. will recommend that the commissioners deny variance request # V 13-5110, submitted by Eldorado resident Ms Ellen Jacobs, 55 Camerada Loop, Eldorado, Santa Fe County, to add a separate residence to her existing property, I feel I must, as a resident of Eldorado who signed our covenants in good faith, further urge you to deny the above-mentioned variance request in order to uphold the covenants signed by all residents of Eldorado when they purchased their property.

Yours Truly,

Ramón Parcells

procells277736mi@comcast.net<mailto:rparcells277736mi@comcast.net>

.hapala Rd.

Santa Fe (Eldorado), NM 87508



Daniel "Danny" Mayfield Commissioner, District 1

Miguel M. Chavez Commissioner, District 2

Robert A. Anaya Commissioner, District 3

DATE:

October 30, 2013

TO:

**Board of County Commissioners** 

FROM:

Jose E. Larrañaga, Commercial Development Case Manager

VIA:

Katherine Miller, County Manager

Penny Ellis-Green, Land Use Administrator

Vicki Lucero, Building and Development Services Manager \( \sqrt{3} \)
Wayne Dalton, Building and Development Services Supervisor

Kathy Holian

Commissioner, District 4

Liz Stefanics

Commissioner, District 5

Katherine Miller

County Manager

FILE REF.:

BCC CASE # MIS 13-5061 Robert and Bernadette Anaya

#### **ISSUE:**

Robert and Bernadette Anaya, Applicants, Talia Kosh (The Bennett Firm), Agent, request reconsideration of conditions imposed by the BCC for Master Plan Zoning approval.

The property is located at 2253 Ben Lane, within the Traditional Community of Agua Fria, within Section 31, Township 17 North, Range 9 East, (Commission District 2).

#### Vicinity Map:



102 Grant Avenue · P.O. Box 276 · Santa Fe, New Mexico 87504-0276 · 505-986-6200 · FAX: 505-995-2740 www.santafecounty.org

#### **SUMMARY:**

On August 14, 2012, the Board of County Commissioners (BCC) approved a request, by the Applicants, for a variance to allow a towing business as a Special Use under Ordinance No. 2007-2, § 10.5, Village of Agua Fria Zoning District Use Table. A Special Use is an allowed use which is subject to Master Plan approval by the BCC. The use as a towing company falls under the category of "Vehicle service not listed" which is not allowed as a use as outlined in the commercial use category within the Traditional Community Zoning District.

On June 11, 2013, the Board of County Commissioners (BCC) approved a request, by the Applicants, for Master Plan Zoning to allow a towing business on .33 acres ±. The approval included staff conditions and conditions imposed by the BCC (Exhibit 9).

On August 13, 2013, the BCC approved a Final Order with findings that the Application for Master Plan Zoning for a commercial towing business as a Special Use under the Village of Agua Fria Zoning District Ordinance Use Table (Ordinance No. 2007-2) on 0.33 acres should be approved conditioned on the Applicant complying with the following conditions: Master Plan with appropriate signatures, shall be recorded with the County Clerk, per Article V, § 5.2.5.; Preliminary and Final Development Plan shall be submitted in a timely manner, meeting all criteria set forth in Article V, § 7, to be reviewed and presented to the CDRC for consideration; the Applicant shall comply with Ordinance No. 2007-2, § 10.6 (Density & Dimensional Standards); storage of towed vehicles shall not be permitted on this site as per the 1989 decision of the Extraterritorial Zoning Authority; a note stating that the storage of towed vehicles on the site shall not be allowed shall be placed on the Master Plan; no more than three small tow trucks and two large tow trucks may be stored on the site at any given time; the Applicant shall submit Preliminary and Final Development Plan to the County Development Review Committee for consideration within 90 days of approval the Final Order. The approved Final Order was recorded with the County Clerk's Office on August 20, 2013 (Exhibit 10).

The Applicants request reconsideration of conditions imposed by the BCC for Master Plan Zoning approval. The conditions that the Applicants request the BCC to reconsider are: the Applicants shall submit Preliminary and Final Development Plan to the County Development Review Committee for consideration within 90 days of approval of the Final Order; no more than three small tow trucks and two large tow trucks may be stored on the site at any given time; the implementation of a landscape buffer on the east side of the site alongside the platted easement; and the listing of personal vehicles that will be stored on the site.

The Applicants request that a condition discussed by the BCC concerning the listing of all personal vehicles to be stored on the site be disregarded.

Staff response: the BCC did not impose a condition to list the personal vehicles to be stored on the site; the Applicants Master Plan Submittal listed the placement of two (2) recreational vehicles, one (1) boat, two (2) low-boy trailers and other personal vehicles on the site; the site plan, submitted by the Applicants, illustrated seven (7) parking spaces for personal vehicles; the site plan illustrates a very constricted parking area for the amount of vehicles already allowed by

the approved Master Plan; to allow additional personal vehicles may impede the circulation of the Tow Trucks on the 0.33 acre site.

The Applicants state that the condition for a landscape buffer on the east side of the site alongside the platted easement will create a burden on the Applicants to safely park the tow trucks on the site.

Staff response: the site plan submitted by the Applicants illustrates an adequate circulation of vehicles on the site with the landscape buffer in place; the Applicants Master Plan submittal proposed six foot (6') walls on the north, south and west side of the site as buffers to the existing residences; a land scape buffer was proposed on the east side of the site; the proposed buffers meet the Land Development Code requirement (Article III Section 4.4.4) for landscape buffers of a non-residential use; a request to deviate from this requirement would need to go through a variance process.

The Applicants state that the condition to limit the Applicants to three small tow trucks and two large tow trucks at any given time to be stored on the site will affect the business for the following reasons: will force the Applicants to seek other property to store the remainder of their tow trucks; affect the response time to emergency calls; jeopardize the business as it currently exists.

During discussion of this case some of the comments made, by the BCC, (June 11, 2013, BCC minutes) were that limiting the Applicants to three small tow trucks and two large tow trucks at any given time to be stored on the site "balances the business interest and the neighborhood's needs" (Commissioner Chavez) and that "there was a need for compromise" (Commissioner Anaya).

The Applicants are requesting an extension of the condition, imposed by the BCC, of the 90 day requirement to submit Preliminary and Final Development Plan to the County Development Review Committee for the following reasons: to ask for relief of the above mentioned conditions imposed by the BCC; to address the requirement of the 28' radii required by the County Fire Department on the entry to Ben Lane from Agua Fria. The Applicants go on to state that if negotiations to acquire the easement needed for the 28' radii are not successful, a request for a variance of this requirement will be submitted for consideration by the BCC.

Staff's response: neither the Applicants nor the Agent for the Applicants opposed the conditions of approval of the Master Plan on June 11, 2013; the Agent for the Applicants accepted the need to make the investment for the 28' radius and accepted the implementation of the 28' radius as a condition of approval; the Final order was approved by the BCC on August 13, 2013 and recorded on August 20, 2013; the 90 days in which the pplicants were to submit a Preliminary and Final Development Plan started on August 20, 2013; the BCC approved the Master Plan on June 11, 2013 which allowed the Applicants 49 additional days from the date of approval by the BCC and the recordation of the Final Order to prepare and submit a Preliminary and Final Development Plan; the Applicants did not appeal the final decision of the BCC; the 28' radius is required by the Santa Fe County Fire Marshal based on the 2003 International Fire Code, therefore a variance cannot be granted by the BCC.

The Applicants continue to operate illegally without a County Business License. The time constraint of submitting a Development Plan and the imposition of the above mentioned conditions were required by the BCC to mitigate the affect that this type of business may have on the neighboring residences.

Article V, § 5.2.4.b.2 & 3 (Master Plan Approval) states: "the County Development Review Committee and Board shall consider the following criteria in making determinations and recommendations for approval or amendment of master plans: Conformance to County and Extraterritorial Plan; Suitability of the site to accommodate the proposed development; Suitability of the proposed uses and intensity of development at the location; Impact to schools, adjacent lands or the County in general; Viability of proposed phases of the project to function as completed developments in the case that subsequent phases of the project are not approved or constructed; Conformance to applicable law and County ordinances in effect at the time of consideration, including required improvements and community facilities and design and/or construction standards".

This Application was submitted on September 26, 2013.

APPROVAL SOUGHT:

Reconsideration of conditions imposed by the BCC for

Master Plan Zoning approval.

**GROWTH MANAGEMENT** 

AREA:

El Centro, Agua Fria Traditional Community SDA-2.

HYDROLOGIC ZONE:

Agua Fria Traditional Community, minimum lot size in this area is .75 acres and can be reduced to .33 acres with

community water and sewer.

**ACCESS AND TRAFFIC:** 

The property takes access from Ben Lane via Agua Fria, a County Road. The Applicants have not demonstrated ownership of the easement required to create the radius required by the County Fire Marshall at the entrance of Ben Lane. The Applicants shall provide the design and easement for the access radius at Development Plan

submittal.

FIRE PROTECTION:

Agua Fria Fire District. Access 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.

ADJACENT PROPERTY:

PARKING:

The site is within a residential area and is bordered on all sides by residential property.

The current site plan illustrates a total of 8 parking spaces for 8 tow-vehicles. As a condition of the Master Plan

approval the Applicants were limited to a maximum of five (5) tow trucks. In addition the Applicants propose to park 2 recreational vehicles, 1 boat, 2 low-boy trailers, a dumpster and other personal vehicles, on a 0.33 acre site. The proposed principle use of the site is to allow the storage of tow-trucks to be accessible for emergency calls. The site shall maintain a hammerhead 60' in length and 20' in width.

LANDSCAPING:

The approved Master Plan meets the landscape requirements set forth in Article III Section 4.4.4 of the Land Development Code.

STAFF RECOMMENDATION:

Two of the conditions that the Applicants request the BCC to reconsider (the Applicants shall submit Preliminary and Final Development Plan to the County Development Review Committee for consideration within 90 days of approval of the Final Order and no more than three small tow trucks and two large tow trucks may be stored on the site at any given time) were imposed, by the BCC, as conditions of the Master Plan Zoning approval for a Towing Business within a Traditional residential area in order to balance the business interest and the neighborhood's needs. It is at the discretion of the BCC to consider a change to the approved conditions.

The Applicants site plan illustrated seven (7) parking spaces for personal vehicles and the Applicants Master Plan request listed the type of personal vehicles to be placed on the site, therefore the Applicants placed this restriction on themselves. The Master Plan was approved by the BCC with these parameters as proposed by the Applicants. Approval to allow more than seven (7) personal vehicles may impede circulation within the site.

A landscape buffer between the residential and non-residential use is required by the Land Development Code (Article III Section 4.4.4). Staff's recommendation for approval of the Master Plan was based on compliance with the Land Development Code. Changes to the landscape buffer would require a variance.

#### **EXHIBITS:**

- 1. Applicants Request
- 2. Master Plan Report
- 3. Drawings
- 4. Photos of Site
- 5. Aerial Photo of Property
- 6. Fire Review Comments
- 7. Article III, § 4.4.4 (Development & Design Standards)
- 8. Article V, § 5.2 (Master Plan Procedure)
- 9. June 11, 2013 BCC Minutes
- 10. Final Order Recorded August 20, 2013

#### September 24, 2013

Re: LETTER OF REQUEST for Extension of Time for Preliminary and Final Development Plan, for Amendment to the Master Plan and for Reconsideration of the Board's August 13, 2013 Order.

To the Board of County Commissioners:

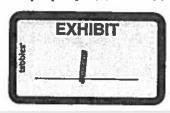
Robert and Bernadette Anaya, owners and residents of 2253 Ben Lane, Santa Fe, New Mexico 87507, hereby request an extension of time to submit their preliminary and final development plan. On August 13, 2013, an Order was entered by this Board in Case No. CDRC MP 12-5060, Robert and Bernadette Anaya Master Plan Zoning to allow a towing business.

Initially, the variance for this property was granted to allow for the storage of eight (8) tow trucks on the site on 2253 Ben Lane. However, with the August 2013 Order, the Mast Plan Zoning was granted with certain conditions that Applicants have several concerns with, as discussed herein.

Further, another concerning condition discussed at the BCC hearing on June 11, 2013, but which was not included as discussion in the August 2013 Order, which is that this Board requested that Applicants list every personal vehicle that will be stored on the site. This will create numerous problems, as discussed below. Further, Applicants cannot properly park their permitted commercial vehicles at the back of their property without reducing the number of trees that were requested by Staff.

Wherefore, Applicants request an extension of time to submit the preliminary and final development plan for the property at issue in this case and for a reconsideration of the conditions proposed in the August 2013 Order for the following reasons:

- 1. The August 2013 Order stated that: "No more than three small tow trucks and two large tow trucks may be stored on the site at any given time." Applicants respectfully request that this Board reconsider this portion of its Order on this for the following reasons:
  - a. This limitation was approved without substantial rationale and is arbitrary. The Applicants will be forced to find land to house these trucks which will require substantial time and money. There is no immediate solution to storing the trucks that have been prohibited by this condition, and therefore it will effectively put the Applicants out of business for most tow calls. Finding a place to store these tow trucks cannot be effectuated within the short amount of time given by the Board. The Board has given Applicants a substantially shorter amount of time than other applicants and imposed increased limitations. This constitutes a denial of due process, as the Applicants were given very little opportunity to respond to the arbitrary decision to reduce the number of tow trucks on the property, effectively shutting down a substantial part of their tow truck business and frustrating all of their state and city contracts with law enforcement.
  - b. The Applicants have other property that is now being Annexed to the City and is not able to be utilized for the purpose of parking their tow trucks. The Applicants have engaged in an ongoing and active search for such alternative property and there are two major obstacles to utilizing another property: (1) the Applicants would have to return to the



Board and go through the entire process again for a request of a variance for this alternative property, even if it was successfully located; and (2) all such properties that could be potentially capable of storing these tow trucks prohibited from being stored on the property would frustrate Applicants' state and city contracts with law enforcement which require the Applicants, as emergency responders, to arrive at the scene within thirty minutes of a critical accident. This requirement of "fastest response time possible under thirty minutes" would be frustrated by the conditions imposed by the Board. Applicants are relied upon for their heavy towing capacity more than any other tow truck company in Northern New Mexico, and this will jeopardize their business to not only have their trucks so far away that they can no longer take the majority of their calls. Essentially, the Board's forcing the Applicants to sell the trucks that they cannot keep on the property because there has been no extension of time allotted to assist the applicants to enable them to find a solution to this extreme conditional order, effectively putting them out of business.

- 2. This Board also requested that Applicants list every personal vehicle that will be stored on the site. While this was not in the final Order, Staff states that such a condition must be in the master, preliminary and final development plan. This will create a number of issues. The fact that a requirement exists on keeping the County apprised of every single make and model of all of the personal vehicles on their property flies in the face of fundamental land use rights, especially in such a mixed-use village, such as Agua Fria Village. Further, this will create a situation where if the Applicant switches out one personal vehicle for another, they will be in violation of these requirements and vulnerable to outsider attack on these arbitrary requirements. No land owner should have to endure such stringent and arbitrary requirements that have no rational basis attached to them and which create an undue burden on Applicants. Applicants request that this Board reconsider its condition imposed/discussed on this point and instead allow for a specific number of personal vehicles without mandating that such vehicle types be specified. Applicant respectfully requests that this Board consider that the Applicants are giving up a significant amount of land for the hammerhead that will benefit the entire neighborhood and allow room for their personal vehicles, as does most every land owner in Agua Fria Village.
- 3. The condition imposed by Staff/the Board that there must be a buffer of trees lining the East side of the property will frustrate the purpose of the proposed development as it creates a burden on the ability to park the tow trucks safely and will make it difficult, if not impossible, to utilize the land allotted for such parking. The Applicants request leave for amending the Master Plan so that the amount of landscaping is reduced so that the purpose of the development is not frustrated.

An extension of time is requested to address these issues and also the issue that the extensive efforts that have been made by applicant to address the radius requirements of the fire code applicable in this case have yielded some results but have not been sufficiently fruitful and Applicants must pursue another course of action to address the fact that this radius requirement cannot be met and no such measures can be taken to alter the radius to conform to code. Currently, Ben Lane roadway does meet the 20' wide requirement of the International Fire Code and Santa Fe County requirements. However, the radius requirements are not currently met. The Applicants were attempting to gather support from neighbors to affect and change these radius requirements in order to conform, but these efforts have failed. The Applicants are weighing

their few options and will most likely need to begin the process of requesting a variance of the fire code or another solution that will bring a resolution to this issue. Applicants have done everything requested by the CDRC and BCC up until this point, but now Applicants request an extension of time and plea that the Board assist the Applicants with an interim solution to this problem.

Thank you for your consideration of this letter of request.

Sincerely

Bernadette and Robert Anaya

Signed by:

Talia Ko<del>sh, Es</del>q. Merit Bennett

Attorneys for Applicants

460 Saint Michaels Drive, Ste 703

Santa Fe, NM 87505

(505) 983-9834

# ROBERT AND BERNADETTE ANAYA MASTER PLAN REPORT

**Updated May 2013** 



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# <u>Figures</u>

# Figure 1 - Vicinity Map

# <u>Appendices</u>

Appendix A- Conditions of Approval
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Appendix D-Reduced Plan Sets
Appendix E-Development Application
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Appendix L- Flood Plain Map
Appendix M-Traffic Assessment

Appendix N-Water Bill for 2253 Ben Lane

Appendix O-Letter re: Sewer Service for Proposed Lot Split to Create 2244 Ben Lane

Appendix P-Description of Outdoor Solar Lighting

Appendix Q-Solar Lighting Levels on Subject Propert7

#### Introduction

The subject property at 2253 and 2244 Ben Lane, Santa Fe, NM 87505, consisting of .702 acres is located in the Agua Fria Village in Santa Fe County. See Appendix F. These two parcels were initially listed as 2253 Ben Lane. The Applicants requested an additional address for the back lot of 2253, so now this back portion is listed as 2244 Ben Lane, Santa Fe, NM 87505.

A variance was granted by the Board of County Commissioners to proceed with a master plan and development plan that allows for special use within Agua Fria Village for the parking of commercial towing vehicles at the back of the property for a towing business operated by the Anayas. The master plan is hereby submitted for approval. The conditions of approval are attached as **Appendix A**.

#### Letter of Request for Master Plan

See Appendix B

#### **Project Location**

The subject tract consists of .702 acres of land located within Agua Fria Village, located at 2253 Ben Lane, Santa Fe, NM 87505. Recently, and in anticipation of the division of this single lot into two lots, in order to separate the parking area from the Anaya's residence, the back portion of this lot is now listed as 2244 Ben Lane. One can access Ben Lane from Agua Fria Road. At Figure 1 is a vicinity map showing the location of the property overlaid on a USGS map.

#### Ownership and Legal Lot Record

The property is owned by Bernadette Anaya, along with her husband, Robert Anaya, who are residents of Agua Fria Village and have owned the property for over 20 years. A reduction of the plat and the warranty deed is found in Appendix D to this report.

#### Master Plan Request

Master Plan approval is being requested. Initially, Master and Preliminary were requested. After conversations with Staff, and the public hearing with CDRC,, CDRC approved the master plan request. As per this approval, applicants request that the Board of County Commissioners approve the Master Plan as submitted. Within this Master Plan application, details not required pursuant to master plan requirements has been submitted by applicant, in order to give the Commission as much information as possible with regard to this request.

There will be only one phase: division of the property into two different properties, landscaping, walls, designation of hammer head, installation of minimal lighting and any other

such necessary actions required by the Code.

The Anaya master plan is conceptual, as per the Code, and focuses on the development of a parking area for up to 8 tow vehicles at the back of their property (2244 Ben Lane) when these emergency vehicles are not in use, in between dispatch calls. See Vicinity Map attached as Appendix N of the Development Plan and the Proposed Site Data, at Appendix C of the Development Plan. The calls received to dispatch these tow trucks will be received and dispatched from their residence on this same property.

As a condition for the approval of this development plan, Applicants request that the subject property be divided into two lots: (1) the lot upon which the Anayas have their current

residence

(2253 Ben Lane at Appendix C). They will seek a home occupation license for this property so that they may dispatch calls from the residence and conduct administrative work and park a single tow vehicle at their home, in their off-street designated parking space. They will also continue to park their personal use vehicles at this residence, as permitted by applicable laws.; (2) the back lot of their property shall be divided from the residence (and 2244 Ben Lane at Appendix C) 2244 Ben Lane will be the subject of this development plan for designated

parking, landscaping and hammer head.

The Anayas' property is naturally separated by Ben Lane and appears to be two pieces of property, when in fact, it is one parcel. The division of this parcel into two lots would ease the ability to designate the back of their property for storing and parking the tow vehicles. Ultimately, conditional upon the approval of the Final Development Plan, the properties will be divided and processed administratively and be recorded prior to final development of the project. The division of their property in this way would allow the Anayas to apply for a home occupation license for their residence, in order to continue to dispatch calls from their residence on the property. As a part of this administrative processing, Applicants will apply for a Home Occupation License in order to dispatch calls from their residence, conduct administrative work and to park one commercial truck off-street at their residence.

The Applicants will also apply for a Business License for 2244 Ben Lane, at the back of their property. This Tract is the subject of this Master Plan request.

# 2244 Ben Lane, Appendix C of the Master Plan: Proposed Site Plan:

2244 is the Location of Parking for Towing Vehicles: The subject of this Master Plan is 2244 Ben Lane only. 2244 Ben lane will be divided from 2253 Ben Lane, as stated above, and 2253 Ben Lane will be operating under a home occupation license for dispatching and receiving calls for the tow trucks. As for the back tract, 2244 Ben Lane, the location of the storing of these towing vehicles when not in use will on this portion of the Anaya's property, will occur at the end of Ben Lane along the N45'31'30'E wall which is adjacent to Henry Romero and Georgia Romero's property line. The2244 Ben Lane will be used for the following purposes: parking towing vehicles in designated spaces when not in use-up to 8 at a time, although there will be 3-5 parked there most regularly, and for parking personal and recreational vehicles.



#### Parking Area Landscaping Plan:

This master plan consists of building walls and planting drought-resistant trees (honey locusts or similar type) to separate the commercial parking area from surrounding residences. The existing wall that separates the Romero's property from the Anaya's property will be lined with trees as an additional screening. See Existing and Proposed Site Date at Appendix C and F of the Master Plan. There will also be a drip system installed to supply these trees with the minimal water requirements. There will also be secured rail road ties that will be utilized as bumpers for the tow trucks. Further, there will be bollards behind each railroad tie, to further secure the area. The largest tow truck has been taken account for with regard to these measurements at 42.5 feet. These bumpers and bollards for parking will be strategically placed for correct spacing of the tow vehicles, keeping in mind the boom length and width of the vehicles. There will be sufficient room for the circulation of traffic of the tow trucks. They will be able to pull into the parking area and back up with sufficient room to do so.

Along the East and South side of the property line, walls will be constructed, as per code requirements, for screening and property protection, taking into consideration the amount of space needed for the tow trucks to park and circulate, so as not to obstruct the purpose of the development. These walls will meet height requirements.



#### Personal Use Vehicles:

The Anayas will also continue to utilize any unused area between the south border of the property and the hammer head designated on the Proposed Site Plan (Appendix C to the Development Plan) for parking up to seven recreational vehicles, including the possibility of parking their two personal RVs (a Montana and a Toy Hauler), a medium sized boat (Bayliner), 2 low-boy trailers for personal use, a dumpster (2 cubic yards) and several personal vehicles. This is reflected in the site plan for designated parking spaces for personal vehicles, demonstrating sufficient circulation for both wreckers and personal vehicles.



#### Landscaping Plan

The proposed landscaping plan will improve and enhance the visual quality of the subject area. It will serve to buffer or screen visually unattractive land uses from residential areas surrounding the parking area. It will shade, cool and define the proposed parking area and minimize erosion, dust and any slope instability.

This development plan consists of building walls and planting drought-resistant trees to separate the commercial parking area from surrounding residences. The existing wall that separates the Romero's property from the Anaya's property will be lined with trees as additional screening. See Existing and Proposed Site Date at Appendix C and F of the

Development Plan. There will be a drip irrigation system installed to provide these trees with sufficient and minimal water.

0

There will also be secured rail road ties and bollards that will be utilized as bumpers and additional safety measures for the tow trucks. The largest tow truck has been taken account for with regard to these measurements at 42.5 feet. These bumpers for parking will be strategically placed for correct spacing of the tow vehicles, keeping in mind the boom length and width of the vehicles. There will be sufficient room for the circulation of traffic of the tow trucks. They will be able to pull into the parking area and back up the trucks with sufficient room to do so.

A wall will also be constructed along the East side of the property line, taking into consideration the amount of space needed for the tow trucks to exit and enter the property, so as not to obstruct the purpose of the development.

A dumpster will be located on the property for development, and will be screened as per Code requirements.

#### Walls:

Two walls will be constructed on the East side and south side borders of 2244 Ben Lane. The west wall will allow for sufficient room for trucks to enter, circulate and exit.

Hammer Head: The hammerhead will be located at the entrance to the property in question.

The contractor will be certain that the landscape treatment and improvements are designed, installed and maintained so they conform to submitted plans for landscaping. This plan promotes conservation of water through the use of drought tolerant plants, such as honey locusts. Along the North and South property lines of the parking area, within twenty five feet of a property line adjoining residential uses, screening of trees will occur. Walls will be built along the West and South side of the property to enclose the parking area from the adjacent residential areas.

# Liquid and Solid Waste Plan

No waste will be produced with regard to this request and plan. From their residence, there will be no liquid waste that will require disposal for this project. The subject property is on a community sewer system, however. No septic system will be needed for this development.

Charlie Smith Construction will be responsible for the removal of any waste material from the site, although none is anticipated. A dumpster already located on the property will be available for the collection of any trash that may occur on the property. Waste will be taken to a County transfer station, the regional landfill in Santa Fe or the Los Alamos Landfill. Mr. Smith will attempt to recycle any materials possible through public or private sources.

At Appendix M is a letter from the City of Santa Fe regarding Sewer Service for Proposed Lot Split to Create 2244 Ben Lane indicating that connection to the existing public sewer main line would be possible.

Signs and Lighting Plan

Signage: There will be no utilization of signage in this development project.

Lighting: The Applicants wish to put in a minimal amount of lighting that would conform to residential requirements for lighting. This lighting will be outdoors and designed and arranged to enhance the safety of the area during evening hours, to provide security, to protect the night sky and to prevent the spillover, nuisance or hazard effects of light and glare on adjacent locations and uses of land. There will be proper screen of lighting and will reflect code height requirements. This lighting will be solar and will not require any additional hook-ups to an electrical power source. However, this is not essential to the development plan, but would be pursued for safety and security purposes only.

The site plan demonstrates the location, mounting height, type, shades/shields so they are not directly visible from any adjacent lot. Spillover of lighting for adjacent properties shall not exceed one half of one(.50) footcandle measured at any point ten feet beyond the property line and shall be installed no higher than the surrounding buildings.

See Appendix P for a description of the solar lights used. These solar lights are Sepco, Genesis lighting, an LED lighting system. See Appenix Q for lighting levels on the property for the lights used.

Existing Conditions, Topography and Drainage

Adjoining Land Uses: The property to the North of the Applicant's property is residential and walled with no access to Ben Lane. The property to the West of the back of the Anaya's property, which is the focus of the development plan, is an empty field, owned

privately and zoned for residential. The property to the South of the Applicant's property consists of residential trailers. The property to the East of the subject property consists of Ben Lane and residential properties.

<u>Description of Terrain:</u> There is no natural terrain on the subject property for the parking area. The entire area is dirt which will not be affected by development. There are no natural grades or slopes-all is man-made.

Slope and Grading: The Slope of the subject property for the parking area goes from NE to SW at a 1%-2% slope. The proposed development will be set at the existing grade and will not be changed or affected.

The subject property is outside of the flood plain. See Appendix L to the Development Plan.

#### Drainage and Detention Pond: Terrain Management Plan

This plan will protect and promote the health, safety and welfare of residents of SF County through proper landscaping, including screening, detention pond and drainage considerations. Natural drainage patterns will be preserved, and the development will adapt to the existing topography, soils and other conditions existing on the lot prior to development. The parking area will not be paved.

<u>Detention Pond:</u> The detention pond will be located at the SW corner of the property at the end of the proposed location of the hammer head. See Appendix C to the Development Plan. The proposed development will not change the grade of the property.

Drainage: Draining requirements will be met by proposed landscaping.

#### Topography and Drainage:

No descriptive topography. No natural slope. It's all man made Graphic representation of existing topography, slopes and flood plains are depicted at Appendix M. There is very little slope on the lot. There is natural drainage that occurs from North to South through the property. A detention pond will be at the Southwest corner of Tract 4B. Drainage will be addressed through the proposed landscaping plan.

## Existing and Planned Utilities

There will be no utility use other than that discussed under Landscaping-Drip Irrigation in this master plan. Applicants have applied with PNM to have the telephone pole moved at the corner of Agua Fria Road and Ben Lane in Agua Fria Village. This pole is obstructing the requirements of the Fire Code regarding the turning radius requirements. Appendix G.

At Appendix N is a water bill for 2253 Ben Lane, demonstrating that a water connection exists on this property currently.

#### Water Budget Plan

The only water will be such use an needed for minimal drip irrigation for drought resistance trees planted along the north side of the property. Such drip irrigation is not taken into account with regard to water budget plan requirements, as the use is de minimus. There will be no other water utilized and needed for this development. The Water Budget is 0.00

2244 Ben Lane is available for hookup to community water.

#### Water Harvesting:

Due to the fact that no development of structures is proposed, a water harvesting plan is unnecessary.

#### Fire Protection and ACCESS

Access: Access to the property is from Agua Fria. The closest County fire substation to the site is within a mile from the property and would be accessed from Agua Fria Road. Water is available through Agua Fria Community Water Systems, See Appendix 11.

Front access. The driveway entrance meets the 20 foot minimum width; however, access does not meet the required 28 foot radius. A hammer head is proposed in the development plan, as required by the Fire Code. A fire hydrant is within 1,000 feet as required for residential structures. Applicants have requested that PNM move the telephone pole at the corner of Agua Fria and Ben Lane to accommodate the access required for a 28 foot radius. See Appendix G.

A survey shall be conducted on the entrance at Ben Lane and Agua Fria Road to determine exact measurements.

<u>Hammerhead:</u> A hammerhead will be designated on the back lot of the Applicant's property to conform to fire code requirements

#### Environmental Evaluation

The proposed development shall utilize standard techniques available in order to minimize noise, vibration, smoke and other particulate matter.

This property is outside of the flood plain. See Appendix L. Water Budget: There will be no water used for development. Water Harvesting: Due to the fact that no development of structures is proposed, a water harvesting plan is unnecessary.

Respectfully Submitted,

Talia Kosh/Merit Bennett

The Bennett Firm

460 Saint Michael's Drive

Ste 703

Santa Fe, NM 87505

Attorneys for Applicant

APPENDIX B
Letter or Request for Development Plan
Master and Preliminary

Re: AMENDED LETTER OF REQUEST for Master Plan For Anaya Development.

To Whom It May Concern:

Robert and Bernadette Anaya, owners and residents of 2253 Ben Lane, Santa Fe, New Mexico 87507, hereby submit this letter of request as part of their application for Master Plan and Preliminary Development Plan pursuant to the variance of Ordinance No. 2007-2 (Village of Agua Fria Zoning District), § 10.5 (Village of Agua Fria Zoning District Use Table), that was granted by the Board of County Commissioners, to allow a towing business to park their vehicles on this property, as a Special Use under the Zoning Use Table on 0.70 acres. See Ordinance attached as Appendix A to the "Anaya Master Plan and Preliminary Development Plan," (hereinafter referred to as the "Development Plan").

#### Statement of Facts and Purpose of Letter of Request:

#### Background:

The Anayas' family towing business has created many relationships with emergency responders over the years and stand ready to respond at any hour of the day or night to such community emergencies, including calls from New Mexico State Police Department, the Santa Fe Police Department, the Bureau of Indian Affairs, the NM Department of Transportation, Tesuque Tribal and other governmental organizations. It is necessary that the Anayas be permitted to continue to park up to 8 tow vehicles on their property, as they have done since 1989, in order to be able to respond to any emergency call in a timely fashion. Should the Anayas store their tow trucks off site, the time it takes to travel to retrieve these towing vehicles could mean the difference between whether or not a life is saved or important government property is preserved. Often, emergency responders, such as the fire department and various law enforcement agencies, cannot get to victims or those in exigent and dire circumstance without the assistance of a tow truck company with the versatile capability offered by the Anayas. For a complete description of the history of this project, please see Anayas' "Letter of Request for Variance" dated May 11, 2012.

In fact, the Anayas have a very unique towing capacity that only a few other tow truck companies in the entire State of New Mexico possess. In all of Northern New Mexico, only the Anayas have the unique capacity to tow and/or recover very heavy loads, which means they are the first towing company called by several government agencies, to respond to unique emergency situations. The quick access to their vehicles at the back of the Anaya's home makes their vehicles available for emergency calls at any time of day or night. Should the Anayas' store their vehicles away from their home, this would effectively destroy their ability to respond to such emergency situations and make it impossible for them to carry out their contracts and agreements with these governmental agencies. This would injure and effectively destroy the Anayas' towing business.

#### SCOPE OF REQUESTED DEVELOPMENT:

The Anayas' master plan is focused around their development of a parking area for up to 8 tow vehicles at the back of their property, no labeled as 2244 Ben Lane, Santa Fe, New Mexico, when these vehicles are not in use, in between dispatch calls. See Vicinity Map attached at Figure 1 of the Master Plan and the Proposed Site Data, at Appendix C of the Master Plan. The calls received to dispatch these tow trucks will be received and dispatched from their residence on this same property. See 2244 Ben Lane, Appendix F of the Development Plan.

Division of Property. Conditional Upon Approval of Development Plan: In order to better effectuate and simplify the commercial zoning of their property and to park these tow trucks, conditional upon the approval of the Development Plan, the property at issue, 2244 Ben Lane (Appendix F) will be divided into two lots, 2253 Ben Lane and 2244 Ben Lane 4B at Appendix C to the Development Plan. The total amount of acreage for both of these tracts together is .702 acres. 2253 Ben Lane would be a total of .332 acres and 2244 Ben Lane would be a total of .370 acres. Both properties have water and sewer hook-ups, and because of this, the tract size can be as low as 1/3 of an acre.

Dividing the property into two lots will more easily and naturally separate the land into commercial and residential lots. The Anayas' property is naturally separated by Ben Lane and appears to be two pieces of property, when in fact, it is one parcel. The division of this parcel into two lots has been preliminarily affected and these two pieces of property are now labeled 2244 and 2253 Ben Lane. This division conditional upon the acceptance of the final development plan, would ease the ability to designate the back of their property for storing and parking the tow vehicles. Conditional upon the approval of the Master Plan, the properties will be divided and processed administratively and be recorded prior to final development of the project. The division of their property in this way would allow the Anayas to apply for a home occupation license in order to continue to dispatch calls from their residence on the property. As a part of this administrative processing, Applicants will apply for a Home Occupation License for 2253 Ben Lane, in order to dispatch calls from their residence, conduct administrative work and park one commercial truck off-street at their residence.

The Applicants will also apply for a Business License for 2244, at the back of their property. 2244 Ben Lane is the subject of this Master Plan.

### 2244 Ben Lane, Appendix C of the Development Plan: Proposed Site Plan:

2244 Ben lane is the Location of Parking for Towing Vehicles: The subject of this Development Plan is for 2244 Ben Lane only. What is now currently 2253 Ben Lane will be divided, as stated above, and the residence will remain as 2253 Ben Lane and will operate under a home occupation license that will be applied for as a condition to the approval of this development. As for 2244 Ben Lane, the location of the storing of these towing vehicles when not in use will be at the back of the Anayas' property, and is located end of Ben Lane along N45'31'30'E wall which is adjacent to Henry Romero and Georgia Romero's

property line. The tow trucks will be parked along this wall in designated parking spaces. See Appendix C to the Development Plan.

2244 Ben Lane will be used for the following purposes: parking towing vehicles in designated spaces when not in use-up to 8 at a time, although there will be 3-5 parked there most regularly, and parking personal and recreational vehicles. See Appendix C to the Master Plan.



Parking Area Landscaping Development Plan:

This master plan consists of building walls and planting drought-resistant trees to separate the commercial parking area from surrounding residences. The existing wall that separates the Romeros' property from the Anayas' property will be lined with trees as an additional screening. See Existing and Proposed Site Date at Appendix C and F of the Development Plan. Along the wall where the tow trucks will be parked, there will also be secured rail road ties that will be utilized as bumpers for the tow trucks. Bollards will also be utilized. Appendix C. The largest tow truck will establish the length of this measurement at 42.5 feet. These bumpers for parking will be strategically placed for correct spacing of the tow vehicles, keeping in mind the boom length and width of the vehicles. There will be sufficient room for the circulation of traffic of the tow trucks. They will be able to pull into the parking area and back up, with sufficient room to do so.

A wall that conforms to the Code will be built along the East side of the property line, taking into consideration the amount of space needed for the tow trucks to exist and enter the property, so as not to obstruct the purpose of the development. Appendix C.

Walls:

Two walls will be constructed on the south side of 2244 Ben lane, behind the hammer head and on the east side of the property. Appendix C.



Personal Use Vehicles:

The Anayas will also continue to utilize any unused area near the hammer head designated on the Proposed Site Plan (Appendix C to the Development Plan) for parking their recreational vehicles, including the possibility of parking their two personal RVs (a Montana and a Toy Hauler), a medium sized boat (Bayliner), 2 low-boy trailers for personal use, a dumpster (2 cubic yards) and several personal vehicles.

Hammerhead: A hammerhead will be designated on the back lot of the Applicant's property to conform to fire code requirements. Appendix C.

<u>Description of Terrain:</u> There is no natural terrain on the subject property for the parking area. The entire area is dirt which will not be affected by development. There are no natural grades or slopes-all is man-made.

Slope and Grading: The Slope of the subject property for the parking area goes from NE to SW at a 1%-2% slope. The proposed development will be set at the existing grade and will not be changed or affected. Appendix C.

Drainage and Detention Pond:

<u>Detention Pond:</u> The detention pond will be located at the SW corner of the property at the end of the proposed location of the hammer head. The proposed development will not change the grade of the property.

Drainage: Draining requirements will be met by the proposed landscaping.

<u>Lighting:</u> The Applicants wish to put in a small amount of lighting that would conform to residential requirements for lighting. This lighting will be outdoors, solar and designed and arranged to enhance the safety of the area during evening hours, to provide security, to protect the night sky and to prevent the spillover, nuisance or hazard effects of light and glare on adjacent locations and uses of land. As these lights will be solar, there is no need to connect said lights to an electrical source. See Appendix P for a description of the solar lights used. These solar lights are Sepco, Genesis lighting, an LED lighting system. See Appenix Q for lighting levels on the property for the lights used.

The subject property is outside of the flood plain. See Appendix L to the

Development Plan.

Signage: There will be no utilization of signage in this development project.

Water Budget: There will be no water used for development.

Water Harvesting: Because no development of structures is proposed, a water harvesting plan is unnecessary.

<u>Liquid Waste Disposal Plan</u>: There will be no liquid waste that will require disposal for this project. The subject property is on a community sewer exists on the property, however.

Agua Fria Village Review: The Anayas were on the Agua Fria Village Association Agenda for February 4, 2013. The Anayas presented at this Association Meeting through their attorney, Talia Kosh, Esq., and presented in detail the proposed development plan herein. See Appendix E.

Noise and Air Quality Issues:

Noise and Air Quality concerns shall be addressed by the landscaping plan.

Access and Fire Code:

The access to the development is from Agua Fria road onto Ben Lane in the Agua Fria Village. The closes County fire substation to the site is within a mile from the property and would be accessed from Agua Fria Road. Water is available through Agua Fria Community Water Systems. See Appendix H. The driveway entrance meets the 20 foot minimum width; however, access does not meet the required 28 foot radius. A hammer head is proposed in the development plan, as required by the Fire Code. A fire hydrant is within 1,000 feet as required



for residential structures. Applicants have requested that PNM move the telephone pole at the corner of Agua Fria and Ben lane to accommodate the access required for a 28 foot radius. See Appendix G of the Development Plan.

On the other corner of Ben Lane and Agua Fria, a wall has recently been built that is in violation of Fire Code requirements and is a fire hazard as it completely obstructs all visibility from Ben Lane when turning onto Agua Fria at 2261 Ben Lane. The wall also encroaches upon an easement. A complaint for this violation is to be filed with the County and measures to re-build this wall to Fire Code is conditional on this development plan. Applicants will request that this wall be re-built to conform to the fire code. Rounding off the corner of the wall and taking off several feet from the corner of the wall would be sufficient to meet code requirements. A survey will be conducted of this access road to determine exact measurements.

<u>Traffic Assessment:</u> The acceptance of a traffic assessment, in lieu of a traffic study, has been approved. See Appendix M to the Development Plan.

Thank you for your consideration of this letter of request.

Sincerely

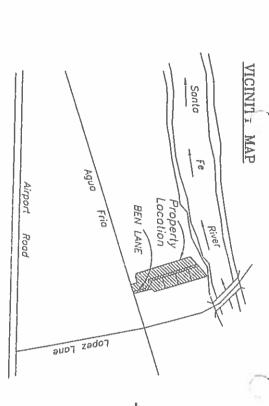
Bernadette and Robert Anaya

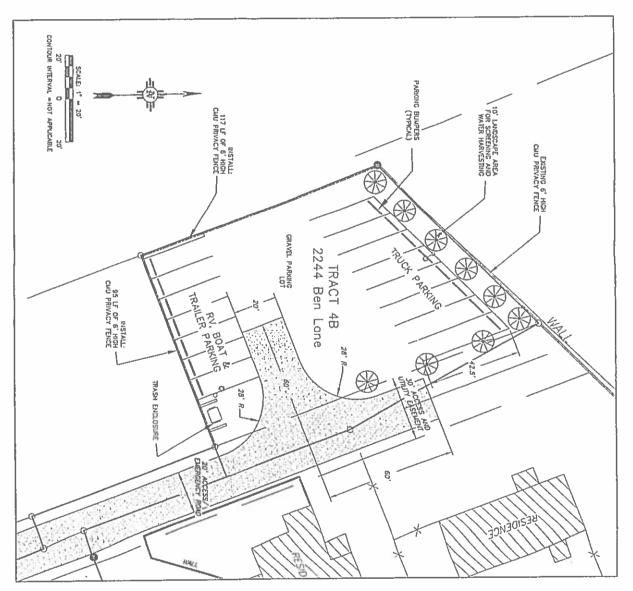
Signed by: \_

Talia Kosh, Esq.
Attorneys for Applicants
460 Saint Michaels Drive, Ste 703
Santa Fe, NM 87505
(505) 983-9834

וט דו סדד פאסף שעב On Site Lighting Calculation Summary Symbol Luminaire Schedule Ť ARICHG LOT\_Tep\_1 Qty SEACCH GEN-F-60-E-700-VOLTAGE-14-NT Lump: 145 System Watt LED Type IV Acco Light of 20 fest above faished grade Description 0.23 0.23 Max D 50 0.02 0.04







MASTER

2. NO PORTION OF THIS PROPERTY IS WINEN THE 100 YEAR FEMA FLOOD PLAIN AS SHOWN ON MAP 35349—CC1940 DATED JUNE 12, 2005 1. UPON CONSTRUCTION OF ANY BUILDING, CONNECTION TO THE COUNTY WATER AND WASTEMATER COLLECTION SYSTEM IS REQUIRED.

GENERAL NOTES

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REQUIRED OPEN SPACE .... # 00.0 3747 SOFT. 9 SPACES 0.339 Acres±

SITE DATA

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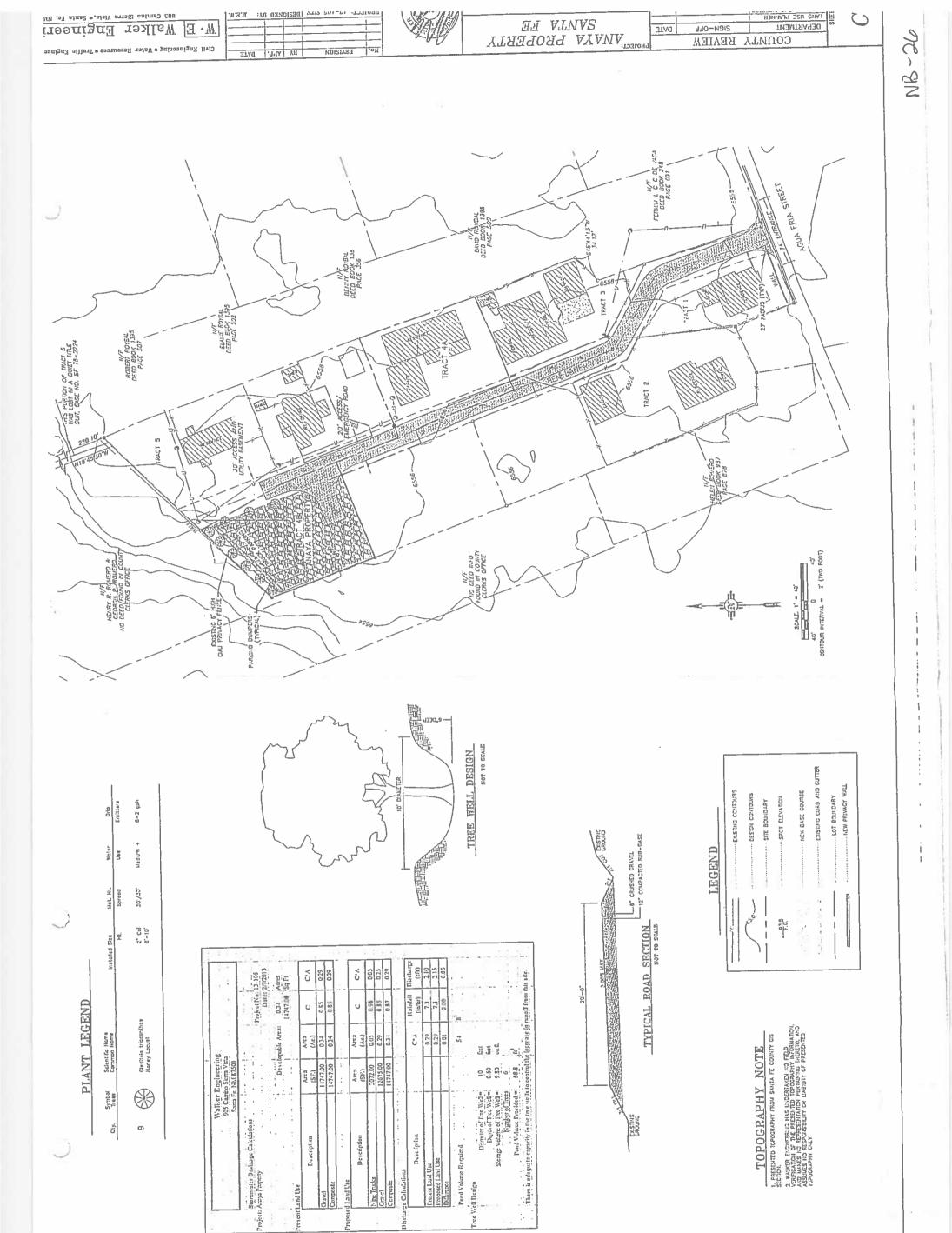
REVIEW ANAYA PROPERTY AGUA FRIA, NM SIGN-OFF DEPARTMENT DATE WASTEWATER MONTH. DIV WATER SERVICES SUBDIVISION ENG. STREETS SHEET TITLE MASTER

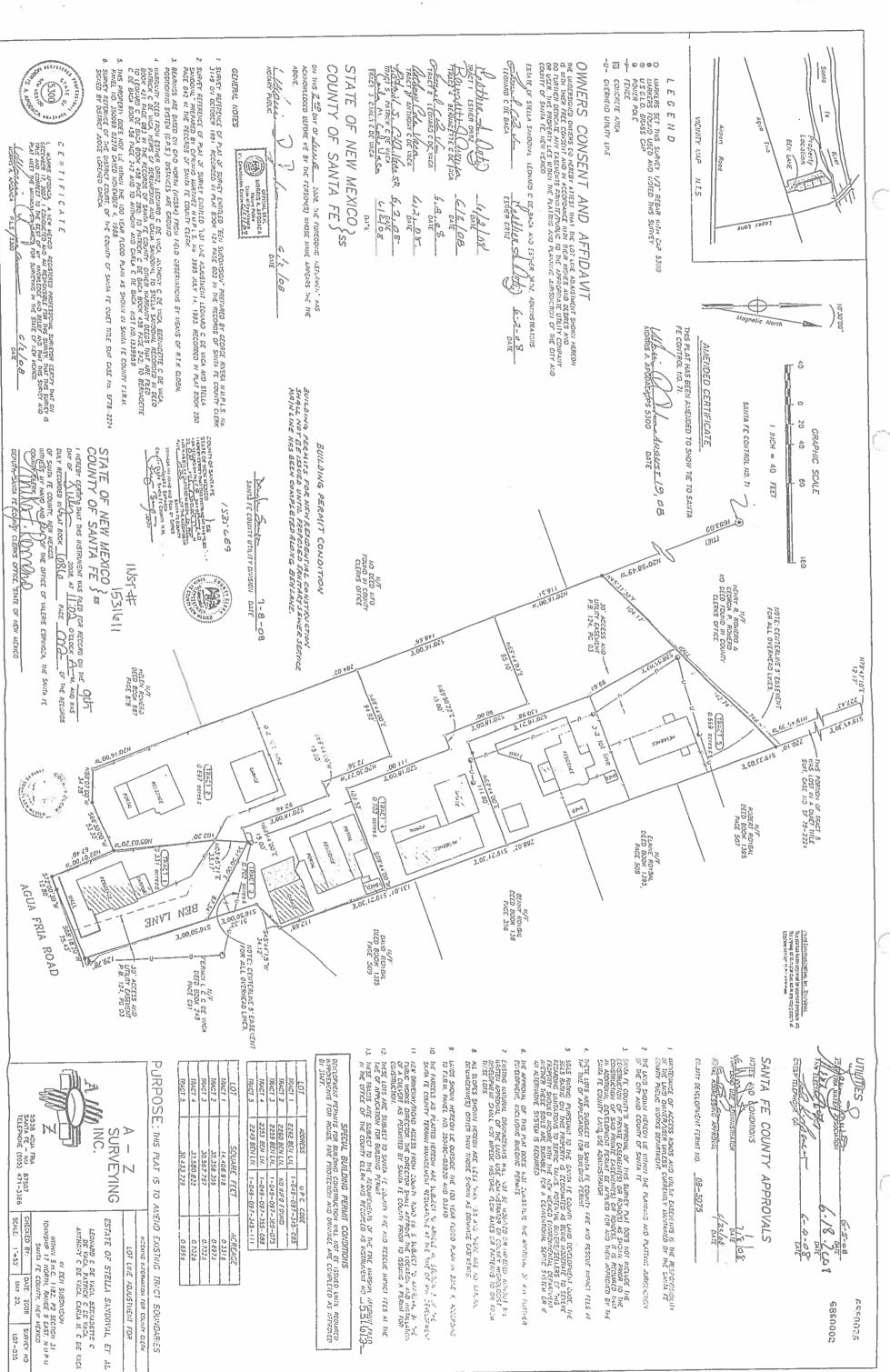
BY APP. DATE No. REVISION 11-163 DESIGNED BY: U.E.W. PROJECT: DEV DRAWN HY: FILE:

Civil Engineering • Water Resources • Traffic Engineering

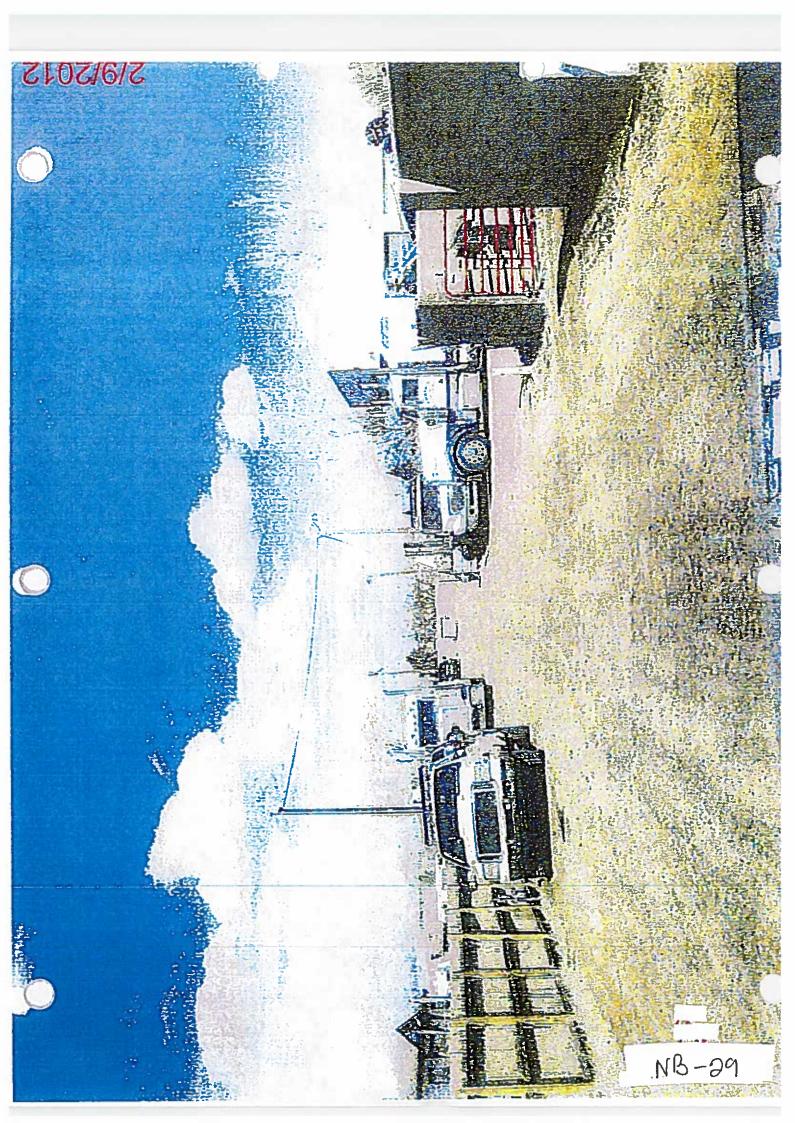
W· E Walker Engineering

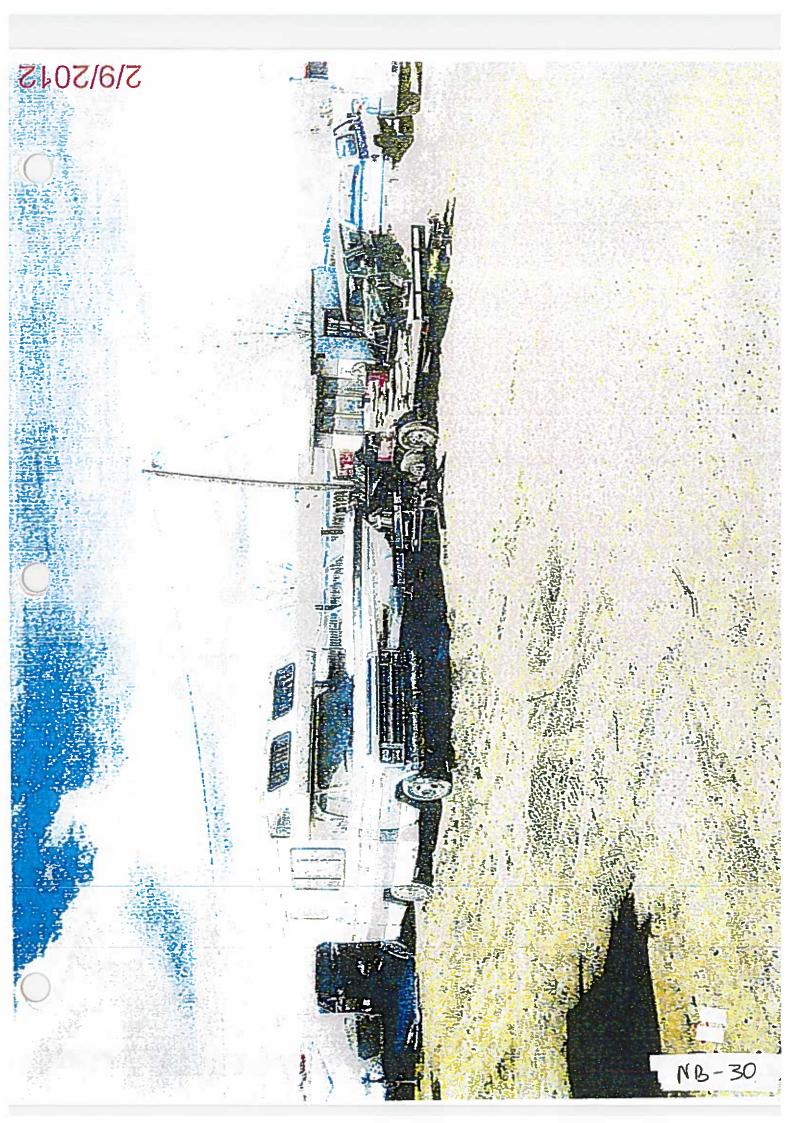
505 Camino Sierra Vista, \* Santa Fc. Nu 57501

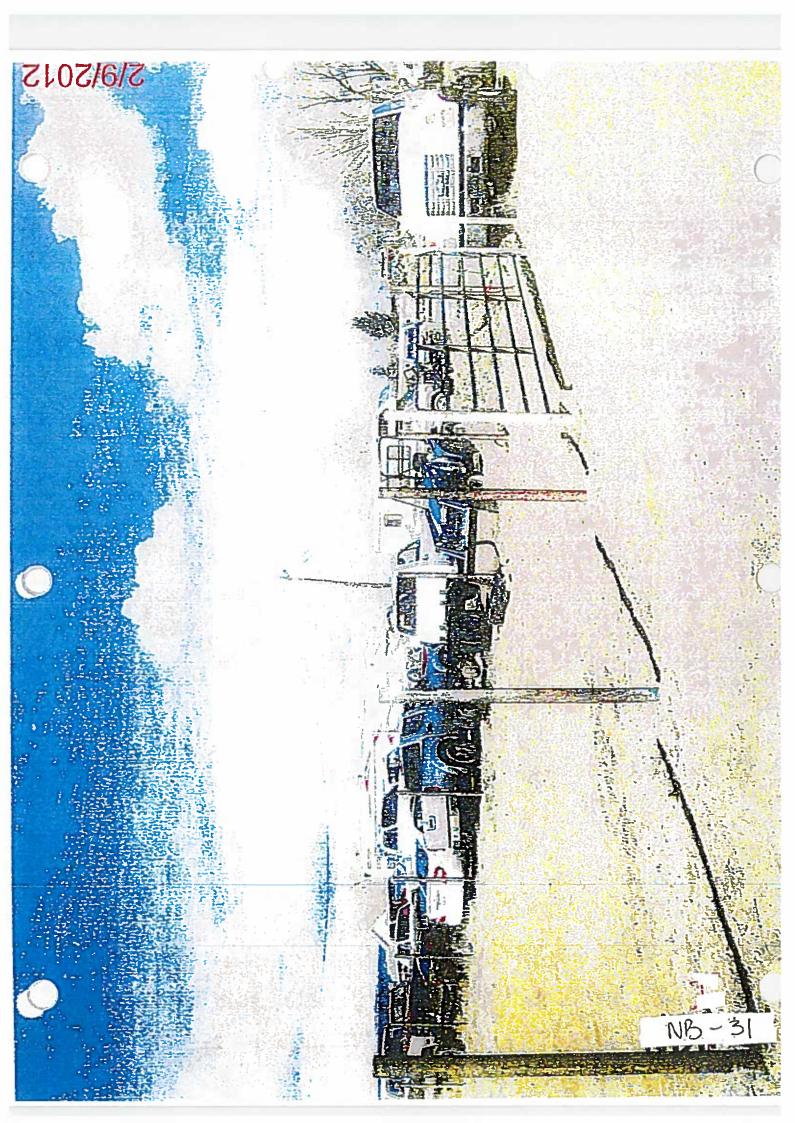




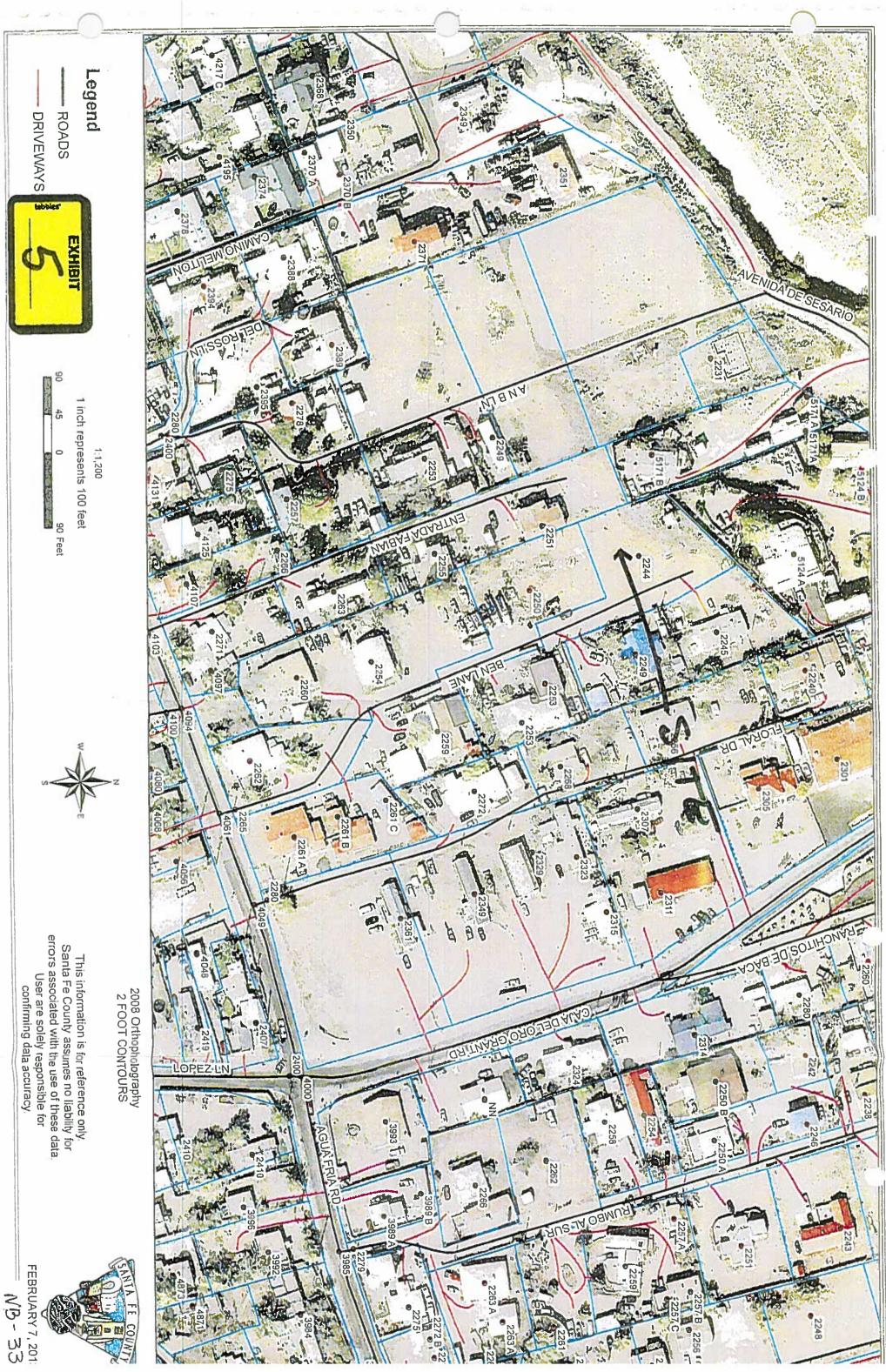












1/3

Daniel "Danny" Mayfield Commissioner, District I

Miguel Chavez Commissioner, District 2

Robert A. Annya Commissioner, District 3



Kathy Hollan Commissioner, District 4

Liz Stefanies Commissioner, District 5

> Katherine Miller County Manager

# Santa Fe County Fire Department Fire Prevention Division

Official Development Review						
Date	03/27/2013					
Project Name	Robert & Bernad	lelle Anaya				
Project Location	2253 Ben Lane,	Santa Fe, New Mexico (	87507			
Description	Masler Plan & Preliminary Development Plan		Case Manager	Jose Larranaga		
Applicant Name	Robert & Bernadelte Anaya		County Case #	13-5060		
Applicant Address	2253 Ben Lane Fire District Agua			Agua Frla		
	Santa Fe, New I	Mexico 87507	0			
Applicant Phone	505-470-6621				če.	
Review Type:	Commerclal ⊠ Master Plan ⊠	<u> </u>	Sprinklers 🗌 Final 🗍	Hydrant Ac Inspection ⊠	ceptance [] Lot Split []	
Project Status:	Wlldland □ Approved ⊠	] Variance ☐ Approved with Condi	tlons 🗌 Der	ılal 🗌		
Department has	s reviewed the s	n/Code Enforcement above submittal and a es, ordinances and re	requires compli	ance with applic		
Fire Departmen	nt Access					
Shall comply wil Code inclusive to Fire Marshal	th Article 9 - Fire o all sub-section.	e Department Access o s and current standard	and Water Supply ds, practice and 1	of the 1997 Uni ulings of the San	form Fire Ia Fe County	
• Fire Access Lar	nes					
signs or other ap	pproved notices :	Access Roads. (1997 Ushall be provided and	maintained for fi	red by the Chief, re apparatus acc	approved ess roads to	

#### 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.

35 Camino Justicia

Santa Fe, New Mexico 87508



afecountyfire.org

Ben Lane roadway does meet the 20' wide International Fire Code and Santa Fe County requirements. The proposed hammerhead turnaround meets the 1997 Uniform Fire Code requirements as shown in master plan & preliminary plan page D1.

The proposed entry from Agua Fria Street into Ben Lane meets the 1997 Uniform Fire Code requirement as shown in master plan & preliminary plan page C1

#### 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.

#### Siope/Road Grade

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

There are no slopes the exceed 11%.

#### 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.

#### 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.

Section 903.4.2 Required Installations. (1997 UFC) The location, number and type of the fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on the site of the premises or both to be protected as required and approved. Hydrant location meeting residential flow requirements of 500 GPM is within 1000ft.

# General Requirements/Comments

#### Inspections/Acceptance Tests

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations 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 developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

As required

#### **Final Status**

Recommendation for Master Plan and Preliminary Development Plan approval with the above conditions applied.

Renge Nix, Inspector

3-27-13 Date

Through: Chief David Sperling

File: DEV/Robert& Bernadette Anaya/032713/AF

Buster Patty, Fire Morshol Jose Larranago, Land Use

Applicant
District Chief Agua Fria

File

create a buffer or screen for storage or parking areas; and

4) take advantage of solar gain in winter months. See also the setback requirements section 4, Design Standards.

#### c. Parking Lot Escation.

Parking lots shall be placed or celented on a site:

- 1) to the rear or side of buildings (or both); and
- 2) to encourage pedes with safety and convenience.

#### d. Terrain Management

All development of a lot, tract or parcel shall be done in accordance with Article VII. Section 3 of his Code.

History. 1980 Comp. 1980-6. Section 4.4.3 was amended by County Ordinance 1990-11 adding all new material for site planning standards.

#### 4.4.4 Development and Design Standards



#### a. Screening

Outdoor storage, parking and loading areas which are visible from public roads or from abutting public lands or residential areas shall be screened. Such screening may be landscaping, walls, fencing, building placement, berms, or any combination thereof. For landscaping plans and standards relating to screening see Sub-section f.

#### b. Buffer Zones and Setbacks

- 1) Proposed non-residential districts or uses that adjoin parcels on which dwellings are located within 100 feet of the property line adjacent to the parcel on which the use is to be located shall be set back 100 feet from the property line in major or community center districts and 25 feet in local or small scale districts. The 100' setback area may be used to meet the off-street parking requirement of Section 9 of Article III except that no parking may be provided within twenty five (25) feet of the property line in Major and Community Center Districts and five (5) feet from property lines in Local and Small Scale Districts. In the setback area, existing vegetation shall be preserved and natural topographic features, planting, building placement, walls, fencing, earth berms or landscaping or any combination thereof, shall be used to keep buildings, parking or outdoor storage unobtrusive.
- 2) Alternatives to the 100 foot setback are specified in Article V, Section 8.1.4 e. 1-
- 3) Side and rear yard setbacks shall apply only to lots at the edge of a non-residential district. Zero lot lines (no setback) for building placement may be allowed, if fire resistive construction between buildings is provided directly adjacent or adjoining on interior property lines.

#### c. Maximum Height

Structures shall be limited to a maximum height of thirty six (36) feet from the highest point of the surface of the ground at the perimeter of the structure in Major or Community Center Districts and to twenty four (24) feet in height in Neighborhood or Local Center Districts.

#### d. Parking

Compliance with the parking standards set forth in Article III, Section 9, is required.



#### e. Maximum Lot Coverage

Maximum lot coverage for all structures for any development shall not exceed thirty percent (30%) in major or community center districts or twenty percent (20%) in neighborhood or small scale center districts.

#### f. Landscaping

#### 4.4.4 f. 1) Purpose and Intent

Landscape treatments are applicable to all development for the following purposes:

- (a) To assure that new development creates an amenity and improves and enhances the visual quality of an area;
- To buffer or screen visually unattractive land uses from roadways and residential areas;
- (c) To shade, cool and define large parking areas;
- (d) To define the separate function of thoroughfares and other land uses:
- (e) To minimize erosion, dust and slope instability;
- (f) To assure that landscape treatment and improvements are designed, installed and maintained so that they conform to submitted plans or master plans for landscaping;
- (g) To preserve both native vegetation and landscapes and to protect the visual and structural integrity of hillsides or steep or mountainous areas from the effects of development by revegetation of disturbed areas; and
- (h) To promote conservation of water through the use of drought tolerant plant materials and xeriscape techniques.

#### 4.4.4 f. 2) The landscaping requirements of this Code are cumulative; applicants shall meet:

- the standards for minimum area on a development site (Sections 4.4.4 f 4, 9, and 10); plus
- any required road frontage area (Article III, Sections 4.4.4 f 10 and 13 and Article V, Sections 8.1.4); plus
- landscaping for parking lots (Sections 4.4.4 f 11), plus
- landscaping for drainage ponding areas (Article VII, Section 3.4.6 f); and
- revegetation (Article VII, Section 3.4.5),

except where specific substitutions or adjustments are provided for in these regulations.

#### 4.4.4 f. 3) Native Vegetation: Preservation

#### (a) Intent

It is the intent of the Code to protect and retain native vegetation and landscapes for all development. Native trees, shrubs and other natural vegetation stabilize steep slopes, retain moisture, prevent erosion, provide habitat for wildlife, play a role in the prevention of air and noise pollution and enhance natural scenic qualities.

- (b) Limitations on grading and clearing.
  - (1) Grading shall be limited to the development site within the Buildable Area on a lot or tract
  - (2) Clearing of existing native vegetation shall be limited to approved development sites. No significant tree may be removed from slopes greater than thirty percent (30%).

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fulfill the proposals contained in the subdivider's diselective statement and in determining whether or not the subdivider's provisions for a subdivision conform with County regulations.

4.8 Common Promotional Plans

The Code Administrator will review proposed applications to determine whether there is a common promotional plan to subdivide a property. If it is determined that the land division does constitute a common promotional plan, the project shall comply with the procedures provided for in this Actuele V.

# SECTION 5 - PROCEDURES AND SUBMITTALS

5.1 Pre-application Procedures

Prior to the filing of an application for approval of a preliminary plat, the subdivider shall confer with the Code Administrator to become acquainted with these subdivision regulations. At this pre-application conference, the subdivider shall be advised of the following:

1. Submittals required by the Code.

2. Type and/or class of the proposed subdivision.

3. Individuals and/or agencies that will be asked to review the required submittals.

4. Required improvements.

- Conditions under which Master Plans and Development Plans are required as described in Sections 5.2 and 7.
- A determination will be made as to the appropriate scale and format for plans and plats and as to the appropriateness of applicable submittal requirements.

#### 5.2 Master Plan Procedure

## 5.2.1 Introduction and Description

a. Master plans are required in the following cases:

- i. All Type I, Type II, and Type IV subdivisions with more than one development phase or tract:
- ii. As required in Article III for developments other than subdivisions; and
- iii. Such other projects which may elect to apply for master plan approval.
- b. A master plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the subdivider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval.
- c. The master plan submittal will consist of both plans and written reports which include the information required in 5.2.2 below. A typical submittal would include a vicinity map, a plan showing existing site data, a conceptual environmental plan with written documentation, a master plan map, a master plan report, a schematic utilities plan and the phasing schedule. Maps and reports may be combined or expanded upon at the discretion of the applicant to fit the particular development proposal as long as the relevant information is included.

## 5.2.2 Master Plan Submittals

a. <u>Vicinity Map.</u> A vicinity map drawn at a scale of not more than 2,000 feet to one inch showing contours at twenty (20) foot intervals showing the relationship of the site to its general surroundings, and the location of all existing drainage channels, water courses and water bodies located on the parcel and within three miles of the Parcel.



The locations of all Federal, State, or County Roads within one thousand (1000) feet of the parcel shall be shown. In addition, location of future highways and arterials as designated on the appropriate master plan for roads in the County (see 3-19-9 N.M.S.A. 1978) shall be shown.

- b. Existing Site Data. A description of existing conditions on or adjacent to the site. Maps shall be at a scale of one (1) inch to one hundred (100) feet or other appropriate scale as determined by the Code Administrator and shall include the following:
  - 1) Boundary lines: bearings and distances. The error of closure shall be of a third order survey, and no discrepancy between computed and measured distances shall exceed one (1) part in 1,280 parts;

2) Easements: Location, width and purpose;

 Streets or Roads on and immediately adjacent to the tract, name and right-of-way width;

4) Utilities on and immediately adjacent to the tract;

- 5) Owners of record of unplatted land and existing subdivision plats by name and recordation, together with owners of record for affected lots shall be shown for property within one-hundred (100) feet of that tract not including public rightsof-ways.
- 6) Title and certificates: Present tract designations according to official records in the County Clerk's Office, title under which the proposed development is to be recorded with name and address of owner, notation stating acreage, scale, true and magnetic north arrow, U.S.G.S. datum and benchmarks, if any, certification of the engineer or land surveyor licensed in accordance with the laws of the State of New Mexico who prepared the plat.
- 7) Proof of legal access from a county or state road as required by the Code.
- c. Conceptual environmental plan shall include, when appropriate:
  - 1) Graphic representation of existing topography, natural features, slopes, and floodplains,
  - 2) Soils maps and reports (SCS)
  - 3) Recreational and/or open space plan, or landscape concepts,
  - 4) Liquid waste disposal plan, and
  - 5) Water Supply plan.
- d. Master plan map(s) showing the proposed development in sketch form, including:
  - 1) Proposed major vehicular and pedestrian circulation system.
  - 2) Designation and description of proposed land uses, including information about residential uses by type, area and density, and information about office, general commercial and industrial uses by area and intensity of development. Mixed uses shall not be prohibited.
  - 3) Logical and natural boundaries defining development limitations, and
  - 4) Any proposed sites for schools or other community facilities.
- e. A phasing schedule shall be included in the master plan giving a general description of each phase of the development.
- f. A schematic utilities plan showing location, locational cross sections, and approximate line sizes. It is recognized that there may be changes in the final utilities plan due to the requirements of utility companies or final engineering plans and specifications.

g. Master plan report which includes the following:

 A general description of the project, existing development on the parcel, location, adjacent properties, acreage, lot coverage, access, traffic impacts, terrain management, soils, landscaping, outside lighting, parking, signage, water, liquid waste, solid waste, archaeological sites and fire protection measures;

2) If appropriate, market analysis and economic impact report which address demand, projected sales and build-out; identifies a trade area; estimates retail sales and potential, and identifies the scale and extent of local competition.

 Preliminary fiscal impact estimates of net local public costs, including capital outlay and operating expenses, and revenues attributable to the proposed project.

4) Preliminary environmental assessment, which identifies the possible effects of proposed development on natural resources or natural features. This may be combined with Section 5.2.2.c of this Article.

 A written preliminary traffic report prepared by a licensed traffic engineer or other qualified expert acceptable to the Code Administrator.

6) Description of concepts for restrictive covenants proposed for the development if applicable, outlining the areas and extent of restriction or regulation. Detailed covenants are not required at this time.

 Schools impact report. A written report which projects the effects the proposed project will have on public schools, and which includes:

• the proposed number, size, and price of residential units within the project;

· a description of the project's target market; and

• where applicable, any special educational needs of the project's school-aged

The report will also identify the schools that service the area of the proposed project and their boundaries, the transportation available to those schools, and a list of any pending or approved residential developments within those schools' boundaries. Copies of the schools impacts notice shall be submitted to the school district in which the project is located and to the Code Administrator.

5.2.3 Master Plan Review

The master plan shall be submitted to the Code Administrator or his authorized representative with a written application for approval. The Code Administrator will review the plan and submit analysis, written comments and a recommendation to the County Development Review Committee and the Board. Master plans shall be reviewed by the County Development Review Committee which shall make determinations regarding compliance with the County General Plan or the Extraterritorial Plan and the Code and shall forward the plan to the Board with the Committee's recommendation. The Board may adopt, amend, supplement, or reject the County Development Review Committee recommendation.

5.2.4 Master Plan Approval

a. The approved master plan shall show the area of residential use and general density measured in dwelling units per acre of land, less dedicated or conveyed rights of-way, and the area and intensity of commercial and industrial use measured in gross square feet of building area or maximum gross floor area ratio. These shall constitute the maximum permitted number of dwelling units and maximum permitted area and intensity of commercial or industrial use.

The County Development Review Committee and Board shall consider the following criteria in making determinations and recommendations for approval or amendment of master plans:

1. Conformance to County and Extraterritorial Plan;



- 2. Suitability of the site to accommodate the proposed development:
- 3. Suitability of the proposed uses and intensity of development at the location:
- 4. Impact to schools, adjacent lands or the County in general:
- Viability of proposed phases of the project to function as completed developments in the case that subsequent phases of the project are not approved or constructed;
- Conformance to applicable law and County ordinances in effect at the time of consideration, including required improvements and community facilities and design and/or construction standards.

#### 5.2.5 Filing of Approved Master Plan

@ LODA

The approved master plan with maps which has been approved by and received signatures of the County Development Review Committee Chairman and Board Chairman shall be filed of record at the County Clerk's Office.

### 5.2.6 Amendments and Future Phase Approvals

- a. Approval of the master plan is intended to demonstrate that the development concept is acceptable and that further approvals are likely unless the detailed development plans cannot meet the requirements of applicable law and County ordinances in effect at that time. Each phase of the development plan must be considered on its own merits.
- b. The Code Administrator may approve minor changes to the master plan. Any substantial change in land use or any increase in density or intensity of development in the approved master plan requires approval by the County Development Review. Committee and the Board.
- c. Any changes approved by the Code Administrator pursuant to Section 5.2.6b of this Article shall be subject to the review and approval of County Development Review Committee and the Board at the time of development plan or plat approval.
- d. The phasing schedule may be modified by the Board at the request of the developer as economic circumstances require as long as there is no adverse impact to the overall master plan. (See Article V, Section 4.5)

#### 5.2.7 Expiration of Master Plan

- Approval of a master plan shall be considered valid for a period of five years from the date of approval by the Board.
- b. Master plan approvals may be renewed and extended for additional two year periods by the Board at the request of the developer.
- c. Progress in the planning or development of the project approved in the master plan consistent with the approved phasing schedule shall constitute an automatic renewal of the master plan approval. For the purpose of this Section, "progress" means the approval of preliminary or final development plans, or preliminary or final subdivision plats for any phase of the master planned project.

History. 1980 Comp. 1980-6. Sections 4.4, 4.5, 5.1 and 5.2 were amended by County Ordinance 1987-1 to provide for the submittal of a master plan.

### 5.3 Preliminary Plat Procedure

#### 5.3.1 Introduction and Description

5.3.1a Preliminary plats shall be submitted for Type-II, Type-III, except Type-III subdivisions that are subject to review under summary procedure as set forth in Subsection 5.5 of this Section, and Type-IV subdivisions.

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COMMISSIONER ANAYA: Are you okay? It's in your district, Madam

Chair.

CHAIR HOLIAN: Okay. Then I will make a motion then to approve with staff

conditions.

COMMISSIONER ANAYA: Segond.

CHAIR HOLIAN: Okay. I have a motion and a second for approval with staff conditions for BCC Case #13-5150.

The motion passed by unanimous [5-0] voice vote.

CHAIR HOLIAN: Thank you, Mike and thank you, Mr. Shrader.

Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I have a lot of questions that come in and I rely on Vicki and Wayne and Penny to answer a lot of those questions on a daily basis. And just coupling on what Commissioner Stefanics says, I think we need to make sure we're all on the same page asko what's in the recommended code and that staff is all on the same page with that because I too agree that there are some structures that are for ag purposes or small accessory structures in nature that we shouldn't be overburdening our public and shouldn't even have permits in several of those cases. So as long as we're clear across the board and everybody's singing on the same sheet of music I think that's going to be important because right now, it is required for everything. Right, Mr. Dalton?

WAY E DALTON (Land Use): Madam Chan, Commissioner Anaya, that's

correct.

COMMISSIONER ANAYA: Thank you, Madam Chair. CHAIR HOLIAN: Thank you.

XVIII.A.

2. CDRC CASE # Z 13-5060 Robert & Bernadette Anaya Master

Plan/Preliminary Development Plan. Robert & Bernadette Anaya,

Applicants, Talia Kosh, Agent, Request Master Plan Zoning

Approval for a Commercial Towing Business as a Special Use

Under the Village of Agua Fria Zoning District Ordinance Use

Table (Ordinance No. 2007-2). The Property is Located at 2253

Table (Ordinance No. 2007-2). The Property is Located at 2253
Ben Lane, within the Traditional Community of Agua Fria, within
Section 31, Township 17 North, Range 9 East (Commission

District 2) [Exhibit 2: Letter of Opposition]

JOSE LARRAÑAGA (Case Manager): Thank you, Madam Chair. On August 14, 2012, the Board of County Commissioners approved a request, by the Applicants, for a variance to allow a towing business as a Special Use under Ordinance No. 2007-2, § 10.5, Village of Agua Fria Zoning District Use Table. A special use is an allowed use which is subject to Master Plan approval by the BCC. The use as a towing company falls under the

EXHIBIT 9

category of vehicle service not listed which is not allowed as a use as outlined in the commercial use category within the Traditional Community Zoning District.

On April 18, 2013, the County Development Review Committee met and acted on this case. The request before the CDRC was for Master Plan Zoning and Preliminary Development Plan approval. Staff recommended Master Plan approval as the request for Preliminary Development Plan was incomplete due to non-compliance with Article V, § 7.1.2.e. & § 7.1.2.j, and Article III, § 4.4. The decision of the CDRC was to recommend approval of the Applicants' request for Master Plan and denial of the Applicants request for Preliminary Development Plan. The Applicants have since altered the submittal to reflect the request for Master Plan Zoning only.

The Applicants request master plan zoning approval to allow a towing business on .33 acres. The request is to allow the storage of eight tow trucks on the site. The Applicants propose to divide the existing .70-acre parcel and create a .33-acre lot to be utilized for the towing business. The remaining lot, which is where the Applicants currently reside, will remain as residential.

The Applicants state that there is a need for the tow trucks to be in close proximity to their residence to be able to respond to any emergency calls in a timely fashion. The Applicants also state that they wish to utilize the .33-acre site to store personal recreational vehicles.

Staff's response: the .33 acre site shall maintain a hammerhead 60' in length and 20' in width, parking spaces for eight large tow trucks, and the circulation of these vehicles, landscape, retention ponds and a dumpster. To combine the placement of two recreational vehicles, one boat, two low-boy trailers and other personal vehicles with the proposed towing business may significantly hinder the business activity on the site.

Ordinance No. 2007-2, § 10 states, a Special Use is allowed only if a Development Plan and Master Plan are reviewed and approved by the Board of County Commissioners.

Article V, § 5.2.1.b states: a Master Plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the subdivider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval.

Article V, § 5.2.4.b.2 & 3state, the County Development Review Committee and Board shall consider the following criteria in making determinations and recommendations for approval or amendment of master plans. Suitability of the site to accommodate the proposed development; suitability of the proposed uses and intensity of development at the location.

Building and Development Services staff have reviewed this project for compliance with pertinent Code requirements and have found that the facts presented support the request for Master Plan: the Application is comprehensive in establishing the scope of the project; the Application satisfies the submittal requirements set forth in the Land Development Code. The review comments from State Agencies and County staff have established findings that this

Application is in compliance with state requirements, Ordinance No. 2007-2 and Article V, § 5, Master Plan Procedures of the Land Development Code.

Staff recommendation is approval for Master Plan Zoning to allow the storage of eight tow trucks, to be utilized as a towing business, on .33 acres, subject to the following conditions. Madam Chair, may I enter these conditions into the record?

CHAIR HOLIAN: Yes, you may.

[The conditions are as follows:]

1. Master Plan with appropriate signatures shall be recorded with the County Clerk, per Article V, § 5.2.5.

2. Preliminary and Final Development Plan shall be submitted within a timely manner, meeting all criteria set forth in Article V, § 7, to be reviewed and presented to the CDRC for consideration.

3. The Applicant shall comply with Ordinance No. 2007-2, § 10.6 (Density &

Dimensional Standards).

4. Storage of towed vehicles shall not be permitted on this site as per the 1989 decision of the Extraterritorial Zoning Authority. A note stating that the storage of towed vehicles on the site shall not be allowed shall be placed on the Master Plan.

MR. LARRAÑAGA: Thank you, Madam Chair and I stand for any questions. CHAIR HOLIAN: Are there any questions for staff? Commissioner Chavez. COMMISSIONER CHAVEZ: Yes, Mr. Larrañaga, in your – the information that you provided in the packet, on page 4 of your amended letter/request for master plan, you stated under the category or the paragraph of access and fire code, you stated that the driveway entrance meets the 20-foot minimum width, however, access does not meet the required 28-foot radius. So in this case it seems as though we're accepting the minimum requirements, so I wanted to just raise that as a question. This is also – this language is also in Appendix H, I believe.

CHAIR HOLIAN: What page are you on, Commissioner Chavez? Is it called

NB-20?

COMMISSIONER CHAVEZ: NBA-20, actually 21. And I didn't see that, Mr. Larrañaga, in your conditions of approval. Well, maybe because we're accepting the minimum requirements.

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, this is part of the submittal from the applicant. Again, the master plan is conceptual. In the drawings they are showing conceptually that they do have, that they're going to need the 28-foot radius as you see in NBA-35. They show that, and then the access road is —

COMMISSIONER CHAVEZ: So is there a better – if you look at Exhibit 2, also, is that what you're referencing?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, that's correct. COMMISSIONER CHAVEZ: Okay, so that – the master plan in Exhibit 2, that shows the 28-foot easement then? The 28-foot radius?

MR. LARRANAGA: Madam Chair, Commissioner Chavez, correct. That's on NBA-35. Conceptually they are showing the radius on that.

COMMISSIONER CHAVEZ: Thank you, Madam Chair. That's one question I had, and then the other question I have in reading your summary, Mr. Larrañaga, there's discussion about the number of trucks in one paragraph that says eight large tow trucks and in another section it says the application shows a nine-space gravel parking lot. Can you explain that?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, yes. Originally they came in for eight tow trucks and when they brought in the drawings the drawings illustrated nine spaces where the tow trucks were supposed to park. That would be to the north side, if you look at that same exhibit on the master plan drawings on Exhibit 2. On the north side, that's where the tow trucks are to be parked, but they came in with nine spaces.

COMMISSIONER CHAVEZ: So we're really approving – the correct number of spaces would be eight then.

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, the amount of tow trucks that they're requesting is eight They're showing nine spaces but for eight tow trucks.

COMMISSIONER CHAVEZ: Okay, well, that confused me a little bit. And then in here there's language that says eight tow trucks, just simple, and then eight large tow trucks. Are they all the same size tow truck?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, they are different sizes. There are some semi-tow trucks to tow semi vehicles or semi-trucks, or larger vehicles I should say. But there are the platform trucks where they can load a car onto it.

COMMISSIONER CHAVEZ: And so the 60-foot hammerhead and the 28-foot radius accommodates the larger vehicles?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, actually the radius for the access on Ben Lane off of Agua Fria, that was actually brought up by Fire because of the width of the road, and Buster Patty is here so he could probably explain that a little better, but because of the width of the road at 20 feet they need that 28-foot radius. The hammerhead is actually for a Fire Marshal requirement also because it is a dead-end road and that way they have room to turn around their equipment in case of an emergency.

CHAIR HOLIAN: Marshal Patty, would you like to address the 28-foot

radius?

BUSTER PATTY (Fire Marshal): Madam Chair, Commissioner Chavez, the 28-foot inside radius is what is actually in the code book for a 20-foot wide road entrance. As you can well see, in the city sometimes the radius on the curves is much less than that. That's because the road gets wider. As the road is wider the radius can be much less. But on a 20-foot wide road it requires a minimum of a 28-foot inside radius on the curves to accommodate fire equipment, which would in turn accommodate any size truck that he has.

CHAIR HOLIAN: Any further questions?

COMMISSIONER CHAVEZ: That's it. Thank you, Madam Chair.

CHAIR HOLIAN: Commissioner Mayfield and then Commissioner Stefanics.

COMMISSIONER MAYFIELD: Thank you. Question for staff, please. Mr.

Larrañaga, as far as the agency review, why did you contact NMDOT and what approval did they give?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, any master plan or development plan usually goes to DOT, even though it's not off a DOT right-of-way, but automatically we send them to DOT, to Environmental, to State Historic Preservation, for their review and comments.

COMMISSIONER MAYFIELD: And just because of the business and I guess my background, would you think of contacting the PRC to see if they would have any thoughts on the business and the site location?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, we probably won't ever send it to them. What we're looking for, again, is how it fits into the Agua Fria ordinance, how it complies with that ordinance and the Land Development Code.

COMMISSIONER MAYFIELD: Okay. That's all I had for now, Madam Chair. Thank you.

CHAIR HOLIAN: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Madam Chair and thank you, Jose. A couple questions. I believe that this has carried over for a while, correct?

MR. LARRAÑAGA: Madam Chair, Commissioner Stefanics, that's correct.

COMMISSIONER STEFANICS: And we had requested that a mediation occur? I'm reading in here that Commissioner Virginia Vigil requested that.

MR. LARRAÑAGA: Madam Chair, Commissioner Stefanics, that's correct. During the variance process there was mediation recommended by this Board, by the Board of County Commissioners. We did get a mediator and in the minutes it explains that the mediator was here at the hearing. The mediator said that they couldn't do any kind of mediation and that's when the Board went forward with the approval of the variance.

COMMISSIONER STEFANICS: So are you indicating, Madam Chair, Jose, that in the mediation there was absolutely no negotiation that occurred?

MR. LARRAÑAGA: Madam Chair, Commissioner Stefanics, there was no mediation at all.

COMMISSIONER STEFANICS: Okay. So Madam Chair, Jose, based upon some of the questions that Commissioner Chavez was asking, would it be possible as we proceed to think about conditions that would limit the number of vehicles on that property? Because I remember there was other property for storage of vehicles, but I wondering if the number of vehicles that are permitted there would appears some of the community. Has that come to any discussion?

MR. LARRANAGA: Madam Chair, Commissioner Stefanics, there hasn't been any formal discussion with the applicant as far as limiting them. I believe staff has kind of reviewed it for eight tow trucks. The applicant threw in the personal vehicles and flat bed trailers and so on. They did come up – one of the reasons we recommended denial of the

preliminary development plan at CDRC, at that point in time they didn't have a circulation plan. They have since submitted a circulation plan and proved to us that the do have room and be able to circulate those vehicles, personal vehicles and eight tow trucks on that piece of property.

COMMISSIONER STEFANICS: Thank you, Madam Chair. That's all for

now.

CHAIR HOLIAN: Any further questions for staff? Is the applicant here? Please come forward, and if you are not an attorney please be sworn in and state your name and address for the record.

TALIA KOSH: Madam Chair, Talia Kosh, attorney for the applicant.

[Robert Anaya and Bernadette Anaya were sworn in.]

BERNADETTE ANAYA: Yes.

ROBERT ANAYA: Yes.

MS. KOSH: Madam Chair, Thank you. I'd just like to stress that this master plan is a conceptual plan and again Jose, Mr. Larrañaga, has spoken to the fact that currently, because we did provide a circulation plan that we do have a bit more than what's needed for a master plan and of course we have many more details to establish and provide ahead of us. But we would just like to remind the Commissioners that this is a request for master plan at this time.

CHAIR HOLIAN: Thank you, Ms. Kosh. Any further comments at this point? Any questions for the applicants?

COMMISSIONER CHAVEZ: I have -

CHAIR HOLIAN: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: Could you tell us, of the eight trucks that you're going to have there how many are the larger trucks that you use for your larger calls or your larger vehicles?

MS. KOSH: Commissioner Chavez, that was a question that I did want to address and I want Mr. Anaya to speak to in total an explanation of all the wreckers that will be parked back there.

MR. ANAYA: Could you repeat the question, please?

COMMISSIONER CHAVEZ: Well, I just was asking, of the eight tow trucks that you're going to be parking there – I guess I'll have maybe two or three questions under that. You're requesting to park eight tow trucks there. Are those eight going to be parked there all the time? And of those eight, how many are the larger trucks and how many are the smaller trucks.

MR. ANAYA: Of the eight we have four.

COMMISSIONER CHAVEZ: Four larger trucks.

MR. ANAYA: They vary in size. They vary in size from a 20-ton wrecker to a 50-ton wrecker.

COMMISSIONER CHAVEZ: 20 to 50-ton. But are they all the same length? MR. ANAYA: No, they're not.

COMMISSIONER CHAVEZ: Okay, 20 to 50-ton. And then the other four are the smaller tow trucks.

MR. ANAYA: They're what you call your smaller to medium size tow trucks. COMMISSIONER CHAVEZ: Okay. And then are all eight parked there all

the time?

MR. ANAYA: It's hard to say all the time, but most of the time.

COMMISSIONER CHAVEZ: Okay. Well, here's my dilemma. I know that this is conceptual, but conceptually I have a hard time, with all due respect to the Anayas, with a towing company in the middle of a residential neighborhood. Because essentially, the Agua Fria Village is a neighborhood. That's how I look at it. And so my struggle is to try to balance the need for you to have your business on a property that you've owned and you've been operating that business there for I guess 20 years now – granted, without a permit. That's beside the point right now. And so I want to balance your needs with the needs of the neighborhood.

So the first question I want to ask is – and I think Commissioner Stefanics was going in that direction – I would be more comfortable allowing you to continue your business there but only permitting or allowing the small, the four small trucks to be there. Okay? That would be my preference. Then I also want to ask the applicant, because the condition of approval of the 28-foot radius was not in the conditions of approval. Are you going to be able to invest in that property to make those improvements?

MS. KOSH: Commissioner Chavez, just one comment on your first suggestion on parking the four smaller vehicles there.

COMMISSIONER CHAVEZ: Larger.

MS. KOSH: Well, not parking the larger ones is what you suggested, correct? We'd just like to remind the Commission that this variance as requested – and I understand your concerns but it was approved conditional upon our meeting all of the different code requirement which, yes, is still in front of us and we still are making attempts to secure that radius including the movement of – and an application to move the PNM pole among other issues that are still in front of us for the preliminary and final. There's a lot more detail that will have to go into this. We do understand that.

COMMISSIONER CHAVEZ: So you're accepting the need to make the investment for that 28-foot radius?

MS. KOSH: Yes, Commissioner Chavez.

COMMISSIONER CHAVEZ: And you would accept that as a condition of

approval?

MS. KOSH: I believe that that is — that that was a condition of approval moving forward with the variance by this Commission. And one other comment, just on the area in general, is there's many mixed-use, small businesses in the area and other tow trucks companies in the area so taking into account the mixed-use nature of the neighborhood that they live in, we'd just like to remind the Commissioners of that fact.

COMMISSIONER CHAVEZ: Okay. I want to ask staff a question. Mr. Larrañaga, this 28-foot easement, is it something that the applicant has to – I know that they've acknowledged that it has to be done. If we approve this and they're not able to do that 28-foot radius, then what happens?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, if the master plan gets approved – again, it's conceptual and we record that – they would have to come back with the preliminary and final development plan to go forward to the CDRC, the County Development Review Committee. With that final development plan they would have to show easement. They would have to replat the property also to split the property into two .32-acre lots, and they would have to show the radius on that with the easement. So if they acquire the easement or if they just get the easement from the property owners that would have to be shown on that plat and on the final development plan. On the plat, to separate the property to show the easement, that signature of the property owner, if they're just allowing that easement would have to be on that plat also. So basically they couldn't go forward with any kind of preliminary or final development plan without those radiuses.

COMMISSIONER CHAVEZ: Okay. I want to go back to the variance that was approved, and this is something that I kind of inherited, so bear with me. The variance granted conceptual approval to park eight tow trucks on the lot that will be designated as commercial.

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, no. The variance was to allow to be considered as a special use under the table of the Agua Fria ordinance. Now they are considered – a tow truck company is now considered a special use. Under the special use they have to come forward to the CDRC and to this Board with a master plan and also with the preliminary and final development plan, meeting all the other requirements of the Agua Fria Ordinance, and the Land Development Code.

COMMISSIONER CHAVEZ: Okay, so the number eight is only the number of trucks they're working with. That's what they run their business with, and the circulation pattern or plan that you've identified accommodates those eight vehicles.

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, yes. COMMISSIONER CHAVEZ: If they're all there at the same time?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, yes. If they're all there. I did scale it off when they submitted so they have enough – I believe each parking area is like 30 feet – I was just glancing at it now. It's about 30 feet deep and they have approximately from 40 to 50, almost 60 feet to back out or drive forward and back into those parking spaces, plus also they proved that they can accommodate some other vehicles, whether it's a mobile home or a camper trailer or whatever on the other side if they're all parked correctly and of course in designated parking spaces. At final development plan they will have to designate those parking spaces through parking bumpers, which could be railroad ties and that would designate the parking.

COMMISSIONER CHAVEZ: Okay, and then there was also a concern about safety vehicles not being able to access some of the residential properties along Ben Lane or in that general area. Will that be addressed with this master plan if it's approved?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, I believe you're talking about tow vehicles parked on Ben Lane and possibly Mr. Patty can address this as far as access. Naturally, if there's a large tow truck parked on Ben Lane it would be harder for the Fire Department to get in there with an ambulance or a fire truck or whatever the case may be, and get out, to circulate. So, yes, we would – they haven't submitted anything that they are going to park on Ben Lane. Part of that would maybe be part of the business license. If approved through the master plan and development plan the applicant would have to get a business license to stow the tow trucks there and get a home occupation for the residence so they could do their calls and receipts and everything else. Part of those conditions would be that they wouldn't be parking on Ben Lane.

COMMISSIONER CHAVEZ: Are you okay with that? Good. Okay.

CHAIR HOLIAN: Any further questions? COMMISSIONER ANAYA: Madam Chair. CHAIR HOLIAN: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I, like Commissioner Stefanics, remember the discussion – we had several discussions related with this case and I, as reflected in the minutes, advocated that they be able to sustain their business and continue operating their business. But if you also look in the minutes at my comments I also reflected that there was also going to have to be some give and take associated with going forward and it would meet exactly the letter of what exists today. So I just wanted to offer that comment to couple with Commissioner Stefanics' comments. And the reason I make that comment is because I believe in the dialogue that we were having as Commissioners, and Commissioner Chavez wasn't here at the time, some of the compromise that was struck on the Commission was based around that premise that there would be some compromise associated with operations.

So I just want to say that on the record and articulate that if there's any tow trucks that exist in the full business, right now, today, and had existed for that period of 20 years. Or you've built up your business over time, correct?

MR. ANAYA: That's correct.

COMMISSIONER ANAYA: Okay. I just wanted to make that comment because I think it was reflected clearly by Commissioner Stefanics.

MS. KOSH: And Commissioner Anaya, if I may speak to that, the give and take and the sacrifices that need to be made to sort of accommodate the interests of the community at large. They are giving up a significant amount of space for the hammerhead for the entire community of Ben Lane, and that's space that they will not be able to build on or get back, and that benefits the entire community. So I just would like to speak to that.

CHAIR HOLIAN: Thank you, Ms. Kosh. Okay. This is a public hearing. Is there anybody here that would like to speak on this case, either in favor or in opposition? Please raise your hand. And perhaps you could all stand up and be sworn in at the same time.

[Those wishing to speak were administered the oath.]

CHAIR HOLIAN: and please begin to come forward and when you come to the podium please state your name and address for the record. And please speak into the microphone.

[Previously sworn, Rosemary Medrano testified as follows:] ROSEMARY MEDRANO: Madam Commissioner, members of the Board, my name is Rosemary Medrano and I live at 2094 Botulph Road in the City of Santa Fe. However, I do own property down in the Village of Agua Fria within 100 feet as designated for notification and anyone who has concerns. A couple of things I think that in the hearing tonight have kind of bothered me is that initially, we're talking that eight tow trucks are going to be parked on that property. Now we're hearing that they have nine space for trucks and we're also talking about spaces for recreational vehicles. So that is a concern because if this variance is granted, how are things going to change along the way. If the master plan is approved, the variance is granted. It's my understanding again that everything is in a conceptual environment right now so we really don't know what the end result is going to be. But those are concerns.

When the initial application was made my husband and I submitted a letter to the Commission addressing our concerns in total regarding the allowance of the variance for this business. I would like to take this time now to read the letter as it was issued back in June of 2012, and you should have a copy of this letter in your files. In this letter we're stating that this letter is in response to the owners of the property owners regarding a public hearing for a variance of Ordinance No. 2007-2, Village of Agua Fria Zoning District, etc. to allow a towing business as a special use under the Zoning Use Table.

We are writing to formally record out opposition to the request for a variance. Our concerns are many but for now I can think of at least nine important one. Please seriously consider the following: increased traffic congestion. Granting a variance will result in more in and out traffic flow to the business from the narrow Agua Fria Street by both business operation vehicles and personal vehicle inquiries. Safety and lifesaving events. Increased traffic flow to the business will cause increased interruption and delay of the already congested Agua Fria traffic causing safety issues for law enforcement and lifesaving emergency vehicle response teams.

Current and future property values. Granting a variance will no doubt negatively impact property values now and in the future. Area is designated as residential, and I think that's something that we need to keep in mind here and I appreciate Commissioner Chavez' recognition of that and Commissioner Vigil's recognition of that at the last hearing. Homes for families, children and the elderly. Allowing this variance will result in degrading its intended purpose. Increased noise and light pollution. Granting this variance will create

noise, light pollution undesirable disruption to living standards and unrest to the immediate neighborhood.

Generally a towing business is a 24-hour operation. As such the allowing this variance will increase activity and create undesirable loud noises, wandering vehicle night lights and tow truck flashing lights at all times during the night and the daytime, not to mention the disruption it creates to neighborhood animals and dogs at night.

Granting variance is contrary to traditional community of Agua Fria neighborhood goals. The purpose of the traditional community of Agua Fria is to maintain and nurture a

comfortable and peaceful family neighborhood environment.

Dangerous and unhealthy environment. Granting this variance will create an unhealthy and dangerous environment for curious neighborhood children and adults. Junk metal, storage of vehicles brings safety and metal junk concerns. Storage of vehicles and junk metal is an ideal place to breed rodents, snakes, diseases and hazards normally not controlled by easy means. Storage of junk vehicles. Vehicles that are not claimed and/or abandoned become an eyesore and/or become ignored. These vehicles become orphans and are likely never removed from the area for years because of various reasons.

This is all documented, like I said, I the letter that was issued and brought to the County on June 7, 2012. I would like to submit a copy of that for the record. [Exhibit 3]

CHAIR HOLIAN: Yes, please give it to our staff.

MS. MEDRANO: And in closing, I would just like to say that we are in opposition of approval of the master plan and we are in opposition of granting the variance for special use. Thank you for your time.

CHAIR HOLIAN: Thank you, Ms. Medrano. Next.

[Previously sworn, Henry Romero testified as follows:]

HENRY ROMERO: Good evening. My name is Henry Romero and I am opposing this variance for many reasons, mostly for what Rosemary just mentioned. The pollution of lights, traffic, the movement of vehicles, not to mention that those tow trucks are parked within ten inches of our wall. I also understand that they indicated ten feet. They're definitely not ten feet from our wall. They're within eight to ten inches from our wall. Sometimes back when our wall was knocked down some of those booms were sticking into our own property; that's how close they were backed up. We have pictures indicating those trucks are too close to our wall, and if they approve this variance that's going to continue to go on and on and on. It's been going on for many years.

Also, not to forget, they have not been in that area, that business for 24 years like they mentioned. Actually, they were denied 24 years ago from parking junk cars and using the property as keeping old vehicles for whatever reason. I don't know. There's even a burned truck right now on that property. That's not a recreational vehicle. And then they also mentioned there's only eight tow trucks. At one time they mentioned ten tow trucks. Why they have so many trucks backed up to the wall, I don't understand that and I'm really getting upset with that tonight.

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I'm sorry to say this but at this time I'm very upset with the whole situation because the County is not doing their job. You all have not done your job. The PRC has not done their job. Mr. Mayfield at one time worked for PRC. He's aware of all this that's been going on. There's just been a slap on the wrist and it continues and continues. And now I'm getting fed up with it. I'm sorry to say this, but it's true, they're not working, not to our satisfaction or the other neighbors next to the Anayas, which are my other cousins. Those people have to deal with that traffic every day on a daily basis. They have kids, they have grandkids that are back and forth. They have their pets. And that's going to continue to go on and on if this is approved.

Right now they're actually abusing us by parking those trucks that close to our wall. I'm not comfortable with that at all. That's all I have to say.

CHAIR HOLIAN: Thank you, Mr. Romero. Next. [Previously sworn, Georgia Romero testified as follows:]

GEORGIA ROMERO: First I want to thank Rosemary for her letter because it kind of puts everything into a nutshell. We're talking about ten families. That's what the Anayas say, it affects ten families. They have over a dozen children running in that neighborhood where these tow trucks go to the very end of the property. Yes, there are other businesses in Agua Fria but they all have direct access to the road. They don't go through ten residences to get back onto Agua Fria Street. And then the mixed-use of other companies, every one of those other companies has a County license to work in Santa Fe, in the Santa Fe County area. Two companies did not and it was brought to the attention of the committee. Those two were in the city limits. Everybody else has a license.

In 1989 he was denied parking back there. That's 24 years ago, and he doesn't know he needs a license? If you look at the paperwork it just suddenly came to their attention. It did after they hit our wall. He said it was \$200 to \$500 of damage; it was \$7,000. To this day he has not settled with our insurance company. We're still out our deposit to get the wall going, to get it down. We've had all kinds of problems. They still back up, right up to the wall. I have pictures to show you where they're like inches.

CHAIR HOLIAN: Perhaps you can give the pictures to staff and they will pass them out.

MS. ROMERO: We are dealing with noise, we are dealing with toxic smoke. There's a picture of a truck there that when they turn them on they throw this big thing of diesel smoke up into the air. You can't hang clothes on your clothesline. You hear those trucks coming, I run for my life. I almost died at the last incident. By minutes, I wasn't there when he hit the wall. I had been out getting clothes off my clothesline. You can't barbeque, and the ten residences, people want to have birthday parties, they want to have graduations, they're going to have showers – it just goes on and on. You can't have anything with tow trucks coming right down in front of your house. Because all these pieces of land that are right there where they're going to be trucking are on .75 of an acre, so they're all right there on that easement.

And right now they're not only just parking – they not only park in the back over by our property, because our property runs the whole wall – I mean a wall runs the whole length of their property, of all their properties. And they park on an easement. They park in front of our gas meters. In an emergency, they're this far away from our gas meters. The gas company can't even get in there to do anything. And it's gone on and on. He testified that he parks ten feet away from the gas meters and from the wall. Well, if he lies down – what is he? Less than six feet? If he lies down the back tires of his truck are going to run over him when he backs up to park his trucks.

He said that every one of those railroad ties has been stamped into the ground. It has not been stamped into the ground. We submitted Exhibit 14 and if he is going to be approved we want truck parking blocks and bumpers, we want bollards, a six-inch minimum diameter with 48 inches above ground and two feet underground. We want evergreen trees to block. We've done our research. We know that the tree has to be planted five feet from the wall with still another five feet on the other side. We want trees every five feet scattered so that we don't have to see his trucks. And we don't want little six-foot, eight-foot trees; we want nice tall ones, ten, twelve feet trees.

That would be like 20, 21 trees because they went out there and measured off this land to cover that area. And then he wants personal recreation vehicles. We have burnt trucks. He's got wrecked trucks. He's got tires. Is all that going to go or do we have to put up with that? Because that brings rodents. And on top of rodents, last year, well the summer – not last summer but the summer before we worked with the feral cat program at the animal shelter. We had 27 cats fixed. Every one of them was poisoned. There's a picture of a dead kitten there where they just ran over it. They would get off their trucks and walk right over it and they would not pick it up.

And all this started when they knocked down our wall, because then we wanted a way to keep him off the wall, keep him out of our yard because the back end of the trucks are being parked into our yard when the wall was down. We had to get a restraining order to be able to fix out wall. Matter of fact, he said his friend was going to do it, well, that friend, when our insurance company got everything together and we got a contractor to build the wall and we got a plasterer, his construction friend hired our plasterer to go plaster for him on another job because his construction work doesn't do plastering.

So in case you decide to accept it I know there's more than eight tow trucks because he reported eight to the County originally. He reported ten to PRC, because we've been working with that. He has numerous violations with PRC because he did not report hitting our wall with damage over \$1,000. They were working without CTLs they were questioning their medical certificates for forgery. I have a report for each of you if you want it. It's been a can of worms and we're still dealing with it. It's been a year and a half. And right now, those radiuses off of Agua Fria, the people up there, the C de Bacas don't want to give them that space. They know they're not going to get it. They have to lie. They have to resurvey. All those things before anything can get done.

And then they park on that easement. They park in front of their trailer and cars have to go around them. They block driveways for the C de Bacas, for the other people on that drive. And if you're going to do this they have to have a time limit for the development plan, and a short one. They've been at it; they're not building any buildings. All they're doing is making a parking. And we're asking you please not to approve again, because it affects ten families and there's like a dozen little children running around. There are pets, elderly people.

And yes, you may know what you're doing as a driver but you don't know if you're going to hit gravel, if you're going to – if a child is going to run in front of you. What happens when someone gets hurt? And right now, they need that radius because when they drive out to Agua Fria and they're coming back into Ben's Lane, they drive forward and have to back up into the other lane, onto oncoming traffic. What happens if there's an emergency or a school bus doesn't expect for them to do that? It's putting the whole village in a lot of danger. Who tells these families it's okay for your loved one or your child or your pet to die because no one took the time to really study this and look at the conflicts and know that gradually they moved back. In 1989 they were denied. In 2002, there's a paper in your packets that says her aunt said it was okay to park trucks on her property. All of it was her property, and gradually they moved back and they moved back and they moved back.

Then they were parking on Anthony C de Baca's property. When he planned to bring a trailer in there first he reported him because he didn't have the right permits and didn't want it there. And the day they brought the trailer he parked his tow trucks in there and they had to get the police department to come in make him move his tow trucks so that he could – Anthony C de Baca, Jr. – could park his trailer.

The extra harassment that goes with this, it's uncalled for. But again, I thank you for your time and I really am asking you to put a very strict time limit on it. They've had more than enough time. They've had ten months, that was extra time that was given to the by your committee over what anybody else would have gotten.

CHAIR HOLIAN: Thank you, Ms. Romero.

MS. ROMERO: Could I just say one more thing? On the internet, because Rosemary brought this up, they advertise that they are a salvage junk yard. They not only have this property, they have one on Industrial Road, and they are licensed, they have a place to work out of. It's approved by PRC. They do have a place to work. And then they have one on Prairie Dog Loop which is over by Nancy Rodriguez Center that you can see from [inaudible] all those semis and everything else that's parked there belongs to the Anayas. They have an acre and a half there.

So it's not like this is the only place they can park, and being that it does affect ten residents, I think that the committee should really, really look at this. Thank you.

CHAIR HOLIAN: Thank you, Ms. Romero. Is there anyone else here from the public who would like to speak? Seeing none, the public hearing is closed. Would the applicant like to make any follow-up comments?

MS. KOSH: Thank you, Madam Chair. Yes. I'm not going to go through every single fact that the Romeros have brought up especially. I will refer back to the initial

application that we had for variance that discussed the incredible disputed facts that have been raised, including major slander in the community, major extortion and even the allegations of forgery. These are very serious allegations that will be addressed in separate proceedings. But I would like to remind the Commission that the variance has been approved. A lot of these discussions have already occurred in front of this Commission but I do need to respond to a few of them. And then, number one, recreational vehicles have always been a part of this requires. There's five. They're very specifically laid out in the application and those were approved to be parked on that back lot. And there is sufficient room.

And that's who basically maintain that open space that they can utilize for those recreational vehicles. There's only five. Again, yes, there are nine spaces. There will only be eight vehicles are parked there whether or not the Anayas acquire more or less vehicles. We've had many conversations about this. How many can fit back there? There will be eight parked back there regardless. There are nine spaces in the plan, that's to fill out the spaces but each space can accommodate the largest wrecker, we made sure, can accommodate the largest boom. Then we're talking about making this area safer, so yes, we are going to have bollards. Yes, we are going to have railroad ties. A lot of the other requests like having 21 trees – a lot of these are, that's a lot of trees and that's a lot of water. So a lot of these details have to be considered which I think is more appropriate in preliminary and final plan.

Again, there's no increased traffic. Nothing is going to increase. It's going to maintain the level that it is currently if not less. And they have been in business there for 24 years. When they keep referring to the other neighbors from the community, in 1989 they were denied having an area in the back where they could store wrecked vehicles. So that was taken off the table in 1989. They do not tow vehicles back there. They do have a lot. And again, in response to why they need the lot on Ben Lane to park their vehicles is because their other lot is completely full of cars. They could not fit their wreckers there, and also Prairie Dog Loop is unfenced and is subject to vandalism.

They do have a city license and they were under a misconception that that is all that they needed. That is why we are here today in part. And again, the damage amounts that have been discussed are in dispute and I think that that is all I need to respond to. Thank you.

CHAIR HOLIAN: Thank you. Are there any more questions for staff or the applicant? Commissioner Chavez.

COMMISSIONER CHAVEZ: I have a question for staff. Mr. Larrañaga, the applicants and the adjoining property owners brought up an interesting concept and that is within this development or this proposal there needs to be some type of a buffer between this business activity and the residential component. I know that's going to be very hard to do because everything is so close; the lots are so small. But can you address that? I think that's addressed to some degree but just for the record, touch on that.

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, yes. In the conceptual plans that are in your packet there they are showing – well, there's an existing sixfoot wall between the Romeros and this lot where the proposed storage of the tow trucks is, and the applicants have shown another block wall that would be to the west and then another

one on the south side and some landscape buffering alongside the easement. Also, the landscape, the trees, at preliminary and final we would figure out exactly how many trees they would need and so on, and that's going to have like a ten-foot buffer, and the plans they have do show bollards, so that way that protects the wall when they do back up. I would assume that the way they would use this property is they would back up the tow truck so that in the case of an emergency call they'd be able to just drive straight out. So this way they wouldn't back up into the wall; they'd hit the bollards first. And bumpers of course, railroad ties placed ten feet away from the wall so that any extension of that truck would not hit the wall.

COMMISSIONER CHAVEZ: I don't know if that's going to be enough, but I'm looking again, as I said earlier. I do respect the residential component. I appreciate that, but I also want to support small businesses as much as possible. So having said that I want to make a motion. Wait a minute. Before I make the motion, Mr. Larrañaga, a couple of other questions. Okay. So you dealt with the buffer and sort of separating that from the existing homes and that. There's no way that we can limit the hours of operation?

MR. LARRANAGA: Madam Chair, Commissioner Chavez, the Board can put any kind of conditions on this proposal that they want but the type of business that it is, they get called at two in the morning or four in the morning.

COMMISSIONER CHAVEZ: See, and there's the rub right there, because most home occupation, if you're under the home occupation ordinance, and you're running a business like this in a residential neighborhood, you usually have hours of business, hours that you run your business. And so I had to ask, because I think that's only fair. In this case, sure, the nature of the business is going to say, well, we can't make money that way, but that's not being sensitive to the residential component completely.

So anyway, I'll move on to something else. What about the light pollution, especially at night? Can we limit that? Can there be screening on those lights or some kind of buffer to reduce that light pollution at night?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, they have proposed again, it's going to lead up to the preliminary and final development plan which they proposed. They did bring in cut sheets and lighting, solar lighting, which is lower to the ground and just kind of so you can see around the yard. Now, the lighting of the trucks, there won't be a six-foot wall around this property until they get out onto the roadway, Ben Lane, that's when you'll see the lights. And just to clarify on the business license, the zoning or the master plan that you're looking at gives them the zoning for a commercial business, so that would be a commercial business on the .33 acres, and to run the books and phone calls and stuff that they would get to go out into vehicles would be run from the home and that would be the home occupation. So in fact they would have two business licenses.

COMMISSIONER CHAVEZ: Okay. Last question. Your staff recommendation says that preliminary and final development plan shall be submitted within a timely manner. Can we impose a deadline or be specific in that area, instead of just leaving it open-ended so that nobody knows if anything is going to happen or when?

MR. LARRAÑAGA: Madam Chair, Commissioner Chavez, yes. They still are running a business without a business license so it's still a violation until they get this approved and resolved. So the master plan has to be in front of this Board within a certain time limit of approval of the variance, staff was going to pretty much in a timely manner—it could be, once the master plan's recorded it could be—because it is just a tow yard. Of course submit the preliminary and final development plan to go to the CDRC, maybe within three months to go to CDRC after the recordation of the master plan seems feasible.

COMMISSIONER CHAVEZ: Within 90 days of accepting the master plan.

MR. LARRAÑAGA: Of recording the master plan. We'd have to have staff to do the final order and get all the details done for the master plan and recorded so we could probably do that by the end of July.

COMMISSIONER CHAVEZ: Okay. And then I guess – so that would take care of that. So, Madam Chair, I'm going to take a stab at a motion. I'm going to make a motion to approve the master plan with staff's recommendations but I want to modify them and add a couple. That the preliminary and final development plan would be submitted 90 days after the master plan is recorded. And then –

MS. LUCERO: Madam Chair. CHAIR HOLIAN: Yes, Vicki.

MS. LUCERO: Commissioner Chavez, the master plan would actually be valid for five years so that's technically how long they would have to record it, so it might be better to impose a timeline based on the approval of the master plan, which if that's what occurs tonight.

COMMISSIONER CHAVEZ: So suggest some language then that would be better.

MS. LUCERO: Something based on a timeline from the date of approval, not the date of recordation of the master plan.

COMMISSIONER CHAVEZ: Are you okay with that? Are we tracking? CHAIR HOLIAN: Commissioner Chavez, just so I can understand, you're saying that they have to submit the preliminary plat application 90 days from master plan approval?

COMMISSIONER CHAVEZ: Well, it would be preliminary and final CHAIR HOLIAN: Preliminary and final plat.

MS. LUCERO: Madam Chair, Commissioner Chavez, they would be required to submit both.

COMMISSIONER CHAVEZ: Okay.

CHAIR HOLIAN: Okay. Preliminary and final plat within 90 days of master plan approval. Correct?

COMMISSIONER CHAVEZ: Yes. And then my motion would only include three small trucks and two large trucks.

CHAIR HOLIAN: Three large trucks and two small -

COMMISSIONER CHAVEZ: Three small trucks and two large.

CHAIR HOLIAN: Three small and two large.

COMMISSIONER CHAVEZ: That balances the business interest and the neighborhood's needs in my mind anyway.

COMMISSIONER ANAYA: I second that.

CHAIR HOLIAN: Okay. I have a motion and a second. Do we have any further discussion? Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Questions, a few questions for staff and for the applicant first. One, Jose, Mr. Larrañaga, as far as the variance that we approved back in August of 2012, and I was looking through my packet, but what conditions or staff recommendations did we put on our variance?

MR. LARRAÑAGA: Madam Chair, Commissioner Maysield, without looking at the minutes I believe the variance was, again, to allow this use to qualify as a special use and one of the conditions I remember was that it come back with the master plan within eight months of approval of the variance, which this month it met that requirement.

COMMISSIONER MAYFIELD: Well, I don't want to go by memory. I want to know if we put any actual conditions on there as far as working with the Romeros to fix their walls, working with – I just want to know what conditions were put on the variance.

COMMISSIONER STEFANICS: It's November and it's page 46 through 49. MR. LARRAÑAGA: I'm sorry. What pages did you say, Commissioner?

COMMISSIONER STEFANICS: Madam Chair.

CHAIR HOLIAN: Yes, Commissioner Stefanics.

COMMISSIONER STEFANICS: We considered it in August. It came back to us in November of 2012 is when we approved and the motion was made by Commissioner Anaya and – it's several pages, the discussion about the motion. Things kept getting added, but if you get to the November.

CHAIR HOLIAN: NBA-135.

COMMISSIONER MAYFIELD: Okay.

COMMISSIONER STEFANICS: Down at the bottom it says NBA-130, 131, that area is when we did the motion and the conditions. It went on for pages.

COMMISSIONER MAYFIELD: I'll just read through it myself.

CHAIR HOLIAN: So, Commissioner Mayfield, the question is what

conditions were put on with approval of the variance?

COMMISSIONER MAYFIELD: Madam Chair, is has the applicant complied with all conditions of the variance that we imposed at the time and has staff verified that they've been in compliance?

COMMISSIONER CHAVEZ: That's a good question.

CHAIR HOLIAN: Do we have a copy of the variance, Jose?

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, we don't put conditions on a variance. We recommend denial of a variance and therefore we don't put conditions on a variance for approval. Staff recommended denial of the variance and the only

condition as per these minutes and the final order was that they come in within eight months to present a master plan to the Board of County Commissioners.

COMMISSIONER MAYFIELD: Madam Chair and Jose -

CHAIR HOLIAN: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Typically, when variances come to me on a land use case, as I recall is this Commission will move forward with approval and we do apply conditions. And I know one of the conditions was for this to come back in front of us in eight months with master plan, but I didn't know if any other conditional approvals were given for the variance at that time. That's why I want to make sure. Because again, some photos were put up here and I know there were photos given to us last time, and one of the things, talking to the Anayas also was that they did have these other sites for their yards, and I remember that conversation. I asked that conversation if they had other facilities where they're actually keeping their tow yard because I know it was just alluded to by the Romeros of what the PRC did or didn't do, and they do, the PRC requires a yard where individuals can pick up their vehicles or not pick up their vehicles. In the minutes the Anayas, if I recall, said this is just to store their towing vehicles, not to store any of their – I don't want to even say salvaged vehicles but their recovered vehicles. They take these vehicles to their actual tow yard.

But in the pictures that were just given to us by Ms. Romero, I don't know the date of these pictures or not and I don't know if they're entered into the record of not, but I still see some pretty old vehicles on that property. So I just want to make sure that if that variance at that time said that these vehicles need to be off that property, they need to be off that property. And if they need to be moved to their storage yard then that's where they need to be moved. I want to know if staff has gone out there and assessed that and I don't know if that was a condition of our last, of our variance when we moved forward with it or if not —

CHAIR HOLIAN: Commissioner Mayfield, could I just respond to that? In reading through this it looks like the motion was to approve the variance but then there was toward the end, Commissioner Stefanics made an amendment that if this is a livelihood that has to be adapted, changed, relocated there is a period of time in which to do that. And so it was mostly the imposition of a –

COMMISSIONER STEFANICS: Madam Chair, there's language in there that says you amended Commissioner Anaya's – you put an amendment on Commissioner Anaya's – you put a different condition, and I haven't found that yet.

CHAIR HOLIAN: Okay. Commissioner Chavez, would you like to respond or perhaps Vicki could clarify.

MS. LUCERO: Madam Chair, I was just reading through the minutes and Commissioner Anaya made the motion to approve with conditions represented by Commissioner Holian is what it says, to make sure that they're adequately reflected on the record. But I have to go back and see where there are actually conditions.

COMMISSIONER ANAYA: I could help, provide some clarity. CHAIR HOLIAN: Yes. We need clarity. Thank you, Commissioner Anaya.

COMMISSIONER ANAYA: So if you follow through with that recommendation, I asked the question, Madam Chair, made a motion for approval with conditions relative of fire, noted by Commissioner Holian and staff conditions contained on the case if there are any. Are there any? Chair Stefanics: There were no conditions provided. Mr. Larrañaga: Madam Chair, Commissioner Anaya, there were no conditions, just recommendations for denial. Then if you go to the next page it speaks to the questions that I raised that had them been voted down at that time, and I'm paraphrasing now, they would have ceased to have a functional business. Then the question was asked, this continues to afford them the opportunity to go through that process. If they do not get this approval today, then they have to cease and desist operations. Mr. Larrañaga says, Madam Chair, Commissioner Anaya, that's correct.

Mr. Larrañaga: Madam Chair, Commissioner Anaya, yes, the master plan process, preliminary and final development plan meeting all code requirements, which is exactly what we're here with master plan, not preliminary and final. So – and it's reflected in the minutes, based on those discussions the master plan is before us today and there were no conditions established or requirements. That was the purpose of this process in master plan and preliminary and final development plan approval.

So I think the motion on the table is in order.

COMMISSIONER MAYFIELD: And that's fine, but I still have a couple questions.

CHAIR HOLIAN: Yes. You still have the floor, Commissioner Mayfield. COMMISSIONER MAYFIELD: So again, going back to the site and hearing what the motion is, respecting that the Anayas have all their vehicles that they need to try to accommodate, and that this other site should not be a site for any type of storage vehicles, recovery vehicles. And I think hearing the night sky issues, the start-up vehicle issues of the community – I'm just going to say it – I wouldn't want my son woken up at 3:00 in the morning by a truck starting up or light shining in my bedroom eight. But understanding a long-standing business has been there. That's where the compromise has to take place. But looking at all these pictures that were just afforded to us, I don't know. I'm going to have to ask the applicant Are these – I'm going to call them abandoned – are these vehicles that are not being worked on, are they still on the site? Have they been cleaned up?

MS. KOSH: Commissioner Mayfield, I believe that you are viewing pictures of –

COMMISSIONER MAYFIELD: I'll hand them to you. I don't know if you've had an opportunity to see them. So I think if we can hand them -

MS. KOSH: Yes. I'll take a look at them but I'm assuming that they're pictures of the damaged wall?

COMMISSIONER MAYFIELD: No, no. They're pictures of the whole grounds.

MR. ANAYA: These are vehicles that I personally own.

COMMISSIONER MAYFIELD: Okay. And Mr. Anaya, I appreciate that because then in the request that you have, and I read it somewhere, I guess in one of the pages, so there was a request to have, say, eight towing vehicles. I think there was a request – and let me – I highlighted it somewhere. There was a request to have – here it is. I'm on the summary page and it's staff's summary page. There was a request for staff's response for eight large tow truck vehicles, the circulation of these vehicles, retention ponds, dumpsters, the combination, the placement of two recreational vehicles, one boat, two low-boy trailers and other personal vehicles. So how may personal vehicles are we talking about on the property?

MR. ANAYA: I presume about maybe ten, twelve vehicles that are personally mine, that are registered in my name. Which I have parked at my residence as well as parked

back there.

COMMISSIONER MAYFIELD: I'm just going to ask this question. Are they all running vehicles?

MR. ANAYA: Yes, they are.

COMMISSIONER MAYFIELD: Okay.

MR. ANAYA: Excuse me. The only two that are not running are the two burnt vehicles that I purchased, and I purchased those to pull the motors out.

COMMISSIONER MAYFIELD: Yes, and I think that's one of the photos. I thought I saw a truck.

MR. ANAYA: Yes, there's two burnt vehicles.

COMMISSIONER MAYFIELD: Okay, well I guess Commissioner Chavez is – that may be a different issue we have to look at. And I guess that's where I was looking at some of the community concerns, having to deal with – and there's a lot of tires I saw in those pictures. Those are other issues I think for site cleanup that would have to be addressed as far as yard maintenance for the community that maybe would have concerns with that that we would have to have addressed in the master plan.

As far as from the attorney I believe, and I'm going to bring this up because it was brought up. Santa Fe County does have a water-harvesting plan and regardless of water being used or not I know this Commission has voted on water harvesting. I know that was a recommendation. You were asking that we not consider that? But I think this Commission

has put that in as conditional of all of our -

MR. ANAYA: Yes, that was brought to the attention – the person that was working on the actual site plan, but due to the topography of the property, that piece of property sites higher than all the other parts of the property so we thought putting in a holding pond where the water's not going to be sitting didn't make any sense. It can be done, but it didn't make any sense.

COMMISSIONER MAYFIELD: Mr. Anaya, I would maybe agree with you on that but I know that I've kind of have this same thought on this bench but it just kind of seems standard fare for this Commission and I don't see how we can do it on one circumstance and not another one. I guess it's something for us to talk up here.

Another question I need to ask, Mr. Anaya, do you do any maintenance of your vehicles on your site, where you, say, like repair engines or any type of –

MR. ANAYA: Yes, we do. We also race cars and we do other activities. Our ABTVs, we ride those. There's stuff that everyone else out here does and I mean I just – like everyone else, having an RV or a motorcycle or a boat or whatever, we have one. It's just our concern was when this whole master plan went into effect, how were we going to be able to utilize the property so that we wouldn't be in violation if we did. And that's why a lot of this stuff was put into this guidelines that putting together for you guys.

COMMISSIONER MAYFIELD: Okay. And I just wanted all that to be – in case there were questions asked, saying, look, later on, there's maintenance of these vehicles and everything else. That's why it's all put out on to the table. I didn't see this in this plan? Is it somewhere else in here that it wasn't mentioned? Do you have that in there? Your attorney has that in the recommendation here?

MR. ANAYA: Not that I know, sir.

COMMISSIONER MAYFIELD: Okay. That's all I have, Madam Chair. I just wanted to make sure that that was all disclosed. So I guess there's a motion on the floor.

CHAIR HOLIAN: Any further discussion? Questions. All right. We have a motion.

MS. KOSH: Madam Chair, I'm sorry to address you. Mr. Bennett, who is also counsel for the Anayas would also like to make one comment if you don't mind.

CHAIR HOLIAN: Yes. Mr. Bennett.

MERIT BENNETT: Good evening. I wanted to lend a little more perspective that I think might be helpful for the Commission. I've known the Anayas personally for 26 years. I've known them since two years before they started this business and I now the family quite well and I'm quite close to them. There seems to be something missing from this hearing, a perspective that I think needs to be considered. If you will take note that the only opposition in this room to the Anayas' plan is are two individuals who live on the other side of the wall that they bumped into. And that's why we're here, because the Anayas backed up a truck. It bumped into the Romeros' wall. The Romeros can't see the Anayas' property. They can't see their trucks. They don't have children over there, and you have to look at that perspective. The only other person in opposition here is a person who owns property there but doesn't live there. That's the opposition now before the Commission.

There's been a mention of what is in the interest of the community. Well, let's talk about that. This business has for 24 years been pulling people out of wrecks, ravines, ditches, car crashes and they have contracts with City Police, County officials, State Police, that they're obligated to perform. And in order to be able to perform those contracts for our community and pull somebody out of trouble in the middle of the night, they have to have those vehicles, all sizes, immediately available to respond to a call from law enforcement or some other emergency force.

You have to take that into account. You can't just start to limit vehicles arbitrarily, because each vehicle is specified for a particular job. You can't just begin to put arbitrary

hours on an operation. And if you will note also, they've never, ever, in 24 years had any accident involving any member of this community. The residents who live on the other side of the wall, with the Anayas, are not before you tonight. They're not complaining about the business that's been conducted here for 24 years. Because they all know the service that the Anayas provide to this community. And I think that's missing here, and it's important to take that into consideration, that service to the community into consideration, when you contemplate actions that will limit an ongoing business upon which this family survives and many other people survive. This is a business of service. And to limit this business - they're not asking to expand it. They're saying we will stay at this level but then to take away from it to me takes something from the community and me having known this family for this long, it just doesn't feel right as a human, and certainly as a friend of the Anayas and a friend of Agua Fria and a friend of my community.

So I would just ask the Commission to take that into consideration.

CHAIR HOLIAN: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I'm going to make one more comment. I applaud Mr. Bennett for fulfilling your obligation as a legal representative of the Anayas and making the comments that you made based on your perspective and your fees associated with your legal representation and your knowledge of this family. Commissioner Mayfield and I, when this particular issue came up, and Commissioner Stefanics, voted on a split vote, three to two to afford this process to take place that we're sitting in today. Commissioner Mayfield and I can be reflected in the minutes and Commissioner Stefanics, and all the Commission at the time asking critical questions, raising concerns, bringing up compromise and other relevant issues associated with the business. No one advocated more than us that voted in the affirmative, myself being one of the ones that had probably the most to say about sustaining a business.

All that being said, had it not been for three Commissioners at the time affording the process to take place, this business wouldn't be functional. I knew from that discussion that there was going to be a need for some compromise and Commissioner Stefanics reemphasized that and that's reflected in the minutes. Commissioner Mayfield reflected that compromise, who also voted in the affirmative of other issues that may need to be addressed between preliminary and final development plat approval. I think this is an allowable motion, if it passes, that provides reasonable use of functional property and will not put this business

out of business.

I think Commissioner Chavez' motion touches on all aspects of the vehicles. It allows for the small and medium size, three of them, and allows for the very large vehicles. So, respecting your perspective and your fashion that you presented it as legal representatives for the Anayas, I can only hope, but that's okay, that you would hear some of the perspective that I brought forth and that Commissioner Chavez, Commissioner Holian, Commissioner Mayfield and Commissioner Stefanics brought forth in the discussion. But this solely exists because my colleagues had enough courage to say we'll let it go to the next step but there's going to be some compromise.

So that's the corpus of my comments and I applaud Commissioner Chavez and this entire Commission on the discussion that transpired in two very difficult and lengthy meetings where it wasn't just a couple people here. There was people on both sides. Supporting the business, a large group and there was a fair amount of people that were in opposition as well. So I respect you and I hope that whatever decision rendered that we can all respect and progress on to the next phase if that's the wishes of the Commission. Thank you, Madam Chair.

CHAIR HOLLAN: Commissioner Chavez.

COMMISSIONER CHAVEZ: Yes, and I didn't mean to be arbitrary at all. This is not an easy decision for me either way, because we're not going to make anybody happy. And I'm concerned about those that are not here, more than those are here, because we're not hearing from the ones that are not here but they will still be affected in one way or another. They may not know that. But I'm just doing the best I can and hope that the business can adjust and it can continue to operate there and to provide the service that they're providing. So let's call for the vote.

CHAIR HOLIAN: Thank you, Commissioner. We have a motion and a second on the floor for approval of CDRC case #Z -13-5060 with staff conditions and with the extra conditions that the preliminary and final plat application is submitted within 90 days of the master plan approval, and that three small and two large trucks may be parked on the property at any given time.

The motion passed by majority [4-1] voice vote with Commissioner Stefanics casting the nay vote.

#### XIX. ADJOURNMENT

Having completed the agenda and with no further business to come before this body, Chair Holian declared this meeting adjourned at 9:20 p.m.

Approved by:

Bunty Commissioners

Kathy Holian, Chair

ATTEST TO:

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

CASE NO. CDRC MP 12-5060 ROBERT AND BERNADETTE ANAYA MASTER PLAN ZONING ROBERT AND BERNADETTE ANAYA, APPLICANTS

# ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on June 11, 2013, on the Application of Robert and Bernadette Anaya (hereinafter referred to as "the Applicants") for Master Plan Zoning approval for a commercial towing business as a Special Use under the Village of Agua Fria Zoning District Ordinance Use Table (Ordinance No. 2007-2) on 0.33 acres. The BCC, having reviewed the Application and supplemental materials, staff reports and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

- I. The Applicants request Master Plan Zoning approval to allow a towing business on 0.33 acres ±. The request is to allow the storage of eight (8) tow trucks on the site. The Applicants propose to divide the existing .70 acre ± parcel and create a .33 acre ± lot to be utilized for the towing business. The remaining lot, which is where the Applicants currently reside, will remain residential.
- 2. The property is located at 2253 Ben Lane, within the Traditional Community of Agua Fria, within Section 31, Township 17 North, Range 9 East.

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- 3. On April 18, 2013, the County Development Review Committee (CDRC) met and acted on this case. The request before the CDRC was for Master Plan Zoning and Preliminary Development Plan approval. Staff recommended Master Plan approval as the request for Preliminary Development Plan was incomplete due to non-compliance with Article V, § 7.1.2.e & § 7.1.2.j (Development Plan Requirements) and Article III, § 4.4 (Development and Design Standards). The decision of the CDRC was to recommend approval of the Applicants' request for Master Plan and denial of the Applicants request for Preliminary Development Plan. The Applicants have since altered the submittal to reflect the request for Master Plan Zoning only.
- 4. Ordinance No. 2007-2, § 10.5 (Village of Agua Fria Zoning District Use Table) states: "a Special Use is allowed only if a Development Plan and Master Plan are reviewed and approved by the Board of County Commissioners".
- 5. Article V, § 5.2.1.b (Master Plan Procedure) states: "a Master Plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the sub-divider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval".
- 6. The Applicants state that there is a need for the tow trucks to be in close proximity to their residence to be able to respond to any emergency calls in a

timely fashion. The Applicants also state that they wish to utilize the .33 acre site to store personal recreational vehicles. The Applicants have operated a growing towing business in the vicinity for many years.

- 7. The Application is comprehensive in establishing the scope of the project.
- 8. The Application satisfies the submittal requirements set forth in the Land Development Code.
- 9. Merit Bennett and Talia Kosh, on behalf of the Applicants, submitted material and testified in support of the Master Plan.
- 10. The Applicants, Robert and Bernadette Anaya, spoke in favor of the Master Plan.
- 11. Rosemary Medrano and Henry and Georgia Romero spoke in opposition to the Master Plan. The opponents based their concerns on an increase of traffic on Agua Fria, accessibility of emergency vehicles, parking of tow trucks along Ben Lane, noise, flashing lights, 24 hour activity and the development being contrary to the goals set forth by the Traditional Community of Agua Fria to maintain and nurture a peaceful family neighborhood environment.
- 12. During the BCC meeting there was a lengthy discussion regarding the proposed access. The Master Plan drawings as submitted showed in concept the proposed hammerhead turn around as well as the turn radius at the intersection of Agua Fria and Ben Lane. It was stated that the Applicants would provide the required 28-foot, inside, turn radius at the intersection of Agua Fria and Ben Lane. This will be adequately addressed with the Preliminary Development Plan Application

- 13. Staff recommended the following conditions for approval of the Application:
  - a) Master Plan with appropriate signatures, shall be recorded with the County Clerk, per Article V, § 5.2.5.
  - b) Preliminary and Final Development Plan shall be submitted in a timely manner, meeting all criteria set forth in Article V, § 7, to be reviewed and presented to the CDRC for consideration.
  - c) The Applicant shall comply with Ordinance No. 2007-2, § 10.6 (Density & Dimensional Standards).
  - d) Storage of towed vehicles shall not be permitted on this site as per the 1989 decision of the Extraterritorial Zoning Authority. A note stating that the storage of towed vehicles on the site shall not be allowed shall be placed on the Master Plan.
- 14. The BCC suggested the following conditions for approval of the Application:
  - a) No more than three small tow trucks and two large tow trucks may be stored on the site at any given time.
  - b) The Applicant shall submit Preliminary and Final Development Plan to the County Development Review Committee for consideration within 90 days of approval of this Order.
- 15. The Application for Master Plan Zoning for a commercial towing business as a Special Use under the Village of Agua Fria Zoning District Ordinance Use Table (Ordinance No. 2007-2) on 0.33 acres should be approved conditioned on the Applicant complying with Staff and BCC conditions.

IT IS THEREFORE ORDERED that the Applicants are granted Master Plan Zoning for a commercial towing business as a Special Use under the Village of Agua Fria Zoning District Ordinance Use Table (Ordinance No. 2007-2) subject to the following conditions:

- 1. The Master Plan with appropriate signatures, shall be recorded with the County Clerk, per Article V, § 5.2.5;
- 2. A Preliminary and Final Development Plan shall be submitted within ninety days of issuance of this Order, meeting all criteria set forth in Article V, § 7, to be reviewed and presented to the CDRC for consideration;
- 3. The Applicants shall comply with Ordinance No. 2007-2, § 10.6 (Density & Dimensional Standards);
- 4. Storage of towed vehicles shall not be permitted on this site as per the 1989 decision of the Extraterritorial Zoning Authority. A note stating that the storage of towed vehicles on the site shall not be allowed shall be placed on the Master Plan;
- 5. No more than three small tow trucks and two large tow trucks may be stored on the site at any given time.

### IT IS SO ORDERED.

This Order was approved by the Board of County Commissioners of Santa Fe County on this 13 day of August 2013.

The Board of County Commissioners of Santa Fe County

By: A Physical BCC Chairmerson

Geraldine Salazar, County Clerk

8/20/2013

Approved as to form:

Stanban C. Done County At

Stephen C. Ross, County Attorney

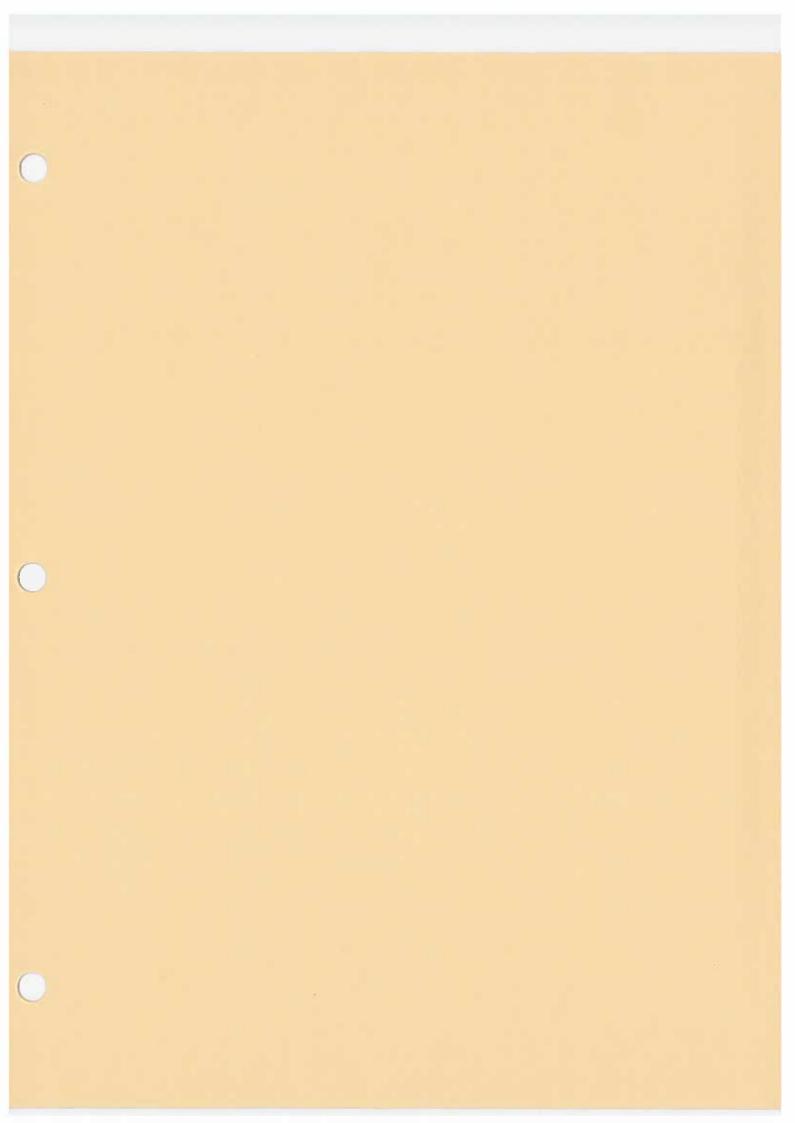
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COUNTY OF SANTA FE STATE OF NEW MEXICO BCC ORDER PAGES: 6

I Hereby Certify That This Instrument Was Filed for Record On The 207H Day Of August, 2013 at 03:59:28 PM And Was Duly Recorded as Instrument # 1715555 Of The Records Of Santa Fe County

) 55

Deputy Audita Hitness My Hand And Seal Of Office
Geraldine Salazar
County Clerk, Santa Fe, NM



Daniel "Danny" Mayfield Commissioner, District 1

Miguel Chavez Commissioner, District 2

Robert A. Anaya Commissioner, District 3



Kathy Holian Commissioner, District 4

Liz Stefanics Commissioner, District 5

> Katherine Miller County Manager

DATE:

October 18, 2013

TO:

**Board of County Commissioners** 

FROM:

Vicente Archuleta, Development Review Team Leader

VIA:

Katherine Miller, County Manager

Penny Ellis-Green, Land Use Administrator

Vicki Lucero, Building and Development Services Manager Wayne Dalton, Building and Development Services Supervisor

FILE REF.: CDRC CASE MIS #13-5200 Oshara Village Master Plan Amendment

## **ISSUE:**

Homewise Inc. and Century Bank, Applicants, Design Enginuity, Agent, request a Master Plan Amendment to rezone 26 live/work lots into 26 residential townhome lots (Lots 76-85 and 92-107), to rezone 10 live/work lots to 7 residential patio lots (Lots 145-154) and to rezone 17 commercial lots to 9 residential patio lots (Lots 7-15 and 20-27). The request also includes approval to create 5 residential patio home lots on Tract C which was designated reserved, open space.

The property is located in Oshara Village, via Richards Avenue, within the Community College District, within Section 16, Township 16 North, Range 9 East (Commission District 5).

# **VICINITY MAP:**



#### **SUMMARY:**

On September 19, 2013 the County Development Review Committee (CDRC) recommended approval of the proposed Master Plan Amendment (Refer to September 19, 2013 CDRC Meeting Minutes attached as Exhibit 11).

On April 30, 2002, the Extraterritorial Zoning Authority (EZA) granted Master Plan approval for a mixed-use development formerly known as "Oshara Ranch." The development consisted of 735 residential units and 1.7 million square feet of commercial space and 246 acres of open space/park/plaza areas on 471 acres, to be developed in eight (8) phases (Refer to April 30, 2002 EZA Meeting Minutes attached as Exhibit 5).

On October 28, 2004, the EZA granted a Master Plan Amendment to the previously approved Oshara Ranch in order to change the phasing of the project (Refer to October 28, 2004 EZA Meeting Minutes attached as Exhibit 6).

On January 11, 2005, the Board of County Commissioners (BCC) granted Preliminary Development Plan and Plat approval for Phase I of the Oshara development.

On June 14, 2005, the BCC granted Final Plat and Development Plan approval for Phase I of the Oshara Village development which consisted of 175 residential lots and 136,000 sq. ft. of commercial space on 74 lots on a total of 37.78 acres in accordance with the previously approved Master Plan (refer to June 14, 2005, BCC Meeting Minutes attached as Exhibit 7).

Since the time of approval, the necessary infrastructure, including roads and utility lines have been installed and more than 59 homes are occupied within Oshara Village.

The Applicants state that in 2008, the nationwide economic downturn greatly impacted the project's execution and the developers could not meet their obligations. The project mortgages were set up so that if the developer failed, the banks would take over ownership of the remaining lots.

The Applicants now request to modify the zoning on Lots 76-85 and 92-107 from 26 live/work lots to 26 residential townhome lots, Lots 145-154 from 10 live/work lots to 7 residential patio home lots and Lots 7-15 and 20-27 from 17 commercial lots to 9 residential patio home lots. The request also includes approval to create 5 residential patio home lots on Tract C which was designated as reserved, open space on the original recorded plat.

The primary reason for the request is to address changing market conditions, as they see little market for live-work units or small commercial lots in Oshara Village. Currently there are 42 live-work lots within Phase I, and under the proposal, 36 of those lots would be developed as 26 residential townhome lots and 7 residential patio home lots. The other six would remain livework lots.

There currently are 23 commercial lots, The Applicants state that 17 of the commercial lots which are located at the far eastern side of the Oshara development site are not suitable for commercial projects as they are not visible from the main traffic thoroughfares and are small lots ranging in size from 2,345 to 4,250 square feet. However, patio home buyers have shown interest in them, given their location adjacent to Oshara's open space. Therefore, the Applicants are proposing to rezone those 17 commercial lots to 9 residential patio home lots.

In addition, the Applicants request approval to create 5 patio home lots on Tract C which was designated as reserved open space. The tracts will front Willow Back Road which is complete with all necessary utilities in the roadway. The lots will have a minimum setback of 350 feet from Richard's Avenue. The project will still provide the required 50% open space.

If the requested Master Plan Amendment is granted, the development of the 26 townhomes will proceed promptly, as no lot line or infrastructure modifications would be necessary. The lots for the patio homes are larger than the existing live-work and commercial lots requiring modifications to lot lines and utilities that would require the Applicant to return to the County with a development plan and lot line adjustment plat for this portion of the project as well as a request for Preliminary and Final Plat and Development Plan approval for the 5 lots being created on Tract C. Overall the net result of the proposed changes would be a 6-lot decrease in density with respect to the original plan.

Article V, § 5.2.1.b states: "A Master Plan is comprehensive in establishing the scope of a project, yet is less detailed than a Development Plan. It provides a means for the County Development Review Committee and the Board to review projects and the sub-divider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a Preliminary and Final Plat approval".

This Application was submitted on June 7, 2013.

Growth Management staff have 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 Amendment to convert 26 live/work lots into 26 residential townhome lots, 10 live/work lots into 7 residential patio home lots and 17 commercial lots into 9 residential patio home lots and to create 5 patio home lots on Tract C, which was designated as reserved open space.

GROWTH MANAGEMENT

El Centro, SDA-1

AREA:

LOCATION:

Oshara Village is located on the east side of Richards Avenue, south of I-25 and north of the Santa Fe Community College.

**ZONING ALLOWANCES:** 

The minimum residential density that is required in a village zone community center/neighborhood is 3.5 units per acre. The Applicant is proposing approximately 5 units per acre.

AFFORDABLE HOUSING:

Oshara Village was required to provide 15% affordable housing. That was based on 15% of 175 residential lots for a requirement of 26.25 affordable units. The developer agreed to do 27 affordable units. Of the 27 affordable units required, all but 7 have been developed. There was no affordable housing obligation imposed on the creation of commercial lots.

The Applicants now propose to create 11 additional residential lots for a total of 186 residential lots. With the 15% affordable requirement applied to the 186 residential lots, the development must include 28 affordable units. Therefore, one more affordable unit is required.

**OPEN SPACE:** 

The Community College District Ordinance requires 50% open space within a project. The original project had 42.30 acres of open space, or 50.4%. A lot line adjustment was done in March 2013, which altered the lot lines of 9 Estate lots to address a modification of the adjacent FEMA flood zone which brought the total acreage of open space to 43.69 acres or 52%.

The proposed request to create 5 residential patio home lots in the designated reserved open space will amount to .66 acres which will decrease the open space to 43.03 acres or 51.2% open space.

**ACCESS/TRAFFIC:** 

Access is directly off Richards Avenue via two access points and the project developer constructed a 2-lane paved road connection between Richards Avenue and Rabbit Road, which helps alleviate some traffic on Rodeo Road and Richards Avenue.

The proposed development will not affect the operation level of the existing roadways and intersections due to a reduction in peak hour traffic. Therefore, Santa Fe County Public Works Department stated an updated TIA was not required.

NMDOT stated the study provided did not include any traffic analysis for the subdivision.

ARCHAEOLOGY: An Archaeological survey was conducted at the Master

Plan level which yielded two significant sites, however,

neither one of these sites impacts this Phase.

FIRE PROTECTION: Fire hydrants are installed throughout the development.

WATER SUPPLY: Santa Fe County Water utility serves the development.

Residential water use is estimated at 0.15 acre feet per dwelling with a water restriction of 0.12 acre feet per unit. This will be accomplished through water conservation measures and the use of treated effluent for landscaping and flushing toilets within commercial buildings as well as

collection of roof drainage for landscaping.

**WASTEWATER:** A wastewater treatment plant serves the development.

TERRAIN MANAGEMENT: The Arroyo Hondo, which is a significant drainage course,

extends through the development. The drainage course is

reserved as part of the permanent open space

AGENCY REVIEW: Agency Recommendation

SFC Fire Approval with Conditions

SFC Public Works Approval
SFC Utilities No Comment
SFC Planning No Comment
SFC Transportation Approval

SFC Affordable Housing Approval with Conditions

Soil and Water Approval NMDOT Negative

#### STAFF RECOMMENDATION:

Staff and CDRC recommendation is for Approval of a Master Plan Amendment to rezone 26 live/work lots to 26 residential townhome lots, rezone 10 live/work lots to 7 residential patio home lots, rezone 17 commercial lots to 9 residential patio home lots and create 5 residential patio home lots on Tract C which was designated reserved, open space. Subject to the following conditions:

- 1. The Applicant shall comply with all conditions of the original Master Plan.
- 2. The Applicant shall amend the Affordable Housing Agreement to identify an additional unit.

The CDRC added an additional condition:

3. Homewise and Century Bank shall make up the decrease in collected dues resulting from Commercial to Residential lots to the Homeowners Association for a period of 2-years.

#### **EXHIBITS:**

- 1. Developer's Report
- 2. Developer's Plans
- 3. Reviewing Agency Reports
- 4. April 30, 2002 EZA Staff Report
- 5. April 30, 2002 EZA Meeting Minutes
- 6. October 28, 2004 EZA Meeting Minutes
- 7. June 14, 2005 BCC Meeting Minutes
- 8. Letter of Support
- 9. Letter of Opposition
- 10. Aerial Photo of Site and Surrounding Areas
- 11. September 19, 2013 CDRC Meeting Minutes

# DESIGN ENGINUITY



1421 Luisa Street Suite E, Santa Fe, New Mexico 87505 PO Box 2758 Santa Fe, New Mexico 87504 (505) 989-3551 FAX (505) 989-4740 E-mail oralynn@designenginuity.biz

September 23, 2013

Santa Fe Board of County Commissioners

RE: Request to Amend Portions of Oshara Village Phase 1 Zoning

Dear Commissioners,

The Oshara Village Phase 1 project received final appoval from the Board of County Commissioners in June 2005, shortly thereafter they installed the necessary infrastructure, including roads and utility lines, and began selling lots. More than 59 homes are occupied in Oshara today. Unfortunately, the 2008 nationwide economic downturn greatly impacted the project's execution and the developers could not meet their obligations. The project mortgages were set up so that when the developer failed, the banks would take over ownership of the remaining lots. However, the banks did not become the developer, nor do they constitute the developers' successors. Los Alamos National Bank (LANB) and Century Bank became the owners of most of the lots within the Village. LANB has transferred their interest in 26 live work lots to Homewise. All common area is now owned by the Oshara Homeowners Association.

Homewise and Century Bank are interested in modifying the zoning on some of their lots. Specifically they would like to request the following:

CURRENT		PROPOSED	
26 Live-Work Lots	converted to	26 Townhome Lots	
10 Live-Work Lots	converted to	7 Patio Homes	
17 Commercial Lots	converted to	9 Patio Homes	
1 Reserved Open Space Lots converted to		5 Patio Homes and a	
• •		Reserved Open Space Lot	

The impacts of these proposed changes to open space and commercial development at Oshara is as follows:

**OPEN SPACE:** 

CURRENT
Total Open Space:

43.69 acres (52.0%)

converted to

FROFUSED

43.03 acres (51.2%)

7

# COMMERCIAL ZONING CHANGES:

**CURRENT** 

PROPOSED Unchanged

 6 Large Commercial Lots near Richards Avenue 100,000 SF

Permit Uses: Retail and Office \*

42 Live Work Lots

6 Live Work Lots

 23 Flexible Commercial Lots 36,000 SF 6 Flexible Commercial Lots

6840 SF

Permit Uses: Light Manufacturing, Office, Wholesale and Services\*

\*Note that the approved Oshara Village 2004 Amended Master Plan has the following statements: In the New Community Center which incorporated all of Phase 1 of Oshara Village permitted commercial development includes "office, hotel, theater, retail or any viable permitted use that makes this region-serving destination popular". And

"Expected quantities of development in each land use may increase if market conditions permit."

The primary reason for this request is to address changing market conditions, as Homewise and Century Bank see little market for live-work units or small commercial lots in our community. Six live-work lots will remain in the Oshara development, and under this proposal, the other 36 would be developed as either Townhome or Patio Home lots. The 17 commercial lots that are proposed to be modified are all located at the far east side of the Oshara development site. They are not suitable for commercial projects as they are not visible from the main traffic thoroughfares. They are small commercial lots ranging in size from 2345 to 4250 square feet. Market analysts have found no interest from potential buyers of these lots for commercial purposes. However, patio home buyers have shown interest in them given their location adjacent to Oshara's open space. We further request that we be allowed to place 5 Patio Home Lots on Tract C, which was "reserved" for future development in Phase 1. This Tract fronts Willow Back Ridge, which is complete with all necessary utilities in the roadway. We propose a setback of no less than 350 feet from Richard's Avenue.

The requested changes would have no foreseeable negative impact, while at the same time, they would have the positive impact of allowing this project to reach completion. The Santa Fe County community would not benefit in any way from having the development site deteriorate over time, right in the middle of the most promising multiuse development district in the metropolitan area. If the requested Master Plan Amendment is granted, development of the 26 townhomes in the New Community Center Core will proceed promptly, as no lot line or infrastructure modifications would be necessary. Because the lots for the patio homes are larger than the existing livework and commercial lots in the Flexible Commercial Area, lot lines and utility modifications would be necessary, and therefore, we would return to the County with a final development plan and lot line adjustment plat for this portion of the project. Overall the net result of these changes would be a 6-lot decrease with respect to the original plan. Other important facts related to this project are listed below.

#### LOCATION

Oshara Village is located on the east side of Richard's Avenue just south of I-25. The area that is to be modified is highlighted in Figure 1.

#### AFFORDABLE HOUSING

Oshara Village was required to have 15% of the originally approved 175 homes as affordable housing. With our proposed changes the total number of residential lots will be 186 homes. With a 15% affordable housing requirement, a total of 28 homes are necessary. Twenty affordable homes have been developed already. We request to have the affordable housing agreement modified to require that another eight affordable homes be developed at Oshara. Our proposed plan indicates eight patio homes lots to be designated as affordable homes.

#### **OPEN SPACE**

The Community College District Ordinance requires 50% open space within a project. The original Oshara Village Phase 1 project had 42.30 acres of open space, or 50.4%. In March 2013 Century Bank, with County approval, altered the lot lines of nine estate lots to address a modification of the adjacent FEMA flood zone and create lots that had a primary south facing elevation. These changes resulted in a 1.39 acres increase in the open space. With the approval of this proposed amendment the open space would be 43.03 acres for a total of 51.2% of the total acreage in the project.

#### WATER

The County approved water budget for the entire Oshara Village project is 41 AFY. Each residential lot was required to have 0.19 AFY regardless of the type of residence built on it. Therefore, converting from one type of residential product to another would have no impact on the water budget. In fact, current water use in the already developed lots at Oshara Village averages an impressive 0.11 AFY/lot, based on the most recent 12 months of records in the County.

The originally designated commercial lots, whose zoning is hereby proposed to be modified, were proposed to have very low water demand at only 1.2 AFY for 36,000 SF of commercial development. As we propose to modify 17 of commercial lots or 81% of the total allowable 36,000 SF, we figure that these lots can take 81% of the original water budget, or 0.971 AFY. Making the same assumptions as were made for the original water budget, the 17 commercial lots' water allotment would be equivalent to 5 residential units (0.971 AF / 0.19 AF/DU = 5.11 DU). Therefore, the proposed amendment would have enough water to be serve 42 of the proposed 48 residential units. We propose that the remaining 6 residential units be connected in accordance with the current County Utilities policies, which requires a payment of \$3,050 per lot, at the time of water meter installation.

#### **TRAFFIC**

There were several traffic analyses prepared for the development of Oshara Village. The project developer installed a 2 lane paved road connection between Richard's Avenue and Rabbit Road, thus providing connection to St. Francis Road, which helps to eleviate some traffic on Richards and Rodeo Roads.

In all the Oshara traffic analyses, the traffic impact by residential type (estate, patio home, townhome or live-work) were not distinguished. Therefore, we can safely assume that a modification of the type of residential use would have no change to anticipated traffic, and changing the 26 live work units to 26 townhomes in the new Community Core will have no discernible impact on the traffic conditions.

In the Flexible Commercial Area there are currently 10 residential live-work units that were assigned 74 trips per day, plus 36,0000 square feet of commercial development which were assigned 108 trips in the previous traffic studies. Only non-retail commercial (office space, light manufacturing, wholesale and services) development was permitted in this area. We propose converting 81% of the commercial area (17 of the larger commercial lots) to patio homes, thus converting 81% of the 108 trips, or 87.48 trips. The trips associated with the units to be changed would total 74 plus 87.48 or 161.48.

Because the nature of the Flexible Commercial Area will be transformed from primarily commercial to primary residential, use of 7.56 trips per day per dwelling unit consistent with the New Community Center Core is appropriate. Therefore 161.43 trips equates to 21 dwelling units (161.43 total trips/7.56 trips per residence =21.35 residences). The proposed replacement of 10 live work units and 17 commercial units with 21 patio homes, will have no impact on the traffic conditions compared with what was previously approved.

#### INFRASTRUCTURE MODIFICATIONS

There will be no infrastructure modifications associated with changing 26 of the live work units to townhomes in the New Community Center Core. As the lots will be enlarged in the existing Flexible Commercial Area, we will have to shift lot lines, and permanently shut off 11 water and sewer service lines. In addition we will need to install new water, sewer and dry utility services in the five lots to be developed along Willow Back Road. No road modifications would be required. Design drawings for all utility modifications will be provided with the Final Development Plan.

Thank you for consideration of this request.

Sincerely,

Oralynn Guerrero tiz, PE

# DESIGN ENGINUITY



1421 Luisa Street Suite E, Santa Fe, New Mexico 87505 PO Box 2758 Santa Fe, New Mexico 87504 (505) 989-3557 FAX (505) 989-4740 E-mail oralynn@designenginuity.biz

September 23, 2013

Vicente Archuleta Santa Fe County Land Use Department

RE: Request to Amend Portions of Oshara Village Phase 1 Zoning

Dear Vicente,

Attached you will find our submittal for a Master Plan Amendment of a portion of Oshara Village, Phase 1. Included is the following:

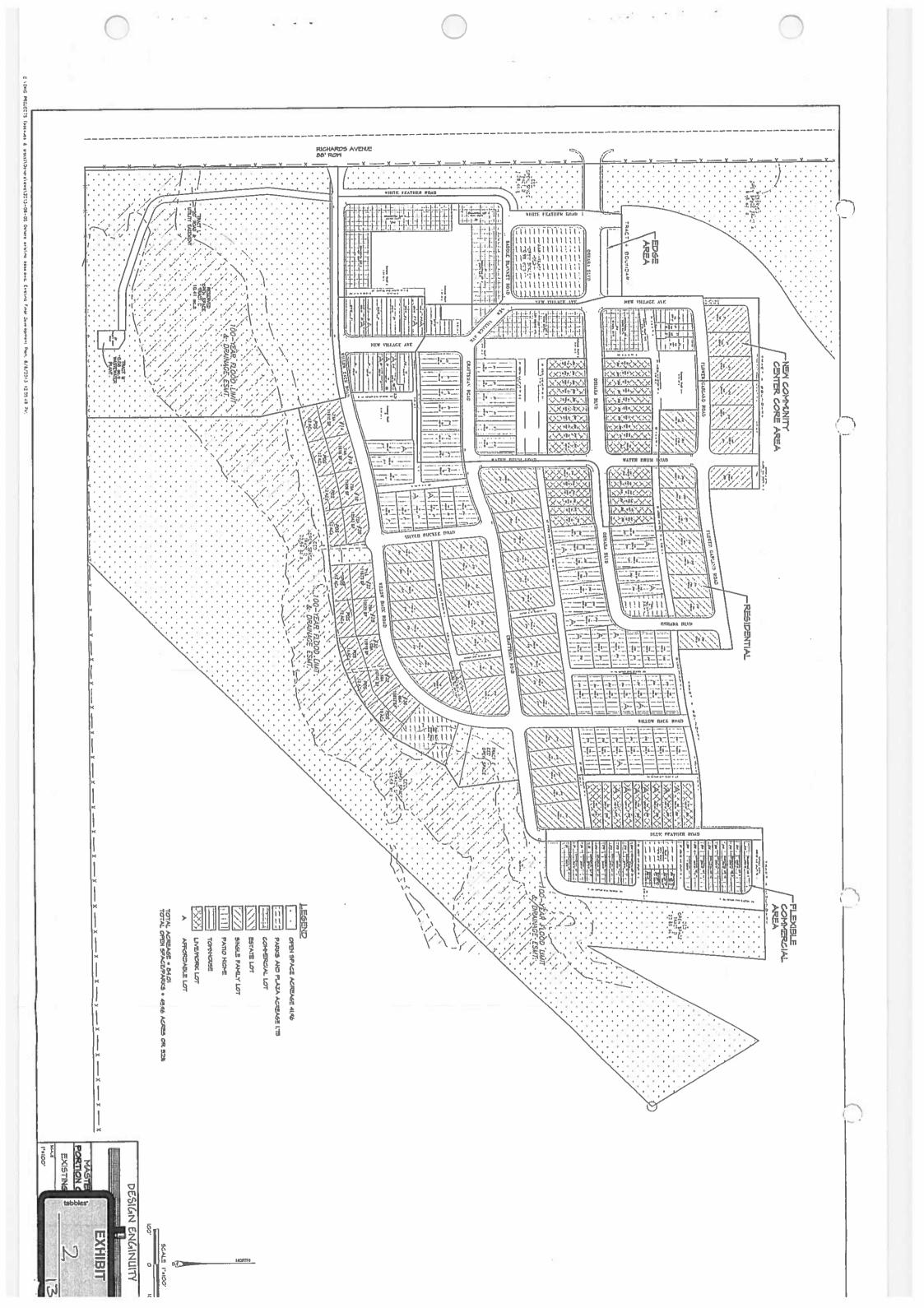
- 1. Development Application
- 2. A check for \$750.00
- 3. Warranty Deeds
- 4. 11x17 copies of the existing recorded Oshara Village Amended Master Plan (2004), and the Phase 1 Subdivision Plat (2005) and the Phase 1 Development Plan
- 5. 11x17 copy of the recorded Lot Line Adjustment Plat (2013)
- 6. The original Archaeological analysis of the entire 534 acre Greer Tract
- 7. Letter of Request/Master Plan Report (10 copies)
- 8. A plan showing the current lot lines and zoning with the lots to be modified highlighted (a combination of the items 4 and 5 above) (10 full and 2 reduced copies)
- 9. A plan showing the proposed final lot lines and zoning with the lots modified highlighted. 10 full and 2 reduced copies)

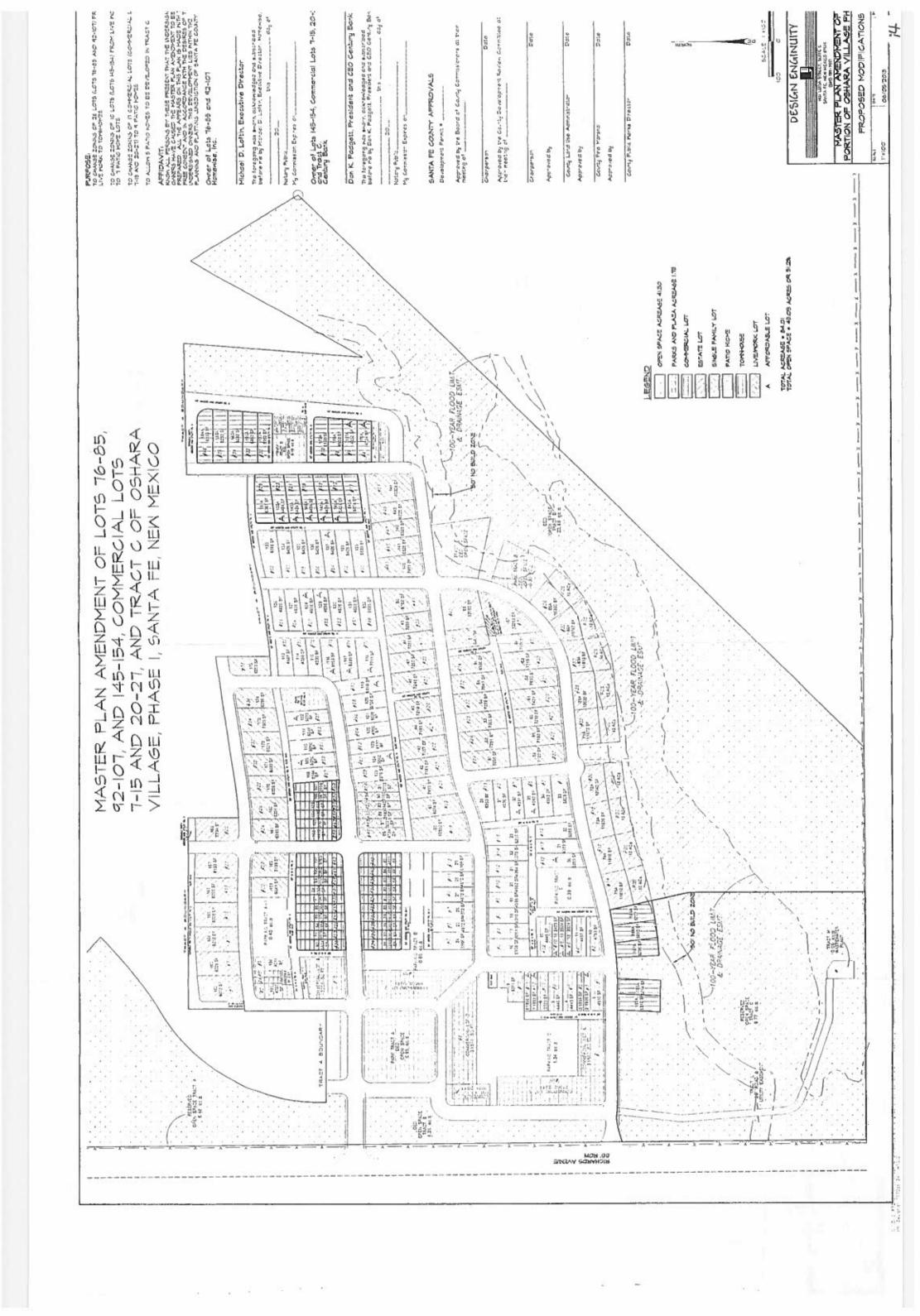
If there is anything further you require, please let me know.

Thank you.

Sincerely,

Oralynn Guerrerortiz, PE





Daniel Mayfield
Commissioner, District 1

Miguel Chavez 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:

June 27, 2013

To:

Vicente Archuleta, Development Review Team Leader

From:

Paul Kavanaugh, Engineering Associate Public Works,

Johnny P. Baca, Traffic Manager Public Works,

Re:

CDRC CASE #13-5200 Oshara Village, Phase I Master Plan Amendment

The referenced project has been reviewed for compliance of the Land Development Code, of Article V (Subdivision Design Standards), Section 8.1 (General Policy on Roads) and Article XV Regulations for the Community College District, in which the roadway/driveway needs to conform. The project is located within the Community College District located within Santa Fe County Zoning Jurisdiction and is situated south of Interstate 25, east of Richards Avenue, within Section 16, Township 16 North, Range 9 East. The applicant is requesting approval for a Master Plan Amendment consisting of a reduction of 36 Live—Work Units to 26 Townhome Units and a reduction of 17 Commercial Lots to 21 Patio Home Lots, resulting in a reduction of the commercial and an increase in residential.

#### Access:

The applicant accesses the 84.01 acre tract (Phase I) from Richards Avenue on the west and Rabbit Road on the northeast. The applicant has proposed to convert 36 Live –Work Units to 26 Townhomes and 17 Commercial Lots to 21 Patio Home Lots. According to the Institute of Transportation Engineers Trip Generation 8<sup>th</sup> Edition, a reduction in peak hour traffic is indicated, which supports the change in Master Plan and will not affect the operation level of the existing intersections (Richards Avenue and Oshara Boulevard) and (Richards Avenue and Willow Back Road).

#### Conclusion:

Staff has reviewed the submittal and feels that they can support the project for Master Plan Amendment.



www.santafecounty.org



July 26, 2013

Mr. Vicente Archuleta 102 Grant Avenue Santa Fe, NM 87501

RE: Oshara Village, Phase 1 Subdivision

Dear Mr. Archuleta,

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:

<u>Traffic Technical Support Section:</u> The study provided did not include any traffic analysis for the subdivision. They need to contact District Traffic Engineer and follow this procedure:

Traffic Study Approach: A three-tiered approach shall be utilized to satisfy the NMDOT traffic study requirement for a proposed land development project. Traffic impact study requirements of local governments shall also be followed, where applicable. The general type of traffic analysis required for each tier are listed below. A simplified traffic study process flow chart for an access request is provided on the following page.

(1) First Tier: Site Threshold Assessment (STH) - A screening-level analysis to determine if additional traffic analysis is required. Consists of a one-page worksheet (Form STH in Appendix D).

(2) Second Tier: Site Traffic Analysis (STA) - A focused traffic study to assess site-specific impacts of a proposed development. Consists of an engineering evaluation and the preparation of a traffic study report.

(3) Third Tier: Traffic Impact Analysis (TIA) - A detailed traffic impact analysis of all traffic operations, access and safety impacts within the prescribed study area for a proposed development. Consists of an engineering evaluation and the preparation of a traffic study report.

C. Site Threshold Assessment: A STH shall be required of all developing or redeveloping properties that directly or indirectly access a state highway. The requirements for the STH are described in the following subsections.

(1) The STH should examine existing roadway volumes and trip generation estimates to determine if additional traffic analysis is required. The following information is needed to complete Form STH, which is included in Appendix D:

 $\square\,\square\, A$  detailed description and location of the proposed development

☐ ☐ Existing daily traffic volumes for the adjacent state highway

Susana Martinez Governor

Tom Church Interim Cabinet Secretary

Commissioners

Pete K. Rahn Chairman District 3

Dr. Kenneth White Secretary District I

Robert R. Wallach Commissioner District 2

Ronald Schmeits Commissioner District 4

Butch Mathews Commissioner District 5

Jackson Gibson Commissioner District 6 □□Trip generation estimates for the proposed development Existing daily traffic volume information for state highway segments may be obtained from the NMSHTD Consolidated Highway DataBase (CHDB). Data obtained from other sources must be current or have been collected within two years of the STH.

Environmental Bureau: Is the Developer aware that Santa Fe County is proposing to build a bypass near this location? Although Santa Fe County in in the Phase A stage of selecting alternatives for this by-pass, one of the alternatives under review is immediately adjacent (under 2000 feet east) of the proposed subdivision. I believe developers have to disclose this kind of information to potential homebuyers. (The study underway is being funded by FHWA, through the NMDOT, as a local lead project.)

If there are any questions you may contact me at (505) 827-5249 or by email at jeremy.lujan@state.nm.us.

Sincerely,

Jeremy Lujan

Property Asset Management Agent

FILE#: 1747



conserving natural resources for our future

SUPERVISORS
Alfredo Roybal
José Varela López
Jose Carlos Ortiz
Shelley Winship

# SANTA FE - POJOAQUE SOIL AND WATER CONSERVATION DISTRICT

4001 Office Court Dr, Bldg 1000, Ste 1001

Santa Fe, New Mexico 87505

Telephone (505) 988-6253 Extension 3

Fax (505) 988-6615

July 23, 2013

Mr. Vicente Archuleta Development Review Team Leader Santa Fe County 102 Grant Avenue Santa Fe, NM 87501

Re: Case #13-5200 Oshara Village, Phase I Master Plan Amendment

Dear Mr. Archuleta:

Santa Fe-Pojoaque Soil and Water Conservation District (District) has reviewed the materials associated with the Oshara Village Master Plan Amendment for Phase I. It is our opinion that the proposed amendments do not negatively affect our previous comments regarding this subdivision.

Sincerely,

José J. Varela López Vice-Chairman

Santa Fe-Pojoaque SWCD

#### Vicente Archuleta

From:

Steven R. Brugger

ent:

Tuesday, July 02, 2013 5:48 PM

To:

Vicente Archuleta

Subject:

Oshara Village Phase 1 Master Plan Amendment Request

Vicente:

Per your request for comments on the proposed development request, I offer the following.

Back when Oshara Village was originally approved, the affordable housing requirement was based on 15% of 175 residential lots, for a requirement of 26.25 affordable units. In the affordable housing agreement, the developer agreed to do 27 affordable units. There was no affordable housing obligation imposed on the creation of commercial lots.

With the proposed master plan amendment request, the applicant proposes to add 11 net new residential units, for a total of 186 units. With the 15% affordable requirement applied to 186 total units, the development must include 28 affordable units. This is one more than what is currently required and depicted on the development plan.

To comply with the affordable housing ordinance and regulations, one more affordable unit must be shown on the development plan and cited in the consultant report.

In addition, if Homewise is to satisfy the affordable requirement through the construction of affordable homes on lots that they currently own, the proposed location of the affordables to be built will be different than what is currently shown on the plans and should be revised. This will also be addressed in a new affordable housing agreement which yould be part of the submittal package to the BCC.

Please call with any questions. Thanks.

Steve

Steven Brugger, AICP
Affordable Housing Administrator
Santa Fe County
102 Grant Avenue
Santa Fe, NM 87504
sbrugger@santafecountynm.gov

Phone: 505-992-6752 Fax: 505-820-1394 Daniel "Danny Mayfield Commissioner, District I

Miguel Chavez

Commissioner, District 2

Robert A. Annya

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 Development Review							
Date	7/2/2013	2 11			111		
Project Name	Oshara Village				700		
Project Location	Willowback	er ar serra Sp	N.	8.			
Description	Master Plan			Case Manager	V. Archuleta		
Applicant Name	Homewise Inc. & C	entury Bank		County Case #	13-5200		
Applicant Address	c/o Design Enginuity PO Box 2758			Fire District	La Cienega		
	Santa Fe, NM 875	04					
Applicant Phone	505-670-7605			192			
	Commercial	Residential 🛚	Sprinklers 🗌	Hydrant Ac	ceptance 🗌		
Review Type:	Master Plan 🛚	Preliminary [	Final 🗌	Inspection $\square$	Lot Split 🗌		
Project Status:	Wildland ☐ Approved ⊠	Variance [] Approved with Con	ditions 🗌 D	enial 🗌			

The Fire Prevention Divison/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..

#### 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

#### • 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 or signage adjacent to the building, fire hydrant, entrances and landscape medians in traffic flow areas shall be appropriately marked in red with 6" white lettering reading "FIRE

LANE - NO PARKING" as determined by the Fire Marshal prior to occupancy. Assistance in details and information are available through the Fire Prevention Division.

#### 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.

Roads shall meet the minimum County standards for fire apparatus access roads of a minimum 20' wide all-weather driving surface and an unobstructed vertical clearance of 13' 6" within this type of proposed development.

#### 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.

#### 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.

The maximum approved slope of the driveway access/egress shall not exceed 11%.

#### 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.

## 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.

Official Submittal Review 2 of 4

Section 903.4.2 Required Installations. (1997 UFC) The location, number and type of the fire hydrants connected to a water supply capable of delivering the required fire flow shall be provided on the public street or on the site of the premises or both to be protected as required and approved.

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.

All fire hydrants shall be spaced so that the furthest buildable portion of a parcel shall be within one thousand feet (1,000') as measured along the access route.

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. Final design shall be approved by the Fire Marshal.

All hydrants shall comply with Santa Fe County Resolution 2000-55, Hydrant color-coding, marking and testing.

#### Fire Extinguishers

Article 10, Section 1002.1 General (1997 UFC) Portable fire extinguishers shall be installed in occupancies and locations as set forth in this code and as required by the chief. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.

## General Requirements/Comments

#### Inspections/Acceptance Tests

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

Permits

As required

Official Submittal Review 3 of 4

# Final Status

Recommendation for Master Development Plan approval with the above conditions applied.

**Buster Patty** 

Through: David Sperling, Chief

File: DevRev/La Cienega/Oshara Village/7.2.13

0

V. Archuleta, Land Use Applicant File Cy

## SANTA FE COUNTY PLANNING DEPARTMENT TRANSPORTATION PLANNING

June 24, 2013

Vicente Archuleta Development Review Team Leader

Re: CDRC Case# 13=5200 Oshara Village Phase I Master Plan Amendment

Vicente,

I have reviewed the Oshara Village Phase I Master Plan Amendment report dated, June 7, 2013 and have the following comments:

- 1. Per section 5.2.2 Master Plan Submittals g. 5) A written preliminary traffic report prepared by a licensed traffic engineer or other qualified expert acceptable to the Code Administrator. Given traffic volumes within the Community College District have increased since the Oshara Master Plan was approved in 2005, and traffic volumes on Richard's Avenue are approaching 11,000 vehicles per day, arguably over capacity, it is recommended that the County County's request a report for the record.
- 2. Per the original Master Plan and a Memorandum of Agreement, the development of a Northeast Collector in conjunction with Oshara Phase II was planned. Due to unforeseen circumstances Phase II is not viable. The County, in conjunction with the NMDOT is taking the responsibility for this connector and are in the "location study" stage of developing the Northeast Connector. This will likely have impacts on the circulation system for Oshara and may further impact proposed units outlined in the amendment. The developers/owners should be clearly informed of this project and possible impacts.
- 3. Per section 5.2.2 Master Plan Submittals g. 7) Schools impact report. No report included.
- 4. Per section 5.2.4 Master Plan Approval b. The County Development Review Committee and Board shall consider the following criteria in making a determination and recommendations for approval or amendment of master plans:
  - 1. Conformance to County and Extraterritorial Plan;
  - 2. Suitability of the site to accommodate the proposed development;
  - 3. Suitability of the proposed uses and intensity of development at the location;
  - 4. Impact to schools, adjacent lands or the County in general;
  - 5. Viability of proposed phases of the project to function as completed developments in the case that subsequent phases of the project are not approved or constructed;

Erick J. Aune AICP, Senior Transportation Planner 102 GRANT AVENUE · SANTA FE, NEW MEXICO·87501 PHONE (505) 986.6214 E-MAIL eaune@santafecounty.org

## SALTA FE COUNTY PLANNING DEPARTMENT TRANSPORTATION PLANNING

6. Conformance to applicable law and County ordinances in effect at the time of consideration, including required improvements and community facilities and design and/or construction standards.

The Oshara Village Master Plan was originally envisioned at build out to be in accordance with the land use patterns outlined in the 2000 Community College District (CCD) Plan. More specifically, to follow the "Village Zones" and "New Community Centers" as "the most intensive development areas in the District." (Pg. 20 and 21, The Santa Fe Community College District Plan, 2000) Clearly, the market has not realized this level of intensity and diversity articulated in these zones. (Conformance with applicable law and County ordinances)

As outlined in the proposal, the modifications are an effort to "address changing market conditions." The Planning Division recognizes the challenges set forth by existing and foreseeable future market conditions and supports the requested modifications for the following reasons:

- A. Oshara Village Phase I has the requisite infrastructure in place to accommodate the development of the proposed uses. (Suitability of site)
- B. Increased residential development will assist existing Oshara residents in reaching greater economies of scale for the intended investment and support of the Oshara Home Owners Association. (Suitability of proposed uses and viability)
- C. Though the uses are less intense, the proposed modification supports the planning principles set forth in the CCD Plan including higher density dwelling options and diverse housing opportunities. (Suitability of uses and county impacts)
- D. The proposed modifications support the requisite and continued development of affordable homes and townhomes and patio homes continue to support an intended village development pattern versus large lot single detached dwellings. (Suitability of uses and county impacts)
- E. The proposed modifications do not eliminate potential commercial uses as platted and originally intended. Though the market may not support those intended uses at this time, increased population density in the development may provide future opportunities that supports the "community center" concept. (Suitability of uses and viability of proposed phase)

Respectfully submitted,

Erick J. Aune Senior Transportation Planner

> Erick J. Aune AICP, Senior Transportation Planner 102 GRANT AVENUE · SANTA FE, NEW MEXICO · 87501 PHONE (505) 986.6214 E-MAIL eaune@santafecounty.org

Marcos P. Trujillo Commissioner, District 1

Paul Duran Commissioner, District 2

Javier M. Gonzales Commissioner, District 3



Paul Campos Commissioner, District 4

Jack Sullivan Commissioner, District 5

Estevan R. Lopez County Manager

DATE: APRIL 30, 2002

EXTRATERRITORIAL ZONING AUTHORITY TO:

FROM: JOE CATANACH, DEVELOPMENT REVIEW SPECIALSIT III

VIA: ROMAN ABEYTA, LAND USE DIRECTOR KIN

RE: EZ CASE MP 02-4190 OSHARA RANCH MASTER PLAN

#### **ISSUE:**

On March 14, 2002 the EZC recommended approval for the following (refer to meeting minutes attached as exhibit).

Greer Enterprises, Inc.-Alexis K. Girard, President(Design Workshop, Agent) is requesting master plan approval for a mixed use development (residential, commercial, community) in a village zone, institutional campus zone, employment center zone and fringe zone, consisting of 735 residential units and 1.7 million sq. ft of commercial space on 471 acres. The property is located along Richards Avenue south of Interstate 25.

#### SUMMARY:

The master plan proposes the following development with 246 acres of open space/parks/plaza areas, and 53 residential units for affordable housing:

Phase 1 – Employment Center Zone/Neighborhood Center/Neighborhood(21 acres):

- 70 residential units(townhouse, live/work units)
- 145,000 sq. ft of commercial space(retail, office, laboratory, wholesale, light industrial)
- 1 acre park/plaza
- 27.5 acre feet water use
- off-site road connection to St Francis Dr.

Phase 2 – Employment Center Zone/Neighborhood Center/Neighborhood(18 acres):

- 30 residential units(townhouse, live/work units)
- 220,000-225,000 sq. ft. of commercial space(retail, office, restaurant, light industrial)
- 32.1 acre feet water use

April 30, 2002 Oshara Ranch Page Two

Phase 3 – Employment Center Zone/Neighborhood & Village Zone Neighborhood Center/Neighborhood(61 acres):

- 230 residential units(detached, townhouse, apartments, live/work units)
- 290,000 sq. ft. of commercial space(retail, office, light industrial, gallery, labs)
- 13 acre community park/open space
- 71.0 acre feet water use

Phase 4 – Employment Center Zone & Village Zone neighborhood(38 acres):

- 110 residential units(detached, townhouse)
- 200,000 sq. ft. of commercial space(light industrial, lab, office, wholesale)
- 1 acre park
- 43.9 acre feet water use

Phase 5 – Village Zone Community Center/Neighborhood(35 acres):

- 195 residential units(townhouse, apartments)
- 175,000 sq. ft. of commercial space(retail, office, theater)
- 10 acre community park/open space
- 54.5 acre feet water use

Phase 6 – Village Zone Community Center/Neighborhood & Employment Center Zone (48 acres):

- 100 residential units(townhouse, estate, apartments)
- 350, 000 sq. ft. of commercial space(retail, office, hotel, restaurant, light industry, shop, gallery, lab)
- 5 acres park/open space
- 80.3 acre feet water use

Phase Q & X(based on market conditions) – Employment Center Zone & Institutional Campus Zone:

- 80,000 sq. ft. of office space on 10 acres
- 250,000 sq. ft. institutional space on 25 acres
- 33.3 acre feet water use

April 30, 2002 Oshara Ranch Page Three

#### BOUNDARIES OF LANDSCAPE TYPES/LOCATION OF ZONES:

The applicant has provided a slope analysis and identified slopes of 0-5%, 5%-10%, 10%-15% and 15% +. From this slope analysis the applicant has defined the land use types. The CCD land zoning map is attached as an exhibit, and the slope analysis and updated land zoning map are also attached.

#### **ZONING ALLOWANCES:**

The minimum residential density that is required in a village zone community center/neighborhood is 3.5 units per acre, the applicant is proposing approximately 5 units per acre. The minimum residential density in a village zone neighborhood center/neighborhood is 3.5 units per acre, the applicant is proposing approximately 7.2 units per acre. There is no minimum requirement for residential densities in employment center zones and institutional campus zones. The applicant is complying with residential densities in the fringe zones with 1 unit per acre.

The minimum floor area ratio in a village zone community center is .33 and the maximum is 3.0, the applicant is proposing between .65 and 1.0 floor area ratio. The minimum floor area ratio in a village zone neighborhood center is .25 and the maximum is 2.0, the applicant is proposing approximately .33 floor area ratio.

The maximum floor area ratio in a employment center zone is 3.0 with no minimum, the applicant is proposing approximately .32 floor area ratio. The maximum floor area ratio in a institutional campus zone is 3.0 with no minimum, the applicant is proposing approximately .31 floor area ratio.

Please note that the master plan includes a proposal to incorporate additional uses as eligible uses into the various zones. These additional uses are not presently established in the Community College District land use table, however the additional uses are consistent with modifications that are being considered by staff for amendments to the Community College District Ordinance, with some exceptions.

#### MARKET ANALYSIS/ECONOMIC/FISCAL IMPACT:

The applicant has submitted a market analysis that emphasizes the location as the Community College gateway and promotes the projects market potential with the mixed use and mixed housing nature, open space, views and architectural requirements. The report address the growth pattern south of the city with reference to existing and proposed residential and commercial projects within the City and Extraterritorial District, and projects that over a 20 year period, they will lease 1,400,000 to 1,900,000 feet of commercial space and sell or lease all the dwelling units.

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The economic/fiscal impact report indicates that the combination of one-time and recurring revenue will exceed a total of more than 40 to 50 million over 20 years. Oshara Ranch is projected to generate 4 million on an annual basis. The net positive fiscal impact to the County would be over 3 million annually, in addition to the one-time projected revenues of 19 million accumulating over the life of the project.

#### WATER/WASTEWATER:

Water service is proposed from the Santa Fe County Water Utility. The total water demand is estimated to be 342.5 acre feet per year based on water conservation measures. The developer presently has a water supply contract for 51.9 acre feet with the County Water Utility and is also in the process of acquiring additional water rights that could be transferred to the County Water Utility for use by this development. The current water supply contract is sufficient to support the projected water use of 27.5 acre feet for phase one development. Water supply to support each phase of development must be available at the time a development plan is submitted for each phase, and each phase must be able to function as a viable and complete development in the event that subsequent phases are not approved or developed.

The Ranch Viejo waste water treatment facility will be utilized for liquid waste disposal.

#### ROADS/ACCESS:

Richards Ave. extends along the west boundary of the property as the primary access with three intersections proposed off Richards Ave. Secondary access is a road connection from Richards Ave. to an existing frontage road(Old Agua Fria Rd.) along St Francis Dr. which is proposed for phase one and is in accordance with the Community College Dist. Road Plan. The primary access roads will be subject to a conditional dedication for future ownership and maintenance by the County. The traffic report indicates that the intersection improvements presently proposed for Rodeo Rd./Richards Ave. intersection will be necessary to maintain an adequate level of service with the inclusion of traffic for phase one from Oshara, and additional improvements to the intersection will be needed for phase two. The traffic report also indicated that additional lanes would be needed for Rodeo Rd. and St. Francis Dr. to maintain adequate capacity in the future, however the future Richards Ave/I-25 interchange was not included in the analysis.

The internal subdivision roads will be paved with curb/gutter and sidewalks, with onstreet parking. The road lay-out also provides for continuation of future connections with the Rancho Viejo College Heights Subdivision on the south. April 30, 2002 Oshara Ranch Page Five

#### TERRAIN/OPEN SPACE/LANDSCAPING/ARCHAEOLOGY:

The Arroyo Hondo and a significant drainage course extend through the property and will be part of the open space, including hillside areas over 15 percent slope and some areas between 10 and 15 percent. Retention/detention ponds and check dams will control post development drainage and provide infiltration of storm water. Permanent open space/parks/plazas will consist of 246 acres with recreational facilities and public trails, including open space buffers along the interstate, Richards Ave. and along the Arroyo Hondo existing neighborhood. Low water landscaping will be planted and disturbed areas reseeded. Two significant archeological sites will be preserved within the open space.

#### **HOMEOWNERS ASSOCIATION:**

Conceptual homeowner documents address use and development of the lots with reference to the mixed use principles and design guidelines of the Community College District, including maintenance of common areas and facilities, and participation in a special assessment district for district wide infrastructure, improvements and operations.

#### RECOMMENDED ACTION:

The following criteria shall be used for consideration of the proposed master plan:

- a) Conformance with the Community College District Plan.
- b) Viability of the proposed phases of the project to function as completed developments in the event that subsequent phases of the project are not approved or completed.
- c) Conformance with the Community College Dist. Ordinance and other applicable law and ordinances in effect at the time of consideration, including required improvements, proposed roads and trails, community facilities, design and/or construction standards, and open space standards.
- d) Impact to schools, adjacent properties or the County in general.

The proposed master plan is in accordance with the Community College District Plan and Ordinance, the EZC recommended approval subject to the following conditions:

- 1. Compliance with applicable review comments from the following:
  - a) State Engineer
- b) State Environment Dept.
- c) State Highway Dept.
- d) Soil & Water Dist.

April 30, 2002 Oshara Ranch Page Six

e) County Hydrologist

f) County Public Works

g) County Technical Review

CONFLIGHTE WITH ORDINANCE AMENIMENTS

h) County Fire Dept.

i) County Water Utility

RELEVENT TO ELIGIBLE USES WITHUN COMM. CONLEGE j) Santa Fe Public School Dist.

2. The following requested uses will be considered special uses and not eligible uses.

hotel/motel uses over 6 units in neighborhood centers

- retail uses(5,000 sq. ft. to 45, 000 sq. ft.) in commercial area of employment center
- 3. Submit updated traffic report and market/economic/fiscal analysis with development plan for each phase.
- 4. Notify County Assessor and County Sheriff regarding master plan approval.
- 5. Reservation of property for public school site may be used for appropriate institutional, civic, community use if reservation is not accepted by Public School District.
- 6. Conditional dedication of primary roads to County for future ownership and maintenance, in accordance with road circulation map of the Comm.College Dist. Ord.
- 7. Submit conceptual landscape plan, including recreational facilities for park/plaza areas prior to recording master plan.
- 8. Provide road and trail connection on south side of Arroyo Hondo for Arroyo Hondo neighborhood, in accordance with road/trail circulation map(CCDO) prior to recording master plan.
- 9. Submit consent regarding proposal to utilize Rancho Viejo sewer system and access through Taurus property prior to recording master plan. This does not prohibit applicant from proposing construction of a community sewer system or other options.
- 10. Provide 15 percent affordable housing units(110 units) based on total residential density of 735 units, and subject to conformance with future amendments to the affordable housing ordinance.
- 11. Location of school site is conceptual and specific site can be modified depending on school district requirements.

April 30, 2002 Oshara Ranch Page Seven

# ATTACHMENTS:

- A Applicant's Letter/Report
  B Review Letter's

- C Misc. Correspondence D Master Plan/Vicinity Map E March 2002 EZC Minutes

- 7. EZ Case MP 02-4190. Oshara Ranch. Greer Enterprises, Inc. (Alexis K. Girard, President), Design Workshop, agent, is requesting master plan approval for a mixed-use development (residential, commercial, community) in a village zone, institutional campus zoned, employment center zone, fringe zone, consisting of 735 residential units and 1.7 million square feet of commercial space on 471 acres. The property is located along Richards Avenue, south of Interstate 25 within Section 16, Township 16 North, Range 9 East in the Two-mile EZ District
  - Mr. Catanach summarized his report as follows:

"The master plan proposes the following development with 246 acres of open space/parks/plaza areas, and 53 residential units for affordable housing. Phase 1, the employment center zone/neighborhood center/neighborhood (21 acres) proposes 70 residential units, 145,000 square feet of commercial space; 1 acre park/plaza; 27.5 acre-feet water use and off-site road connection to St. Francis Drive.

"Phase 2, employment center zone/neighborhood center/neighborhood (18 acres) includes 30 residential units; 220,000-225,000 square feet of commercial space; and 32.1 acre-feet water use."

Mr. Catanach reviewed the various future phases and zones as proposed by the applicant, including floating phases contingent on economic conditions. He said the densities and floor area ratios proposed in the submittal conform those outlined in the Community College District plan

Mr. Catanach outlined the criteria used for consideration of the proposed master plan:

- a) Conformance with the Community College District Plan
- b) Viability of the proposed phases of the project to the function as completed developments in the event that subsequent phases of the project are not approved or completed.
- c) Conformance with the Community College District Ordinance and other applicable law and ordinances in effect at the time of consideration, including required improvements, proposed roads and trails, community facilities, design and/or construction standards and open space standards
- d) Impact to the schools, adjacent properties or the county in general.

Staff finds the plan in compliance with the District Plan and Ordinance and recommends approval with the following conditions:

- 1. Compliance with applicable review comments from the following:
  - a. State Engineer
  - b. State Environment Dept.
  - c. State Highway Dept.
  - d. Soil & Water District
  - e. County Hydrologist
  - f. County Public Works
  - g. County Technical Review
  - h. County Fire Dept



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i. County Water Utility

j. Santa Fe Public School Dist.

2. The following requested uses will be considered special uses and not eligible uses:

hotel/motel-use over 6 units in neighborhood center, retail uses in commercial area of
employment center

The applicant shall comply with ordinance amendments relative to eligible uses in zones. [Changed at staff report]

- 3. Submit updated traffic report and market/economic/fiscal analysis with development plan for each phase.
- 4. Notify County Assessor and County Sheriff regarding master plan approval.
- 5. Reservation of property for public school site may be used for appropriate institutional, civic, community use if reservation is not accepted by Public School District.
- 6. Conditional dedication of primary roads to County for future ownership and maintenance, in accordance with road circulation map of the CC District Ordinance.
- 7. Prior to recordation of master plan submit conceptual landscape plan; including recreational facilities for park/plaza area.
- 8. Prior to recordation of master plan provide road and trails connection on south side of Arroyo Hondo for Arroyo Hondo neighborhood, in accordance with road/trail circulation map.
- 9. Prior to recordation of master plan submit consent regarding proposal to utilize Rancho Viejo sewer system and access through Taurus property.
- 10. Provide 15 percent affordable housing units (110 units) based on total residential density of 735 units.

Mr. Catanach said discussion has occurred regarding the allowed uses referred to in the second condition. There is an process underway to adjust the ordinance to allow certain uses in other zones. He asked that condition #2 be deleted to be replaced with a condition calling for ordinance amendments relative to eligible uses within the Community College District zones. The applicant is in agreement.

Mr. Catanach said this is the first Community College area master plan to be discussed before a governing body. In response to questions from Commissioner Gonzales, he said the developer has a water supply contract for 51.9 acre-feet with the County. The areas and types of uses comply with the designated zones.

Commissioner Gonzales asked if it was possible for the developer to "front-load" the commercial development resulting in an eventual imbalance of commercial and residential. Mr. Catanach noted that build-out ratios will be evaluated at the end of each phase.

Chairman Duran asked how Rancho Viejo's phasing tied in with Oshara's. Mr. Catanach stated Rancho Viejo has approval for a building with offices and some retail and should start construction on that soon. The commercial activity is on a much smaller scale, however.

Putting the plan into context, Ms. McGowan indicated that of the 17,000 acres in the Community College District, 50 percent of which is open space. She said the projections they had were done for the road plan and far exceed what is likely to occur. The 20-year projection

calls for 5,000 to 5,700 dwelling units including what's already developed. She said the marketing studies were reviewed in comparison with the maximum plausible numbers and with what has been developed to this point. They are in a realistic range of what has occurred in the last six years. Staff continues to be concerned about phasing and balance.

Ms. McGowan said the fiscal impact report will help elucidate problems involved in achieving balance between residential and commercial. She said staff is grappling with the concept of light industry and how it is to be blended with residential and retail, and employment centers seemed to be the answer.

Commissioner Sullivan asked how much planning is needed for transportation at this point. He noted that the City says the plan does not meet their standards. Mr. Catanach said they have to work off the road plan done as part of the Community College District plan. The Highway Department has set forth issues that need to be addressed at development plan stage. It is his understanding that County Public Works and the Highway Department have been working with the applicant on the connection to St. Francis Dr. and a resolution should be forthcoming.

Commissioner Sullivan stated the road connection to St. Francis was the first priority to alleviate the congestion on Richards Avenue. He said the terrain in that area is difficult. He recommended making successful completion of the St. Francis connection a condition of approval. Mr. Catanach agreed it is an important element of the master plan.

Explaining the possible amendments to eligible uses, Mr. Catanach said this involves both the employment zone and neighborhood centers.

Expressing his concern, Commissioner Sullivan said the neighborhood was opposed to two major zones, commercial and institutional campuses. Initially, these were distinct but with revisions to the use table, these two categories are very similar. He said he would prefer the distinction be maintained. Additionally, as the maps have been revised, commercial seems to be approaching Richards Avenue more closely. Mr. Catanach stated the commercial is still within defined employment zones and is consistent with the setbacks.

Regarding open space, Mr. Catanach said the first phases tend to have greater than 50 percent undeveloped.

Mr. Catanach stated if this development does not connect to the Rancho Viejo sewer system, they are still prohibited from using septic systems.

Duly sworn, Alexis Girard with Greer Enterprises, commended the visionary effort undertaken. The first plan presented in 1997 was rejected due to traffic concerns, then deferred until after the Commission planning was complete. Greer Enterprises has donated several acres for gateway improvements and has setbacks, some greater than 1000 feet from Richards Avenue. There are natural physical features that provide for separations between villages. She stressed that Oshara was providing an employment base for future generations. The meetings with the Highway Department involved extending Old Agua Fria Road to connect to St.

Francis Drive. She thanked staff for their cooperation.

Expanding on the road connection, Rosanna Vazquez, legal counsel for the applicant, indicated they have proposed alignments to the Highway Department. The Highway Department wants a written commitment from the County to the northeast connector in terms of land dedication and maintenance. The would also like to see a circulation plan adopted under the Commission Ordinance. That will be submitted when Al Pitts finishes his project. There are three potential routes, the preferred going through federal land.

Commissioner Sullivan asked to see correspondence pertaining to the process. Councilor Lopez said she was also interested in the northeast connector as a means of relieving congestion on Rodeo Road. She has met with the Deputy Highway Secretary to discuss alternate circulations.

In response to questions from Councilor Pfeffer, Joe Porter, Oshara planner previously sworn, stated there would be approximately 2100 people in the first residential phase. In the live-work areas the population will be less, and those units are counted separately from the dwelling units. He said they calculate there being four workers per thousand square feet.

Previously sworn, Bill Conway said each land use type has a different employee density. Office is higher and retail lower. There should be over 2,000 workers in the employment center. Councilor Pfeffer speculated there would be about 450 people in the livework units.

Mr. Porter said the 175,000 feet of retail space corresponded to 525 residents, which calls for the importation of customers.

Councilor Pfeffer noted there would be at least three times as many people working in the village as living, with customers and clients counted in addition to that. He said the plan speaks of the "traditional village concept" and asked how this jibed with the plan under discussion.

Mr. Porter referred to the fundamental elements of the plan. The first is walkable villages with commercial centers. The second is a need for institutions that don't fit within a village. A third is employment centers with the intent of one job per house, something the little villages can't sustain. Three sites that are on external roads (Thornburg, Oshara and the State Land property) can take advantage of passing traffic and provide employment for residents. He said they could be compared to magnet stores.

Councilor Pfeffer asked how wide an area the 1.7 million square feet would serve. Mr. Porter stated there was a hierarchy of uses. The 100,000 square feet in the neighborhoods serves those immediate neighborhoods. There are 250,000 square feet in institutional campuses, which serve the region. In the new community centers there is about 350,000 square feet of commercial office and 175,000 of retail, which is the downtown area, and will have people coming from the outside as well as local traffic. The 80 acres originally slated for industrial has been broken down into neighborhood centers, office uses and flexible space.

This is a key component to economic development for Santa Fe.

Regarding the dwelling units, Mr. Porter said there is a wide range of square footage. The lofts are 600 to 900 square feet. Townhouses are 1,200 to 1,500, as are live-work units. Single family residents and estates are even larger. Councilor Pfeffer speculated that the 735 residential units amounted to around one million square feet of residential space. This would result in "a lot of empty space at night."

Mr. Porter said he doubted there would be empty space at night in the new community center. The goal is to introduce mixed use wherever possible. He speculated the Community College District plan would be a model for communities looking for an alternative to sprawl.

Duly sworn, Robert Garcia stated he was concerned, rather than opposed to the master plan. He said he was a resident of the Community College District and supports the plan. He is a member of the Community College District Development Review Committee and this proposal does not fall under their purview. The committee asked him to respond to the project. He asked that the timing and conditions of the phasing be delineated more precisely. He mentioned that Rancho Viejo, while committed to mixed use, is still 100 percent residential. Thornburg would prefer to concentrate on commercial and Sonterra on residential. Therefore he requested a stipulation that an approved phase be completely built before moving on to the next phase.

A further concern of Mr. Garcia was that affordable housing would be deferred as long as possible. He said the northeast connector was vital to keep the intersection of Rodeo and Richards from total gridlock. He noted that it was not until the fifth phase that a southern connector was contemplated.

Regarding open space, Mr. Garcia said there is a difference between unbuilt upon land and dedicated open space. He suggested that each phase stand on its own as far as constituting a percentage of total land area. Trails should also receive immediate attention.

Mr. Garcia said he has reviewed the State Engineer's negative finding about inadequate water. The Community College District Development Review Committee was told to ignore that and approved the first two master plans before the committee. He said Commissioner Sullivan underestimated the amount of commercial space projected. He said San Cristobal, Thornburg and Oshara constitute over 18 million square feet, which is twice that in Santa Fe currently. He said he and the committee were troubled by the suspension of detailed water availability assurance, particularly since the condition that water is required prior to development is not specifically stated. He asked that there be a stated condition to the effect that an application will not be considered for development plan approval unless there is proof of water.

Mr. Garcia recommended that the plan be thoroughly reviewed.

Under oath, Jim Klemmer from the Richards Avenue South Neighborhood Association indicated his group believes the plan is overly ambitious. [Exhibit 3] The commercial is too extensive to be a semi-rural gateway area. He said Richards is already gridlocked on Sundays

after church services and Oshara will exacerbate that considerably. He suggested the fiscal impact study be completed before approvals are granted. The neighborhood group would prefer that the Two-mile EZ be a transition area between the urban area and the higher density expected deeper in the Community College District.

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Bob Wilbur was administered the oath and stated he doubted the Oshara proposal met the spirit of the community plan, particularly in that it didn't give special design consideration to Richards Avenue. The presence of commercial development makes Richards look like an extension of the urban area. He recommended tabling until the northeast connector is in place, and believed the north-south connection should occur in phase one rather than phase five.

Jane Petchesky, duly sworn, said she lived right across the street from the Oshara property. She recommended denial, since the plan is too commercial. She agreed another north-south road was necessary and opposes the interchange. "This is another case of a developer driving growth."

Under oath, Bob Burbick indicated he supports the commercial development in Oshara as an opportunity for true employment. He noted that residents of Rancho Viejo have to go elsewhere for employment, and cited Los Alamos as an example of a community that has grown and spun off industries.

Mr. Catanach submitted two letters of support. [Exhibit 4]

Councilor Lopez posed questions on the phasing of affordable housing and open space.

Mr. Porter stated the intent is to dedicate open space phase by phase. There is currently enough water available for the first two phases and they will stand on their own.

Ms. Vazquez said Oshara has committed to 15 percent affordable housing and a contract will be filed at development plan stage. Mr. Catanach said the ordinance requires proportional phasing of affordable housing.

Councilor Lopez spoke in favor of assuring that every phase has integrity on its own regarding mixed use, open space and affordable housing.

Ms. Vazquez said a 20-year build-out was projected at the most optimistic calculation, assuming water availability and the interchange.

Ms. McGowan pointed out staff is working on amendments to the affordable housing ordinance to include 15 percent of all housing, not just fee-simple housing. She stated that it was a good idea to make the affordable housing proportional to the total housing provided in each phase. The ordinance currently makes an exception if you have less than 25 percent of residential in the first phase. Councilor Lopez asked her to bring back a complete and improved rendition of affordable housing provisions. She noted that affordable housing tends to occur after everything else. Ms. Vazquez stated they are working with staff on the issue.

Commissioner Sullivan said the first two phases would require 15 affordable units.

Commissioner Gonzales asked that at preliminary phase, the Authority be given a breakdown of the types of uses, in addition to specific traffic projections.

Ms. McGowan speculated that the plan will become more specific but flex space is being proposed so it will be hard to pin down exact ratios.

Mr. Conway stated the market is not clearly established at this point.

Commissioner Gonzales moved to approve EZ Case #MP 02-4190, with staff recommendations and a stipulation that affordable housing be provided proportional to the residences built. Councilor Lopez seconded.

Providing suggested language, Commissioner Sullivan offered:

- Subject to requirement of 15 percent affordable housing to be provided in each phase
- Subject to provision of an off-site road connection to St. Francis Drive
- A preliminary development plan application will not be accepted until proof of water availability is provided for each phase to the satisfaction of the County.

Ms. Vazquez said that the road connection is already part of the proposal, and they have a water contract with the County for 51 acre-feet.

Councilor Pfeffer said he was having a hard time grasping the scale of the plan, and asked for further clarification about the "village concept."

Mr. Kolkmeyer said it was not the intention of the plan to recreate traditional villages, which were created for agriculture, religion and protection. The underlying elements sought are compactness, connectedness, centeredness and community. He noted that there was an era of planning that got away from these elements toward bedroom communities, which is no longer in vogue. He agreed that phasing was always problematical.

In response to a question from Councilor Lopez, Mr. Kolkmeyer said that this proposal did tend to meet the goals of non-proliferation of sprawl and concentration of infrastructure. He cited Tierra Contenta as an example of what happens when commercial development is not considered from the beginning. He advised monitoring the phasing closely to ensure the project was staying on track.

Councilor Pfeffer pointed out that the residents coming forward to comment seemed to have an entirely different concept of the village concept.

Mr. Catanach recommended a further condition:

• that open space not fall below 50 percent throughout the phasing. This was accepted by the movant and second.

The motion passed by majority [4-1] voice vote with Commissioner Sullivan

casting the sole dissenting vote.

2143918

#### PETITIONS FROM THE FLOOR

None were presented.

#### COMMUNICATIONS FROM THE COMMITTEE

Councilor Lopez asked that a policy be brought forward to the EZA regarding early neighborhood notification.

#### COMMUNICATIONS FROM LAND USE STAFF

None were presented.

#### **ADJOURNMENT**

This meeting was declared adjourned at 11:25. p.m.

Approved by:

Paul Duran
EZA - Chairman

Respectfully submitted:

Oblighton
Debbie Doyle

NORARIZED THIS 30# DAY OF May
NOTARY PUBLIC
My commission expires:

OFFICIAL SEAL
Martha O. Chavez
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires:

OFFICIAL SEAL
Martha O. Chavez
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires:

OFFICIAL SEAL
Martha O. Chavez
NOTARY PUBLIC
STATE OF NEW MEXICO
My Commission Expires:

OFFICIAL SEAL
Martha O. Chavez

Commissioner Duran pointed out that applicants spend money on planning relying on assurances from the City and then are told they won't be served. Councilor Robertson-Lopez said the City is in the position of not having adequate water supply.

Mr. Siebert said he would be willing to be tabled since they would prevail in litigation.

"The issue is getting an answer out of TRT." If they can be assured of an answer by next month, they would be happy to table until that time.

Commissioner Duran moved to table for 30 days and Commissioner Montoya seconded. The motion to table Case #Z 04-4470 passed unanimously.

Councilor Robertson-Lopez asked City Public Works Director Robert Romero to expedite the request.

6. EZ CASE # Z-04-4450 Oshara Village Master Plan Amendment. Greer Enterprises, Inc./New Village Consulting LLC., (Alan Hoffman) applicants, Lorn Tryk, agent, request a master plan amendment to the previously approved Oshara Ranch mixed-use development (residential, commercial, community) consisting of 735 residential units and 1.7 million square feet of commercial space on 470 acres, in order to change the phasing of the project. The property is located along Richards Avenue south of Interstate 25, in the Community College District, within Section 16, Township 16 North, Range 9 East (2-Mile EZ District)

Chairman Duran recited the case caption and Ms. Lucero gave staff's report as follows:

"On October 14, 2004, the EZC met and acted on this case. The decision of the EZC was to recommend approval of this request.

"On April 30, 2002, the EZA granted master plan approval for a mixed-use development formerly known as 'Oshara Ranch.' The development consisted of 735 residential units and 1.7 million square feet of commercial space and 246 acres of open space/parks/plaza areas on 471 acres, to be developed in eight phases.

"The applicant is now requesting an amendment of that master plan which will change the phasing of the project, in order to develop the village zone community center/neighborhood in the first phase for the purpose of increasing the residential development and decreasing the commercial development in the first phase. Phase I as previously approved consisted of 21 acres of development with 70 residential units, 145,000 square feet. of commercial space, one acre park/plaza, and an off-site road connection to St. Francis Drive.

"Phase II as previously approved consisted of 18 acres of development with 30 residential units and 220,000-225,000 square feet. of commercial space.

Santa Fe City/County
Extraterritorial Zoning Authority: October 28, 2004

EXHIBIT

September 1997

Figure 1997

Figure

"Upon careful evaluation of the market analysis the applicant has determined that the demand for residential will increase. The applicant's proposal, as part of this amendment, is to combine phases I and II of the previous approval to be Phase II of the current proposal. The new Phase I would develop the village zone community center/neighborhood and increase the number of residential units to 175 and decrease commercial area to 136,000 square feet, and 37.78 acres of open space, parks and a main plaza. Increasing residential and decreasing commercial would create a greater balance."

Ms. Lucero noted that the applicants are requesting a master plan amendment to the previously approved Oshara Ranch mixed-use development in order to change the phasing of the project to develop the village zone community center/neighborhood and increase the amount of residential units and decrease the amount of commercial development in the first phase. Based on the preliminary housing needs analysis and the fiscal impact study for the Community College District staff can support an increase in the amount of residential development and decrease in the amount of commercial development as it relates to the modified phasing. Staff recommendation and the decision of the EZA was to recommend approval of this request subject to all previously imposed conditions of the original master plan in addition to the following condition:

Participation in an infrastructure extension policy for district wide infrastructure, improvements and operation as applicable.

Commissioner Duran noted that there was some concern at the original plan that there was too much commercial development. The County hired a consultant to do a fiscal impact study on the Community College District, which found there was too much commercial.

Councilor Robertson-Lopez pointed out that recent discussions in the RPA encouraged striving for 30 percent affordable housing. Ms. Lucero said 15 percent was proposed, which is in accordance with the Community College District Ordinance. Commissioner Duran stated the RPA was still trying to determine whether 30 percent was economically feasible.

Duly sworn, agent Lorn Tryk explained the intent was to change the phasing of the master plan in order to begin development closer to Richards Avenue would provide greater commercial viability in the short-run. He showed artists' renderings of how the plaza and various housing types would look. He said the new plan is more in line with the Community College District's goals and vision of a more pedestrian-oriented village. He added the new mix is a better balance.

Referring to the original plan, Mr. Tryk noted the northeast connector, which was to come in later, will now be in the first phase. He referred to a letter wherein the applicant agrees as a condition of construction of the first phase to design and bond for that road. He said the water budget has been cut approximately in half due to the sophisticated water reclamation aspects of the project. He characterized the State Engineer's Office as very excited about the innovative technology proposed.

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Mr. Tryk said updated market demand and absorption rate study indicated a greater demand for housing rather than commercial. Using maps, he demonstrated the changes proposed.

Councilor Robertson-Lopez referred to supplemental TIAs done by Al Pitts which are referred to in an October 4, 2004 letter. It was determined that the attachments were not included in the packet. Mr. Tryk said the northeast connector has been designed and engineered and drawings are on file. Ms. Lucero provided copies of the TIAs. Councilor Robertson-Lopez referred to City Traffic Engineer John Nitzel's remarks and asked City Public Works Director Robert Romero to comment on the traffic concerns. Mr. Tryk indicated Mr. Nitzel requested a study be done and that has been completed. Cost-sharing concerns are addressed in staff's conditions about the participation of all developers in a fair-share agreement. He called paying for the northeast connector "a giant first step". He said they have addressed Mr. Nitzel's major concerns.

Councilor Robertson-Lopez brought up the capacity of the intersection at Richards Avenue and Rodeo Road, mentioned in Mr. Nitzel's remarks. He suggested that impact fees be paid in a manner proportional to traffic being directed into city streets.

Mr. Tryk noted Mr. Catanach has explained the contemplated process in the past. He said the County was seen as the "point person" for the improvements. Money will not be funneled directly to the intersection at Richards Avenue and Rodeo Road. Mr. Tryk explained that there were two options – payin g into an assessment district that apportions costs system wide, or they can improve specific projects. He pointed out that Mr. Nitzel also mentions St. Francis Drive which is far from the property. He said the improvements to intersection at Richards Avenue and Rodeo Road are minor compared to their project on the northeast connector and it seems unfair to contribute to both.

Councilor Robertson-Lopez said she was disturbed that all the improvements seemed to be for County roads. She said the impact of development should be borne by developers and the intersection at Richards Avenue and Rodeo Road is already a failed intersection. Commissioner Duran asked, "Where does it stop?"

Frank Herdman, duly sworn and counsel for the applicant, stated the applicant is prepared to participate in the fair-share program and they do not demarcate City and County jurisdictions. The plan is to receive a credit for the northeast connector which will be used by other developers.

Councilor Robertson-Lopez pointed out that the developer is not having to pay for the federal rights-of-way, so the public is in a sense participating in the project. Mr. Herdman said the northeast connector will be serving a wide area.

Robert Romero, City Public Works Director, stated he has not yet reviewed the report submitted to DOT, but agreed it was essential to determine the fair-share distribution of costs. He agreed the intersection at Richards Avenue and Rodeo Road was failing and the northeast

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connector will take pressure off of it. He said they are also concerned about Richards from Governor Miles.

Commissioner Duran indicated the area is a high-demand growth area and growing pains are to be expected. He said building the intersection at Richards Avenue and Rodeo Road is a major contribution and the developer should not be overburdened. Mr. Romero said they are doing something similar in the Santa Fe Estates area in determining a pro rata share for each developer.

Councilor Robertson-Lopez said she was not trying to break the back of developers, but she wanted to clarify the documents in question.

Under oath, Alan Hoffman stated the study now in the hands of Councilor Robertson-Lopez was prepared at the behest of the City Traffic Department. Following questions about St. Francis traffic, the County engaged Mr. Pitts to do a T-model, something required for the Highway Department to grant the right-of-way. The report also refers to beneficial impacts of the northeast connector. He reiterated they are committed to contributing their fair share whether it's city or county. He said they are grateful for help they are getting with rights-of-way and the road will be a benefit the neighborhood as well as Oshara. If the credit accrued from the northeast connector is used up they will pay more.

Councilor Robertson-Lopez said she would like to see a condition asking the City and County to work together with the developer to address all the issues. Mr. Hoffman indicated he understood this was a condition of approval.

Duly sworn, Jeremy Mains, president-elect of the Santa Fe Homebuilders Association, stated people want to move to Santa Fe and they need places to live. He supported the proposal which could be an icon for the rest of the country.

Damian Terrel, under oath, stated his family has lived in the area for generations. He lamented the sprawl taking place and said he believed the development would offer many amenities. He welcomed Oshara to the neighborhood.

Under oath, Ben Luce of Los Alamos said he was allied with solar energy organizations and other groups for clean and affordable energy. He stated he is interested in this project due to the energy-efficiency aspects and good urban design.

David Diego Mulligan, previously sworn, said he was in support as an environmentalist, since it appears to be sustainable and healthy. Working at the Community College, he commended the developer for providing a more affordable alternative for housing within walking or biking distance. He asked the Authority not to put up obstacles.

Previously sworn, Jennifer Hanann spoke of her experience with sustainable communities in northern California and asked for support for the forward-looking, creative team on this project.

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Robert Garcia, speaking for the Richards Avenue Association and previously swom, noted the association opposed the original master plan. He said this plan is far superior. He asked for assurance that the northeast connector would absolutely be built, and said he understood that commitment was made. He asked that the Camino Carlos Rey extension, running down the east side of Oshara, also be built soon. He indicated that the association is in favor of traffic circles and asked that they be considered. He noted that John McCarthy is committed to extending Dinosaur Trail, and he supports the traffic circle concept for traffic calming.

Chuck Hammer from the Academy of Technology and Classies, previously sworn, said the school has been talking with Oshara about the possibility of placing the school on the property. He said they are seeking a greater interaction with the Community College and would welcome the chance to have a facility near there. Councilor Robertson-Lopez said she understood the charter school was to be built next to IAIA. Mr. Hammer said Rancho Viejo has not committed to them.

Returning to the podium, Mr. Terrel pointed out that Old Galisteo also needs improvement.

Councilor Robertson-Lopez noted that public transportation was already in the area and she asked if there would be another bus stop along there. Mr. Hoffman said they have a letter from Santa Fe Trails stating they could serve them from day-one, and Oshara has committed to having a bus stop at the plaza.

Referring to potential additional funds for affordable housing coming the legislature, Councilor Robertson-Lopez asked if they would be looking into state subsidy or grants. Mr. Hoffman said he had not heard of the funds becoming available but said affordable housing need not come solely from subsidies. He anticipates many homes will cost \$200,000 which could serve as an unsubsidized component for starter homes. The village concept lends itself to a lower price range. Councilor Robertson-Lopez stated Oshara lent itself to affordability and encouraged him to look into MFA sources.

Councilor Robertson-Lopez moved to approve the project with staff's condition, plus two additional conditions:

 County staff and developer will work on an agreement for cost allocation for traffic improvements prior to building permits being issued.

She said the purpose of the condition is to allow City and County staff to look at the latest traffic report and come to an agreement.

3. The City and County commit to working with the Federal Highway Administration and New Mexico DOT and other entities to expedite and petition the State Transportation Commission to support the release of right-of-way for the northeast connector. The

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developer will do nothing to interfere with or deter the northeast connector. [Approved with successful motion.]

She said she understood the commitment was already made but wanted to "keep everyone's feet to the fire."

In response to a question from Commissioner Duran, Councilor Robertson-Lopez said she did not feel condition 2 was redundant to condition 1. She said while she doesn't want to see the project held up, her condition 2 makes it clear there is work to be done.

Mr. Catanach reiterated that many developers have been making improvements with the understanding that costs will eventually be distributed equitably.

There was no second to Councilor Robertson-Lopez's motion.

Commissioner Duran move to approve Case #Z 04-4450 with staff's condition and Councilor Robertson-Lopez's condition number 3. Commissioner Anaya seconded and the motion passed by unanimous voice vote.

Commissioner Montoya said it is critical that there be a coordinated plan among all of the developments, and that seems to be taking place.

#### PETITIONS FROM THE FLOOR

None were presented.

#### COMMUNICATIONS FROM THE AUTHORITY

None were presented.

#### MATTERS FROM LAND USE STAFF

Ms. Lucero stated the November and December meetings are traditionally combined, and the meeting was scheduled for Tuesday, December 7, 2004 at 6:00 p.m.

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CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: We need to work on these kinds of issues but I just don't feel comfortable that we have sufficient information. I would like to motion to continue. Wayne, you've probably done all you probably can and you're overstretched with this, but I think we need to get some raw data in here. I think we need to know how this affects utility customers and that's a critical issue that I think we've just focused on with one community and that's Sierra Vista. Perhaps we need to bring in some of the utility companies or utility representatives with regard to this so that they can provide a broader scope of information for us. It sounds wonderful and I think if I had further information and that utility issue was of a comfort level to me, I would move forward as fast with this as I possibly could but at this point in time, without having that piece of information, I would like to motion that we table this until next meeting and hopefully we can get raw data on this.

CHAIRMAN ANAYA: There's been a motion to table. Is there a second? COMMISSIONER SULLIVAN: Second. CHAIRMAN ANAYA: Motion, second.

The motion to table consideration of the water recirculation ordinance passed by majority [4-1] voice vote with Commissioner Campos voting against.

XIII. A. 2. EZ CASE # S-04-4551 Oshara Village. New Village Consulting LLC, Allan Hoffman, applicant, Lorn Tryk, agent, request final plat and development plan approval for Phase 1 of the Oshara Village Development, which will consist of 175 Residential lots and 136,00 square feet of commercial space on 74 lots, on a total of 37.78 acres in accordance with the previously approved master plan. The property is located along Richards Avenue south of I-25 in the Community College District, within Section 16, Township 16 North, Range 9 East

COMMISSIONER CAMPOS: Mr. Chairman. CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: When we approved the agenda, the first question was whether this was right for consideration because documents were provided by the developer at the very last moment, and perhaps staff or the Commission hadn't had an opportunity to review that. And I would like to have that addressed by the applicant.

CHAIRMAN ANAYA: Okay. Do you want to hear from Vicky first, or do you want to hear from the applicant? Do you remember the concerns, Lorn? You want to address those real quick?

MR. TRYK: Just real briefly, we have not submitted anything in the last



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few days. I was made aware that the packet was missing the memo from the Environment Department. I think it was mistakenly characterized as missing the memo from City Traffic. It's actually in there. None of these memos are particularly recent. We have not provided anything to staff in the last couple of days. So as far as we're aware, everything was presented in a timely fashion.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: May I ask a question of Dolores Vigil?

CHAIRMAN ANAYA: You bet

COMMISSIONER CAMPOS: I think staff did mention that they wanted to table this because documents had not been provided on a timely basis. Would you please address that?

MS. VIGIL: Yes. Mr. Chairman, Commissioner Campos, what I was addressing was there had been some issues that I felt hadn't been addressed concerning the roads. And since the staff has submitted their staff report, those issues have been addressed. And I also want to state that we did receive a comment or a memo from the Utilities Department today. [Exhibit 5] And that's one of the memos that I had said earlier that I had just received and reviewed, and I did give a copy to the applicant for review also.

COMMISSIONER CAMPOS: And were those issues adequately discussed in your staff report?

MS. VIGIL: I'd like to defer that to Vicki Lucero, please.

COMMISSIONER CAMPOS: Okay.

VICKI LUCERO (Zoning Director): Mr. Chairman, Commissioner Campos, as far as the issues that were brought up by the Utilities Division today, those were not a part of our memo, our staff memo. We just reviewed comments to that effect today. Perhaps Doug Sayre could answer questions regarding his recommendation.

COMMISSIONER SULLIVAN: Mr. Chairman? CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One of the memos that Ms. Vigil referred to. Dolores Vigil, was Doug Sayre's memorandum regarding the wastewater treatment facilities. And I won't read it all, but his conclusion: "Based on the wastewater facilities submittals to date, and the status of the discharge plan application, approval of the final development plan at this time should only be considered with conditions that final development plat approval be considered when complete and detailed engineering plans including design calculations and soil analysis for the wastewater facility have been submitted."

I would just remind the Commission that when we did the La Pradera approvals in the Community College District that at their final plan stage they had complete drawings of the wastewater plant that they proposed. And they had a letter from the Environment Department from the permit section saying that the application was acceptable. This

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particular application was just noticed on June 6. A notice just came out. So there's a public hearing process to go through, and there's even comments in the documents about the possibility of maybe connecting into the Community College District plant. So it's still quite up in the air what's going on here. And we're not at a point where we can make that decision. I just wanted to point those staff comments out to you.

CHAIRMAN ANAYA: So I guess I have a question of staff. Did they follow all the guidelines that they needed to in order for us to bear them tonight? Yes or

MS. LUCERO: Mr. Chairman, I think the only outstanding issue was the water service agreement, which was approved earlier this evening, and the issues regarding traffic. We've spoken with Public Works since the time that our memo was prepared, and they're comfortable with this case proceeding forward for final development plan. I did also speak with Doug Sayre before the meeting, and he is fine with this case proceeding with the condition that the wastewater treatment system has to be approved prior to plat recordation.

CHAIRMAN ANAYA: Okay. So we heard from staff that says they feel comfortable that this can go forward. I want to know from the Commission, do you all want this to go forward or not?

COMMISSIONER CAMPOS: Yes. COMMISSIONER VIGIL: Yes. COMMISSIONER SULLIVAN: No.

CHAIRMAN ANAYA: Okay. We'll hear it. Go ahead, Vicki.

MS. LUCERO: Thank you, Mr. Chairman. On January 11th, 2005, the BCC granted preliminary development plan and plat approval for phase 1 of the Oshara development. The BCC gave direction that the applicant and staff work out the water budget issues and come up with a back-up plan for this project, as well as adjust the buffer area along Richards Avenue. The County Hydrologist has outlined a water allocation backup plan that he feels will protect the County system. In this backup plan, he estimates that a total of 40.78 acre-feet of water rights would need to be transferred to the County in order to protect the County utility and at the same time allow Oshara to demonstrate its proposed water budget. The applicant has addressed this issue in a letter dated June 3, 2005.

In regards to the buffer area along Richards Avenue, the land use zoning map of the Community College District Ordinance, which refers to buffer areas as a fringe zone, illustrates a 200-foot buffer area along both sides of Richards Avenue. Section 13.3.C of the CCDO also states that zone boundaries in the Community College District shall be refined during the master plan, preliminary development plan, and final development plan approval process. The applicant is proposing a buffer along Richards Avenue that ranges from approximately 60 feet to 570 feet. The applicant is proposing to create a 3- to 4-foot berm along the most narrow portion of the buffer area. Landscaping will also be incorporated.

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In the CCD plan, the intent of buffers is a separation or transition between existing residential neighborhoods and future village development areas. Along Richards Avenue and State Road 14, buffers preserve the traffic priority nature of these main roads, and the intent to create a boulevard rather than a roadway lined with buildings and driveways. The buffer proposed by Oshara would separate the living priority road and buildings fronting it from Richards Avenue, where traffic takes priority, with landscaping and the district trail as envisioned by the CCD plan and ordinance. It also more restrictive than the other developed areas on Richards Avenue, which do not have a buffer requirement.

The applicant is now requesting final plat and development plan approval for phase 1 at this time. Phase 1 will consist of the development of a village zone community center neighborhood that will consist of 175 dwelling units and 136,000 square feet of commercial space on 37.78 acres, as well as an additional 37.78 acres of open space parks and main plaza. Twenty-seven of the dwelling units will be affordable housing units, which is 15 percent of the total number of units, as required by the CCDO. This application was reviewed for access and roads, terrain management, open space, landscaping, archeology, water, wastewater, and fire protection.

Recommendation: Since the time that the staff report was submitted, we have had additional discussions with Public Works. As I understand, we are okay with allowing this to proceed for final development plan at this time. Therefore, staff would to like to amend our recommendation and recommend final plat and development plan approval subject to conditions number 1 through 17 as listed in the staff report, and two additional conditions as follows. Condition number 18, that the applicant must comply with the conditions of the water service agreement prior to final plat recordation. And condition number 19, that if the 11 acre-feet of water rights do not get transferred, the developer will only be allowed to plat 117 lots. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you. Any questions of Vicki? Okay, hearing none, is the applicant here?

[Duly sworn, Lorn Tryk testified as follows:]

MR. TRYK: I wanted to just remind you of the things we were asked to do in some detail, some of which were conditions that were put on in our preliminary approval, and some which were added by staff during this process of the last couple of months. Regarding water, we were asked to start the application of transfer for the 30 acrefect of water rights. As you heard earlier today, that application has been made to the office of the State Engineer. We were asked to execute a water service agreement. We've worked diligently with County staff, including legal staff, to get that done.

We were asked to agree to the County Hydrologist's budget, as well as his mechanism for credits and debits, if you will, and monitoring of our budget. Since it's a Spartan budget, he wanted to make sure that if we exceeded it, we were penalized. If we came in under it, we would be able to carry some of those water rights forward. We have agreed to his budget and his conditions without exception.

We were asked to further develop the commercial covenants in terms of low-water

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uses in the commercial area, which we've done and staff has accepted. And we were asked to specifically enter into an agreement with Greer Enterprises, where the 30 acre-feet is coming from, so that the destiny of those 30 acre-feet would be without question. All of those have been taken care of.

It was earlier mentioned that the 375 acre-feet that us basically getting a stand-by agreement with you as part of our water service agreement would evaporate – I use that term no pun intended – once the 375 acre-feet are transferred to the Buckman direct diversion. That is actually incorrect. They do not go away. We think that you're taking a miniscule risk with the water service agreement that you've already approved. If we don't meet the budget, and we don't ever get a chance to transfer the eleven acre-feet, which you already heard earlier John Utton say are "good water rights," pre-1907 Pcña Blanca water rights. He saw no problem with those getting approved by the Office of the State Engineer. This is taking a very small risk.

I say that as a preface to saying that we do have a problem with the additional condition of number 19, of limiting us to 117 lots. That was a surprise to us today. We thought we had worked out all of the contingencies of this water service agreement, and protected the County in several ways already. And it is a great burden for the project. So I want you to consider that carefully because the financial feasibility, the obtaining of financing for the infrastructure, was predicated on building 175 houses. So there's a serious concern. We think of the temporary granting, and it isn't actually granting, it's basically a stand-by agreement of those eleven acre-feet being like co-signing of a loan. And there's a very, very small chance that it would ever come into play, and only temporarily. Meanwhile, think of the opposite, which is to stand by the water service agreement that you already passed, and not force us to limit ourselves to 117 houses, sends a message that you're supporting good, sustainable development.

The second category that we were asked to analyze was the northeast connector. Staff asked us for more assurance that the northeast connector was possible, that it was really going to happen. We explained to you last time that the northeast connector, obtaining the right-of-way, while it's a condition of our recordation and we can't move forward without it, it's not something that we can petition. The City and the County actually have to petition through the Access Control Committee for that right-of-way. But staff felt it's important to have some indication that that process was going to ultimately be successful. If you recall the Extraterritorial Authority, when they granted approval to us, put in a condition that the City and the County commit to working with the Federal Highway Administration and the DOT and other entities to expedite and petition the State Transportation Committee to support the release of a right-of-way for the northeast connector. I'm reading this verbalim: "The developer will do nothing to interfere with or deter the northeast connector."

Well, since that time, we tried as much as possible to steer that ship. We went to the Department of Transportation. We went again to the City Public Works Department, entered into further discussions with them to make sure that everybody was in support of

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it. At our meetings with the Department of Transportation, they suggested that we go to the RPA, since it's a joint City-County body, to make sure that everybody was on the same page, and before we proceed to the RPA that we go to their Technical Advisory Committee. The Technical Advisory Committee includes members of City, County, and State. We've been to the TAC, and we've had them vote on it in favor of the northeast connector, and it is proceeding to the RPA for their ratification. So we have made some considerable strides in that area of obtaining the right-of-way, even though as I said before, it's not really something that's within our control.

We had a letter with some concerns last time from the City regarding traffic, particularly traffic in the area of Rodeo and Richards. Since that time, in meeting with City Traffic and them realizing that the northeast connector will now be a part of our phase I, rather than phase 2, they have amended that letter. It's included in your staff report. And it

is very positive in support of this project.

I think it's also worth noting that not only did this northeast connector show up on the Community College District Plan, but we've had a lot of support from neighbors anxious to see it happen and anxious to see it happen in phase 1 as a traffic-reliever. We were asked by Public Works to consider making another connection between the northeast connector and Richards Avenue. We're already making two. They asked for a third, which would run through the neighboring property, the Taurus property to our north. We have resisted that. First of all, we don't control the land. [Exhibit 6] We simply cannot comply with that request. Secondly, we have been urged by our neighbors to the north to hold off on planning that road until they can go through their master planning process.

Finally, I'd like to point out that those who are so anxious to see us make a direct connection from the northeast connector to Richards and Dinosaur Trail are hoping that this will be somehow a bypass highway. And we urge you to realize that's not going to be the case. The Community College District Ordinance asks for a dense network of small roads, rather than a few large roads. And we're already doing our part in phase 1 to create two road connections. This third one that will eventually occur in phase 2 of our project and go through Taurus will be a third. But it'll also go through a neighborhood center. So it is not going to be a more direct route. I want to point that out. We would like to see it occur in the future, but we don't think that it's significantly an improvement over what we're already intending to provide.

The last thing that we were asked to, just in general categorics that we were asked to look at, was wastewater treatment. Several things. One, when we were approved at preliminary, you will recall our condition of approval was to do final working drawings before recordation, not before final plat. So we are not reneging on a previous promise. I want to make that clear. Secondly, since the time we saw you last, we have done a whole lot more design work on this wastewater treatment plant and presented it to ED and gotten a very favorable letter back from them, which apparently you don't have copies of, and I think Anna is providing you with right now. [Exhibit 7]

Basically, what staff asked us to do before we came back to you is get some

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indication from the Environment Department that they would be willing to approve this technology, since this is a – I wouldn't say cutting edge, but it is not the most hasic of technology. This was particularly important to the County Hydrologist, our utilities director, because we're using treated wastewater for toilet flushing. And he wanted to make sure that that essential component of our water budget was going to be practical. So since then we have done a great deal more work and gotten a very positive recommendation from the Environment Department. There's no iron-clad guarantee that they'll give us a permit. It never is until they've gone through that process. But it was a very positive step for us to take.

Finally, there was mention of the buffer, and the fact that we were asked to study it again. And as staff said in their report, there is the right to refine the buffer. Our buffer varies from fairly narrow – I don't think it's actually 60 feet wide, but something under 200 feet to something close to 600 feet. We took the step on our own to go to the neighbors, talk with them, make sure that they would support our buffer. Went out, staked out the site, put up story poles, did renderings, showed them that this one block area was critical for the success and viability of our commercial area. They came back to us and said that they agreed with us. They did ask us to do a couple of things in terms of our commercial design, which you'll see in the letter from the South Richards Avenue Association. [Exhlbit 8] They asked us to do some stepping back and some modifying of the second stories of those buildings.

But in general, we're in agreement with that buffer being designed as we have designed it. Again, I want to point out that to us that's critical, not only for commercial viability, but for the viability of transit. The transit company has told us that they would be willing to bring a stop into our project, rather than having one out on Richards Avenue where no one would use it, only if our commercial street and plaza are close to Richards Avenue. And I think we mentioned last time that signage is going to grow in size as we step further and further away from Richards Avenue. So I think it's an important issue to us. We're not being cavalier about it. And it's something that we've generated good support for.

So those are the things that we were asked to do last time. I think we followed through with them rigorously, got good support. Again, the only thing that I think we were not in agreement with is this new condition 19 on limiting us on our number of lots. Other than that, we've looked the staff report over in detail and agree with all the other conditions. And you'll find that many of the conditions have already been satisfied. I think all of the ones enumerated in 17, A through G, have already been satisfied. So we're getting pretty far down the road there.

Anyway, that gives you an overview of what we've been doing the last few months, and we stand for your questions.

CHAIRMAN ANAYA: Thank you, Lorn. Any questions of Lorn? Okay. Commissioner Sullivan?

COMMISSIONER SULLIVAN: Lorn, on the setback from the commercial,

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the Richards Avenue Association with whom you met recommended 140 feet from the right-of-way. Is that okay with you?

MR. TRYK: Yes.

COMMISSIONER SULLIVAN: Okay. So that's the minimum setback from the right-of-way for the commercial.

MR. TRYK: That's for buildings from the right-of-way.

COMMISSIONER SULLIVAN: Well, what would be the setback for other

things?

MR. TRYK: Well, we have roads and parking closer to the right-of-way of Richards Avenue than that. They're referring to the face of the buildings.

COMMISSIONER SULLIVAN: So you're not willing - the 200-foot is what's required in map 14 on the Community College District. So you're not willing to go for the 140, then?

MR. TRYK: No.

COMMISSIONER SULLIVAN: No? Okay.

MR. TRYK: It depends on your definition.

COMMISSIONER SULLIVAN: My definition is a setback's a setback.

There's no development, it's a buffer area. That would be my definition.

MR. TRYK: Then no. And that's not their intent either. And I'll let them address that.

COMMISSIONER SULLIVAN: Okay. On the issue of the setbacks for the bus, you may have seen it, I'm sure you have, I wrote a letter to the transit director asking whether that 200-foot setback would impact their providing service to your development, or would cause you to incur any additional costs. And you may recall from seeing his response that his answer was no, it wouldn't, that there would be service regardless. If you would like me to read that letter into the record, I will. If you disagree with that, I'll be glad to read that into the record. Have you –

MR. TRYK: Did you hear my comment which was that they said that they would still provide a transit stop, but if we moved further from the road, they would

provide it on Richards Avenue?

COMMISSIONER SULLIVAN: That's not what the letter said. The letter said that they would provide service, and they went on to say that of course the closer service is to a population area, the more people you get voluntarily to use transit service. And that would apply anywhere, of course, where you go in a population center. If your population center was 200 feet back or if it was 140 feet back or if it were 60 feet back, as it is now, either way where that population center is, if your bus stop is closer to that center, then it's going to more convenient for people. That's what the letter said.

MR. TRYK: Our indication from them was they could immediately provide us a stop within the development, if we were no further away than we are. They could immediately provide a stop on Richards Avenue if we moved further away. They could provide in the future a stop within the development if we moved further away. That's the

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indication that they gave us.

COMMISSIONER SULLIVAN: Okay. That may be in the discussions that you had with them. It's not in the letter. The letter, I specifically asked was there anything that impacted that, and their answer was no, that they could provide the service at the 200 feet.

MR. TRYK: Your letter says: "Bus stops could be sited on Richards Avenue to serve residents of the proposed development, assuming that an accessible way connecting the stops to the development is provided."

COMMISSIONER SULLIVAN: Yes, in other words you've got a bus stop and you need a path to get people to the bus stop.

MR. TRYK: If anyone would use it, yes.

COMMISSIONER SULLIVAN: Yes. If they need it, I'm sure they will. And then also, Mr. Chairman, just a clarification. There's occasionally some confusion about the temporary water rights that the County's negotiated with the City of Santa Fe and the settlement to the San Juan/Chama diversion water rights issue. And I want to be sure that there's not any confusion about that. The 375 acre-feet that's included in the water service agreement that's available to us right now is through the City of Santa Fe. That 375 acre-feet of water rights is a temporary water right allowance that they've given us to enable development to move forward, prioritize development to move forward in the interim. That is not in any way connected to the County's resolution of the San Juan/Chama water rights issue, wherein 5,605 acre-feet was allocated to the City and the County. And we had been arguing for many, many years over how much of that was for the County and how much of that was for the City. The ultimate conclusion of that was that that 375 acre-feet, which doesn't become available until after the Buckman Direct Diversion is online, that 375 acre-feet was the settlement of that dispute. We got 375 acre-feet; the City got the rest.

The 375 acre-feet that Oshara will be making use of in the water service agreement is the 375 - that's a totally different 375. Because if it weren't, you couldn't use it. You'd have to wait until the Buckman Direct Diversion was online. That 375 is the temporary water that we negotiated with them so that some developments could move forward while they were getting water rights. That 375 does go away at that point. And I want to be very clear that the Commission understands that that water service agreement is not an agreement with Oshara for eleven acre-feet in perpetuity, going beyond the BDD, the opening of the Buckman Direct Diversion. At that point, you have to have your eleven acre-feet in place. And that was the concern that we discussed earlier. So I would take exception to your comment that it's not temporary. I was on the negotiation team for that for over a year, intimately involved in it, as were other members of the Commission, and it is temporary. I just want to clear the air on that.

I have some other questions later, Mr. Chairman, after the public hearing. But

that's it for now. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan.

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COMMISSIONER VIGIL: I would just like Steve Wust to respond to Commissioner Sullivan's characterization of that 375 acre-feet. Is it your understanding that it's temporary? Or is it finite or is it forever or what?

DR. WUST: Mr. Chairman, Commissioner Vigil, Commissioner Sullivan was correct. It's a bridge, basically, from the City to account for what will be San Juan/Chama water in the direct diversion. However, the water that the City is bridging with is not water, in the strict accounting sense that will be used to supply the developments from the Buckman direct diversion. That's why we're asking to bring in water rights. If we were just making an arrangement that they would get a piece of the 375, and we're assuming that rolls over into San/Juan Chama, they would need water rights, because that's what we have. But we're trying to supplement our capacity within the direct diversion project way beyond the 375. And we're asking developers to bring in

water rights to help us be able to reach that capacity.

So in essence, what's going on is the eleven acre-feet that Oshara is requesting is part of the bridge. That bridge goes away, and if they have the water rights in place in time, it rolls over into the eleven acre-feet they've put into the Buckman project, which is different from the San Juan/Chama water. And if they don't have their water rights or any other development doesn't have their water rights at that time, it's not assumed that that's going to roll over into the San Juan/Chama portion of the direct diversion. And so the wet water, the allotment, does go away, because it's rolling over to a different place. And we don't want to assume, he's correct, we'don't want to assume that a developer can just assume, "If I don't have my water rights, I'll just take it out of the San Juan/Chama portion of the direct diversion." Because that's not the same allotment coming from the City during this bridge time.

COMMISSIONER VIGIL: Okay.

DR. WUST: I hope that cleared it up somewhat.

COMMISSIONER VIGIL: At some level. So this eleven acre-feet water that

we're requiring is a good thing?

DR. WUST: Mr. Chairman, Commissioner Vigil, that is absolutely right, and we do it with all developers. That is that we do not want to be allocating our San Juan/Chama portion of the direct diversion just to anyone without some kind of compensation to help us reach our full - I believe our full capacity of the direct diversion is 1,700 acre-fect. But we've got to make up that difference between 1,700 and 375 in the water rights. We're buying some ourselves, but just like we do with roads or infrastructure, we require that developers contribute to that portion so we can supply them with water.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Chairman. CHAIRMAN ANAYA: Okay. This is a public hearing. All those in favor or that want to speak against this case, could you please come forward? Not all at once, now. Go ahead, ma'am, come on up. If you could just state your name for the record and talk directly into the mike so that everybody can hear you.

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LOUISE WILLIAMS: Thank you for the opportunity. My name is Louse Williams, and I have lived in the neighborhood along with other neighbors that are here present with me today. I'm not directly on Richards Avenue, but however on the northeast corridor that's being discussed for road easement and access. And I am not speaking against the development of the capacity building that's needed on Richards Avenue. I mostly wanted to talk in terms of the northeast corridor, and recognize that people need to have access and ways to get in and around, and very much supportive of the County taking a stance to require that developers do look for more than one alternative to move traffic, and not necessarily highmoving traffic through neighborhoods.

So we are in a neighborhood where we, as I was looking at the plan in the back, not having had the opportunity to look at the packet which you have which is much more extensive, but looking at the packet in the back, recognized that one of the options was to take a look at Rabbit Road. And Rabbit Road I just want to mention to the County is a road that already has a bottleneck on it as it comes onto St. Francis, and asking that the County do continue to ask developers to be responsible to looking for a variety of easements and ways to move traffic instead. And I recognize that there was one discussion of not only two roads, and Public Works is asking that they look to a third alternate. And that may not happen until phase 2 or at another point in time, but I do thank you for looking at not wanting to put high-traffic roads through the

neighborhoods. We already to have bottlenecks that are in place.

And if the County needs to work with the other entities, federal state entities to try to see if we can get right-of-way access from Richards directly onto I-25, we'd be very much in support of that, encourage that. I know it's been a discussion topic for a long time. And I didn't hear that conversation come up today, about getting traffic onto Rabbit Road, but I did see it in the packet in the back, and I speak to concerns that high-moving traffic would be a concern of ours in the neighborhood. If that had a little bit of a rise, if there wasn't planned development to include traffic lights, making sure traffic is not moving too fast, there I see room for accidents. When we are moving off Old Galisteo Road and Old Galisteo coming onto the frontage road, it's difficult for us to see traffic coming from the west, moving east towards south St. Francis and getting on St. Francis. We'd be concerned about high traffic and fast-moving traffic. And there is a bottleneck on south St. Francis moving north on St. Francis. So I just want to express concern that we do need to have various ways to move traffic from Richards Avenue instead of just looking at two or three avenues, and encouraging developers to take the steps of developing those additional arteries. Thank you.

CHAIRMAN ANAYA: Thank you, Ms. Williams, thank you very much.

MS. WILLIAMS: I appreciate that.

CHAIRMAN ANAYA: Anybody else want to speak? Okay, anybody want to speak in favor of this? Can I see a raise of hands of who's in favor of this project? Do you all want to speak, or do you want to have a representative to speak for you? I just want to make sure you're not repeating yourselves. So you can come forward if you want to speak. If you all want to stand up, we can swear you in at one time, that'd be great. The ones that want to speak, raise your right hands. Thank you. Go ahead. Come forward, sir. You all can come up

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and sit here in the front. That way we can move this along. Could you just state your name?

[Duly sworn, Tom Noblock testified as follows:]

TOM NOBLOCK: My name is Tom Noblock, I'm at 35 Encantado Loop in Eldorado. I teach at the Community College. I do Radio KSFR at the Community College. I'm the co-founder and co-director of the Youth Radio Network Santa Fe. I want to live in Oshara Village. I've testified about sustainability about this project in the past to you, and I'm just going to say the more it gets delayed, the less affordable it gets for somebody like me, for somebody like a lot of the people that want to live here. The affordable housing is a great part of this, and the more it gets delayed, the less affordable it is. And I appreciate your listening.

CHAIRMAN ANAYA: Thank you, Tom. Next?

[Duly swom, Robert Garcia testified as follows:]

ROBERT GARCIA: Mr. Chairman, Commissioners, my name is Robert Garcia, 8 Spirit Run Place, Santa Fe. And I'm speaking tonight on behalf of the South Richards Avenue Association. Some of you may know I'm also the chair of the Community College Development Review District, but I'm not speaking for them tonight. Even though this is in the Community College District, it's actually also within the EZA, so they have reviewed this project, not this committee. But I am speaking on behalf of the South Richards Avenue Association.

Some of you may recall that about three years ago, I believe it was about three years ago, we spoke in opposition to the master plan that was eventually adopted for this particular site. So you may ask why are we tonight speaking in favor of this one? Basically, it's because we think this is a much better plan. And we'd like to see this move ahead, because we think it's going to be a really good example for the rest of the development in the Community College District to have to live up to. Specifically, we support it because we think it's in keeping with the Community College District plan.

I want to clarify the issue on the setback, that our letter - and I think you all have the letter, it was sent to you signed by our president, Ms. Jane Petchesky. Regarding the setback, what it says is that we support the lesser setback along the block closest to Richards Avenue as requested. We estimate this to be about 140 feet from the edge of the right-of-way. Now, we all went out there on site, so we saw exactly where the buildings were proposed, and that's what we're supporting. So the 140 feet is an estimate.

Now, we did feel very strongly - originally when it was presented to us, we were told that it was being measured from the center of the road. Our understanding is that's not in keeping with the ordinance and needs to be measured from the edge of the right-of-way. We think that's an important precedent that you keep in mind for all developments. But we were on-site. We saw where the proposed buildings are to be, and we support that setback. Nobody at that time knew why there was 140 feet, 120 feet, 160 feet, we just estimated it to be 140 feet.

However, that support is contingent, as I believe Mr. Tryk mentioned, on – they have very nice drawings similar to that. They're nice-looking buildings, but it's all kind of a straight, flat front, and we wanted that broken up, both in distance and in height. And they have agreed

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to that. So that's very nice looking, but we want a little more variety, and they've agreed to that. And we'll work with them as the final site plans are developed. But I just wanted to try to clarify that on the setback issue.

We also support the concept that the setback itself could be used for temporary uses. And what we had in mind by that is in other words, if there's a restaurant there and they wanted to have some temporary outdoor dining, say on the other side of the street, kind of extend the feeling of community, that was fine with us, as long as it's just temporary.

We strongly support the construction of what is being called the northeast connector. In fact, that's something that we pushed for from the very beginning. It is part of the Community College District Plan. Originally they proposed that it be done on phase 2. We said that was unacceptable to us, it had to be part of phase 1. And they have agreed with that. And we urged that it be a slow-speed, meandering road. We urge that — we support the Community College District Plan concept of many different roads, many small, slow-speed, meandering roads, giving people lots of opportunities to get from wherever they are to wherever they need to go. What we don't want is for twenty years from now, Richards Avenue to look like Airport Road or St. Francis Drive. We don't want to repeat that. We think we can do better in the Community College District. The Community College District is the designated growth area for the county. We know that. That's fine. But we want it to be growth that the community's going to be proud of. We want the County to be able to point to that and say, "We did a great job out there, and this is what we want in other places."

We urged the construction of roundabouts on Richards Avenue, not signalized intersections. We think that'll go a long way to creating a slower speed, much safer, more visually positive street out there. And we strongly urge the construction of a new road, which I think has been alluded to tonight, which would connect the northeast connector to the one down the cast side of the Oshara property to connect to the Community College itself and even the east side of Windmill Ridge at Rancho Viejo. We think that'll take a lot of pressure, a lot of traffic, off Richards Avenue.

We know Richards Avenue, it's going to be a major street. But as the Community College District grows, it cannot be the only street connecting the city of Santa Fe and the northern part of the county with the Community College District. There has to be more than one way into the Community College District. That's clearly the way to go, and the applicant has said that they would support that, work with the County to accommodate that.

Finally, I did hear discussion tonight of the third connection, which I guess would kind of be opposite Dinosaur Trail. And we're very much in support of that happening also. But it is true, we have not seen – the South Richards Avenue Association has not seen any specific plans as to exactly where it would be, what the configuration would be, what impact it may have on trails, both pedestrian, bicycle, and equestrian, and equestrian trails are very important out there. We don't know what impact it's going to have on drainage. So it's fine with us that it be required to be built, but we think it should be part of phase 2 or when the Taurus property comes in for development so that the community and the public and the neighborhood have an opportunity to review the specifics, rather than just requiring that something be built without

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knowing exactly what it's going to be.

So overall we support what you have before you tonight. We feel the applicants have been very positive about working with the neighbors. The South Richards Avenue Association urges your approval. Thank you.

CHAIRMAN ANAYA: Thank you, Mr. Garcia. Next.
[Duly sworn, Daniel Pivern testified as follows:]

DANIEL PIVERN: Hello Mr. Chairman and Commissioners, my name is Daniel Pivern. I live off Rabbit Road in Arroyo Hondo West. I've been in Santa Fe for thirteen years, and the last two years I have lived out in the Arroyo Hondo West community.

When I heard about Oshara being developed, I was concerned about five- and ten-acre beautiful lots with hundreds of wellheads scattered out amongst the pinon and juniper. And I was very, very concerned about it. And the more I learned about Oshara, the more and more encouraged I become. And I'm very supportive of the development. I think that, like the first lady who came up concerned about the traffic, I see that Rabbit Road turning into the northeast connector and meandering slowly to the plaza is something that my family and I will very much enjoy going to visit the plaza. I think that the water responsibility is extremely important. And I appreciate the fact that local businesses will be primarily occupying the storefronts, along with the residences.

I grew up in rural Colorado. I've seen sprawl damage communities. The community I grew up in was a very small community. A lot of the agricultural land I grew up on is now gated communities and big boxes and large franchise businesses all around. I think that sprawl without consciousness can really create separation in a community. And I really fully believe that Oshara will encourage inclusion and unity, and I look forward to visiting it often. Thank you for your time.

CHAIRMAN ANAYA: Thanks, Daniel.

[Duly sworn, Charles Bensinger testified as follows:]

CHARLES BENSIGNER: Mr. Chairman, members of the committee, my name is Charles Bensinger, I live at 41 Azul Loop in Eldorado. I worked on the original Community College District Plan back in the year 2000. And a tremendous amount of work went into that plan. It's a very good plan, particularly the sustainable guidelines in it, which I had a major role in drawing up.

Now, I think the sustainability guidelines, they're not just about conserving natural resources or using them more effectively. They're also about creating a living environment that proposes to maximize the quality of life. When we talk about that, we're not talking about excessive, wasteful, or extravagant quality of life. We're talking about something that's supremely sensible and cost-effective. And that, I believe, is what Oshara can show us, that it can serve as a model for a supremely sensible and cost-effective way of living. And I think we really need more of those models. So I urge you to approve this project. I think it's a really good one, and it'll do much to benefit the citizens of Santa Fe. Thank you very much.

CHAIRMAN ANAYA: Thank you, Charles.

[Duly swom, Adil Rizvi testified as follows:]

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ADIL RIZVI: Mr. Chairman and members, my name is Adil Rizvi. I'm the president of Design and Development Corporation. This is the corporation that's in the process of acquiring the Taurus property, which is a 64-acre property that's located on Richards Avenue and south of the freeway. I have meet with Mr. Alan Hoffman and the Oshara – his design team. I strongly support what he's planning.

I am an engineer with a master's degree from the University of New Mexico, and I've been a developer and an engineer in the state for the past twenty years. I have reviewed these plans, and they look very good, and I strongly support it. We look forward to working with him with our 64 acres, and also work on the third connection, which has been a topic of discussion today. We think we will be able to link Oshara and the Taurus property and create a very good community with local roadway networks and other amenities. So I strongly support

this project, and I think they've done a wonderful job in designing it. Thank you.

CHAIRMAN ANAYA: Thank you, Adil. Next.
[Duly sworn, Evelyn White testified as follows:]

EVELYN WHITE: My name is Evelyn White, and excuse me, I have a bit of sore throat. Commissioners, this is an eco-village project, and I really believe that in this time on this planet we all have to learn how to do things differently. We have to learn how to work together. We have to learn how to save water, and really do things differently. I think this is a

really good project, and they really are doing things differently.

Commissioner Sullivan, I'm a little disappointed when I see your stance with the project. I find myself wondering if you're opposed to all new building projects or if maybe you don't like someone who's a part of it. But I do find myself wondering what it is that you're so opposed to, and why you wouldn't support a project that is trying to conserve water and really trying to do the best that it can to bring people together, to integrate all kinds of new ideas. So I'd really love to see all of you Commissioners supporting this. It's something that can be a great example for not only Santa Fe, but for other parts of the country. If it's a successful project, as it appears it has the potential to be, it could attract all kinds of attention, positive attention, for the city of Santa Fe, county of Santa Fe.

So I would encourage you to support the project, and not support things like high-speed roads that would really affect the feeling of a village. I really like the idea of a village. I think we need to create communities that are more connected, and a high-speed road through the village wouldn't support that. So that's another point. So please support it. Thanks.

CHAIRMAN ANAYA: Thank you, Ms. White. Okay, two more people? Two,

three? Three.

[Duly swom, Eric Wirrel testified as follows:]

ERIC WIRREL: Good evening, Commissioners. My name is Eric Wirrel, I'm with the Federal Highway Administration. I've been asked to be available to make some comments on roundabouts, which several people have requested in this neighborhood, I guess. And just in general, I wanted to come out with a comment that the Federal Highway Administration strongly supports roundabouts. We're promoting them nation-wide. If I'm able to, I'd like to hand out some flyers to you all. Safety-wise in the United States, the Insurance

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Institute for Highway Safety has indicated that serious injuries at roundabouts versus any other type of intersection have gone down 76 percent, fatalities down 90 percent, pedestrian injuries down 30 to 40 percent. Capacity-wise, efficiency-wise, they allow approximately a thirty percent increase over a signalized intersection as far as the efficiency of flow.

Anyway, we're trying to promote them in New Mexico. New Mexico DOT is now considering them at any new intersection. Any new signalized intersection, they're considering a roundabout first. They're going to build their first one this summer at the Route 66 Casino, which is a long way from Santa Fe, I know. But I just wanted to make a general comment in support, and be available if anyone had any questions.

CHAIRMAN ANAYA: Thank you, Eric. Appreciate that. And yeah, you can hand those out. Take a look at them.

[Duly sworn, Diego Mulligan testified as follows:]

DIEGO MULLIGAN: My name is Diego Mulligan, and I live at 159D Calle Ojo Feliz in Santa Fe, Santa Fe County. Mr. Chairman, Commissioners, I rise in support of the Oshara Village, not as a broadcast journalist, but as the newly appointed president of the New Village Institute, which at this point is a new non-profit organization which will be working on water conservation education for the residents and businesses in Oshara. That will not be our ultimate aim. We aim to support the development of healthy communities everywhere, but we're starting with what's real and what's in front of us. And Oshara looks like it's going to be the best opportunity to create the kind of model that we can then learn so much from and apply in other parts of the county and the state and the country.

Oshara has some of the most innovative and restrictive water covenants of any development that I've ever seen. And we would like to help the residents and businesses achieve those ambitious goals. We think they are achievable, but we believe that it's really essential that they get the kind of technical support and education that they need so that they don't grudgingly get brought into this kicking and dragging, but that they embrace the ideas behind it, and have the support to actually make it work for them.

I also am very concerned about the Community College District plans that might be compromised if a high-speed road that is traffic priority is forced through Oshara and the current Taurus Ranch. I would much prefer, based on the information that I have, a network of smaller living priority roads, which I believe is what the Community College District actually recommends.

One other thing that is a concern to me at this stage too is the proviso added on, and I don't have all the details on this at this point, but I believe it might be provision 19, that would remove or let's say knock back the number of dwelling units from 175 to 117 because of the concern about the water provision. And I have to confess that I am not a water expert in this, and I am just as confused as the rest of you are in some of these areas. I have a lot to learn about it, but what I do know is that with fifteen percent of the Oshara homes being designated for affordable homes, we will be losing their eight affordable homes as a result of that one decision. They will be pulled back from 25 affordable homes to 17 officially affordable homes, which Homewise and Habitat for Humanity will be cooperating with the developers to create.

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And that is also of great concern to me.

I am a great supporter of roundabouts as well. I've spent a lot of time in different parts of the country and the world where they are used quite effectively. And I really think we ought to consider the difference between signalized Richards Avenue that would have several stoplights with traffic going from zero to sixty, zero to sixty, zero to sixty, zero to sixty, rather than having a road that has a design speed of approximately 35 miles an hour, with a decrease in that speed down to 15 or 20 for the roundabouts. I think it's going to create a much safer and quieter environment, something better for our children, for our community, and also will serve as a model for future developers. Thank you very much for your great efforts in understanding this innovative project. I'll be probably talking with you more as the project advances. Thank you.

CHAIRMAN ANAYA: Thank you, Mr. Mulligan. One more speaker. [Duly sworn, Jeremy Damien Terrell testified as follows:]

IEREMY DAMIEN TERRELL: Hello, my name is Jeremy Damien Terrell, and I'm a property owner along Old Galisteo Way. When I first heard of the Oshara project, I felt that it was a very good, sound project. And I look forward to working with them to connect a pedestrian trail along the Arroyo Hondo, and connecting open space from their property and mine. I reside along the eastern border, and as Robert Garcia mentioned, talking with the network of roads. I fully promote them working to put a road along their eastern border, and would be willing to work with them on that. In addition, provided that the Old Galisteo Way Users Association would be interested, I'd be willing to connect through my property that road and the new road along the eastern border. That will help create more of this inter-connectivity of a lot of these dead ends in the Community College District. Thank you.

CHAIRMAN ANAYA: Thank you, Jeremy. Okay, that closes the public

hearing. Lom, did you have any comments?

MR. TRYK: I just wanted to point out that if you agree with us that the northeast connector connection through the Taurus property is appropriate to being a part of phase 2 rather than phase 1, and give us time to work out an alignment between us and the Taurus property owners, it does violate possible condition 15.i, which says "Compliance with applicable review comments from County Public Works." Since the packet includes this letter recommending that we make that connection, I'm just concerned that if you were to pass this with that condition without commenting on that connection that that would in a sense force us to build it in phase 1. So I'm just pointing that out, because it is a condition in the staff report, and I did earlier say that we didn't have any problem with the conditions as written. So I just want to point that out.

CHAIRMAN ANAYA: Repeat that — tell me that again, I didn't — MR. TRYK: Okay, if you look at 15.i, compliance with applicable review comments from County Public Works, and if you look in your packet, there is a letter from County Public Works recommending this connection to Dinosaur Trail through the Taurus property. And I didn't think about the fact that if we say we're in agreement with all the conditions as written, that means we're in agreement with that road connection, and we've

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already said we'd like to do that in phase 2.

CHAIRMAN ANAYA: Got you. Could you tell me a little bit about – actually, Ms. Williams had a concern about Rabbit Road. Could you address that?

MR. TRYK: I wasn't really aware of what the condition was that she was talking about on the eastern end of Rabbit Road as it approaches St. Francis Drive, but I understood her comments to mean that she wanted to work with the County to improve that condition. That's something that's off the Oshara property. So what we've been doing is concentrating on the alignments within the Oshara property, and then how it affects those first couple of houses when it comes onto the interstate right-of-way and into that frontage road section. So I didn't understand that to be something that we could do much about. More that the County could do something about.

CHAIRMAN ANAYA: Okay. Any questions of the applicant? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Tryk, on the northeast connector, one of the conditions is 9.c, conditional dedication of the northeast connector to the County. And in your initial master plan application, I think you made it very clear that Oshara was going to be responsible for building the northeast connector. Is that still the case?

MR. TRYK: Yes, that's correct.

COMMISSIONER SULLIVAN: Okay. Just want to be sure. And that doesn't just mean on Oshara property? That means building --

MR. TRYK: No, the whole thing. It's just that the Public Works Department has commented that it's appropriate that if -

COMMISSIONER SULLIVAN: No, I understand your comment on 15,i.

MR. TRYK: No, what I'm saying is that they think it's appropriate that it be conditionally dedicated, and that they'll probably end up taking that road over. But it doesn't mean we wouldn't build it.

COMMISSIONER SULLIVAN: No, I'm talking about the northeast connector that you're talking about now that goes all the way up to the public roads connecting to St. Francis. That will be built as a part of phase 1 by Oshara?

MR. TRYK: Correct.

COMMISSIONER SULLIVAN: And then that right-of-way for that, which I think was 50 feet as I recall, will be dedicated to the County?

MR. TRYK: Correct.

COMMISSIONER SULLIVAN: Okay. Because I don't see in the conditions, and I wanted to ask either you or Vicki, but I think you've answered the question. It says you'll dedicate it, but I don't see in the conditions where it says you'll build it.

MR. TRYK: I see. Okay.

COMMISSIONER SULLIVAN: But you're confirming that you would build it as well. Okay. Thank you very much. The only other comment I have, Mr. Chairman, is just to allay the concerns of I think it was Ms. White who spoke, or any others who may be concerned about my particular commitment to good development and conservation. And I can

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tell you for four and a half years I've been on the forefront of trying to eliminate sprawl in Santa Fe County with a number of forward-looking ordinances. The Community College District Ordinance and the State Environmental Department require these water conservation measures, as does Santa Fe County under its conservation ordinance. And so while it makes a wonderful selling point to the community, and it made a very good selling point for the Community College District plan as well, which was passed by the County Commission, I want to be very clear that those items are already required by either state regulation or by County ordinance. And they make good sense, and that's why the ordinance was passed that way.

What it's important for us to do as Commissioners is to separate the fluff from the specifics. Because if we don't have the specifics down, what we find later is that the attorneys line up at the front door at eight o'clock in the morning and it becomes a long, drawn-out process. So we have to separate selling the steak from selling the sizzle. And that's what we try to do here, to be sure that the commitments that the developer has made and that the requirements of the staff based on its review are accurately reflected and are clearly understood throughout the process. Because as I said before, and I still believe, that this is an incomplete submittal. When we talk about final plats, it should be ready to go, and there should be only minor corrections. We have a great deal of uncertainty left. What that does is that it gives the staff an awful great burden on it, a policy burden in many cases. That is to say, for example, what should happen as is indicated in the packet, if the applicant decides to connect into the Rancho Viejo sewage treatment plant? What do we know about that? What's its capacity, what effect does that have on Rancho Viejo residents, what about the effluent limitations and disposal? None of those issues will come back to the Commission. All those kinds of issues will then have to be decided by staff. And we've got terrific staff. But sometimes to place that much burden on them, we need to separate policy from technical review.

So that's what we're doing here. We're dotting the I's, we're crossing the T's, and we're making sure that everyone understands what this development is about so that when we come back a year from now or nine months, when they indicated they might start construction, there are no loopholes. We get what everybody was promised. We have a letter that was sent to us by the Puesta del Sol subdivision organization. And they are complaining in this letter to us that promises made to them by the Tierra Grande Subdivision, developed by Mr. Hoffman, were not met by Mr. Hoffman. You're welcome to look at this letter at your convenience, you or anyone. So I haven't looked into this issue, so I'm not going to comment on that. I can't say whether their allegations are true or not. I just point that out to you, that we receive very often two sides of the issue, and we want to be sure that what we have is a clear understanding when we move forward on a project such as this. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Commissioner

Vigil.

COMMISSIONER VIGIL: Mr. Chairman, that particular project is in my district, and that whole issue was brought to my attention. I'd like to defer it to Dolores Vigil, because we actually – we're concerned about that, thought we might hear some testimony. But I think it's all been cleared up. Am I correct, Dolores?

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MS. VIGIL: Mr. Chairman, Commissioner Vigil, that is correct. We did meet with Alan Hoffman and we actually went to the site. And I think we've resolved the issues that have come up based on that letter that you have before you.

COMMISSIONER VIGIL: Okay, and that has been done since the letter was

received, right?

MS. VIGIL: Yes.

COMMISSIONER VIGIL: Okay. Mr. Chairman, I think that's a non-issue. CHAIRMAN ANAYA: Okay. I think we've talked about this enough. Is there

a motion?

COMMISSIONER SULLIVAN: Mr. Chairman, motion to approve with staff

conditions.

CHAIRMAN ANAYA: There's a motion with conditions. I know that there was 18 and 19 recommendation. Is that including 18 and 19?

COMMISSIONER CAMPOS: Second. COMMISSIONER SULLIVAN: Yes, sir. COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Is there a motion and a second with 18 and 19? Is there any more discussion?

COMMISSIONER VIGIL: I think we need to go into 18 and 19 with a little more detail, because it was just proposed today. I'm hearing from the applicant that they're not in agreement with that. And I'm not sure that we need to approve it that way. I'd really like some more information.

My concern for this overall is this is a wonderful project. It's a project that is really conducive to smart growth. I hope some projects come up in the northwest quadrant that work as hard on bending backwards with the communities around there with the issues, with staff. And I just have a real difficult time continually what I think, creating barriers to moving this project forward. It's one that I think is well worth our strong consideration. I want to vote in favor of it, but I don't know that we will be providing a favorable position by imposing conditions 18 and 19. And I guess I need further understanding with regard to that, and I'd like to defer to the applicant as to why he is disagreeing with that, and if it's a negotiable item at any point in time.

CHAIRMAN ANAYA: Lorn, do you agree with 18?
MR. TRYK: 18 was okay. It's 19 that's the poison pill for us.
CHAIRMAN ANAYA: Okay, he agrees with 18, but he doesn't agree with 19.
MR. TRYK: Right. And the 15.i that I brought up before, just on that road

connection.

CHAIRMAN ANAYA: Could you restate the 19 condition? Number 19?

MS. LUCERO: Mr. Chairman, it would be that if the eleven acre-feet of water rights do not get transferred, the developer will only be allowed to plat 117 lots.

CHAIRMAN ANAYA: Okay, but Steve Wust, you agreed with the 17 conditions, and you didn't have a problem - or do you have a problem now with it? Do you

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not have a problem with 19?

DR. WUST: Mr. Chairman, number 19 came out of a discussion I had with Dolores and Vicki, so it was partly my idea. And just to give you a little background, first off there's a precedent, if you recall La Pradera. They agreed to withhold construction of their last I believe eleven units in their case until they could either, (a) prove up their water budget, or (b) bring forward more water rights to make up that difference. And that's what we're talking about here, is protection of the County so we're not stuck for that eleven acre-feet if somehow it doesn't get transferred. And so that was an arrangement already made with La Pradera. So this is consistent with that.

Secondly, I would just argue that we've been told by the applicant that they're so confident that they'll get the eleven acre-feet that the County should go ahead and approve the water service agreement. I believe if they're that confident, they shouldn't have any issue with number 19. And we feel if they're that confident, then there's no problem putting that kind of condition on. But we do need protection for the County, just in case that stuff doesn't happen. We don't want to be stuck for the water that we don't have the water rights for that that we promised.

CHAIRMAN ANAYA: Thanks, Steve. Lom, you want to comment?

MR. TRYK: Yes. As I said before, this condition 19 puts a great financial burden on the project. We cannot get financing if we can't build 175 lots. If we go to the bank and say, all we got approved for was 117, we can't get financing. That's what I was mentioning to you before. La Pradera is not an apples-to-apples comparison. They don't have a backup plan. That was the only thing that they could come up with. That's a low-density subdivision that doesn't have the kind of infrastructure costs that we do or the kind of off-site costs we do. So it's a huge concern for us.

CHAIRMAN ANAYA: Okay. I think we get the picture. There's a motion on the floor and a second to approve with conditions from 1 through 19. Any more discussion?

The motion to approve EZ Case S 04-4451 with all staff conditions failed by 2-3 voice vote with Commissioners Campos, Vigil and Sullivan voting against.

CHAIRMAN ANAYA: Okay, the noes have it. Give me another motion.

COMMISSIONER VIGIL: Mr. Chairman, I'd like to motion that we move forward with this project. I think it's a worthy project for Santa Fe County. It's in the best interests of the majority of the county. And that the conditions 1 through 18 be met, but in fact the applicant consider working with Public Works on the possibility of a third road, but he not be obligated to it. But since the applicant has testified that they are willing to consider it, I'd like to see that partnership occur.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Motion and a second. Any more discussion?

COMMISSIONER SULLIVAN: Mr. Chairman. CHAIRMAN ANAYA: Commissioner Sullivan.

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COMMISSIONER SULLIVAN: I would still make the case that we, as Mr. Wust has said and our staff recommends, that we need some backup to these promises on the eleven acre-feet. And we did get – it is a similar situation to La Pradera. La Pradera had extensive off-site costs, several million dollars, including the reconstruction of Dinosaur Trail, construction of a sewage treatment plant for only 80 units versus 100 to 175 here. They had, I think, per unit costs that probably were higher than we have here. So I think it is a reasonable comparison. I think if we don't find ourselves having some backup in the water service agreement, there's no time that they have to provide that eleven acre-feet. There's no time requirement. One year, two years, three years. It's in perpetuity.

So I think that it's a real disservice to the public to commit the County to approve these additional units until they have the water service agreement. And it's certainly an incentive to the developer to get that eleven acre-feet tied down and moved forward. And if they have the build-out schedule that they're talking about, three to four years, that won't impair their ability at all to bring those units online, because they'll have their water rights by that time.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan.

The motion to approve EZ Case S 04-4451 passed by majority 4-1 voice vote with Commissioner Sullivan voting no.

XIII. A. 6. CDRC Case number AB04-5660, Bobby Armijo Density Variance.

Bobby Armijo, applicant, requests a variance of Article III Section
10, lot size requirements of the Land Development Code to allow a
division of 16.20 acres into two 8.0-acre parcels for the purpose of a
family transfer. The property is located off of 428 Ojo de la Vaca,
within Section 30, Township 15, North range 11 East, Commission
District 3

VICTORIA REYES (Review Specialist): Thank you, Mr. Chairman. On May 29<sup>th</sup>, 2003, the County Development Review Committee recommended denial of the request for a family transfer to divide 16.20 acres into four lots consisting of 4 acres, more or less. On July 8<sup>th</sup>, 2003, the Board of County Commissioners denied the request. The applicant has re-applied, and is requesting to divide 16 acres into two eight-acre parcels for the purpose of a family transfer. On March 17, 2005, the County Development Review Committee recommended denial of this request.

The property is located within the Homestead Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 160 acres per dwelling, or 40 acres with water restrictions. Lot size may be reduced to a minimum of two and a half acres if the applicant can demonstrate water availability. The minimum lot size for a family transfer is 20 acres.

Recommendation: Staff recommends that the request for a variance be denied. The

DANIEL J. O'FRIEL PIERRE LEVY AIMEE S. BEVAN LEE R. HUNT O'FRIEL AND LEVY, P.C.

ATTORNEYS AT LAW
644 DON GASPAR AVENUE
SANTA FE, NEW MEXICO 87505
TELEPHONE (505) 988-5973
POST OFFICE BOX 2084
SANTA FE, NEW MEXICO 87504-2084

July 25, 2013

BERTRAND B. PRINCE 1914-1998

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

Re: CDRC Case No. MIS 13-5200

Dear Administrator:

I am a property owner at the Oshara Village and have received certified mail regarding the request by Homewise Inc. and Century Bank to convert certain lots at Oshara Village into townhome lots and patio lots.

I support this request. Particularly, I support the effort by Century Bank and Homewise Inc. to create "affordable homes" for our citizens. Please enter my support for Case No. MIS 13-5200.

Please feel free to call upon me should you desire any further information or detail about this support. Thank you.

Sincerely yours,

Daniel J. O'Friel

DJO/dnb



From:

C Mitchell> <janopher@aol.com>

Sent:

Tuesday, August 13, 2013 9:21 AM

To:

Vicente Archuleta

Subject:

Homewise Alteration of Oshara Masterplan

#### CDRC CASE # MIS 13-5200

As a property owner in Santiago Subdivision that borders Oshara Village, I object to the proposal to convert various lots from live/work & commercial use to townhome & patio home lots.

The Master Plan was considered & revised over many months & was finally approved after much deliberation & this proposal by Homewise negates the principles of the Village concept.

The Master Plan is a brilliant solution to providing an integrated community where residents would live & work & not have to commute to jobs elsewhere.

A reduction in live/work & commercial lots will result in another bedroom community with little job opportunity in the Village.

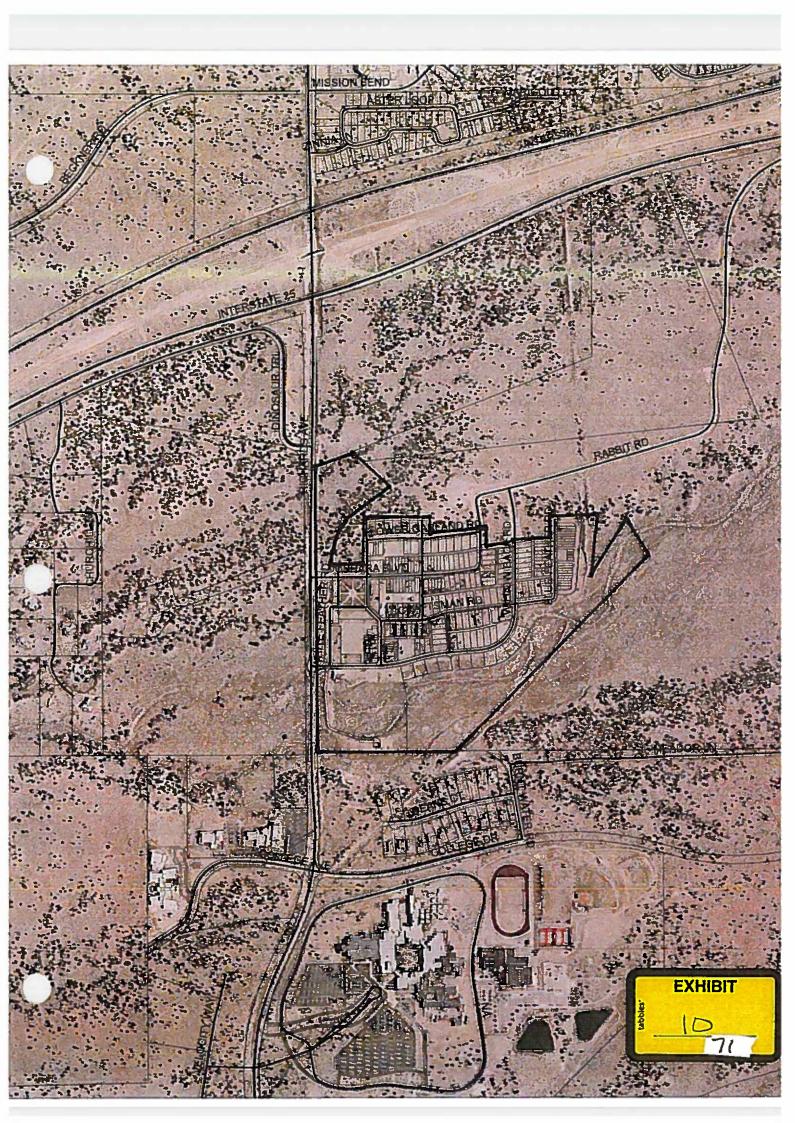
A comprehensive review of the Master Plan for Phase I & its affect on the Overall Master Plan would give a better result.

Please present these comments on the meeting on 15th August 2013 as I am unable to attend in person.

Sincerely,

C. Mitchell





#### V. APPROVAL OF MINUTES: August 15, 2013

Member Katz moved to approve the August minutes as submitted. Chair Gonzales seconded and the motion passed by unanimous[6-0]voice vote.

VI. CONSENT CALENDAR: Final Order

A. CDRC CASE # Z/S 12-5450 Cielo Colorado Subdivision. Cielo Colorado, LLC. Applicant, Jim Siebert, Agent, Requested a Recommendation for Approval of Master Plan Zoning for a 24-Lot Residential Subdivision on 246.30 Acres + within Tract 15A-2 of the Eldorado at Santa Fe Subdivision. The Applicant also Requested CDRC Approval to Allow Two Cul-de-Sacs (Dead End Roads) to Exceed 500 Feet in Length. The Property is Located on the East Side of US 285, Off Camino Acote, within Sections 21 & 22, Township 15 North, Range 10 East (Commission District 4) Jose E. Larrañaga, Case Manager (Approved 7-0)

Member Katz moved approval and Member Anaya seconded. The motion carried upanimously [6-0].

#### VII. NEW BUSINESS

A. CDRC CASE # MIS 13-5200 Oshara Village Master Plan Amendment. Homewise, Inc. and Century Bank, Applicants, Design Enginuity, Agent, Request a Master Plan Amendment to Re-zone 26 Live/Work Lots Into 26 Residential Townhome Lots (Lots 76-85 and 92-107), to Rezone 10 Live/Work Lots to 7 Residential Patio Lots (145-154) and to Re-zone 17 Commercial Lots to 9 Residential Patio Lots (Lots 7-15 and 20-27). The Applicants Also Request to Create 5 Residential Patio Home Lots on Tract C which was Designated Reserved, Open Space. The Property is Located in Oshara Village, East of Richards Avenue, within the Community College District, within Section 16, Township 16 North, Range 9 East (Commission District 5)

Vicente Archuleta, Case Manager, gave the staff report as follows:

"On April 30, 2002, the Extraterritorial Zoning Authority granted Master Plan approval for a mixed-use development formerly known as Oshara Ranch. The development consisted of 735 residential units and 1.7 million square feet of commercial space and 246 acres of open space/park/plaza areas on 471 acres, to be developed in eight phases

"On October 28, 2004, the EZA granted a Master Plan Amendment to the previously approved Oshara Ranch in order to change the phasing of the project. On January 11, 2005, the Board of County Commissioners granted Preliminary Development Plan and Plat approval for Phase I of the Oshara development.

"On June 14, 2005, the BCC granted Final Plat and Development Plan approval for Phase I of the Oshara Village development which consisted of 175 residential lots and 136,000 square feet of commercial space on 74 lots on a total of 37.78 acres in accordance with the previously approved Master Plan.

"Since the time of approval, the necessary infrastructure, including roads and utility lines have been installed and more than 59 homes are occupied within Oshara Village.

"In 2008, the nationwide economic downturn greatly impacted the project's execution and the developers could not meet their obligations. The project mortgages were set up so that if the developer failed, the banks would take over ownership of the remaining lots.

"The Applicants now request to modify the zoning on Lots 76-85 and 92-107 from 26 live/work lots to 26 residential townhome lots, Lots 145-154 from 10 live/work lots to seven residential patio home lots and Lots 7-15 and 20-27 from 17 commercial lots to nine residential patio home lots. The request also includes approval to create five residential patio home lots on Tract C which was designated as reserved, open space on the original recorded plat.

"The primary reason for the request is to address changing market conditions, as they see little market for live-work units or small commercial lots in Oshara Village. Currently there are 42 live-work lots within Phase I, and under the proposal, 36 of those lots would be developed as 26 residential townhome lots and seven residential patio home lots. The other six would remain live-work lots. There currently are 23 commercial lots, The Applicants state that 17 of the commercial lots which are located at the far eastern side of the Oshara development site are not suitable for commercial projects as they are not visible from the main traffic thoroughfares and are small lots ranging in size from 2,345 to 4,250 square feet. However, patio homebuyers have shown interest in them, given their location adjacent to Oshara's open space. Therefore, the Applicants are proposing to rezone those 17 commercial lots to nine residential patio home lots.

"In addition, the Applicants request approval to create five patio home lots on Tract C which was designated as reserved open space. The tracts will front Willow Back Road which is complete with all necessary utilities in the roadway. The lots will have a minimum setback of 350 feet from Richard's Avenue. The project will still provide the required 50 percent open space.

"If the requested Master Plan Amendment is granted, the development of the 26 townhomes will proceed promptly, as no lot line or infrastructure modifications would be necessary. The lots for the patio homes are larger than the existing livework and commercial lots requiring modifications to lot lines and utilities that

would require the Applicant to return to the County with a development plan and lot line adjustment plat for this portion of the project as well as a request for Preliminary and Final Plat and Development Plan approval for the 5 lots being created on Tract C. Overall the net result of the proposed changes would be a 6-lot decrease in density with respect to the original plan."

Mr. Archuleta stated staff was recommending approval of a Master Plan Amendment to rezone 26 live/work lots to 26 residential townhome lots, rezone 10 live/work lots to 7 residential patio home lots, rezone 17 commercial lots to nine residential patio home lots and create five residential patio home lots on Tract C which was designated reserved, open space. Subject to the following conditions:

1. The Applicant shall comply with all conditions of the original Master Plan.

2. Amend the Affordable Housing Agreement to identify an additional unit.

Chair Gonzales asked for the definition of a master plan amendment and when the last master plan was approved. Mr. Archuleta stated they were requesting to change their live-work and commercial units to residential units. There has been no need to extend this master plan since its original approval in 2004. Chair Gonzales asked about the status of the other phases. Mr. Archuleta said the applicants are still working on Phase I and there are other owners of different parts of the property. The requested changes apply only to this phase. Ms. Lucero pointed out only this phase has preliminary and final plat approval; all others are pending. The original master plan is still valid.

Referring to a letter from Design Enginuity, Member DeAnda asked if they were requesting that the wastewater system be absorbed by the County. Mr. Archuleta said that has nothing to do with this application and will have to go through the Utilities Department. Ms. Lucero added BCC action may be required, but she doubted it would come before the CDRC.

Member Drobnis asked for an explanation of the Department of Transportation's negative recommendation due to concerns about lack of a recent traffic analysis. Mr. Archuleta stated the negative opinion came from the fact the north-south connector is not complete. Richards Avenue lacks the capacity for all the traffic. Ms. Lucero indicated opinions from state agencies are recommendations only. County Public Works has okayed the project. A trip generation report determined the traffic would be less since they are increasing the amount of residential over commercial, and there are fewer lots.

Duly sworn, Oralynn Guerrerortiz from Design Enginuity stated she was representing Homewise and Century Bank. She said the original development failed and went bankrupt, thus Oshara was divided up among various entities. There are currently six homes under construction; 14 total are planned in the near future. Due to the unusual initial master plan there are some products that no one wants including very narrow commercial lots and affordable live-work units. However, there is a market for patio homes, townhomes and single-family homes. Changing uses would make for a more vibrant community, said Ms. Guerrerortiz.

She indicated the changes applied only to lots owned by Homewise and Century Bank, which she demonstrated on maps. She pointed out the "reserved" open space that was set aside for some use in the future. Conversion of this will not bring the overall ratio to under 50 percent as required by the Community College District Ordinance. Due to modifications of the estate lots more open space was gained from the arroyo. She noted that their decisions on lots were made with an eye to not increasing traffic. She said all the infrastructure is in, and they agree to all conditions.

Chair Gonzales asked for amplification of the plans for the wastewater treatment plant. Ms. Guerrerortiz said the County's Sustainable Growth Plan calls interceptors and wastewater treatment plans in SD-1 areas, which includes the Community College District. The Oshara plant has a capacity of 45,000 gallons per day and is only using 5,000 gallons. Nearby developments could hook up to a centralized plant. The concept is this plant would be an asset to the community and would pay for itself; it produces effluent that can be used for landscaping.

Noting the letter said there would be no cost to the public, Member DeAnda asked if it would be covered by the homeowners association fees? Ms. Guerrerortiz said it would be covered by the user fees. It originally cost around \$1.2 million and could be donated to the County.

Chair Gonzales asked for a definition of reserved open space and if the homeowners association owns it. Ms. Guerrerortiz said the homeowners association owns all the dedicated open space – the plaza and parks. Century Bank owns other lots which had originally been held in reserve for a museum or other potential use. She said the other phases have dedicated trails. The current homeowners do have to maintain the dedicated open space.

Chair Gonzales asked about the affordable housing requirements. Ms. Guerrerortiz said there were 25 affordable homes required in Phase 1 and all but eight have been built and are occupied. She demonstrated where they would be located.

Member Anaya asked if recent flooding had damaged the arroyo. Ms. Guerrerortiz said to her knowledge no damage occurred and there were no problems with culverts. Mr. Archuleta said he visited the site the day before and there was no damage. Ms. Guerrerortiz said in addition to the 100-year floodplain there is a 50-foot setback to protect the lots.

Responding to questions by Member Anaya, Ms. Guerrerortiz said the homeowners association currently owns and maintains the plaza, parks and some strips of open space. She speculated that after its lots are sold the bank's open space will be dedicated to the HOA.

Member Katz said he was confused about the open space issue. Ms. Guerrerortiz said the Community College District Ordinance requires a minimum of 50 percent open

space. She said the open space lost to planned development in the large parcel was made up for by the increased areas by the arroyo.

Bob Bidol from Century Bank, under oath, stated the bank is trying to recover their investment after the bankruptcy. It was determined commercial lots are not viable in the area while affordable housing is needed. This plan will also reduce traffic and is a win-win for all.

Duly sworn, Mike Loftin from Homewise indicated they have acquired 40 lots. He explained that the mission of Homewise was to increase their financial security through homeownership and good mortgages. They believe Oshara is a good place for people to buy their first homes. He spoke of Homewise's objectives which include eradicating mortgage insurance, having savings and buying a home as a long-term asset. They build to green standards which lowers utility bills by up to 40 percent.

Member Anaya asked about the price range and Mr. Loftin replied the cross-subsidized homes could be around \$110,000 and the market rate \$180,000 to \$220,000.

Glenn Smerage, resident of Rancho Viejo, was placed under oath and said he looked favorably on the project. He noted it was unusual to downgrading land from commercial to residential. He urged the County to complete the work on the north-south connector. He asked if there was any "funny" open space, meaning undisclosed construction setbacks on private lots, which constituted a taking. Ms. Guerrerortiz said that is called private open space and the estate lots in Oshara do have private open space along the arroyo. They list the lots' total acreage and its developable acreage.

The president of the Oshara HOA, Beth Dettweiler, duly sworn, read a letter from the homeowners association which is comprised of both commercial and residential components. [Exhibit 1] She said the requested changes are in the best interests of Oshara, present and future. The northeast and southeast connector roads are critical to increased desirability of Oshara lots, along with solving the question of ownership of the wastewater treatment plan.

George Brown, under oath, stated he was an Oshara resident and was in favor of the proposals. He said there had been no problems with drainage and traffic concerns aren't really relevant.

Under oath, Robert Larragoite with Westgate Properties, said he managed the homeowners association. He mentioned that converting commercial to residential will decrease the collected dues to the homeowners association and these dues are responsible for taking care of the common areas and management. The loss amounts to \$13,982.16 annually, which is an undue hardship on the existing homeowners. He has had a verbal commitment from Homewise and Century Bank to make up that loss for two years and he asked that written commitments be made conditions of approval at the BCC meeting. He

said the activity of the new owners was exciting. He explained that currently, whoever owns the lot pays the dues whether the lot is developed or not.

Member Drobnis asked if the homeowners association owns the wastewater plant. Mr. Larragoite said it is owned by a private corporation that was set up by the developer and regulated by the PRC as a public utility. The homeowners association is funding the shortfall and making decisions on it. Member Drobnis asked if there was a shrinking fund. Mr. Larragoite said the homeowners association and the corporation are two completely different entities and the homeowners association has no obligation to fund the plant. There is no one reserving for eventual replacement; the situation is in limbo. The PRC will not allow the homeowners association to take over the plant without going through an onerous process. They have considered forming a water and sanitation district or a co-op, but both require PRC approval. Member Drobnis said it is a public health issue and he could put Mr. Larragoite in touch with people who could help.

In response to questions from Member DeAnda Mr. Larragoite said it is not Westgate's intent to manage the operations. Ms. Guerrerortiz stated Century Bank and Homewise feel it would be in the best interests of all if water and sewer were in the hands of the County. This would ensure that it was professionally done and safe. The Oshara HOA is looking for more flexibility than the PRC can give them and are considering various options. Previous County Utility Director, Doug Sayre, expressed to her that it could be done given sufficient data.

Ms. Dettweiler said they are looking at different resolutions because the current situation is not sustainable. The easiest solution would be if the County took over the plant, but they are continuing to look at other options. Ms. Guerrerortiz understood with 30 more connections the County would be in the black, so with the increased pace of development it could happen soon. She reiterated excess capacity could be sold. Ms. Dettweiler said the request to the County has been prepared and they are waiting to hear about the amendment changes.

Mr. Larragoite showed the location of the treatment plant for the benefit of Member Anaya. Ms. Guerrerortiz said there are no existing County sewer lines in the area but there are waterlines nearby.

Mr. Smerage said he understood the County take over would be a condition of approval. Chair Gonzales said it is not a condition on the application.

Chair Gonzales asked about the dues. Mr. Larragoite said dues are collected quarterly and depend on lot type and usage. Commercial is generally three times the residential. The dues go to roads, open space, signage, parks, etc.

Stating the change from commercial to residential made a lot of sense and additional affordable housing was provided, Member DeAnda moved to approve CDRC Case #MIS 13-5200 with staff conditions. Member Katz seconded and proposed a

friendly amendment that the homeowners association be held harmless for two years visà-vis the dues.

CDRC Counsel Tim Vigil said he didn't believe the County had the authority to mandate that, however, a recommendation could be made. Ms. Guerrerortiz said the parties were agreeable to the hold-harmless proviso if this could be effective for two years after recordation.

Given the applicant's voluntary acceptance of a condition, Member DeAnda accepted the friendly amendment.

The motion carried by unanimous [6-0] voice vote.

VITA Petitions from the Floor - None were presented.

- IX. Communications From the Committee None were presented.
- X. Communications From the Attorney Mr. Vigil introduced himself.
- XI. Matters From the Land Use Staff None were offered.
- XII. Next CDRC Regular Meeting: October 17, 2013

XIII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 5:35 p.m.

Approved by:

J.J. Gonzales, Chair CDRC

ATTEST TO:

Submitted by:

COUNTY CLERK

Debbie Doyle, Wordswork



Daniel "Danny" Mayfield Commissioner, District 1

Miguel Chavez Commissioner, District 2

Robert A. Anaya Commissioner, District 3



Kathy Holian Commissioner, District 4

Liz Stefanics Commissioner, District 5

> Katherine Miller County Manager

DATE:

October 18, 2013

TO:

**Board of County Commissioners** 

FROM:

Vicente Archuleta, Development Review Team Leader A

VIA:

Katherine Miller, County Manager

Penny Ellis-Green, Land Use Administrator

Vicki Lucero, Building and Development Services Manager

Wayne Dalton, Building and Development Services Supervisor

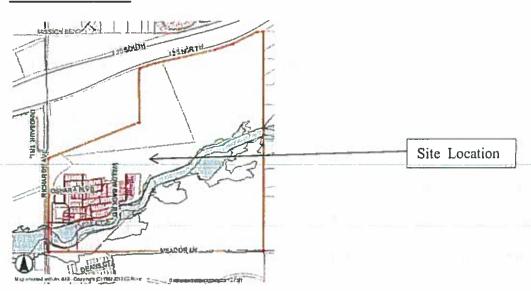
FILE REF.: CDRC CASE MIS #13-5310 Oshara Village Master Plan Time Extension

#### **ISSUE:**

Greer Enterprises, Inc., (Alexis Gerard), Applicant, requests a 24-month Time Extension of the previously approved Master Plan for a Mixed Use Development (Residential, Commercial and Community) in a Village Zone, Institutional Campus Zone, Employment Center Zone and Fringe Zone consisting of 735 residential units and 1.7 million sq. ft. of commercial space on 471 acres.

The property is located in Oshara Village, via Richards Avenue, within the Community College District, within Section 16, Township 16 North, Range 9 East (Commission District 5).

### **VICINITY MAP:**



#### **SUMMARY:**

On April 30, 2002, the Extraterritorial Zoning Authority (EZA) granted Master Plan approval for a mixed-use development formerly known as "Oshara Ranch." The development consisted of 735 residential units and 1.7 million square feet of commercial space and 246 acres of open space/park/plaza areas on 471 acres, to be developed in eight (8) phases (Refer to April 30, 2002 EZA Meeting Minutes attached as Exhibit 4).

On October 28, 2004, the EZA granted a Master Plan Amendment to the previously approved Oshara Ranch in order to change the phasing of the project (Refer to October 28, 2004 EZA Meeting Minutes attached as Exhibit 6).

On January 11, 2005, the Board of County Commissioners (BCC) granted Preliminary Development Plan and Plat approval for Phase I of the Oshara development.

On June 14, 2005, the BCC granted Final Plat and Development Plan approval for Phase I of the Oshara Village development which consisted of 175 residential lots and 136,000 sq. ft. of commercial space on 74 lots on a total of 37.78 acres in accordance with the previously approved Master Plan (refer to June 14, 2005, BCC Meeting Minutes attached as Exhibit 7).

Since the time of approval, the necessary infrastructure, including roads and utility lines have been installed and more than 59 homes are occupied within Oshara Village.

Article V, Section 5.2.7 of the Land Development Code states, "Approval of a Master Plan shall be considered valid for a period of five years form the date of approval by the Board." It goes on to state that progress in the planning and development of the project shall constitute and automatic 2-year renewal of the Master Plan.

The BCC's approvals of the Master Plan Amendment, Preliminary Plat for Phase I and Final Plat for Phase I, constituted automatic renewals of the Master Plan which extended the expiration until October 28, 2013.

Due to market conditions and limited demand for residential, commercial and mixed use lots, the owner of Oshara Village is requesting additional time to proceed with the development of the land.

The Applicant is requesting a 24-month time extension of the Oshara Village Master Plan approval under Article V, Section 5.2.7.b of the County Land Development Code which states, "Master Plan approvals may be renewed and extended for additional two year periods by the Board at the request of the developer."

A two-year time extension would render the Master Plan approval valid until October 28, 2015.

This Application was submitted on September 26, 2013.

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:

Approval of a two-year time extension of the Master Plan

approval in accordance with Article V, Section 5.2.7.b.

**GROWTH MANAGEMENT** 

AREA:

El Centro, SDA-1

FIRE PROTECTION:

La Cienega Fire District

WATER SUPPLY:

Santa Fe County Water System

LIQUID WASTE:

A wastewater treatment plant serves the development.

**VARIANCES:** 

No

**AGENCY REVIEW:** 

None

STAFF RECOMMENDATION:

Approval for a two-year time extension of the Master

Plan for the Oshara Village Development.

#### **EXHIBITS:**

- 1. Letter of request
- 2. Site Plans
- 3. April 30, 2002 EZA Staff Report
- 4. April 30, 2002 EZA Meeting Minutes
- 5. October 28, 2004 EZA Staff Report
- 6. October 28, 2004 EZA Meeting Minutes
- 7. June 14, 2005, BCC Meeting Minutes
- 8. Aerial Photo of Site and Surrounding Areas



# Greer Enterprises, Inc.

Vincente Archuleta
Building & Development Services
Santa Fe County Growth Management Department
Ph. 995-2726
varchuleta@co.santa-fe.nm.us
varchuleta@santyfecountynm.gov

\*\*Via Email\*\*

October 9, 2013

#### Dear Vince:

Pursuant to our telephone conversation, Greer Enterprises, Inc. would like to request an extension for the Master Plan of the Oshara Development, as the current MP expires this month.

We are requesting this extension due to poor market conditions over the past five years and would request the maximum extension of 2 years.

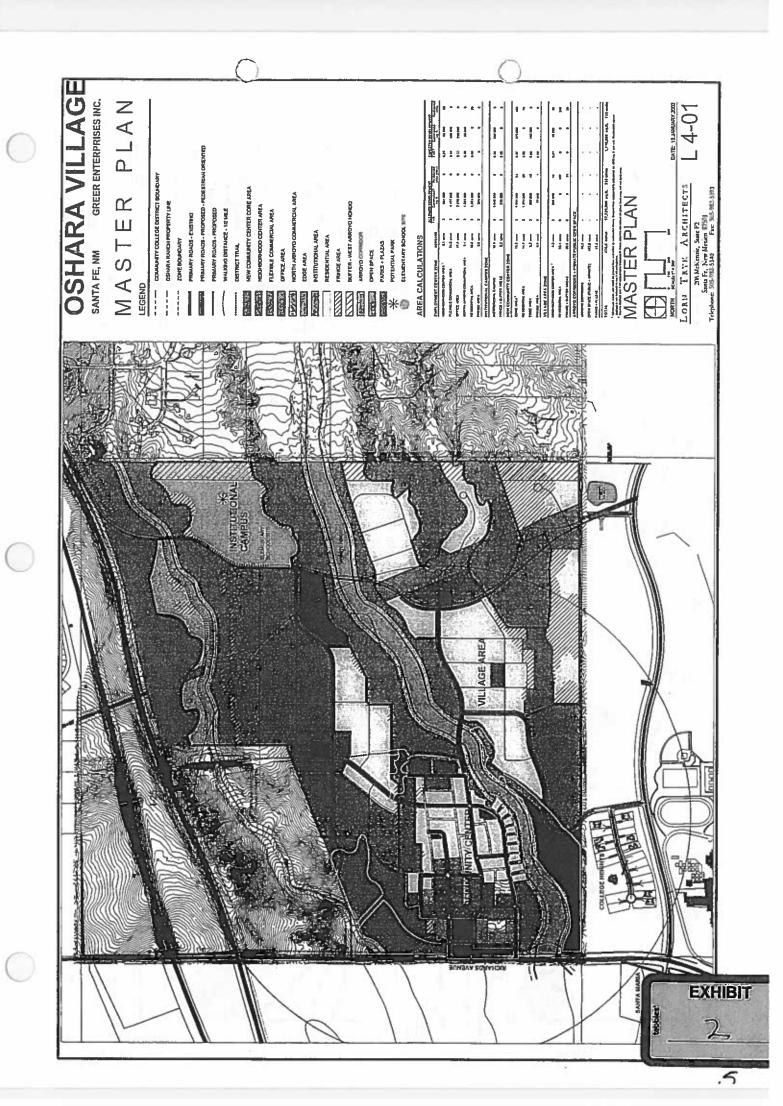
We appreciate your assistance in this matter.

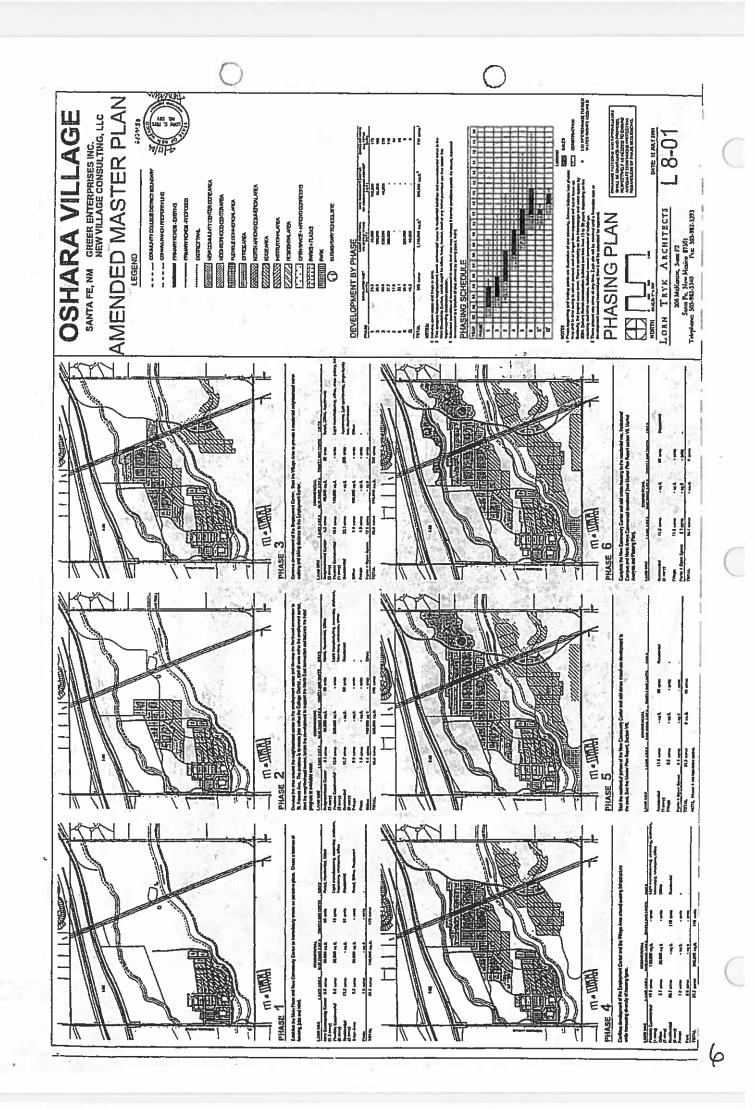
Best Regards,

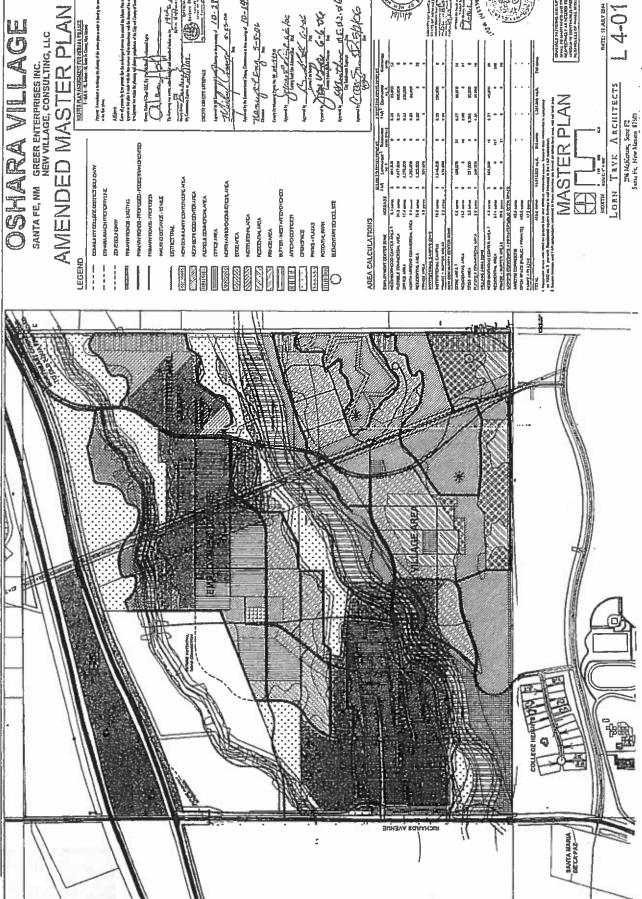
Jackie Clowney

Greer Enterprises, Inc.









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Marcos P. Trujillo Commissioner, District 1

Paul Duran Commissioner, District 2

Javier M. Gonzales Commissioner, District 3



Paul Campos Commissioner, District 4

Jack Sullivan Commissioner, District 5

Estevan R. Lopez County Manager

DATE: APRIL 30, 2002

EXTRATERRITORIAL ZONING AUTHORITY TO:

FROM: JOE CATANACH, DEVELOPMENT REVIEW SPECIALSIT III

VIA: ROMAN ABEYTA, LAND USE DIRECTOR KL

RE: EZ CASE MP 02-4190 OSHARA RANCH MASTER PLAN

#### ISSUE:

On March 14, 2002 the EZC recommended approval for the following (refer to meeting minutes attached as exhibit).

Greer Enterprises, Inc.-Alexis K. Girard, President(Design Workshop, Agent) is requesting master plan approval for a mixed use development(residential, commercial, community) in a village zone, institutional campus zone, employment center zone and fringe zone, consisting of 735 residential units and 1.7 million sq. ft of commercial space on 471 acres. The property is located along Richards Avenue south of Interstate 25.

#### SUMMARY:

The master plan proposes the following development with 246 acres of open space/parks/plaza areas, and 53 residential units for affordable housing:

Phase 1 – Employment Center Zone/Neighborhood Center/Neighborhood(21 acres):

- 70 residential units(townhouse, live/work units)
- 145,000 sq. ft of commercial space(retail, office, laboratory, wholesale, light industrial)
- l acre park/plaza
- 27.5 acre feet water use
- off-site road connection to St Francis Dr.

Phase 2 – Employment Center Zone/Neighborhood Center/Neighborhood(18 acres):

- 30 residential units(townhouse, live/work units)
- 220,000-225,000 sq. ft. of commercial space(retail, office, restaurant, light industrial)
- 32.1 acre feet water use



April 30, 2002 Oshara Ranch Page Two

Phase 3 – Employment Center Zone/Neighborhood & Village Zone Neighborhood Center/Neighborhood(61 acres):

- 230 residential units(detached, townhouse, apartments, live/work units)
- 290,000 sq. ft. of commercial space(retail, office, light industrial, gallery, labs)
- 13 acre community park/open space
- 71.0 acre feet water use

Phase 4 – Employment Center Zone & Village Zone neighborhood(38 acres):

- 110 residential units(detached, townhouse)
- 200,000 sq. ft. of commercial space(light industrial, lab, office, wholesale)
- 1 acre park
- 43.9 acre feet water use

Phase 5 – Village Zone Community Center/Neighborhood(35 acres):

- 195 residential units(townhouse, apartments)
- 175,000 sq. ft. of commercial space(retail, office, theater)
- 10 acre community park/open space
- 54.5 acre feet water use

Phase 6 – Village Zone Community Center/Neighborhood & Employment Center Zone (48 acres):

- 100 residential units(townhouse, estate, apartments)
- 350, 000 sq. ft. of commercial space(retail, office, hotel, restaurant, light industry, shop, gallery, lab)
- 5 acres park/open space
- 80.3 acre feet water use

Phase Q & X(based on market conditions) – Employment Center Zone & Institutional Campus Zone:

- 80,000 sq. ft. of office space on 10 acres
- 250,000 sq. ft. institutional space on 25 acres
- 33.3 acre feet water use

April 30, 2002 Oshara Ranch Page Three

### BOUNDARIES OF LANDSCAPE TYPES/LOCATION OF ZONES:

The applicant has provided a slope analysis and identified slopes of 0-5%, 5%-10%, 10%-15% and 15% +. From this slope analysis the applicant has defined the land use types. The CCD land zoning map is attached as an exhibit, and the slope analysis and updated land zoning map are also attached.

# **ZONING ALLOWANCES:**

The minimum residential density that is required in a village zone community center/neighborhood is 3.5 units per acre, the applicant is proposing approximately 5 units per acre. The minimum residential density in a village zone neighborhood center/neighborhood is 3.5 units per acre, the applicant is proposing approximately 7.2 units per acre. There is no minimum requirement for residential densities in employment center zones and institutional campus zones. The applicant is complying with residential densities in the fringe zones with 1 unit per acre.

The minimum floor area ratio in a village zone community center is .33 and the maximum is 3.0, the applicant is proposing between .65 and 1.0 floor area ratio. The minimum floor area ratio in a village zone neighborhood center is .25 and the maximum is 2.0, the applicant is proposing approximately .33 floor area ratio.

The maximum floor area ratio in a employment center zone is 3.0 with no minimum, the applicant is proposing approximately .32 floor area ratio. The maximum floor area ratio in a institutional campus zone is 3.0 with no minimum, the applicant is proposing approximately .31 floor area ratio.

Please note that the master plan includes a proposal to incorporate additional uses as eligible uses into the various zones. These additional uses are not presently established in the Community College District land use table, however the additional uses are consistent with modifications that are being considered by staff for amendments to the Community College District Ordinance, with some exceptions.

#### MARKET ANALYSIS/ECONOMIC/FISCAL IMPACT:

The applicant has submitted a market analysis that emphasizes the location as the Community College gateway and promotes the projects market potential with the mixed use and mixed housing nature, open space, views and architectural requirements. The report address the growth pattern south of the city with reference to existing and proposed residential and commercial projects within the City and Extraterritorial District, and projects that over a 20 year period, they will lease 1,400,000 to 1,900,000 feet of commercial space and sell or lease all the dwelling units.

April 30, 2002 Oshara Ranch Page Four

The economic/fiscal impact report indicates that the combination of one-time and recurring revenue will exceed a total of more than 40 to 50 million over 20 years. Oshara Ranch is projected to generate 4 million on an annual basis. The net positive fiscal impact to the County would be over 3 million annually, in addition to the one-time projected revenues of 19 million accumulating over the life of the project.

#### WATER/WASTEWATER:

Water service is proposed from the Santa Fe County Water Utility. The total water demand is estimated to be 342.5 acre feet per year based on water conservation measures. The developer presently has a water supply contract for 51.9 acre feet with the County Water Utility and is also in the process of acquiring additional water rights that could be transferred to the County Water Utility for use by this development. The current water supply contract is sufficient to support the projected water use of 27.5 acre feet for phase one development. Water supply to support each phase of development must be available at the time a development plan is submitted for each phase, and each phase must be able to function as a viable and complete development in the event that subsequent phases are not approved or developed.

The Ranch Viejo waste water treatment facility will be utilized for liquid waste disposal.

### ROADS/ACCESS:

Richards Ave. extends along the west boundary of the property as the primary access with three intersections proposed off Richards Ave. Secondary access is a road connection from Richards Ave. to an existing frontage road(Old Agua Fria Rd.) along St Francis Dr. which is proposed for phase one and is in accordance with the Community College Dist. Road Plan. The primary access roads will be subject to a conditional dedication for future ownership and maintenance by the County. The traffic report indicates that the intersection improvements presently proposed for Rodeo Rd./Richards Ave. intersection will be necessary to maintain an adequate level of service with the inclusion of traffic for phase one from Oshara, and additional improvements to the intersection will be needed for phase two. The traffic report also indicated that additional lanes would be needed for Rodeo Rd. and St. Francis Dr. to maintain adequate capacity in the future, however the future Richards Ave/I-25 interchange was not included in the analysis.

The internal subdivision roads will be paved with curb/gutter and sidewalks, with onstreet parking. The road lay-out also provides for continuation of future connections with the Rancho Viejo College Heights Subdivision on the south. April 30, 2002 Oshara Ranch Page Five

### TERRAIN/OPEN SPACE/LANDSCAPING/ARCHAEOLOGY:

The Arroyo Hondo and a significant drainage course extend through the property and will be part of the open space, including hillside areas over 15 percent slope and some areas between 10 and 15 percent. Retention/detention ponds and check dams will control post development drainage and provide infiltration of storm water. Permanent open space/parks/plazas will consist of 246 acres with recreational facilities and public trails, including open space buffers along the interstate, Richards Ave. and along the Arroyo Hondo existing neighborhood. Low water landscaping will be planted and disturbed areas reseeded. Two significant archeological sites will be preserved within the open space.

### HOMEOWNERS ASSOCIATION:

Conceptual homeowner documents address use and development of the lots with reference to the mixed use principles and design guidelines of the Community College District, including maintenance of common areas and facilities, and participation in a special assessment district for district wide infrastructure, improvements and operations.

# RECOMMENDED ACTION:

The following criteria shall be used for consideration of the proposed master plan:

- a) Conformance with the Community College District Plan.
- b) Viability of the proposed phases of the project to function as completed developments in the event that subsequent phases of the project are not approved or completed.
- c) Conformance with the Community College Dist. Ordinance and other applicable law and ordinances in effect at the time of consideration, including required improvements, proposed roads and trails, community facilities, design and/or construction standards, and open space standards.
- d) Impact to schools, adjacent properties or the County in general.

The proposed master plan is in accordance with the Community College District Plan and Ordinance, the EZC recommended approval subject to the following conditions:

- 1. Compliance with applicable review comments from the following:
- a) State Engineer
- b) State Environment Dept.
- c) State Highway Dept.
- d) Soil & Water Dist.

April 30, 2002 Oshara Ranch Page Six

e) County Hydrologist

f) County Public Works

g) County Technical Review

CNEONE

h) County Fire Dept.

i) County Water Utility

i) Santa Fe Public School Dist.

CONFLIGHT TO ELIGIBLE USES WITHUN COMM. COLLEGE

2. The following requested uses will be considered special uses and not eligible uses.

• hotel/motel uses over 6 units in neighborhood centers

- retail uses(5,000 sq. ft. to 45, 000 sq. ft.) in commercial area of employment center
- 3. Submit updated traffic report and market/economic/fiscal analysis with development plan for each phase.
- 4. Notify County Assessor and County Sheriff regarding master plan approval.
- 5. Reservation of property for public school site may be used for appropriate institutional, civic, community use if reservation is not accepted by Public School District.
- 6. Conditional dedication of primary roads to County for future ownership and maintenance, in accordance with road circulation map of the Comm.College Dist. Ord.
- 7. Submit conceptual landscape plan, including recreational facilities for park/plaza areas prior to recording master plan.
- 8. Provide road and trail connection on south side of Arroyo Hondo for Arroyo Hondo neighborhood, in accordance with road/trail circulation map(CCDO) prior to recording master plan.
- 9. Submit consent regarding proposal to utilize Rancho Viejo sewer system and access through Taurus property prior to recording master plan. This does not prohibit applicant from proposing construction of a community sewer system or other options.
- 10. Provide 15 percent affordable housing units(110 units) based on total residential density of 735 units, and subject to conformance with future amendments to the affordable housing ordinance.
- 11. Location of school site is conceptual and specific site can be modified depending on school district requirements.

April 30, 2002 Oshara Ranch Page Seven

# ATTACHMENTS:

- A Applicant's Letter/Report B Review Letter's

- C Misc. Correspondence D Master Plan/Vicinity Map E March 2002 EZC Minutes

- 7. EZ Case MP 02-4190. Oshara Ranch. Greer Enterprises, Inc. (Alexis K. Girard, President), Design Workshop, agent, is requesting master plan approval for a mixed-use development (residential, commercial, community) in a village zone, institutional campus zoned, employment center zone, fringe zone, consisting of 735 residential units and 1.7 million square feet of commercial space on 471 acres. The property is located along Richards Avenue, south of Interstate 25 within Section 16, Township 16 North, Range 9 East in the Two-mile EZ District
  - Mr. Catanach summarized his report as follows:

"The master plan proposes the following development with 246 acres of open space/parks/plaza areas, and 53 residential units for affordable housing. Phase 1, the employment center zone/neighborhood center/neighborhood (21 acres) proposes 70 residential units, 145,000 square feet of commercial space; 1 acre park/plaza; 27.5 acre-feet water use and off-site road connection to St. Francis Drive.

"Phase 2, employment center zone/neighborhood center/neighborhood (18 acres) includes 30 residential units; 220,000-225,000 square feet of commercial space; and 32.1 acre-feet water use."

Mr. Catanach reviewed the various future phases and zones as proposed by the applicant, including floating phases contingent on economic conditions. He said the densities and floor area ratios proposed in the submittal conform those outlined in the Community College District plan

Mr. Catanach outlined the criteria used for consideration of the proposed master plan:

a) Conformance with the Community College District Plan

b) Viability of the proposed phases of the project to the function as completed developments in the event that subsequent phases of the project are not approved or completed.

- c) Conformance with the Community College District Ordinance and other applicable law and ordinances in effect at the time of consideration, including required improvements, proposed roads and trails, community facilities, design and/or construction standards and open space standards
- d) Impact to the schools, adjacent properties or the county in general.

Staff finds the plan in compliance with the District Plan and Ordinance and recommends approval with the following conditions:

- 1. Compliance with applicable review comments from the following:
  - a. State Engineer
  - b. State Environment Dept.
  - c. State Highway Dept.
  - d. Soil & Water District
  - e. County Hydrologist
  - f. County Public Works
  - g. County Technical Review
  - h. County Fire Dept



- i. County Water Utility
- j. Santa Fe Public School Dist.
- 2. The following requested uses will be considered special uses and not eligible uses:

  hotel/metel use over 6 units in neighborhood center, retail uses in commercial area of
  employment center

The applicant shall comply with ordinance amendments relative to eligible uses in zones. [Changed at staff report]

- 3. Submit updated traffic report and market/economic/fiscal analysis with development plan for each phase.
- 4. Notify County Assessor and County Sheriff regarding master plan approval.
- 5. Reservation of property for public school site may be used for appropriate institutional, civic, community use if reservation is not accepted by Public School District.
- 6. Conditional dedication of primary roads to County for future ownership and maintenance, in accordance with road circulation map of the CC District Ordinance.
- 7. Prior to recordation of master plan submit conceptual landscape plan, including recreational facilities for park/plaza area.
- 8. Prior to recordation of master plan provide road and trails connection on south side of Arroyo Hondo for Arroyo Hondo neighborhood, in accordance with road/trail circulation map.
- 9. Prior to recordation of master plan submit consent regarding proposal to utilize Rancho Viejo sewer system and access through Taurus property.
- 10. Provide 15 percent affordable housing units (110 units) based on total residential density of 735 units.

Mr. Catanach said discussion has occurred regarding the allowed uses referred to in the second condition. There is an process underway to adjust the ordinance to allow certain uses in other zones. He asked that condition #2 be deleted to be replaced with a condition calling for ordinance amendments relative to eligible uses within the Community College District zones. The applicant is in agreement.

Mr. Catanach said this is the first Community College area master plan to be discussed before a governing body. In response to questions from Commissioner Gonzales, he said the developer has a water supply contract for 51.9 acre-feet with the County. The areas and types of uses comply with the designated zones.

Commissioner Gonzales asked if it was possible for the developer to "front-load" the commercial development resulting in an eventual imbalance of commercial and residential. Mr. Catanach noted that build-out ratios will be evaluated at the end of each phase.

Chairman Duran asked how Rancho Viejo's phasing tied in with Oshara's. Mr. Catanach stated Rancho Viejo has approval for a building with offices and some retail and should start construction on that soon. The commercial activity is on a much smaller scale, however.

Putting the plan into context, Ms. McGowan indicated that of the 17,000 acres in the Community College District, 50 percent of which is open space. She said the projections they had were done for the road plan and far exceed what is likely to occur. The 20-year projection

calls for 5,000 to 5,700 dwelling units including what's already developed. She said the marketing studies were reviewed in comparison with the maximum plausible numbers and with what has been developed to this point. They are in a realistic range of what has occurred in the last six years. Staff continues to be concerned about phasing and balance.

Ms. McGowan said the fiscal impact report will help elucidate problems involved in achieving balance between residential and commercial. She said staff is grappling with the concept of light industry and how it is to be blended with residential and retail, and employment centers seemed to be the answer.

Commissioner Sullivan asked how much planning is needed for transportation at this point. He noted that the City says the plan does not meet their standards. Mr. Catanach said they have to work off the road plan done as part of the Community College District plan. The Highway Department has set forth issues that need to be addressed at development plan stage. It is his understanding that County Public Works and the Highway Department have been working with the applicant on the connection to St. Francis Dr. and a resolution should be forthcoming.

Commissioner Sullivan stated the road connection to St. Francis was the first priority to alleviate the congestion on Richards Avenue. He said the terrain in that area is difficult. He recommended making successful completion of the St. Francis connection a condition of approval. Mr. Catanach agreed it is an important element of the master plan.

Explaining the possible amendments to eligible uses, Mr. Catanach said this involves both the employment zone and neighborhood centers.

Expressing his concern, Commissioner Sullivan said the neighborhood was opposed to two major zones, commercial and institutional campuses. Initially, these were distinct but with revisions to the use table, these two categories are very similar. He said he would prefer the distinction be maintained. Additionally, as the maps have been revised, commercial seems to be approaching Richards Avenue more closely. Mr. Catanach stated the commercial is still within defined employment zones and is consistent with the setbacks.

Regarding open space, Mr. Catanach said the first phases tend to have greater than 50 percent undeveloped.

Mr. Catanach stated if this development does not connect to the Rancho Viejo sewer system, they are still prohibited from using septic systems.

Duly sworn, Alexis Girard with Greer Enterprises, commended the visionary effort undertaken. The first plan presented in 1997 was rejected due to traffic concerns, then deferred until after the Commission planning was complete. Greer Enterprises has donated several acres for gateway improvements and has setbacks, some greater than 1000 feet from Richards Avenue. There are natural physical features that provide for separations between villages. She stressed that Oshara was providing an employment base for future generations. The meetings with the Highway Department involved extending Old Agua Fria Road to connect to St.

Francis Drive. She thanked staff for their cooperation.

Expanding on the road connection, Rosanna Vazquez, legal counsel for the applicant, indicated they have proposed alignments to the Highway Department. The Highway Department wants a written commitment from the County to the northeast connector in terms of land dedication and maintenance. The would also like to see a circulation plan adopted under the Commission Ordinance. That will be submitted when Al Pitts finishes his project. There are three potential routes, the preferred going through federal land.

Commissioner Sullivan asked to see correspondence pertaining to the process.

Councilor Lopez said she was also interested in the northeast connector as a means of relieving congestion on Rodeo Road. She has met with the Deputy Highway Secretary to discuss alternate circulations.

In response to questions from Councilor Pfeffer, Joe Porter, Oshara planner previously sworn, stated there would be approximately 2100 people in the first residential phase. In the live-work areas the population will be less, and those units are counted separately from the dwelling units. He said they calculate there being four workers per thousand square feet.

Previously sworn, Bill Conway said each land use type has a different employee density. Office is higher and retail lower. There should be over 2,000 workers in the employment center. Councilor Pfeffer speculated there would be about 450 people in the livework units.

Mr. Porter said the 175,000 feet of retail space corresponded to 525 residents, which calls for the importation of customers.

Councilor Pfeffer noted there would be at least three times as many people working in the village as living, with customers and clients counted in addition to that. He said the plan speaks of the "traditional village concept" and asked how this jibed with the plan under discussion.

Mr. Porter referred to the fundamental elements of the plan. The first is walkable villages with commercial centers. The second is a need for institutions that don't fit within a village. A third is employment centers with the intent of one job per house, something the little villages can't sustain. Three sites that are on external roads (Thornburg, Oshara and the State Land property) can take advantage of passing traffic and provide employment for residents. He said they could be compared to magnet stores.

Councilor Pfeffer asked how wide an area the 1.7 million square feet would serve. Mr. Porter stated there was a hierarchy of uses. The 100,000 square feet in the neighborhoods serves those immediate neighborhoods. There are 250,000 square feet in institutional campuses, which serve the region. In the new community centers there is about 350,000 square feet of commercial office and 175,000 of retail, which is the downtown area, and will have people coming from the outside as well as local traffic. The 80 acres originally slated for industrial has been broken down into neighborhood centers, office uses and flexible space.

This is a key component to economic development for Santa Fe.

Regarding the dwelling units, Mr. Porter said there is a wide range of square footage. The lofts are 600 to 900 square feet. Townhouses are 1,200 to 1,500, as are live-work units. Single family residents and estates are even larger. Councilor Pfeffer speculated that the 735 residential units amounted to around one million square feet of residential space. This would result in "a lot of empty space at night."

Mr. Porter said he doubted there would be empty space at night in the new community center. The goal is to introduce mixed use wherever possible. He speculated the Community College District plan would be a model for communities looking for an alternative to sprawl.

Duly sworn, Robert Garcia stated he was concerned, rather than opposed to the master plan. He said he was a resident of the Community College District and supports the plan. He is a member of the Community College District Development Review Committee and this proposal does not fall under their purview. The committee asked him to respond to the project. He asked that the timing and conditions of the phasing be delineated more precisely. He mentioned that Rancho Viejo, while committed to mixed use, is still 100 percent residential. Thornburg would prefer to concentrate on commercial and Sonterra on residential. Therefore he requested a stipulation that an approved phase be completely built before moving on to the next phase.

A further concern of Mr. Garcia was that affordable housing would be deferred as long as possible. He said the northeast connector was vital to keep the intersection of Rodeo and Richards from total gridlock. He noted that it was not until the fifth phase that a southern connector was contemplated.

Regarding open space, Mr. Garcia said there is a difference between unbuilt upon land and dedicated open space. He suggested that each phase stand on its own as far as constituting a percentage of total land area. Trails should also receive immediate attention.

Mr. Garcia said he has reviewed the State Engineer's negative finding about inadequate water. The Community College District Development Review Committee was told to ignore that and approved the first two master plans before the committee. He said Commissioner Sullivan underestimated the amount of commercial space projected. He said San Cristobal, Thornburg and Oshara constitute over 18 million square feet, which is twice that in Santa Fe currently. He said he and the committee were troubled by the suspension of detailed water availability assurance, particularly since the condition that water is required prior to development is not specifically stated. He asked that there be a stated condition to the effect that an application will not be considered for development plan approval unless there is proof of water.

Mr. Garcia recommended that the plan be thoroughly reviewed.

Under oath, Jim Klemmer from the Richards Avenue South Neighborhood Association indicated his group believes the plan is overly ambitious. [Exhibit 3] The commercial is too extensive to be a semi-rural gateway area. He said Richards is already gridlocked on Sundays

after church services and Oshara will exacerbate that considerably. He suggested the fiscal impact study be completed before approvals are granted. The neighborhood group would prefer that the Two-mile EZ be a transition area between the urban area and the higher density expected deeper in the Community College District.

Bob Wilbur was administered the oath and stated he doubted the Oshara proposal met the spirit of the community plan, particularly in that it didn't give special design consideration to Richards Avenue. The presence of commercial development makes Richards look like an extension of the urban area. He recommended tabling until the northeast connector is in place, and believed the north-south connection should occur in phase one rather than phase five.

Jane Petchesky, duly sworn, said she lived right across the street from the Oshara property. She recommended denial, since the plan is too commercial. She agreed another north-south road was necessary and opposes the interchange. "This is another case of a developer driving growth."

Under oath, Bob Burbick indicated he supports the commercial development in Oshara as an opportunity for true employment. He noted that residents of Rancho Viejo have to go elsewhere for employment, and cited Los Alamos as an example of a community that has grown and spun off industries.

Mr. Catanach submitted two letters of support. [Exhibit 4]

Councilor Lopez posed questions on the phasing of affordable housing and open space.

Mr. Porter stated the intent is to dedicate open space phase by phase. There is currently enough water available for the first two phases and they will stand on their own.

Ms. Vazquez said Oshara has committed to 15 percent affordable housing and a contract will be filed at development plan stage. Mr. Catanach said the ordinance requires proportional phasing of affordable housing.

Councilor Lopez spoke in favor of assuring that every phase has integrity on its own regarding mixed use, open space and affordable housing.

Ms. Vazquez said a 20-year build-out was projected at the most optimistic calculation, assuming water availability and the interchange.

Ms. McGowan pointed out staff is working on amendments to the affordable housing ordinance to include 15 percent of all housing, not just fee-simple housing. She stated that it was a good idea to make the affordable housing proportional to the total housing provided in each phase. The ordinance currently makes an exception if you have less than 25 percent of residential in the first phase. Councilor Lopez asked her to bring back a complete and improved rendition of affordable housing provisions. She noted that affordable housing tends to occur after everything else. Ms. Vazquez stated they are working with staff on the issue.

Commissioner Sullivan said the first two phases would require 15 affordable units.

Commissioner Gonzales asked that at preliminary phase, the Authority be given a breakdown of the types of uses, in addition to specific traffic projections.

Ms. McGowan speculated that the plan will become more specific but flex space is being proposed so it will be hard to pin down exact ratios.

Mr. Conway stated the market is not clearly established at this point.

Commissioner Gonzales moved to approve EZ Case #MP 02-4190, with staff recommendations and a stipulation that affordable housing be provided proportional to the residences built. Councilor Lopez seconded.

Providing suggested language, Commissioner Sullivan offered:

- Subject to requirement of 15 percent affordable housing to be provided in each phase
- . Subject to provision of an off-site road connection to St. Francis Drive
- A preliminary development plan application will not be accepted until proof of water availability is provided for each phase to the satisfaction of the County.

Ms. Vazquez said that the road connection is already part of the proposal, and they have a water contract with the County for 51 acre-feet.

Councilor Pfeffer said he was having a hard time grasping the scale of the plan, and asked for further clarification about the "village concept."

Mr. Kolkmeyer said it was not the intention of the plan to recreate traditional villages, which were created for agriculture, religion and protection. The underlying elements sought are compactness, connectedness, centeredness and community. He noted that there was an era of planning that got away from these elements toward bedroom communities, which is no longer in vogue. He agreed that phasing was always problematical.

In response to a question from Councilor Lopez, Mr. Kolkmeyer said that this proposal did tend to meet the goals of non-proliferation of sprawl and concentration of infrastructure. He cited Tierra Contenta as an example of what happens when commercial development is not considered from the beginning. He advised monitoring the phasing closely to ensure the project was staying on track.

Councilor Pfeffer pointed out that the residents coming forward to comment seemed to have an entirely different concept of the village concept.

Mr. Catanach recommended a further condition:

• that open space not fall below 50 percent throughout the phasing. This was accepted by the movant and second.

The motion passed by majority [4-1] voice vote with Commissioner Sullivan

# PETITIONS FROM THE FLOOR

None were presented.

# COMMUNICATIONS FROM THE COMMITTEE

Councilor Lopez asked that a policy be brought forward to the EZA regarding early neighborhood notification.

# COMMUNICATIONS FROM LAND USE STAFF

None were presented.

# ADJOURNMENT

This meeting was declared adjourned at 11:25. p.m.

Approved by:

Paul Duran

EZA - Chairman

Respectfully submitted:

Debbie Doyle

NORARIZED THIS 3014 DAY OF

2002.

NOTARY PUBLIC

My commission expires:

12/15/2005

OFFICIAL SEAL Martha O. Chavez

NOTARY PUBLIC STATE OF NEW MEXICO Harry B. Montoya Commissioner, District 1

Paul Duran Commissioner, District 2

Michael D. Anaya Commissioner, District 3



Paul Campos Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Gerald T. E. Gonzales
County Manager

# **MEMORANDUM**

DATE:

October 28, 2004

TO:

Extraterritorial Zoning Authority

FROM:

Vicki Lucero, Development Review Supervisor

VIA:

Dolores I. Vigil, Land Use Administrator

Joe Catanach, Development Review Division Director

FILE REF .:

EZ CASE # Z-04-4450 Oshara Village Master Plan Amendment

# ISSUE:

New Village Consulting LLC., (Alan Hoffman) applicants, Lorn Tryk, agent, request a Master Plan Amendment to the previously approved Oshara Ranch mixed use development (residential, commercial, community) consisting of 735 residential units and 1.7 million sq.ft. of commercial space on 470 acres, in order to change the phasing of the project. The property is located along Richards Avenue south of Interstate 25, in the Community College District, within Section 16, Township 16 North, Range 9 East (2-Mile EZ District).

#### **SUMMARY:**

On October 14, 2004, the EZC met and acted on this case. The decision of the EZC was to recommend approval of this request (Refer to EZC Minutes in Exhibit "G").

On April 30, 2002, the EZA granted master plan approval for a mixed-use development formerly known as "Oshara Ranch." The development consisted of 735 residential units and 1.7 million sq. ft. of commercial space and 246 acres of open space/parks/plaza areas on 471 acres, to be developed in eight phases (See Staff Report and April 2002 EZA Minutes in Exhibit "A" and "F").

The applicant is now requesting an amendment of that master plan which will change the phasing of the project, in order to develop the village zone community center/neighborhood in

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the first phase for the purpose of increasing the residential development and decreasing the commercial development in the first phase.

Phase I as previously approved consisted of 21 acres of development with 70 residential units, 145,000 sq. ft. of commercial space, 1 acre park/plaza, and an off-site road connection to St. Francis Drive.

Phase II as previously approved consisted of 18 acres of development with 30 residential units and 220,000-225,000 sq. ft. of commercial space.

Upon careful evaluation of the market analysis the applicant has determined that the demand for residential will increase. The applicant's proposal, as part of this amendment, is to combine phases I and II of the previous approval to be Phase II of the current proposal. The new Phase I would develop the village zone community center/neighborhood and increase the number of residential units to 175 and decrease commercial area to 136,000 sq.ft. and 37.78 acres of open space, parks and a main plaza. Increasing residential and decreasing commercial would create a greater balance.

# REQUIRED ACTION:

The EZA should review the attached material and consider the recommendation of the EZC; take action to approve, deny, approve with conditions or modifications or to table for further analysis of this request.

#### **RECOMMENDATION:**

The applicants are requesting a Master Plan Amendment to the previously approved Oshara Ranch mixed use development in order to change the phasing of the project to develop the village zone community center/neighborhood and increase the amount of residential units and decrease the amount of commercial development in the first phase.

Based on the preliminary housing needs analysis and fiscal impact study for the Community College District staff can support an increase in the amount of residential development and decrease in the amount of commercial development as it relates to the modified phasing.

Staff's recommendation and the decision of the EZC was to recommend approval of this request subject to all previously imposed conditions of the original Master Plan in addition to the following condition:

1. Participation in an infrastructure extension policy for district wide infrastructure, improvements and operation as applicable.

# **ATTACHMENTS:**

Exhibit "A" – April 2002 Staff Report Exhibit "B" – Developer's Request EZA October 28, 2004 Oshara Village Page 3

Exhibit "C" – Developer's Plans
Exhibit "D" – Reviewing Agency Responses
Exhibit "F" – Vicinity Map

Exhibit "E" – Vicinity Map
Exhibit "F" – April 2002 EZA Minutes
Exhibit "G"- October 2004 EZC Minutes

Commissioner Duran pointed out that applicants spend money on planning relying on assurances from the City and then are told they won't be served. Councilor Robertson-Lopez said the City is in the position of not having adequate water supply.

Mr. Siebert said he would be willing to be tabled since they would prevail in litigation. "The issue is getting an answer out of TRT." If they can be assured of an answer by next month, they would be happy to table until that time.

Commissioner Duran moved to table for 30 days and Commissioner Montoya seconded. The motion to table Case #Z 04-4470 passed unanimously.

Councilor Robertson-Lopez asked City Public Works Director Robert Romero to expedite the request.

6. EZ CASE # Z-04-4450 Oshara Village Master Plan Amendment. Greer Enterprises, Inc./New Village Consulting LLC., (Alan Hoffman) applicants, Lorn Tryk, agent, request a master plan amendment to the previously approved Oshara Ranch mixed-use development (residential, commercial, community) consisting of 735 residential units and 1.7 million square feet of commercial space on 470 acres, in order to change the phasing of the project. The property is located along Richards Avenue south of Interstate 25, in the Community College District, within Section 16, Township 16 North, Range 9 East (2-Mile EZ District)

Chairman Duran recited the case caption and Ms. Lucero gave staff's report as follows:

"On October 14, 2004, the EZC met and acted on this case. The decision of the EZC was to recommend approval of this request.

"On April 30, 2002, the EZA granted master plan approval for a mixed-use development formerly known as 'Oshara Ranch.' The development consisted of 735 residential units and 1.7 million square feet of commercial space and 246 acres of open space/parks/plaza areas on 471 acres, to be developed in eight phases.

"The applicant is now requesting an amendment of that master plan which will change the phasing of the project, in order to develop the village zone community center/neighborhood in the first phase for the purpose of increasing the residential development and decreasing the commercial development in the first phase. Phase I as previously approved consisted of 21 acres of development with 70 residential units, 145,000 square feet. of commercial space, one acre park/plaza, and an off-site road connection to St. Francis Drive.

"Phase II as previously approved consisted of 18 acres of development with 30 residential units and 220,000-225,000 square feet. of commercial space.

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EXHIBIT

G

"Upon careful evaluation of the market analysis the applicant has determined that the demand for residential will increase. The applicant's proposal, as part of this amendment, is to combine phases I and II of the previous approval to be Phase II of the current proposal. The new Phase I would develop the village zone community center/neighborhood and increase the number of residential units to 175 and decrease commercial area to 136,000 square feet, and 37.78 acres of open space, parks and a main plaza. Increasing residential and decreasing commercial would create a greater balance."

Ms. Lucero noted that the applicants are requesting a master plan amendment to the previously approved Oshara Ranch mixed-use development in order to change the phasing of the project to develop the village zone community center/neighborhood and increase the amount of residential units and decrease the amount of commercial development in the first phase. Based on the preliminary housing needs analysis and the fiscal impact study for the Community College District staff can support an increase in the amount of residential development and decrease in the amount of commercial development as it relates to the modified phasing. Staff recommendation and the decision of the EZA was to recommend approval of this request subject to all previously imposed conditions of the original master plan in addition to the following condition:

1. Participation in an infrastructure extension policy for district wide infrastructure, improvements and operation as applicable.

Commissioner Duran noted that there was some concern at the original plan that there was too much commercial development. The County hired a consultant to do a fiscal impact study on the Community College District, which found there was too much commercial.

Councilor Robertson-Lopez pointed out that recent discussions in the RPA encouraged striving for 30 percent affordable housing. Ms. Lucero said 15 percent was proposed, which is in accordance with the Community College District Ordinance. Commissioner Duran stated the RPA was still trying to determine whether 30 percent was economically feasible.

Duly swom, agent Lorn Tryk explained the intent was to change the phasing of the master plan in order to begin development closer to Richards Avenue would provide greater commercial viability in the short-run. He showed artists' renderings of how the plaza and various housing types would look. He said the new plan is more in line with the Community College District's goals and vision of a more pedestrian-oriented village. He added the new mix is a better balance.

Referring to the original plan, Mr. Tryk noted the northeast connector, which was to come in later, will now be in the first phase. He referred to a letter wherein the applicant agrees as a condition of construction of the first phase to design and bond for that road. He said the water budget has been cut approximately in half due to the sophisticated water reclamation aspects of the project. He characterized the State Engineer's Office as very excited about the innovative technology proposed.

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Mr. Tryk said updated market demand and absorption rate study indicated a greater demand for housing rather than commercial. Using maps, he demonstrated the changes proposed.

Councilor Robertson-Lopez referred to supplemental TIAs done by Al Pitts which are referred to in an October 4, 2004 letter. It was determined that the attachments were not included in the packet. Mr. Tryk said the northeast connector has been designed and engineered and drawings are on file. Ms. Lucero provided copies of the TIAs. Councilor Robertson-Lopez referred to City Traffic Engineer John Nitzel's remarks and asked City Public Works Director Robert Romero to comment on the traffic concerns. Mr. Tryk indicated Mr. Nitzel requested a study be done and that has been completed. Cost-sharing concerns are addressed in staff's conditions about the participation of all developers in a fair-share agreement. He called paying for the northeast connector "a giant first step". He said they have addressed Mr. Nitzel's major concerns.

Councilor Robertson-Lopez brought up the capacity of the intersection at Richards Avenue and Rodeo Road, mentioned in Mr. Nitzel's remarks. He suggested that impact fees be paid in a manner proportional to traffic being directed into city streets.

Mr. Tryk noted Mr. Catanach has explained the contemplated process in the past. He said the County was seen as the "point person" for the improvements. Money will not be funneled directly to the intersection at Richards Avenue and Rodeo Road. Mr. Tryk explained that there were two options – payin g into an assessment district that apportions costs system wide, or they can improve specific projects. He pointed out that Mr. Nitzel also mentions St. Francis Drive which is far from the property. He said the improvements to intersection at Richards Avenue and Rodeo Road are minor compared to their project on the northeast connector and it seems unfair to contribute to both.

Councilor Robertson-Lopez said she was disturbed that all the improvements seemed to be for County roads. She said the impact of development should be borne by developers and the intersection at Richards Avenue and Rodeo Road is already a failed intersection. Commissioner Duran asked, "Where does it stop?"

Frank Herdman, duly sworn and counsel for the applicant, stated the applicant is prepared to participate in the fair-share program and they do not demarcate City and County jurisdictions. The plan is to receive a credit for the northeast connector which will be used by other developers.

Councilor Robertson-Lopez pointed out that the developer is not having to pay for the federal rights-of-way, so the public is in a sense participating in the project. Mr. Herdman said the northeast connector will be serving a wide area.

Robert Romero, City Public Works Director, stated he has not yet reviewed the report submitted to DOT, but agreed it was essential to determine the fair-share distribution of costs. He agreed the intersection at Richards Avenue and Rodeo Road was failing and the northeast

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connector will take pressure off of it. He said they are also concerned about Richards from Governor Miles.

Commissioner Duran indicated the area is a high-demand growth area and growing pains are to be expected. He said building the intersection at Richards Avenue and Rodeo Road is a major contribution and the developer should not be overburdened. Mr. Romero said they are doing something similar in the Santa Fe Estates area in determining a pro rata share for each developer.

Councilor Robertson-Lopez said she was not trying to break the back of developers, but she wanted to clarify the documents in question.

Under oath, Alan Hoffman stated the study now in the hands of Councilor Robertson-Lopez was prepared at the behest of the City Traffic Department. Following questions about St. Francis traffic, the County engaged Mr. Pitts to do a T-model, something required for the Highway Department to grant the right-of-way. The report also refers to beneficial impacts of the northeast connector. He reiterated they are committed to contributing their fair share whether it's city or county. He said they are grateful for help they are getting with rights-of-way and the road will be a benefit the neighborhood as well as Oshara. If the credit accrued from the northeast connector is used up they will pay more.

Councilor Robertson-Lopez said she would like to see a condition asking the City and County to work together with the developer to address all the issues. Mr. Hoffman indicated he understood this was a condition of approval.

Duly swom, Jeremy Mains, president-elect of the Santa Fe Homebuilders Association, stated people want to move to Santa Fe and they need places to live. He supported the proposal which could be an icon for the rest of the country.

Damian Terrel, under oath, stated his family has lived in the area for generations. He lamented the sprawl taking place and said he believed the development would offer many amenities. He welcomed Oshara to the neighborhood.

Under oath, Ben Luce of Los Alamos said he was allied with solar energy organizations and other groups for clean and affordable energy. He stated he is interested in this project due to the energy-efficiency aspects and good urban design.

David Diego Mulligan, previously sworn, said he was in support as an environmentalist, since it appears to be sustainable and healthy. Working at the Community College, he commended the developer for providing a more affordable alternative for housing within walking or biking distance. He asked the Authority not to put up obstacles.

Previously sworn, Jennifer Hanann spoke of her experience with sustainable communities in northern California and asked for support for the forward-looking, creative team on this project.

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Robert Garcia, speaking for the Richards Avenue Association and previously sworn, noted the association opposed the original master plan. He said this plan is far superior. He asked for assurance that the northeast connector would absolutely be built, and said he understood that commitment was made. He asked that the Camino Carlos Rey extension, running down the east side of Oshara, also be built soon. He indicated that the association is in favor of traffic circles and asked that they be considered. He noted that John McCarthy is committed to extending Dinosaur Trail, and he supports the traffic circle concept for traffic calming.

Chuck Hammer from the Academy of Technology and Classics, previously swom, said the school has been talking with Oshara about the possibility of placing the school on the property. He said they are seeking a greater interaction with the Community College and would welcome the chance to have a facility near there. Councilor Robertson-Lopez said she understood the charter school was to be built next to IAIA. Mr. Hammer said Rancho Viejo has not committed to them.

Returning to the podium, Mr. Terrel pointed out that Old Galisteo also needs improvement.

Councilor Robertson-Lopez noted that public transportation was already in the area and she asked if there would be another bus stop along there. Mr. Hoffman said they have a letter from Santa Fe Trails stating they could serve them from day-one, and Oshara has committed to having a bus stop at the plaza.

Referring to potential additional funds for affordable housing coming the legislature, Councilor Robertson-Lopez asked if they would be looking into state subsidy or grants. Mr. Hoffman said he had not heard of the funds becoming available but said affordable housing need not come solely from subsidies. He anticipates many homes will cost \$200,000 which could serve as an unsubsidized component for starter homes. The village concept lends itself to a lower price range. Councilor Robertson-Lopez stated Oshara lent itself to affordability and encouraged bim to look into MFA sources.

Councilor Robertson-Lopez moved to approve the project with staff's condition, plus two additional conditions:

 County staff and developer will work on an agreement for cost allocation for traffic improvements prior to building permits being issued.

She said the purpose of the condition is to allow City and County staff to look at the latest traffic report and come to an agreement.

 The City and County commit to working with the Federal Highway Administration and New Mexico DOT and other entities to expedite and petition the State Transportation Commission to support the release of right-of-way for the northeast connector. The

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developer will do nothing to interfere with or deter the northeast connector. [Approved with successful motion.]

She said she understood the commitment was already made but wanted to "keep everyone's feet to the fire."

In response to a question from Commissioner Duran, Councilor Robertson-Lopez said she did not feel condition 2 was redundant to condition 1. She said while she doesn't want to see the project held up, her condition 2 makes it clear there is work to be done.

Mr. Catanach reiterated that many developers have been making improvements with the understanding that costs will eventually be distributed equitably.

There was no second to Councilor Robertson-Lopez's motion.

Commissioner Duran move to approve Case #Z 04-4450 with staff's condition and Councilor Robertson-Lopez's condition number 3. Commissioner Anaya seconded and the motion passed by unanimous voice vote.

Commissioner Montoya said it is critical that there be a coordinated plan among all of the developments, and that seems to be taking place.

#### PETITIONS FROM THE FLOOR

None were presented.

#### COMMUNICATIONS FROM THE AUTHORITY

None were presented.

#### MATTERS FROM LAND USE STAFF

Ms. Lucero stated the November and December meetings are traditionally combined, and the meeting was scheduled for Tuesday, December 7, 2004 at 6:00 p.m.

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CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: We need to work on these kinds of issues but I just don't feel comfortable that we have sufficient information. I would like to motion to continue. Wayne, you've probably done all you probably can and you're overstretched with this, but I think we need to get some raw data in here. I think we need to know how this affects utility customers and that's a critical issue that I think we've just focused on with one community and that's Sierra Vista. Perhaps we need to bring in some of the utility companies or utility representatives with regard to this so that they can provide a broader scope of information for us. It sounds wonderful and I think if I had further information and that utility issue was of a comfort level to me, I would move forward as fast with this as I possibly could but at this point in time, without having that piece of information, I would like to motion that we table this until next meeting and hopefully we can get raw data on this.

CHAIRMAN ANAYA: There's been a motion to table. Is there a second? COMMISSIONER SULLIVAN: Second. CHAIRMAN ANAYA: Motion, second.

The motion to table consideration of the water recirculation ordinance passed by majority [4-1] voice vote with Commissioner Campos voting against.

XIII. A. 2. EZ CASE # S-04-4551 Oshara Village. New Village Consulting LLC, Alian Hoffman, applicant, Lorn Tryk, agent, request final plat and development plan approval for Phase 1 of the Oshara Village Development, which will consist of 175 Residential lots and 136,00 square feet of commercial space on 74 lots, on a total of 37.78 acres in accordance with the previously approved master plan. The property is located along Richards Avenue south of I-25 in the Community College District, within Section 16, Township 16 North, Range 9 East

COMMISSIONER CAMPOS: Mr. Chairman. CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: When we approved the agenda, the first question was whether this was right for consideration because documents were provided by the developer at the very last moment, and perhaps staff or the Commission hadn't had an opportunity to review that. And I would like to have that addressed by the applicant.

CHAIRMAN ANAYA: Okay. Do you want to hear from Vicky first, or do you want to hear from the applicant? Do you remember the concerns, Lorn? You want to address those real quick?

MR. TRYK: Just real briefly, we have not submitted anything in the last



few days. I was made aware that the packet was missing the memo from the Environment Department. I think it was mistakenly characterized as missing the memo from City Traffic. It's actually in there. None of these memos are particularly recent. We have not provided anything to staff in the last couple of days. So as far as we're aware, everything was presented in a timely fashion.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: May I ask a question of Dolores Vigil?

CHAIRMAN ANAYA: You bet.

COMMISSIONER CAMPOS: I think staff did mention that they wanted to table this because documents had not been provided on a timely basis. Would you please address that?

MS. VIGIL: Yes. Mr. Chairman, Commissioner Campos, what I was addressing was there had been some issues that I felt hadn't been addressed concerning the roads. And since the staff has submitted their staff report, those issues have been addressed. And I also want to state that we did receive a comment or a memo from the Utilities Department today. [Exhibit 5] And that's one of the memos that I had said earlier that I had just received and reviewed, and I did give a copy to the applicant for review also.

COMMISSIONER CAMPOS: And were those issues adequately discussed in your staff report?

MS. VIGIL: I'd like to defer that to Vicki Lucero, please.

COMMISSIONER CAMPOS: Okay.

VICKI LUCERO (Zoning Director): Mr. Chairman, Commissioner Campos, as far as the issues that were brought up by the Utilities Division today, those were not a part of our memo, our staff memo. We just reviewed comments to that effect today. Perhaps Doug Sayre could answer questions regarding his recommendation.

COMMISSIONER SULLIVAN: Mr. Chairman? CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One of the memos that Ms. Vigil referred to. Dolores Vigil, was Doug Sayre's memorandum regarding the wastewater treatment facilities. And I won't read it all, but his conclusion: "Based on the wastewater facilities submittals to date, and the status of the discharge plan application, approval of the final development plan at this time should only be considered with conditions that final development plat approval be considered when complete and detailed engineering plans including design calculations and soil analysis for the wastewater facility have been submitted."

I would just remind the Commission that when we did the La Pradera approvals in the Community College District that at their final plan stage they had complete drawings of the wastewater plant that they proposed. And they had a letter from the Environment Department from the permit section saying that the application was acceptable. This

particular application was just noticed on June 6. A notice just came out. So there's a public hearing process to go through, and there's even comments in the documents about the possibility of maybe connecting into the Community College District plant. So it's still quite up in the air what's going on here. And we're not at a point where we can make that decision. I just wanted to point those staff comments out to you.

CHAIRMAN ANAYA: So I guess I have a question of staff. Did they follow all the guidelines that they needed to in order for us to hear them tonight? Yes or

MS. LUCERO: Mr. Chairman, I think the only outstanding issue was the water service agreement, which was approved earlier this evening, and the issues regarding traffic. We've spoken with Public Works since the time that our memo was prepared, and they're comfortable with this case proceeding forward for final development plan. I did also speak with Doug Sayre before the meeting, and he is fine with this case proceeding with the condition that the wastewater treatment system has to be approved prior to plat recordation.

CHAIRMAN ANAYA: Okay. So we beard from staff that says they feel comfortable that this can go forward. I want to know from the Commission, do you all want this to go forward or not?

COMMISSIONER CAMPOS: Yes. COMMISSIONER VIGIL: Yes. COMMISSIONER SULLIVAN: No.

CHAIRMAN ANAYA: Okay. We'll hear it. Go ahead, Vicki.

MS. LUCERO: Thank you, Mr. Chairman. On January 11th, 2005, the BCC granted preliminary development plan and plat approval for phase 1 of the Oshara development. The BCC gave direction that the applicant and staff work out the water budget issues and come up with a back-up plan for this project, as well as adjust the buffer area along Richards Avenue. The County Hydrologist has outlined a water allocation backup plan that he feels will protect the County system. In this backup plan, he estimates that a total of 40.78 acre-feet of water rights would need to be transferred to the County in order to protect the County utility and at the same time allow Oshara to demonstrate its proposed water budget. The applicant has addressed this issue in a letter dated June 3, 2005.

In regards to the buffer area along Richards Avenue, the land use zoning map of the Community College District Ordinance, which refers to buffer areas as a fringe zone, illustrates a 200-foot buffer area along both sides of Richards Avenue. Section 13.3.C of the CCDO also states that zone boundaries in the Community College District shall be refined during the master plan, preliminary development plan, and final development plan approval process. The applicant is proposing a buffer along Richards Avenue that ranges from approximately 60 feet to 570 feet. The applicant is proposing to create a 3- to 4-foot berm along the most narrow portion of the buffer area. Landscaping will also be incorporated.

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In the CCD plan, the intent of buffers is a separation or transition between existing residential neighborhoods and future village development areas. Along Richards Avenue and State Road 14, buffers preserve the traffic priority nature of these main roads, and the intent to create a boulevard rather than a roadway lined with buildings and driveways. The buffer proposed by Oshara would separate the living priority road and buildings fronting it from Richards Avenue, where traffic takes priority, with landscaping and the district trail as envisioned by the CCD plan and ordinance. It also more restrictive than the other developed areas on Richards Avenue, which do not have a buffer requirement.

The applicant is now requesting final plat and development plan approval for phase 1 at this time. Phase 1 will consist of the development of a village zone community center neighborhood that will consist of 175 dwelling units and 136,000 square feet of commercial space on 37.78 acres, as well as an additional 37.78 acres of open space parks and main plaza. Twenty-seven of the dwelling units will be affordable housing units, which is 15 percent of the total number of units, as required by the CCDO. This application was reviewed for access and roads, terrain management, open space, landscaping, archeology, water, wastewater, and fire protection.

Recommendation: Since the time that the staff report was submitted, we have had additional discussions with Public Works. As I understand, we are okay with allowing this to proceed for final development plan at this time. Therefore, staff would to like to amend our recommendation and recommend final plat and development plan approval subject to conditions number 1 through 17 as listed in the staff report, and two additional conditions as follows. Condition number 18, that the applicant must comply with the conditions of the water service agreement prior to final plat recordation. And condition number 19, that if the 11 acre-feet of water rights do not get transferred, the developer will only be allowed to plat 117 lots. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you. Any questions of Vicki? Okay, hearing none, is the applicant here?

[Duly swom, Lom Tryk testified as follows:]

MR. TRYK: I wanted to just remind you of the things we were asked to do in some detail, some of which were conditions that were put on in our preliminary approval, and some which were added by staff during this process of the last couple of months. Regarding water, we were asked to start the application of transfer for the 30 acrefeet of water rights. As you heard earlier today, that application has been made to the office of the State Engineer. We were asked to execute a water service agreement. We've worked diligently with County staff, including legal staff, to get that done.

We were asked to agree to the County Hydrologist's budget, as well as his mechanism for credits and debits, if you will, and monitoring of our budget. Since it's a Spartan budget, he wanted to make sure that if we exceeded it, we were penalized. If we came in under it, we would be able to carry some of those water rights forward. We have agreed to his budget and his conditions without exception.

We were asked to further develop the commercial covenants in terms of low-water

uses in the commercial area, which we've done and staff has accepted. And we were asked to specifically enter into an agreement with Greer Enterprises, where the 30 acre-feet is coming from, so that the destiny of those 30 acre-feet would be without question. All of those have been taken care of.

It was earlier mentioned that the 375 acre-feet that us basically getting a stand-by agreement with you as part of our water service agreement would evaporate – I use that term no pun intended – once the 375 acre-feet are transferred to the Buckman direct diversion. That is actually incorrect. They do not go away. We think that you're taking a miniscule risk with the water service agreement that you've already approved. If we don't meet the budget, and we don't ever get a chance to transfer the eleven acre-feet, which you already heard earlier John Utton say are "good water rights," pre-1907 Pcña Blanca water rights. He saw no problem with those getting approved by the Office of the State Engineer. This is taking a very small risk.

I say that as a preface to saying that we do have a problem with the additional condition of number 19, of limiting us to 117 lots. That was a surprise to us today. We thought we had worked out all of the contingencies of this water service agreement, and protected the County in several ways already. And it is a great burden for the project. So I want you to consider that carefully because the financial feasibility, the obtaining of financing for the infrastructure, was predicated on building 175 houses. So there's a serious concern. We think of the temporary granting, and it isn't actually granting, it's basically a stand-by agreement of those eleven acre-feet being like co-signing of a loan. And there's a very, very small chance that it would ever come into play, and only temporarily. Meanwhile, think of the opposite, which is to stand by the water service agreement that you already passed, and not force us to limit ourselves to 117 houses, sends a message that you're supporting good, sustainable development.

The second category that we were asked to analyze was the northeast connector. Staff asked us for more assurance that the northeast connector was possible, that it was really going to happen. We explained to you last time that the northeast connector, obtaining the right-of-way, while it's a condition of our recordation and we can't move forward without it, it's not something that we can petition. The City and the County actually have to petition through the Access Control Committee for that right-of-way. But staff felt it's important to have some indication that that process was going to ultimately be successful. If you recall the Extraterritorial Authority, when they granted approval to us, put in a condition that the City and the County commit to working with the Federal Highway Administration and the DOT and other entities to expedite and petition the State Transportation Committee to support the release of a right-of-way for the northeast connector. I'm reading this verbatim: "The developer will do nothing to interfere with or deter the northeast connector."

Well, since that time, we tried as much as possible to steer that ship. We went to the Department of Transportation. We went again to the City Public Works Department, entered into further discussions with them to make sure that everybody was in support of

it. At our meetings with the Department of Transportation, they suggested that we go to the RPA, since it's a joint City-County body, to make sure that everybody was on the same page, and before we proceed to the RPA that we go to their Technical Advisory Committee. The Technical Advisory Committee includes members of City, County, and State. We've been to the TAC, and we've had them vote on it in favor of the northeast connector, and it is proceeding to the RPA for their ratification. So we have made some considerable strides in that area of obtaining the right-of-way, even though as I said before, it's not really something that's within our control.

We had a letter with some concerns last time from the City regarding traffic, particularly traffic in the area of Rodeo and Richards. Since that time, in meeting with City Traffic and them realizing that the northeast connector will now be a part of our phase 1, rather than phase 2, they have amended that letter. It's included in your staff report. And it

is very positive in support of this project.

I think it's also worth noting that not only did this northeast connector show up on the Community College District Plan, but we've had a lot of support from neighbors anxious to see it happen and anxious to see it happen in phase 1 as a traffic-reliever. We were asked by Public Works to consider making another connection between the northeast connector and Richards Avenue. We're already making two. They asked for a third, which would run through the neighboring property, the Taurus property to our north. We have resisted that. First of all, we don't control the land. [Exhibit 6] We simply cannot comply with that request. Secondly, we have been urged by our neighbors to the north to hold off on planning that road until they can go through their master planning process.

Finally, I'd like to point out that those who are so anxious to see us make a direct connection from the northeast connector to Richards and Dinosaur Trail are hoping that this will be somehow a bypass highway. And we urge you to realize that's not going to be the case. The Community College District Ordinance asks for a dense network of small roads, rather than a few large roads. And we're already doing our part in phase 1 to create two road connections. This third one that will eventually occur in phase 2 of our project and go through Taurus will be a third. But it'll also go through a neighborhood center. So it is not going to be a more direct route. I want to point that out. We would like to see it occur in the future, but we don't think that it's significantly an improvement over what

we're already intending to provide.

The last thing that we were asked to, just in general categories that we were asked to look at, was wastewater treatment. Several things. One, when we were approved at preliminary, you will recall our condition of approval was to do final working drawings before recordation, not before final plat. So we are not reneging on a previous promise. I want to make that clear. Secondly, since the time we saw you last, we have done a whole lot more design work on this wastewater treatment plant and presented it to ED and gotten a very favorable letter back from them, which apparently you don't have copies of, and I think Anna is providing you with right now. [Exhibit 7]

Basically, what staff asked us to do before we came back to you is get some

indication from the Environment Department that they would be willing to approve this technology, since this is a – I wouldn't say cutting edge, but it is not the most basic of technology. This was particularly important to the County Hydrologist, our utilities director, because we're using treated wastewater for toilet flushing. And he wanted to make sure that that essential component of our water budget was going to be practical. So since then we have done a great deal more work and gotten a very positive recommendation from the Environment Department. There's no iron-clad guarantee that they'll give us a permit. It never is until they've gone through that process. But it was a very positive step for us to take.

Finally, there was mention of the buffer, and the fact that we were asked to study it again. And as staff said in their report, there is the right to refine the buffer. Our buffer varies from fairly narrow – I don't think it's actually 60 feet wide, but something under 200 feet to something close to 600 feet. We took the step on our own to go to the neighbors, talk with them, make sure that they would support our buffer. Went out, staked out the site, put up story poles, did renderings, showed them that this one block area was critical for the success and viability of our commercial area. They came back to us and said that they agreed with us. They did ask us to do a couple of things in terms of our commercial design, which you'll see in the letter from the South Richards Avenue Association. [Exhibit 8] They asked us to do some stepping back and some modifying of the second stories of those buildings.

But in general, we're in agreement with that buffer being designed as we have designed it. Again, I want to point out that to us that's critical, not only for commercial viability, but for the viability of transit. The transit company has told us that they would be willing to bring a stop into our project, rather than having one out on Richards Avenue where no one would use it, only if our commercial street and plaza are close to Richards Avenue. And I think we mentioned last time that signage is going to grow in size as we step further and further away from Richards Avenue. So I think it's an important issue to us. We're not being cavalier about it. And it's something that we've generated good support for.

So those are the things that we were asked to do last time. I think we followed through with them rigorously, got good support. Again, the only thing that I think we were not in agreement with is this new condition 19 on limiting us on our number of lots. Other than that, we've looked the staff report over in detail and agree with all the other conditions. And you'll find that many of the conditions have already been satisfied. I think all of the ones enumerated in 17, A through G, have already been satisfied. So we're getting pretty far down the road there.

Anyway, that gives you an overview of what we've been doing the last few months, and we stand for your questions.

CHAIRMAN ANAYA: Thank you, Lorn. Any questions of Lorn? Okay. Commissioner Sullivan?

COMMISSIONER SULLIVAN: Lorn, on the setback from the commercial,

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the Richards Avenue Association with whom you met recommended 140 feet from the right-of-way. Is that okay with you?

MR. TRYK: Yes.

COMMISSIONER SULLIVAN: Okay. So that's the minimum setback from the right-of-way for the commercial.

MR. TRYK: That's for buildings from the right-of-way.

COMMISSIONER SULLIVAN: Well, what would be the setback for other

things?

MR. TRYK: Well, we have roads and parking closer to the right-of-way of Richards Avenue than that. They're referring to the face of the buildings.

COMMISSIONER SULLIVAN: So you're not willing - the 200-foot is what's required in map 14 on the Community College District. So you're not willing to go for the 140, then?

MR. TRYK: No.

COMMISSIONER SULLIVAN: No? Okay.

MR. TRYK: It depends on your definition.

COMMISSIONER SULLIVAN: My definition is a setback's a setback.

There's no development, it's a buffer area. That would be my definition.

MR. TRYK: Then no. And that's not their intent either. And I'll let them address that.

COMMISSIONER SULLIVAN: Okay. On the issue of the setbacks for the bus, you may have seen it, I'm sure you have, I wrote a letter to the transit director asking whether that 200-foot setback would impact their providing service to your development, or would cause you to incur any additional costs. And you may recall from seeing his response that his answer was no, it wouldn't, that there would be service regardless. If you would like me to read that letter into the record, I will. If you disagree with that, I'll be glad to read that into the record. Have you —

MR. TRYK: Did you hear my comment which was that they said that they would still provide a transit stop, but if we moved further from the road, they would

provide it on Richards Avenue?

COMMISSIONER SULLIVAN: That's not what the letter said. The letter said that they would provide service, and they went on to say that of course the closer service is to a population area, the more people you get voluntarily to use transit service. And that would apply anywhere, of course, where you go in a population center. If your population center was 200 feet back or if it was 140 feet back or if it were 60 feet back, as it is now, either way where that population center is, if your bus stop is closer to that center, then it's going to more convenient for people. That's what the letter said.

MR. TRYK: Our indication from them was they could immediately provide us a stop within the development, if we were no further away than we are. They could immediately provide a stop on Richards Avenue if we moved further away. They could provide in the future a stop within the development if we moved further away. That's the

indication that they gave us.

COMMISSIONER SULLIVAN: Okay. That may be in the discussions that you had with them. It's not in the letter. The letter, I specifically asked was there anything that impacted that, and their answer was no, that they could provide the service at the 200 feet.

MR. TRYK: Your letter says: "Bus stops could be sited on Richards Avenue to serve residents of the proposed development, assuming that an accessible way connecting the stops to the development is provided."

COMMISSIONER SULLIVAN: Yes, in other words you've got a bus stop and you need a path to get people to the bus stop.

MR. TRYK: If anyone would use it, yes.

COMMISSIONER SULLIVAN: Yes. If they need it, I'm sure they will. And then also, Mr. Chairman, just a clarification. There's occasionally some confusion about the temporary water rights that the County's negotiated with the City of Santa Fe and the settlement to the San Juan/Chama diversion water rights issue. And I want to be sure that there's not any confusion about that. The 375 acre-feet that's included in the water service agreement that's available to us right now is through the City of Santa Fe. That 375 acre-feet of water rights is a temporary water right allowance that they've given us to enable development to move forward, prioritize development to move forward in the interim. That is not in any way connected to the County's resolution of the San Juan/Chama water rights issue, wherein 5,605 acre-feet was allocated to the City and the County. And we had been arguing for many, many years over how much of that was for the County and how much of that was for the City. The ultimate conclusion of that was that that 375 acre-feet, which doesn't become available until after the Buckman Direct Diversion is online, that 375 acre-feet was the settlement of that dispute. We got 375 acre-feet; the City got the rest.

The 375 acre-feet that Oshara will be making use of in the water service agreement is the 375 - that's a totally different 375. Because if it weren't, you couldn't use it. You'd have to wait until the Buckman Direct Diversion was online. That 375 is the temporary water that we negotiated with them so that some developments could move forward while they were getting water rights. That 375 does go away at that point. And I want to be very clear that the Commission understands that that water service agreement is not an agreement with Oshara for eleven acre-feet in perpetuity, going beyond the BDD, the opening of the Buckman Direct Diversion. At that point, you have to have your eleven acre-feet in place. And that was the concern that we discussed earlier. So I would take exception to your comment that it's not temporary. I was on the negotiation team for that for over a year, intimately involved in it, as were other members of the Commission, and it is temporary. I just want to clear the air on that.

I have some other questions later, Mr. Chairman, after the public hearing. But

that's it for now. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan.

COMMISSIONER VIGIL: I would just like Steve Wust to respond to Commissioner Sullivan's characterization of that 375 acre-feet. Is it your understanding that it's temporary? Or is it finite or is it forever or what?

DR. WUST: Mr. Chairman, Commissioner Vigil, Commissioner Sullivan was correct. It's a bridge, basically, from the City to account for what will be San Juan/Chama water in the direct diversion. However, the water that the City is bridging with is not water, in the strict accounting sense that will be used to supply the developments from the Buckman direct diversion. That's why we're asking to bring in water rights. If we were just making an arrangement that they would get a piece of the 375, and we're assuming that rolls over into San/Juan Chama, they would need water rights, because that's what we have. But we're trying to supplement our capacity within the direct diversion project way beyond the 375. And we're asking developers to bring in

water rights to help us be able to reach that capacity.

So in essence, what's going on is the eleven acre-feet that Oshara is requesting is part of the bridge. That bridge goes away, and if they have the water rights in place in time, it rolls over into the cleven acre-feet they've put into the Buckman project, which is different from the San Juan/Chama water. And if they don't have their water rights or any other development doesn't have their water rights at that time, it's not assumed that that's going to roll over into the San Juan/Chama portion of the direct diversion. And so the wet water, the allotment, does go away, because it's rolling over to a different place. And we don't want to assume, he's correct, we'don't want to assume that a developer can just assume, "If I don't have my water rights, I'll just take it out of the San Juan/Chama portion of the direct diversion." Because that's not the same allotment coming from the City during this bridge time.

COMMISSIONER VIGIL: Okay.

DR. WUST: I hope that cleared it up somewhat.

COMMISSIONER VIGIL: At some level. So this eleven acre-feet water that

we're requiring is a good thing?

DR. WUST: Mr. Chairman, Commissioner Vigil, that is absolutely right, and we do it with all developers. That is that we do not want to be allocating our San Juan/Chama portion of the direct diversion just to anyone without some kind of compensation to help us reach our full - I believe our full capacity of the direct diversion is 1,700 acre-fect. But we've got to make up that difference between 1,700 and 375 in the water rights. We're buying some ourselves, but just like we do with roads or infrastructure, we require that developers contribute to that portion so we can supply them with water.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Chairman. CHAIRMAN ANAYA: Okay. This is a public hearing. All those in favor or that want to speak against this case, could you please come forward? Not all at once, now. Go ahead, ma'am, come on up. If you could just state your name for the record and talk directly into the mike so that everybody can hear you.

LOUISE WILLIAMS: Thank you for the opportunity. My name is Louse Williams, and I have lived in the neighborhood along with other neighbors that are here present with me today. I'm not directly on Richards Avenue, but however on the northeast corridor that's being discussed for road easement and access. And I am not speaking against the development of the capacity building that's needed on Richards Avenue. I mostly wanted to talk in terms of the northeast corridor, and recognize that people need to have access and ways to get in and around, and very much supportive of the County taking a stance to require that developers do look for more than one alternative to move traffic, and not necessarily highmoving traffic through neighborhoods.

So we are in a neighborhood where we, as I was looking at the plan in the back, not having had the opportunity to look at the packet which you have which is much more extensive, but looking at the packet in the back, recognized that one of the options was to take a look at Rabbit Road. And Rabbit Road I just want to mention to the County is a road that already has a bottleneck on it as it comes onto St. Francis, and asking that the County do continue to ask developers to be responsible to looking for a variety of easements and ways to move traffic instead. And I recognize that there was one discussion of not only two roads, and Public Works is asking that they look to a third alternate. And that may not happen until phase 2 or at another point in time, but I do thank you for looking at not wanting to put high-traffic roads through the neighborhoods. We already to have bottlenecks that are in place.

And if the County needs to work with the other entities, federal state entities to try to see if we can get right-of-way access from Richards directly onto I-25, we'd be very much in support of that, encourage that. I know it's been a discussion topic for a long time. And I didn't hear that conversation come up today, about getting traffic onto Rabbit Road, but I did see it in the packet in the back, and I speak to concerns that high-moving traffic would be a concern of ours in the neighborhood. If that had a little bit of a rise, if there wasn't planned development to include traffic lights, making sure traffic is not moving too fast, there I see room for accidents. When we are moving off Old Galisteo Road and Old Galisteo coming onto the frontage road, it's difficult for us to see traffic coming from the west, moving east towards south St. Francis and getting on St. Francis. We'd be concerned about high traffic and fast-moving traffic. And there is a bottleneck on south St. Francis moving north on St. Francis. So I just want to express concern that we do need to have various ways to move traffic from Richards Avenue instead of just looking at two or three avenues, and encouraging developers to take the steps of developing those additional arteries. Thank you.

CHAIRMAN ANAYA: Thank you, Ms. Williams, thank you very much.

MS. WILLIAMS: I appreciate that.

CHAIRMAN ANAYA: Anybody else want to speak? Okay, anybody want to speak in favor of this? Can I see a raise of hands of who's in favor of this project? Do you all want to speak, or do you want to have a representative to speak for you? I just want to make sure you're not repeating yourselves. So you can come forward if you want to speak. If you all want to stand up, we can swear you in at one time, that'd be great. The ones that want to speak, raise your right hands. Thank you. Go ahead. Come forward, sir. You all can come up

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and sit here in the front. That way we can move this along. Could you just state your name?

[Duly swom, Tom Noblock testified as follows:]

TOM NOBLOCK: My name is Tom Noblock, I'm at 35 Encantado Loop in Eldorado. I teach at the Community College, I do Radio KSFR at the Community College, I'm the co-founder and co-director of the Youth Radio Network Santa Fe. I want to live in Oshara Village. I've testified about sustainability about this project in the past to you, and I'm just going to say the more it gets delayed, the less affordable it gets for somebody like me, for somebody like a lot of the people that want to live here. The affordable housing is a great part of this, and the more it gets delayed, the less affordable it is. And I appreciate your listening.

CHAIRMAN ANAYA: Thank you, Tom. Next?

[Duly swom, Robert Garcia testified as follows:]

ROBERT GARCIA: Mr. Chairman, Commissioners, my name is Robert Garcia, 8 Spirit Run Place, Santa Fe. And I'm speaking tonight on behalf of the South Richards Avenue Association. Some of you may know I'm also the chair of the Community College Development Review District, but I'm not speaking for them tonight. Even though this is in the Community College District, it's actually also within the EZA, so they have reviewed this project, not this committee. But J am speaking on behalf of the South Richards Avenue Association.

Some of you may recall that about three years ago, I believe it was about three years ago, we spoke in opposition to the master plan that was eventually adopted for this particular site. So you may ask why are we tonight speaking in favor of this one? Basically, it's because we think this is a much better plan. And we'd like to see this move ahead, because we think it's going to be a really good example for the rest of the development in the Community College District to have to live up to. Specifically, we support it because we think it's in keeping with the Community College District plan.

I want to clarify the issue on the setback, that our letter – and I think you all have the letter, it was sent to you signed by our president, Ms. Jane Petchesky. Regarding the setback, what it says is that we support the lesser setback along the block closest to Richards Avenue as requested. We estimate this to be about 140 feet from the edge of the right-of-way. Now, we all went out there on site, so we saw exactly where the buildings were proposed, and that's what we're supporting. So the 140 feet is an estimate.

Now, we did feel very strongly - originally when it was presented to us, we were told that it was being measured from the center of the road. Our understanding is that's not in keeping with the ordinance and needs to be measured from the edge of the right-of-way. We think that's an important precedent that you keep in mind for all developments. But we were on-site. We saw where the proposed buildings are to be, and we support that setback. Nobody at that time knew why there was 140 feet, 120 feet, 160 feet, we just estimated it to be 140 feet.

However, that support is contingent, as I believe Mr. Tryk mentioned, on – they have very nice drawings similar to that. They're nice-looking buildings, but it's all kind of a straight, flat front, and we wanted that broken up, both in distance and in height. And they have agreed

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to that. So that's very nice looking, but we want a little more variety, and they've agreed to that. And we'll work with them as the final site plans are developed. But I just wanted to try to clarify that on the setback issue.

We also support the concept that the setback itself could be used for temporary uses. And what we had in mind by that is in other words, if there's a restaurant there and they wanted to have some temporary outdoor dining, say on the other side of the street, kind of extend the feeling of community, that was fine with us, as long as it's just temporary.

We strongly support the construction of what is being called the northeast connector. In fact, that's something that we pushed for from the very beginning. It is part of the Community College District Plan. Originally they proposed that it be done on phase 2. We said that was unacceptable to us, it had to be part of phase 1. And they have agreed with that. And we urged that it be a slow-speed, meandering road. We urge that — we support the Community College District Plan concept of many different roads, many small, slow-speed, meandering roads, giving people lots of opportunities to get from wherever they are to wherever they need to go. What we don't want is for twenty years from now, Richards Avenue to look like Airport Road or St. Francis Drive. We don't want to repeat that. We think we can do better in the Community College District. The Community College District is the designated growth area for the county. We know that. That's fine. But we want it to be growth that the community's going to be proud of. We want the County to be able to point to that and say, "We did a great job out there, and this is what we want in other places."

We urged the construction of roundabouts on Richards Avenue, not signalized intersections. We think that'll go a long way to creating a slower speed, much safer, more visually positive street out there. And we strongly urge the construction of a new road, which I think has been alluded to tonight, which would connect the northeast connector to the one down the cast side of the Oshara property to connect to the Community College itself and even the east side of Windmill Ridge at Rancho Viejo. We think that'll take a lot of pressure, a lot of traffic, off Richards Avenue.

We know Richards Avenue, it's going to be a major street. But as the Community College District grows, it cannot be the only street connecting the city of Santa Fe and the northern part of the county with the Community College District. There has to be more than one way into the Community College District. That's clearly the way to go, and the applicant has said that they would support that, work with the County to accommodate that.

Finally, I did hear discussion tonight of the third connection, which I guess would kind of be opposite Dinosaur Trail. And we're very much in support of that happening also. But it is true, we have not seen – the South Richards Avenue Association has not seen any specific plans as to exactly where it would be, what the configuration would be, what impact it may have on trails, both pedestrian, bicycle, and equestrian, and equestrian trails are very important out there. We don't know what impact it's going to have on drainage. So it's fine with us that it be required to be built, but we think it should be part of phase 2 or when the Taurus property comes in for development so that the community and the public and the neighborhood have an opportunity to review the specifics, rather than just requiring that something be built without

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knowing exactly what it's going to be.

So overall we support what you have before you tonight. We feel the applicants have been very positive about working with the neighbors. The South Richards Avenue Association urges your approval. Thank you.

CHAIRMAN ANAYA: Thank you, Mr. Garcia. Next.
[Duly sworn, Daniel Pivern testified as follows:]

DANIEL PIVERN: Hello Mr. Chairman and Commissioners, my name is Daniel Pivern. I live off Rabbit Road in Arroyo Hondo West. I've been in Santa Fe for thirteen years, and the last two years I have lived out in the Arroyo Hondo West community.

When I heard about Oshara being developed, I was concerned about five- and ten-acre beautiful lots with hundreds of wellheads scattered out amongst the pinon and juniper. And I was very, very concerned about it. And the more I learned about Oshara, the more and more encouraged I become. And I'm very supportive of the development. I think that, like the first lady who came up concerned about the traffic, I see that Rabbit Road turning into the northeast connector and meandering slowly to the plaza is something that my family and I will very much enjoy going to visit the plaza. I think that the water responsibility is extremely important. And I appreciate the fact that local businesses will be primarily occupying the storefronts, along with the residences.

I grew up in rural Colorado. I've seen sprawl damage communities. The community I grew up in was a very small community. A lot of the agricultural land I grew up on is now gated communities and big boxes and large franchise businesses all around. I think that sprawl without consciousness can really create separation in a community. And I really fully believe that Oshara will encourage inclusion and unity, and I look forward to visiting it often. Thank you for your time.

CHAIRMAN ANAYA: Thanks, Daniel.

[Duly swom, Charles Bensinger testified as follows:]

CHARLES BENSIGNER: Mr. Chairman, members of the committee, my name is Charles Bensinger, I live at 41 Azul Loop in Eldorado. I worked on the original Community College District Plan back in the year 2000. And a tremendous amount of work went into that plan. It's a very good plan, particularly the sustainable guidelines in it, which I had a major role in drawing up.

Now, I think the sustainability guidelines, they're not just about conserving natural resources or using them more effectively. They're also about creating a living environment that proposes to maximize the quality of life. When we talk about that, we're not talking about excessive, wasteful, or extravagant quality of life. We're talking about something that's supremely sensible and cost-effective. And that, I believe, is what Oshara can show us, that it can serve as a model for a supremely sensible and cost-effective way of living. And I think we really need more of those models. So I urge you to approve this project. I think it's a really good one, and it'll do much to benefit the citizens of Santa Fe. Thank you very much.

CHAIRMAN ANAYA: Thank you, Charles.

[Duly sworn, Adil Rizvi testified as follows:]

ADIL RIZVI: Mr. Chairman and members, my name is Adil Rizvi. I'm the president of Design and Development Corporation. This is the corporation that's in the process of acquiring the Taurus property, which is a 64-acre property that's located on Richards Avenue and south of the freeway. I have meet with Mr. Alan Hoffman and the Oshara - his design

team. I strongly support what he's planning.

I am an engineer with a master's degree from the University of New Mexico, and I've been a developer and an engineer in the state for the past twenty years. I have reviewed these plans, and they look very good, and I strongly support it. We look forward to working with him with our 64 acres, and also work on the third connection, which has been a topic of discussion today. We think we will be able to link Oshara and the Taurus property and create a very good community with local roadway networks and other amenities. So I strongly support this project, and I think they've done a wonderful job in designing it. Thank you.

CHAIRMAN ANAYA: Thank you, Adil. Next.

[Duly sworn, Evelyn White testified as follows:]

EVELYN WHITE: My name is Evelyn White, and excuse me, I have a bit of sore throat. Commissioners, this is an eco-village project, and I really believe that in this time on this planet we all have to learn how to do things differently. We have to learn how to work together. We have to learn how to save water, and really do things differently. I think this is a

really good project, and they really are doing things differently.

Commissioner Sullivan, I'm a little disappointed when I see your stance with the project. I find myself wondering if you're opposed to all new building projects or if maybe you don't like someone who's a part of it. But I do find myself wondering what it is that you're so opposed to, and why you wouldn't support a project that is trying to conserve water and really trying to do the best that it can to bring people together, to integrate all kinds of new ideas. So I'd really love to see all of you Commissioners supporting this. It's something that can be a great example for not only Santa Fe, but for other parts of the country. If it's a successful project, as it appears it has the potential to be, it could attract all kinds of attention, positive attention, for the city of Santa Fe, county of Santa Fe.

So I would encourage you to support the project, and not support things like high-speed roads that would really affect the feeling of a village. I really like the idea of a village. I think we need to create communities that are more connected, and a high-speed road through the village wouldn't support that. So that's another point. So please support it. Thanks.

CHAIRMAN ANAYA: Thank you, Ms. White. Okay, two more people? Two,

three? Three.

[Duly sworn, Eric Wirrel testified as follows:]

ERIC WIRREL: Good evening, Commissioners. My name is Eric Wirrel, I'm with the Federal Highway Administration. I've been asked to be available to make some comments on roundabouts, which several people have requested in this neighborhood, I guess. And just in general, I wanted to come out with a comment that the Federal Highway Administration strongly supports roundabouts. We're promoting them nation-wide. If I'm able to, I'd like to hand out some flyers to you all. Safety-wise in the United States, the Insurance

Institute for Highway Safety has indicated that serious injuries at roundabouts versus any other type of intersection have gone down 76 percent, fatalities down 90 percent, pedestrian injuries down 30 to 40 percent. Capacity-wise, efficiency-wise, they allow approximately a thirty percent increase over a signalized intersection as far as the efficiency of flow.

Anyway, we're trying to promote them in New Mexico. New Mexico DOT is now considering them at any new intersection. Any new signalized intersection, they're considering a roundabout first. They're going to build their first one this summer at the Route 66 Casino, which is a long way from Santa Fe, I know. But I just wanted to make a general comment in support, and be available if anyone had any questions.

CHAIRMAN ANAYA: Thank you, Eric. Appreciate that. And yeah, you can hand those out. Take a look at them.

[Duly swom, Diego Mulligan testified as follows:]

DIEGO MULLIGAN: My name is Diego Mulligan, and I live at 159D Calle Ojo Feliz in Santa Fe, Santa Fe County. Mr. Chairman, Commissioners, I rise in support of the Oshara Village, not as a broadcast journalist, but as the newly appointed president of the New Village Institute, which at this point is a new non-profit organization which will be working on water conservation education for the residents and businesses in Oshara. That will not be our ultimate aim. We aim to support the development of healthy communities everywhere, but we're starting with what's real and what's in front of us. And Oshara looks like it's going to be the best opportunity to create the kind of model that we can then learn so much from and apply in other parts of the county and the state and the country.

Oshara has some of the most innovative and restrictive water covenants of any development that I've ever seen. And we would like to help the residents and businesses achieve those ambitious goals. We think they are achievable, but we believe that it's really essential that they get the kind of technical support and education that they need so that they don't grudgingly get brought into this kicking and dragging, but that they embrace the ideas behind it, and have the support to actually make it work for them.

I also am very concerned about the Community College District plans that might be compromised if a high-speed road that is traffic priority is forced through Oshara and the current Taurus Ranch. I would much prefer, based on the information that I have, a network of smaller living priority roads, which I believe is what the Community College District actually recommends

One other thing that is a concern to me at this stage too is the proviso added on, and I don't have all the details on this at this point, but I believe it might be provision 19, that would remove or let's say knock back the number of dwelling units from 175 to 117 because of the concern about the water provision. And I have to confess that I am not a water expert in this, and I am just as confused as the rest of you are in some of these areas. I have a lot to learn about it, but what I do know is that with fifteen percent of the Oshara homes being designated for affordable homes, we will be losing their eight affordable homes as a result of that one decision. They will be pulled back from 25 affordable homes to 17 officially affordable homes, which Homewise and Habitat for Humanity will be cooperating with the developers to create.

And that is also of great concern to me.

I am a great supporter of roundabouts as well. I've spent a lot of time in different parts of the country and the world where they are used quite effectively. And I really think we ought to consider the difference between signalized Richards Avenue that would have several stoplights with traffic going from zero to sixty, zero to sixty, zero to sixty, zero to sixty, rather than having a road that has a design speed of approximately 35 miles an hour, with a decrease in that speed down to 15 or 20 for the roundabouts. I think it's going to create a much safer and quieter environment, something better for our children, for our community, and also will serve as a model for future developers. Thank you very much for your great efforts in understanding this innovative project. I'll be probably talking with you more as the project advances. Thank you.

CHAIRMAN ANAYA: Thank you, Mr. Mulligan. One more speaker. [Duly sworn, Jeremy Damien Terrell testified as follows:]

JEREMY DAMIEN TERRELL: Hello, my name is Jeremy Damien Terrell, and I'm a property owner along Old Galisteo Way. When I first heard of the Oshara project, I felt that it was a very good, sound project. And I look forward to working with them to connect a pedestrian trail along the Arroyo Hondo, and connecting open space from their property and mine. I reside along the eastern border, and as Robert Garcia mentioned, talking with the network of roads. I fully promote them working to put a road along their eastern border, and would be willing to work with them on that. In addition, provided that the Old Galisteo Way Users Association would be interested, I'd be willing to connect through my property that road and the new road along the eastern border. That will help create more of this inter-connectivity of a lot of these dead ends in the Community College District. Thank you.

CHAIRMAN ANAYA: Thank you, Jeremy. Okay, that closes the public

hearing. Lorn, did you have any comments?

MR. TRYK: I just wanted to point out that if you agree with us that the northeast connector connection through the Taurus property is appropriate to being a part of phase 2 rather than phase 1, and give us time to work out an alignment between us and the Taurus property owners, it does violate possible condition 15.i, which says "Compliance with applicable review comments from County Public Works." Since the packet includes this letter recommending that we make that connection, I'm just concerned that if you were to pass this with that condition without commenting on that connection that that would in a sense force us to build it in phase 1. So I'm just pointing that out, because it is a condition in the staff report, and I did earlier say that we didn't have any problem with the conditions as written. So I just want to point that out.

CHAIRMAN ANAYA: Repeat that — tell me that again, I didn't — MR. TRYK: Okay, if you look at 15.i, compliance with applicable review comments from County Public Works, and if you look in your packet, there is a letter from County Public Works recommending this connection to Dinosaur Trail through the Taurus property. And I didn't think about the fact that if we say we're in agreement with all the conditions as written, that means we're in agreement with that road connection, and we've

already said we'd like to do that in phase 2.

CHAIRMAN ANAYA: Got you. Could you tell me a little bit about – actually, Ms. Williams had a concern about Rabbit Road. Could you address that?

MR. TRYK: I wasn't really aware of what the condition was that she was talking about on the eastern end of Rabbit Road as it approaches St. Francis Drive, but I understood her comments to mean that she wanted to work with the County to improve that condition. That's something that's off the Oshara property. So what we've been doing is concentrating on the alignments within the Oshara property, and then how it affects those first couple of houses when it comes onto the interstate right-of-way and into that frontage road section. So I didn't understand that to be something that we could do much about. More that the County could do something about.

CHAIRMAN ANAYA: Okay. Any questions of the applicant? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Tryk, on the northeast connector, one of the conditions is 9.c, conditional dedication of the northeast connector to the County. And in your initial master plan application, I think you made it very clear that Oshara was going to be responsible for building the northeast connector. Is that still the case?

MR. TRYK: Yes, that's correct.

COMMISSIONER SULLIVAN: Okay. Just want to be sure. And that doesn't just mean on Oshara property? That means building —

MR. TRYK: No, the whole thing. It's just that the Public Works Department has commented that it's appropriate that if -

COMMISSIONER SULLIVAN: No, I understand your comment on 15.i.

MR. TRYK: No, what I'm saying is that they think it's appropriate that it be conditionally dedicated, and that they'll probably end up taking that road over. But it doesn't mean we wouldn't build it.

COMMISSIONER SULLIVAN: No, I'm talking about the northeast connector that you're talking about now that goes all the way up to the public roads connecting to St. Francis. That will be built as a part of phase 1 by Oshara?

MR. TRYK: Correct.

COMMISSIONER SULLIVAN: And then that right-of-way for that, which I think was 50 feet as I recall, will be dedicated to the County?

MR. TRYK: Correct.

COMMISSIONER SULLIVAN: Okay. Because I don't see in the conditions, and I wanted to ask either you or Vicki, but I think you've answered the question. It says you'll dedicate it, but I don't see in the conditions where it says you'll build it.

MR. TRYK: I see. Okzy.

COMMISSIONER SULLIVAN: But you're confirming that you would build it as well. Okay. Thank you very much. The only other comment I have, Mr. Chairman, is just to allay the concerns of I think it was Ms. White who spoke, or any others who may be concerned about my particular commitment to good development and conservation. And I can

tell you for four and a half years I've been on the forefront of trying to eliminate sprawl in Santa Fe County with a number of forward-looking ordinances. The Community College District Ordinance and the State Environmental Department require these water conservation measures, as does Santa Fe County under its conservation ordinance. And so while it makes a wonderful selling point to the community, and it made a very good selling point for the Community College District plan as well, which was passed by the County Commission, I want to be very clear that those items are already required by either state regulation or by County ordinance. And they make good sense, and that's why the ordinance was passed that way.

What it's important for us to do as Commissioners is to separate the fluff from the specifics. Because if we don't have the specifics down, what we find later is that the attorneys line up at the front door at eight o'clock in the morning and it becomes a long, drawn-out process. So we have to separate selling the steak from selling the sizzle. And that's what we try to do here, to be sure that the commitments that the developer has made and that the requirements of the staff based on its review are accurately reflected and are clearly understood throughout the process. Because as I said before, and I still believe, that this is an incomplete submittal. When we talk about final plats, it should be ready to go, and there should be only minor corrections. We have a great deal of uncertainty left. What that does is that it gives the staff an awful great burden on it, a policy burden in many cases. That is to say, for example, what should happen as is indicated in the packet, if the applicant decides to connect into the Rancho Viejo sewage treatment plant? What do we know about that? What's its capacity, what effect does that have on Rancho Viejo residents, what about the effluent limitations and disposal? None of those issues will come back to the Commission. All those kinds of issues will then have to be decided by staff. And we've got terrific staff. But sometimes to place that much burden on them, we need to separate policy from technical review.

So that's what we're doing here. We're dotting the I's, we're crossing the T's, and we're making sure that everyone understands what this development is about so that when we come back a year from now or nine months, when they indicated they might start construction, there are no loopholes. We get what everybody was promised. We have a letter that was sent to us by the Puesta del Sol subdivision organization. And they are complaining in this letter to us that promises made to them by the Tierra Grande Subdivision, developed hy Mr. Hoffman, were not met by Mr. Hoffman. You're welcome to look at this letter at your convenience, you or anyone. So I haven't looked into this issue, so I'm not going to comment on that. I can't say whether their allegations are true or not. I just point that out to you, that we receive very often two sides of the issue, and we want to be sure that what we have is a clear understanding when we move forward on a project such as this. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Commissioner

Vigil.

COMMISSIONER VIGIL: Mr. Chairman, that particular project is in my district, and that whole issue was brought to my attention. I'd like to defer it to Dolores Vigil, because we actually – we're concerned about that, thought we might hear some testimony. But I think it's all been cleared up. Am I correct, Dolores?

MS. VIGIL: Mr. Chairman, Commissioner Vigil, that is correct. We did meet with Alan Hoffman and we actually went to the site. And I think we've resolved the issues that have come up based on that letter that you have before you.

COMMISSIONER VIGIL: Okay, and that has been done since the letter was received, right?

MS. VIGIL: Yes.

COMMISSIONER VIGIL: Okay. Mr. Chairman, I think that's a non-issue. CHAIRMAN ANAYA: Okay. I think we've talked about this enough. Is there

a motion?

COMMISSIONER SULLIVAN: Mr. Chairman, motion to approve with staff

conditions.

CHAIRMAN ANAYA: There's a motion with conditions. I know that there was 18 and 19 recommendation. Is that including 18 and 19?

COMMISSIONER CAMPOS: Second.
COMMISSIONER SULLIVAN: Yes, sir.
COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Is there a motion and a second with 18 and 19? Is there

any more discussion?

COMMISSIONER VIGIL: I think we need to go into 18 and 19 with a little more detail, because it was just proposed today. I'm hearing from the applicant that they're not in agreement with that. And I'm not sure that we need to approve it that way. I'd really like some more information.

My concern for this overall is this is a wonderful project. It's a project that is really conducive to smart growth. I hope some projects come up in the northwest quadrant that work as hard on bending backwards with the communities around there with the issues, with staff. And I just have a real difficult time continually what I think, creating barriers to moving this project forward. It's one that I think is well worth our strong consideration. I want to vote in favor of it, but I don't know that we will be providing a favorable position by imposing conditions 18 and 19. And I guess I need further understanding with regard to that, and I'd like to defer to the applicant as to why he is disagreeing with that, and if it's a negotiable item at any point in time.

CHAIRMAN ANAYA: Lom, do you agree with 18?

MR. TRYK: 18 was okay. It's 19 that's the poison pill for us.

CHAIRMAN ANAYA: Okay, he agrees with 18, but he doesn't agree with 19. MR. TRYK: Right. And the 15.i that I brought up before, just on that road

connection.

CHAIRMAN ANAYA: Could you restate the 19 condition? Number 19?

MS. LUCERO: Mr. Chairman, it would be that if the eleven acre-feet of water rights do not get transferred, the developer will only be allowed to plat 117 lots.

CHAIRMAN ANAYA: Okay, but Steve Wust, you agreed with the 17 conditions, and you didn't have a problem - or do you have a problem now with it? Do you

not have a problem with 19?

DR. WUST: Mr. Chairman, number 19 came out of a discussion I had with Dolores and Vicki, so it was partly my idea. And just to give you a little background, first off there's a precedent, if you recall La Pradera. They agreed to withhold construction of their last I believe eleven units in their case until they could either, (a) prove up their water budget, or (b) bring forward more water rights to make up that difference. And that's what we're talking about here, is protection of the County so we're not stuck for that eleven acre-feet if somehow it doesn't get transferred. And so that was an arrangement already made with La Pradera. So this is consistent with that.

Secondly, I would just argue that we've been told by the applicant that they're so confident that they'll get the eleven acre-feet that the County should go ahead and approve the water service agreement. I believe if they're that confident, they shouldn't have any issue with number 19. And we feel if they're that confident, then there's no problem putting that kind of condition on. But we do need protection for the County, just in case that stuff doesn't happen. We don't want to be stuck for the water that we don't have the water rights for that that we promised.

CHAIRMAN ANAYA: Thanks, Steve. Lorn, you want to comment?

MR. TRYK: Yes. As I said before, this condition 19 puts a great financial burden on the project. We cannot get financing if we can't build 175 lots. If we go to the bank and say, all we got approved for was 117, we can't get financing. That's what I was mentioning to you before. La Pradera is not an apples-to-apples comparison. They don't have a backup plan. That was the only thing that they could come up with. That's a low-density subdivision that doesn't have the kind of infrastructure costs that we do or the kind of off-site costs we do. So it's a huge concern for us.

CHAIRMAN ANAYA: Okay. I think we get the picture. There's a motion on the floor and a second to approve with conditions from 1 through 19. Any more discussion?

The motion to approve EZ Case S 04-4451 with all staff conditions failed by 2-3 voice vote with Commissioners Campos, Vigil and Sullivan voting against.

CHAIRMAN ANAYA: Okay, the noes have it. Give me another motion.

COMMISSIONER VIGIL: Mr. Chairman, I'd like to motion that we move forward with this project. I think it's a worthy project for Santa Fe County. It's in the best interests of the majority of the county. And that the conditions 1 through 18 be met, but in fact the applicant consider working with Public Works on the possibility of a third road, but he not be obligated to it. But since the applicant has testified that they are willing to consider it, I'd like to see that partnership occur.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Motion and a second. Any more discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I would still make the case that we, as Mr. Wust has said and our staff recommends, that we need some backup to these promises on the eleven acre-feet. And we did get — it is a similar situation to La Pradera. La Pradera had extensive off-site costs, several million dollars, including the reconstruction of Dinosaur Trail, construction of a sewage treatment plant for only 80 units versus 100 to 175 here. They had, I think, per unit costs that probably were higher than we have here. So I think it is a reasonable comparison. I think if we don't find ourselves having some backup in the water service agreement, there's no time that they have to provide that eleven acre-feet. There's no time requirement. One year, two years, three years. It's in perpetuity.

So I think that it's a real disservice to the public to commit the County to approve these additional units until they have the water service agreement. And it's certainly an incentive to the developer to get that eleven acre-feet tied down and moved forward. And if they have the build-out schedule that they're talking about, three to four years, that won't impair their ability at all to bring those units online, because they'll have their water rights hy that time.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan.

The motion to approve EZ Case S 04-4451 passed by majority 4-1 voice vote with Commissioner Sullivan voting no.

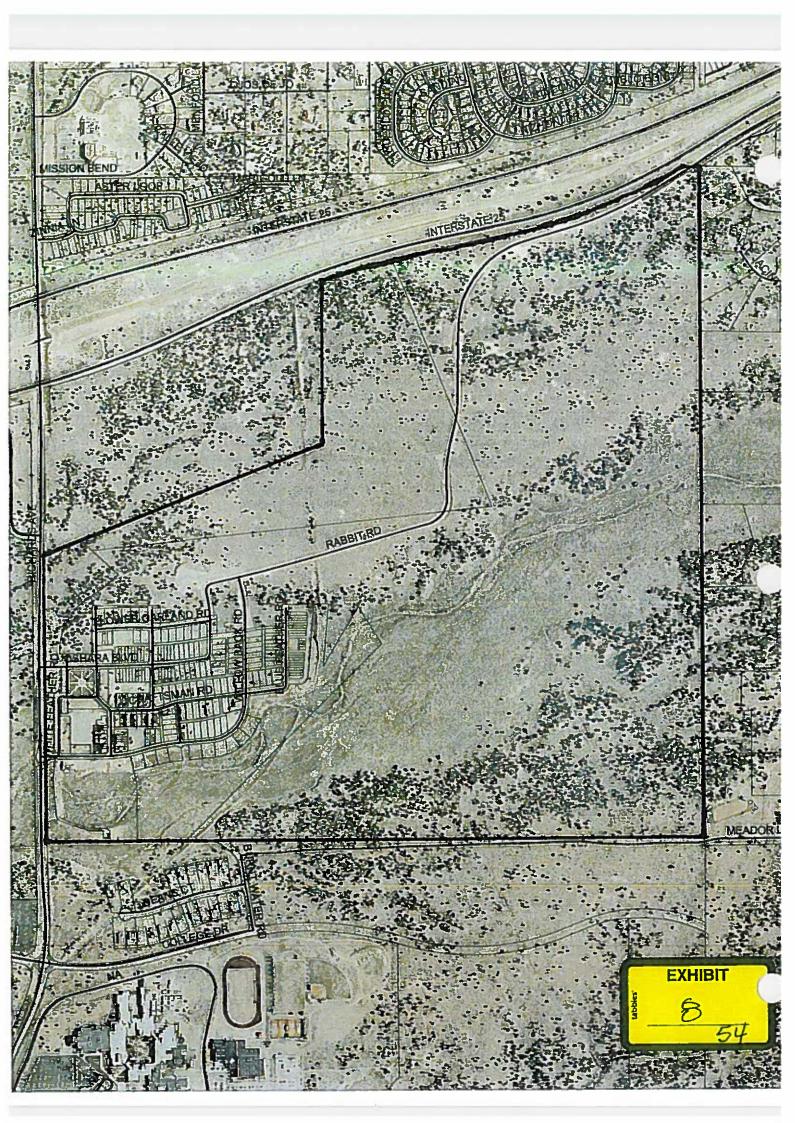
XIII. A. 6. CDRC Case number AB04-5660, Bobby Armijo Density Variance.

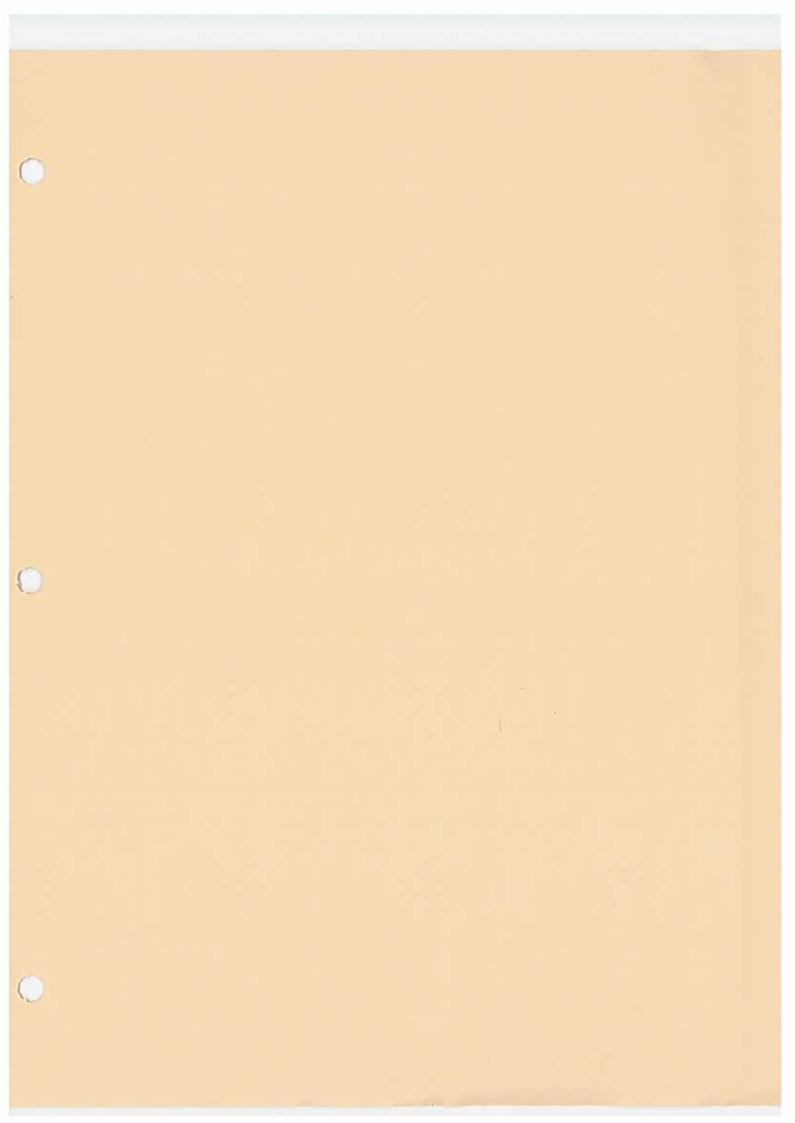
Bobby Armijo, applicant, requests a variance of Article III Section 10, lot size requirements of the Land Development Code to allow a division of 16.20 acres into two 8.0-acre parcels for the purpose of a family transfer. The property is located off of 428 Ojo de la Vaca, within Section 30, Township 15, North range 11 East, Commission District 3

VICTORIA REYES (Review Specialist): Thank you, Mr. Chairman. On May 29th, 2003, the County Development Review Committee recommended denial of the request for a family transfer to divide 16.20 acres into four lots consisting of 4 acres, more or less. On July 8th, 2003, the Board of County Commissioners denied the request. The applicant has re-applied, and is requesting to divide 16 acres into two eight-acre parcels for the purpose of a family transfer. On March 17, 2005, the County Development Review Committee recommended denial of this request.

The property is located within the Homestead Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 160 acres per dwelling, or 40 acres with water restrictions. Lot size may be reduced to a minimum of two and a half acres if the applicant can demonstrate water availability. The minimum lot size for a family transfer is 20 acres.

Recommendation: Staff recommends that the request for a variance be denied. The





# NO PACKET MATERIAL FOR THIS ITEM

- 8. CONCLUDING BUSINESS
  - a. Announcements
  - b. Ajournment