

**DRAFT**  
subject to approval

**MINUTES OF THE**  
**SANTA FE COUNTY**  
**DEVELOPMENT REVIEW COMMITTEE**

**Santa Fe, New Mexico**

**May 15, 2014**

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by Chair Dan Drobnis, on the above-cited date at 4:00 p.m. at the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

**Members Present:**

Dan Drobnis, Chair  
Susan Martin, Vice Chair  
Phil Anaya  
Bette Booth  
Louie Gonzales  
Frank Katz  
Manuel Roybal

**Member(s) Excused:**

None

**Staff Present:**

Penny Ellis-Green, Land Use Administrator  
Wayne Dalton, Building and Development Services Supervisor  
Jose Larrañaga, Development Review Specialist  
Rachel Brown, Deputy County Attorney  
Vicki Lucero, Building and Development Services Manager  
Vicente Archuleta, Development Review Specialist  
Miguel Romero, Development Review Specialist  
Buster Patty, Fire Marshal

**IV. APPROVAL OF AGENDA**

Upon motion by Member Katz and second by Member Martin the agenda was unanimously 7-0 approved as published.

V. **APPROVAL OF MINUTES: April 17, 2014**

Member Martin moved to approve the April minutes. Member Booth seconded and the motion passed by unanimous [7-0] voice vote.

VI. **CONSENT CALENDAR: Final Order**

- A. **CDRC CASE #A 14-5030 Maurilio & Amanda Calderon Appeal:**  
**Maurilio and Amanda Calderon, Applicants, are appealing the Land Use Administrator's decision to deny a home occupation business registration for a welding business located on 2.48 acres. The property is located at 8 Ernesto Road, off of Rabbit Road, within Section 10, Township 16 North, Range 10 East (Commission District 4)**

Referring to item 10, Member Katz recommended it read: "In addition to Appellant, five members of the public spoke in opposition of the Appeal testifying that they heard noise and smelled fumes from the welding business and alleging that this type of use..." Also, number 15 should be corrected to numbered 11.

Member Anaya moved to approve the final order as amended. Member Martin seconded and the motion passed by unanimous [7-0] voice vote.

VII. **OLD BUSINESS**

- A **CDRC CASE # Z 13-5380 Elevation.** **Vedura Residential Operating, LLC, Applicant, JenkinsGavin, Agents, request Master Plan approval in conformance with the Community College District Ordinance to allow a multi-family residential community consisting of 214 residential units on 22 ± acres. The site is located on the north side of College Drive and east of Burnt Water Road within the Community College District, within Section 21, Township 16 North, Range 9 East, (Commission District 5)**

*[Exhibit 1: Opponents' counsel letter, Graeser & McQueen, to Jose Larrañaga; Exhibit 2: College North Master Plan schematic and Community College District Plan Table 5; Exhibit 3: March 20, 2014 Santa Fe County Clerk Recorded Declaration of De-Annexation; Exhibit 4: May 13, 2014 Department of Cultural Affairs HPD memo confirming non-disturbance easement for LA 110168; Exhibit 5: CC&Rs by Rancho Viejo for College Heights; Exhibit 6: Santa Fe County Sustainable Growth Management Plan 2.2.4.5 Land Use Compatibility section; Exhibit 7: Six emails and letters opposing the development; Exhibit 8: NM ED Surface Water Quality Bureau compliance evaluation inspection regarding NPDES permit, EPA data, discharge monitoring information; Exhibit 8: Rancho Viejo North Community Association, Inc. letter opposing the development; Exhibit 9: Eunice Vellon letter]*

Stating his nephew represents one of the parties in this matter, Member Katz recused himself from this case.

Chair Drobni reminded the members that this case was heard at the last meeting until a quorum was lost.

Mr. Larrañaga provided an update on the case stating that on April 17, 2014 staff presented this case to the CDRC and the applicants' agent, JenkinsGavin, presented the development and the public offered testimony. Upon request, Mr. Larrañaga presented his staff report as follows:

“This case was on the March 20, 2014 CDRC agenda as a Master Plan Amendment to the College North Master Plan. This case was tabled from the agenda at the request of the Applicant. During the review process staff determined that the College North Master Plan had expired. The College North Master Plan, which allowed for 73 single-family lots on 90.75 acres, was approved by the Extraterritorial Zoning Authority in 1997 and Phase I of the Master Plan was developed in 1999 as a 20-lot subdivision known as the College Heights Subdivision on 33.84 ± acres.

“Article V, Section 5.2.7 Expiration of Master Plan states: ‘Approval of a master plan shall be considered valid for a period of five years from the date of approval by the Board; Master Plan approvals may be renewed and extended for additional two-year periods by the Board at the request of the developer; 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.’

“The Applicant is requesting Master Plan approval in conformance with the Community College District Ordinance. The CCDO was adopted on December 11, 2000. The CCDO Land Use Zoning Map designates this site as a Village Zone within a New Community Center which allows for multifamily residential use. The Master Plan would allow a 214-unit multifamily residential apartment community on a 22 ± acre site, which is defined as an eligible use in the CCDO Land Use Table. Density allowed in this area is a minimum of 3.5 dwelling units per acre. The Applicant is proposing approximately 9.7 dwelling units per acre and is in conformance with the CCDO.

“The Applicant has refined their plans to relocate the proposed site of the apartments in accordance with the alignment of the proposed southeast connector. The exact alignment of the southeast connector has not been established therefore the actual building site of the apartments may change to coincide with the alignment once it is finalized by the County.

“Article V, Section 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.’”

Mr. Larrañaga said the application was submitted on December 6, 2013 and revised on March 26, 2014. Building and Development Services staff have reviewed this project for compliance with pertinent Code requirements and have found that the facts presented support this request: the Application is comprehensive in establishing the scope of the project; the Master Plan conforms to the eligible use and density allowed under a New Community Center; the Application satisfies the submittal requirements set forth in the Land Development Code.

Staff recommends conditional approval for a Master Plan in conformance with the Community College District Ordinance to allow a multi-family residential community consisting of 214 residential units on 22 ± acres subject to the following staff conditions:

1. The Applicants shall comply with all review agency comments and conditions, as per Article V, § 7.1.3.c. Conditions shall be noted on the recorded Master Plan.
2. Master Plan with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 5.2.5.
3. A revised Traffic Impact Analysis, showing current road conditions, shall be submitted based on the Southeast Connector at Preliminary Development Plan. Article III, § 4.4.1.5.c

Mr. Larrañaga referred to Exhibit 4 which indicated the archaeological report was revised and that there were no outstanding archaeological issues on the site.

In response to a series of questions regarding which policies govern the property, staff offered the following information: the master plan in question was approved prior to the adoption of the College District and the entire Rancho Viejo Master Plan. The zoning map of the new Sustainable Plan designates this property and the entire Community College District being within the planned development district and under the Community College District Ordinance; those regulations are not changing. Originally the property was allowed 73 single-family lots on 95.75 acres. The phasing called for 20 lots on 33 acres. The apartments are proposed on 22 acres. This area has a minimum of 3.5 dwelling units per acre. The applicant must comply with the open space requirements established in the Community College District Ordinance and they will utilize County water and the Rancho Viejo sewer utility.

In regards to traffic, Mr. Larrañaga said if the southeast connector is built Elevations will access directly off the extension of College Drive which will connect to a roundabout to the southeast connector. If the southeast connector has not been built when Elevations comes in for final development approval, a new traffic impact analysis will be required to determine improvements.

Chair Drobni invited the public interested in speaking to stand and be sworn in. He advised those individuals that there will be a two-minute time limit and in the event there is a representative for a number of people the time limit can be extended. In order to run an efficient meeting, he asked that the audience be respectful and not clap.

Randy Crutcher, 12A Dean's Court, College Heights, duly sworn, said he was speaking on behalf of the 20 homeowners who received notice. The plan was originally for over 440 apartments units as proposed by Rancho Viejo developer Warren Thompson. Now it is a 200+ unit complex on a parcel "just recently" de-annexed from Rancho Viejo and is being sold to an Arizona company which has no knowledge of the promises and commitments made to the adjacent homeowners via the covenants that run with the land.

Mr. Crutcher noted that the County staff and community members spent thousands of hours on community planning to achieve good development: "That's not what is happening here." Dropping a high density apartment complex into a vacant field without master planning is spot zoning. When this property was approved for master plan zoning in 1997 there was a condition of covenants. This property was not only part of Rancho Viejo North but also had to pay dues to support the HOA, trails and open space. He referred to Exhibit 2 which depicted the 73 homes.

Mr. Crutcher said Warren Thompson is trying to "pull a fast one" and void all the promises and history on this property.

Al Padilla, 8 Dean's Court, under oath, asked the CDRC to consider the scenario if the developer of Eldorado or Casa Solano decided unilaterally to withdraw property from the chartered association and build high-density apartments. "Promises made must be promises kept," stated Mr. Padilla. He noted that the Rancho Viejo developments were well represented in the development of the Community College District plan. The recorded College Heights plat shows single-family homes and disclosed as such in all documents for all the property owners in College Heights. In fact, that was still in the disclosure papers as of 2013.

Mr. Padilla urged the CDRC to reject this piecemeal planning.

Evelyn Spiker, 7A Dean's Court, under oath, stated she is a homeowner in Rancho Viejo and has served on the architectural review committee for 10 years. She said she believes in enforcement of the covenants and restrictions. The proposal before the CDRC is an egregious deviation from any adherence to the CC&Rs that are part of the community. Ms. Spiker, a realtor, said all homeowners were presented with and agreed to the CC&Rs when they purchased their property. She mentioned the developer's de-annexation of property dated March 2014 states that the property is no longer subject to any covenants and restrictions. She suggested it was not that simple and according to the declaration of covenants and restrictions [Exhibit 5] the covenants shall run with the land upon sale or transfer.

Ms. Spiker said there were hundreds of signatures in opposition to this proposal as well as a letter from the HOA Board [Exhibit 8].

Duly sworn, David Vigil, 6A Dean's Court, discussed the wastewater infrastructure for the neighborhood and questioned whether an additional 200+ units can be adequately handled by the 10 year old system. One of the closing documents states that any future development in the area will need to tie into the Rancho Viejo utilities and he was concerned about the capacity.

Mr. Vigil referred to the NM ED Surface Water Quality Bureau report and asked the CDRC to review that document carefully because deficiencies were cited. [See Exhibit 8]

Mr. Lopez, 18 Dean's Court, duly sworn, said his concerns revolve around traffic. The project should be postponed until the southeast connector is built. The anticipated design period of the connector is 2017 and 2018/2019 is the actual construction period. Elevation's project is premature and should be tabled until the design is complete and adequate funding secured.

Karin Lubin, 12A Dean's Court, under oath strongly recommended that the CDRC deny the apartment complex. She said this board needs to set strong parameters for developments. She said the Fire Marshal and staff are very concerned about fire emergency in getting to the units or guiding an evacuation. She said without the southeast connector in place this development depends entirely on guessing and that is not good development. Richards is the only true exit and entrance.

Bruce Krasnow, 3B Dean's Court, under oath, thanked the CDRC for their service to the community. He said he understood growth and the economy but growth needs to happen in a fashion that makes sense. He summarized the history of the project that started in November 2012 when the area residents received an invitation from JenkinsGavin to discuss a pending amendment to the master plan. At the second meeting in 2013, the project was scaled back and at a third meeting Mr. Thompson offered to work with the neighborhood; however, this parcel was exempt from the entire process. Since then the property has been de-annexed. He asked the CDRC to reject the project.

Gayle Evezich, 6B Dean's Court, under oath, said she respectfully requested that the CDRC reject the proposal. The proposal of 214 apartments at the eastern end of the 57 acres was planned and platted for 50 single family homes in 1997 by Rancho Viejo and Warren Thompson. She said this proposal changes monthly and the current proposal places the complex ¼ mile east of Burnt Water without the 10 home buffer zones. Ms. Evezich said contrary to the assertion at the last meeting that the neighbors on College Drive requested the most recent move, they did not.

Ms. Evezich said they are unequivocally opposed to this development in this area. She said there is a lack of transition space between Burnt Water and the proposed complex. This is piecemeal development going against the grain of the Sustainable Growth Management Plan.

James Shuba, 9A Dean's Court, under oath said he was present to appeal to the CDRC members' hearts. He said this proposal affects one of the biggest financial decisions he and his neighbors have made. He said he and his wife fell in love with Santa

Fe and finding Dean's Court affordable have moved here for retirement. He said that the Community College District does not need an apartment complex.

Lance Tunick, under oath, 14B Dean's Court, said there are many government planners in this proposal and it is the CDRC's job to pull together those recommendations and make a decision that serves the public interest. Spot zoning should not be allowed. The lack of credibility of the developer and Univest has been established by the de-annexation which contravenes all of the promises that were made. He said infrastructure must be in place in advance of any construction. "Don't make us suffer through Richards Avenue, the sequel."

Under oath, Sue Stein of Rancho Viejo, said she was speaking for five individuals who were present and stood at the podium while Ms. Stein provided her testimony. Ms. Stein recalled that last month when Ms. Jenkins presented the proposal she referred to "the County" throughout. The County, stated Ms. Stein, is not an abstract entity. "It is the men, women and children who live, shop, own businesses and homes...attend our schools...pay taxes in and to the County of Santa Fe. It's the people who are sitting here tonight." The community wants to be heard. The applicant and their agent do not speak for the community. The applicant is in Arizona and according to their website is interested in maximizing their return on investment. Contrary to what the agent said, the applicant does not always maintain ownership and manage the projects they develop. Decisions are made on their bottom line. Ms. Stein said the community is interested in the community because it is their community.

Ms. Stein mentioned the changes to the complex did not address the community's concerns as reported by the agent. The residents of Rancho Viejo have been unequivocally and consistently opposed to this project "in all its changing forms." There are much better locations for apartments in terms of public transportation, local shopping, employment and wider roads.

She said the apartments are not consistent with the planned development and will result in the devaluation of the environment. Ms. Stein said the plot directly east of the application is designated as multi-family development. She reviewed the proposed rents for the apartments noting that the complex would not be allowed to discriminate and a three-bedroom apartment could house six individuals paying \$225 monthly. The applicant's assertion that these would not be college apartments does not alter the fact that they would be used for out-of-town college students.

Ms. Stein mentioned a proposal on Rabbit Road and St. Francis that will include 650 dwelling units and 760,000 square feet of non-residential space. Adding that traffic to the proposed apartments makes the traffic congestion concern real. She said none of the traffic issues are adequately addressed because the whole picture is never developed and small increments of the proposals are presented piecemeal. "Somebody needs to look at all the projects...and evaluate."

Development has to be done responsibly and must have benefit to the residents of the county present and future. Ms. Stein asked that the CDRC act as the community's voice and reject the application.

Chair Drobnis requested and received the names and addresses of the four individuals Ms. Stein spoke for.

Under oath, David Burrell, Chili Line Road, said this proposal is clearly a rezoning strategy and he asked that the CDRC reject the proposal. He said he and his wife vehemently oppose this project. The master plan should be honored. Mr. Burrell commented that he had never heard of the de-annexation until the last meeting.

Richard Carson, under oath, stated that this de-annexation will set a precedent. He said he is a retired academic and has been around college students most of his life. One of the reasons he retired to Santa Fe is the community and he supports his neighbors on Dean's Court. He mentioned that the college where he taught started as a small community college and grew into a huge college and the homes were razed for apartment complexes.

Vicki Schneider, Rancho Viejo, under oath thanked the CDRC for listening to the community. She said her community supports smart development. Even though the agent for the applicant assured the CDRC at the last meeting that Vedula was the best of management, however, according to their website Vedula will in all likelihood sell the apartments. The buyer is an unknown. The great unknown of this property puts the stability, security and property value of the neighborhood at risk. She suggested Mr. Thompson find a more appropriate location in Rancho Viejo.

Clare Easterwood, 9B Dean's Court, under oath, said she has lived all over Santa Fe and reviewed the covenants, disclosures and asked what was going to be built on the parcel in question. The answer was single-family homes and that was less than 18 months ago. Ms. Easterwood said she feels bamboozled by the developer. She said she hoped the CDRC denies the project.

Beth Detwiler, Oshara Village HOA president, under oath, said on behalf of Oshara Village residents, owners and the HOA she asked that the project be postponed until both the northeast and southeast connectors have been constructed and are functional. She said Oshara does not have a traffic problem, "we have a continuing traffic crisis and adding thousands more cars into the mix is going to make it much worse."

Terry Buell, duly sworn of Rancho Viejo, said she moved there because it was marketed as energy efficient and in concert with nature. She said that was important to her and she has a conservation lot on Chili Lane. Ms. Buell said she makes her living as a HERS rater to make sure new construction is green. This area needs to do more on conservation and an apartment complex with a swimming pool is not efficient.

That concluded the public hearing.

Chair Drobnis asked about open space and trails in the community and one of the previous speaker stated that the HOA dues pay for the maintenance of the trails.

Approximately 50 percent of the HOA fees go to the landscape, open space and trail maintenance. Another individual said the open space has been traded off at will by the developer. It was added that Rancho Viejo is the first and only community in Santa Fe County that has FireWise certification.

The applicant's agent was invited back to the podium to address any comments.

Jennifer Jenkins, Colleen Gavin and Oralynn Guerrerortiz the project civil engineer were duly sworn.

Ms. Jenkins clarified that this is a request for master plan. As required by the Community College District Ordinance projects must submit a master plan prior to moving forward. She confirmed there was a master plan on this property that expired. The CCDO is designated as Santa Fe County's highest priority area for growth. The property is already zoned, stated Ms. Jenkins and designated in the CCD plans as a village zone with a minimum density of 3.5 dwellings per acre. The proposal is for 9.5+ dwellings per acre. The Sustainable Land Development Code has multi-family density established at 20 dwelling units per acre. The developer is providing 50+ percent open space on the 22 acres in compliance with the CCDO.

The Sustainable Land Development Code does not modify the CCD. An approval of this master plan does not grant permission for anything other than the submittal of a development plan. With respect to the southeast connector, Ms. Jenkins said they are running on a tight parallel path with the connector.

Ms. Jenkins stressed that multi-family residential housing is a necessary part of the housing spectrum. The largest employer in Santa Fe County is the Community College and this proposal provides housing options to make Santa Fe County economically viable.

Oralynn Guerrerortiz, under oath, stated that the 3-inch force main that serves Dean's Court is adequate to also handle the apartment complex. The connection can be modified to College Drive. The Rancho Viejo wastewater treatment plant was recently inspected and issues were which will be addressed. There was nothing in the report indicating anything inherently wrong with the plant.

Ms. Jenkins reviewed the pedestrian trails and noted there is a bus route that runs to the college. She offered to explore an expansion of that route.

Member Booth expressed concern about the piecemealing of the project.

Member Anaya said he understood the area residents not wanting this complex in their area but the project will bring services to all of Santa Fe County. He did not believe it would devalue area property and moved to approve the project with staff conditions. The motion failed without a second.

Speaking with 38 years of experience in real estate, Member Gonzales moved to recommend denial of CDRC Case Z 13-5380. Member Martin seconded.

Member Martin appreciated the County staff work on this project and thanked the audience and the applicant for their patience. She said the project's land use compatibility was troublesome to her. The Sustainable Land Development Code speaks to insuring compatibility, provides predictability and security by protecting property values and public and private investments in property improvements. It also mentions adequate transportation network capacity which is a serious issue. Further, she mentioned in *Albuquerque Commons versus City of Albuquerque* the court found that property owners have a right to rely on zoning classifications.

The motion passed by majority [5-1] voice vote with Member Anaya voting against. [Member Katz recused himself.]

### **VIII. New Business**

**A. CDRC CASE # V 14-5080 Jason Mohamed Variance. Jason Mohamed, Applicant, Kristofer C. Knutson (Knutson Law PC), Agent, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow two dwelling units on 2.5 Acres. The property is located at 11 Virginia Lane, within Section 24, Township 15 North, Range 8 East (Commission District 5)**

Member Katz rejoined the committee.

Mr. Romero presented the case as follows:

“The Applicant requests a variance of Article III, Section 10, Lot Size Requirements, of the Land Development Code to allow two dwelling units on 2.5 acres. The subject lot was created in 1984 via Family Transfer and is recognized as a legal lot of record. Currently there are two homes and two accessory structures on the property. The two accessory structures consist of a well house and stables.

“On January 30, 2014, the Building and Development Services Division received a complaint that the Applicant had moved a manufactured home onto the property without a Development Permit from Santa Fe County. On February 6, 2014, Code Enforcement conducted an inspection on the property and issued the Applicant a Notice of Violation for Unpermitted Development.

“The Applicant states that he is requesting a variance in order to move his elderly mother into the second home to help provide assisted living for her. Currently, the Applicant, along with his family including his mother, all reside in the main residence. The manufactured home that was illegally placed on the property is vacant and not connected to any utilities.”

Mr. Romero said staff recommends denial of the variance request; however, if the CDRC recommends approval of the Applicant's request for a variance, 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 home. 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 2002-13).
2. The placement of additional dwelling units or Division of land is prohibited on The property (As per Article III, Section 10).
3. The Applicant must obtain a Development Permit for the second dwelling unit and stables. (As per Article II, § 4.5.2b Article II, § 2).
4. The Applicant shall comply with all Fire Prevention Division requirements at the time of Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).
- 5.

Appearing for the applicant was attorney Kristofer Knutson and duly sworn were Jason Mohamed and his wife.

Mr. Knutson said the variance request located the property on Turquoise Trail near the San Marcos Café and Feed Store. He said the character of the neighborhood is that many of the homes have accessory structures and dwellings, many grandfathered in. This dwelling will allow for Mr. Mohamed's elderly mother to live on the property in her own home. The heated area of the manufactured will not exceed 1,200 square feet and is not over one-story in height. The property contains a barn that has no utilities and a well house. The manufactured home will be accessed by the same driveway and no separate curb cut is necessary. Water and electricity will be shared with the principal residences and the same leach field used.

Mr. Knutson said there will be little change in water since the Mr. Mohamed's mother lives with them at this time. A swamp cooler may be used.

Mr. Knutson said the placement of the manufactured home will not result in a diminished property value for neighbors. The area has a variety of dwellings and lacks uniformity. The dwelling will provide privacy for Mr. Mohamed and his wife as well as his elderly mother. He said approving this variance was in the public interest because family was caring for his mother.

Mr. Mohamed is prepared to stucco the home for conformity purposes. Mr. Knutson noted that the accessory structure is in accordance with the Sustainable Land Development Code which recognizes accessory dwellings are an important means by which people can provide separate and affordable housing for their elderly parents.

Referring to the geohydro report Mr. Mohamed received, Glorieta GeoScience recommends that he deepen his well which is situated in the Ancha formation into the Espinosa/Galisteo formation to improve production, stated Mr. Knutson.

Mr. Knutson said Chapter 10, Supplemental Zoning Standards of the SLDC, allows for accessory structures used for dwelling purposes. He read from Section 10.4 confirming the use of accessory dwelling units.

Ms. Lucero said when the SLDC becomes effective this type of use can be approved administratively. She said the code will not take effect until the zoning map is adopted and there are two public hearings scheduled to that end. The earliest it will take effect is the end of July.

Ms. Lucero said this case will be forwarded to the BCC for its July 8<sup>th</sup> meeting.

Recognizing this case can be approved administratively following the adoption of the new code, Member Gonzales said it seems like it's no man's land. Ms. Lucero said staff has not evaluated the case for conformity under the new code.

Mr. Knutson agreed with Member Gonzales' observation that they were in no man's land.

Member Martin observed that this case is coming forward in response to a complaint by a neighbor. Mr. Romero said that was the case and Santa Fe County Code Enforcement issued a violation and the applicant is now seeking a remedy to the violation.

The principal home is 2,800 square feet and the mobile home is 1,200 square feet. Mr. Mohamed's wife indicated that the original structure was built around 1980 and permits were granted for remodeling and expansion in 2002.

Mr. Mohamed explained that drilling down to the lower aquifer will provide more water and is the logical step for the entire neighborhood to obtain more water. He said he has already contacted Lujan Drilling and is in the process.

If drilling to the lower aquifer is made a condition for approval, Mr. Knutson requested that it be contingent on approval of the OSE.

Mr. Knutson confirmed that his client would meet the conditions of approval.

Duly sworn, James Montoya, 07 Virginia Lane, Santa Fe County, said he has been on the property next to Mr. Mohamed for 23 years. He said he found out about the variance request late because the applicant did not comply with the requirement to notify all the neighbors. Mr. Montoya distributed letters from the neighbors opposing the variance [*Exhibit 10*].

Mr. Montoya said his deceased father received a letter pertaining to this matter but he had not. He acknowledged that Mr. Mohamed placed notification in the newspaper that "nobody saw" and posted the notice on a telephone pole but only one person saw it.

Mr. Montoya said he recently had to install a new well pump because of the high use of water in the area. He asked the CDRC to deny the request.

Duly sworn, Henrietta Larkin, 12B Sunset Trail West, Santa Fe County said she lived west of the subject property. Ms. Larkin said the lot is too small at 2.5 acres for the two dwellings. Also, she said the applicants' well lacks integrity and is taxing her well. Ms. Larkin said when Mr. Mohamed needed water she was neighborly and allowed them

to take a hose from her well to their house. However, they asked a few more times and she said no. The variance request is not appropriate for the area.

Ms. Larkin said she feels she was not told the truth by Mr. Mohamed.

Under oath, Lucy Montoya, the wife of James Montoya, said they see vehicles go to the adult detention center on Highway 14 to get water because the water levels are low and that concerns her. She asked the CDRC to deny the request.

Mr. Knutson identified Mr. Montoya as the complainant and found his statement that he learned about this late in the game puzzling. Certified letters were sent to all the neighbors. A visible sign was posted. He said there will be no additional traffic nor disturbance of the viewshed. Further, the water situation will improve with the deeper well.

Mr. Mohamed's wife said she sent certified letters to the five surrounding neighbors within 100 feet of their property line. The certified receipts are with County Land Use. The letters were addressed as they appeared on the County records.

Member Katz commended Mr. Mohamed for taking care of his mother. He said the variance concerned him and the new code may better address this. There was not a compelling argument to vary the law and there were clearly water issues. For those reasons he moved for denial. Member Martin seconded. The motion failed by majority [3-4] voice vote with Members Katz, Martin and Drobnis voting for and Members Roybal, Gonzales, Booth and Anaya voting against.

Member Gonzales moved to approve the variance with the staff condition and an additional condition that the applicant drill down to the second aquifer with the OSE's approval. Member Booth seconded and motion passed by majority [4-3] voice vote. Members Roybal, Gonzales, Booth and Anaya voting for and Member Katz, Martin and Drobnis voting against.

[The CDRC recessed.]

- B. CDRC CASE # V14-5050 Lloyd & Magdalena Vigil Variance: Lloyd and Magdalena Vigil, Applicants, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a 1.25-acre parcel to be divided into two (2) lots; one lot consisting of 0.614 acres and one lot consisting of 0.637 acres. This request also includes a variance of Article V, Section 8.1.3 (Legal Access) and Article 8.2.1c (Local Roads) of the Land Development Code. The road that services the property (Calle Rio Chiquito) does not meet the specifications of local lane, place or cul-de-sac roads and does not have adequate drainage control necessary to insure adequate access for emergency vehicles. The property is located at #15 and #16 Calle Rio Chiquito, within Section 5, Township 20 North, Range 10 East (Commission District 1)**

Mr. Romero presented the staff report as follows:

“The subject lot was created through a Small Holding Claim on November 28, 1925, and is recognized as a legal lot of record consisting of 1.25 acres, which is identified as 5030 Tract 3 Ysidoro Trujillo. The property is currently vacant.

“The Applicants request a variance of Article III, § 10 (Lot Size Requirements) of The Land Development Code to allow a 1.25-acre parcel to be divided into two lots; one lot consisting of 0.614 acres, Tract A, and one lot consisting of 0.637 acres, Tract B. The Applicants claim that the previous property owner’s mother deeded portions of the subject property to her two sons. Each son was deeded a portion of a 1.25-acre parcel in 2003, one son sold 0.614 acres to the Applicants in 2012.

“On December 20, 2013, the Applicants were attempting to submit an Application for a Lot Line adjustment on the subject property. During that time staff determined that the property was divided in 2003 through warranty deed, which is not the correct process for creating lots. Staff recognizes this property as a single legal lot of record consisting of 1.25 acres. At that time, the Applicants stated when they purchased the property in 2012, they were under the impression that they had purchased a legal lot consisting of 0.614 acres.

“The Applicants also request a variance of Article V, Section 8.1.3, Legal Access and Article 8.2.1c, Local Roads of the Land Development Code.

“The property is accessed from Calle Rio Chiquito. The portion of Calle Rio Chiquito that services the property is approximately 816 feet in length and ranges from 9-14 feet in width and is a dirt driving surface. Calle Rio Chiquito does not meet the specifications of local lane, place or cul-de-sac roads, which require two 10-foot driving lanes and six inches of basecourse. Calle Rio Chiquito does not have adequate drainage control necessary to insure appropriate access for emergency vehicles.

“The Applicants state that they are not in a position to upgrade 816 feet of Calle Rio Chiquito to County standards due to the financial obligation it would take and also due to an acequia that is buried on the south side of the road. Calle Rio Chiquito currently serves approximately 25 lots and 12 dwelling units with no right-of-way through the multiple properties that it serves.”

Mr. Romero stated that staff recommends the denial of the variance(s). If the decision of the CDRC is to recommend approval of the Applicants’ request for variances, staff recommends imposition of the following conditions:

1. ~~Water use shall be restricted to .50 acre-foot per year per lot. A water meter shall be installed for each lot. 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. [Removed by staff.]~~

2. A plat of survey meeting all County Code requirements shall be submitted to the Building and Development Services Division for review and approval (As per Article III § 2.4.2)

3. Applicant shall comply with all Fire Prevention Division requirements at time of Plat review (As per 1997 Fire Code and 1997 Life Safety Code).

Mr. Romero noted that the property receives water from the Rio Chiquito Water Association and condition one was removed.

Mr. Romero confirmed that the property is located in a traditional community and the minimum lot size is .75 acre.

Mr. Dalton confirmed that anyone building on that road would have the same issue as the applicant. Mr. Romero identified the road as private. [The applicant later corrected staff stating it is a County road]

Duly sworn, Lloyd and Magdalena Vigil appeared before the CDRC. Ms. Vigil said she speaking for her husband, Gilbert Trujillo and herself. She said Calle Rio Chiquito is a County Road. The property had been one tract belonging to Gilbert's mother. She deeded the property into two pieces to her two sons. Ms. Vigil said she and her husband bought one of the lots and her husband has used it for agricultural use over the years. They own a parcel next to the parcel in question. At this point, they are asking the County to recognize that the property belongs to them and the other part to Gilbert.

Ms. Vigil said the surrounding neighbors support their request.

Ms. Vigil said they own lots 17 and 18 shown on the aerial photo. Member Katz suggested they consolidate the lots and Ms. Vigil said that is their goal. However, when they came to the County to do so, they learned the lot was not considered a legal lot of record.

Deputy County Attorney Brown said by having two separate lots created by Gilbert Trujillo's mother they would both be undersized. The question is whether the parcel can be divided at all.

Ms. Vigil clarified that she and her husband bought their parcel from Gilbert's brother, Richard Trujillo.

Member Roybal suggested an approval could be on the condition that the tract be joined with 17 and 18. Ms. Brown said the situation is the tract of land was improperly divided by deed which is not permitted by state law. The fact that the property is anything other than a single tract is the question before the CRDC.

Member Katz said the concern is the undersized lot #16 that Gilbert Trujillo is left with if the variance is approved.

A suggestion was made that the applicants conduct a lot line adjustment giving Gilbert Trujillo additional land to make a legal lot.

Ms. Vigil said the lots were created by Gilbert's 97 year-old mother and she did not intentionally circumvent the law.

Ms. Brown said if the proposal came forward that the lot left to Gilbert is .75 acre then the variance is not required. If the application also committed to consolidate the remainder into the larger tracts that adjoin then the variance is also not needed.

Ms. Vigil said she understood that but bought the property in good faith and was not willing to give up her property.

Member Booth said the amount of land the Vigils would have to give to Gilbert is very little and the CDRC was trying to help. Ms. Vigil said she has been paying taxes on the land. Ms. Brown said the CDRC is tasked to either approve or deny the variance. If the variance is denied, the applicants can work in private and determine the next step.

There were no other speakers on this case.

Member Anaya moved to deny case V 14-505. Member Martin seconded.

Member Katz said the Vigils may have recourse to get of the some money they paid for the lot back in a settlement accepting a little less land.

The motion passed by unanimous [7-0] voice vote.

- C. CDRC CASE # V/FDP 14-5090 Stanley Cyclone Center. Santa Fe County, Applicant, Lorn Tryk (Lorn Tryk Architects), Agent, request Final Development Plan approval to allow a 51,250 square foot structure, to be utilized as an event center for equestrian events, on 11 acres ±. The Applicant's request also includes a variance of Article III, Section 2.3.6 (Height Restrictions) to allow the proposed structure to exceed 24 feet in height and a variance of Article III, Section 4.4.4.f (Landscaping) of the Land Development Code. The property is located at 22 West Kinsell Avenue, in Stanley, within Sections 27 & 28, Township 11 North, Range 9 East, (Commission District 3)**

Mr. Larrañaga reviewed the staff report as follows:

“The Applicant is requesting Final Development Plan approval for the Stanley Cyclone Center as a Community Service Facility. The Center will consist of a 51,250 square foot indoor arena on 11 acres ±. The Stanley Cyclone Center will be a County-owned facility to be utilized for equestrian events such as roping, steer wrestling, barrel racing, bronco riding and bull riding. The Center will also host events for the 4H Club and FFA programs.

“The Applicant is also requesting a variance of Article III, § 2.3.6, Height Restrictions to allow the proposed structure to be constructed 34 feet in height and a variance of Article III, § 4.4.4.f, Landscaping of the Land Development Code.

“The Applicant states: “to achieve a wide span structure, with sufficient internal head room to be utilized as an equestrian facility, the height of the proposed structure is required to be a minimum of 34 feet. Staff response: due to the rural nature of this area and the use of this structure as an equestrian facility, the proposed height of the structure may be considered compatible with existing large buildings in the area which are used for agricultural purposes.

“The Applicant states: “the Land Development Code requires 80 trees and 1,920 shrubs, one shrub per 16 square feet, for a total of 27,294 square feet of planted area, which is 10 percent of the site area; landscape proposed for this site includes 20 trees and 35 shrubs, one shrub per 500 square feet for a total of 7,200 square feet of planted area; a variance is being requested to decrease the 10 percent landscape requirement based on limited water availability. Staff response: the Applicant’s submittal may meet the purpose and intent of the landscape requirements by promoting conservation of water through the use of drought tolerant plant materials and xeriscape techniques.”

Mr. Larrañaga said 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 Final Development Plan: the facility will provide a community service to the County; the use is compatible with existing development in the area; the use is compatible with development permitted under the Code; the application is in compliance with the County General Plan and Code; the Application, excluding the height and landscaping requirements, satisfies the submittal requirements set forth in the Land Development Code.

Mr. Larrañaga said the review comments from state agencies and County staff have established findings that this Application for Final Development Plan, excluding the height and landscaping requirements, is in compliance with state requirements, Ordinance No. 2010-13 § 7 and § 7.1 Community Service Facilities and Article V § 7.2 Final Development Plan of the Land Development Code. Building and Development Services staff has reviewed the Applicant’s requests and find them to be minimum easing of the law. Staff recommends approval with the following conditions:

1. The Applicant shall comply with all review agency comments and conditions, as per Article V, § 7.1.3.c. Conditions shall be noted on the recorded Final Development Plan.
2. Final Development Plan with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 7.2.2.
3. The request for a variance of the height requirements may be considered a minimal easing of the Code due to the head-room required for the types of activities to be conducted within the structure and to allow the span of the proposed structure. The request for a variance of the landscape requirements may be considered compliant with the purpose and intent of the landscape

requirements by promoting conservation of water through the use of drought tolerant plant materials and xeriscape techniques. The Development Review Committee may recommend to the Board to vary, modify or waive the requirements set forth in Article III, § 2.3.6, Height Restrictions and Article III, § 4.4.4.f, Landscaping of the Land Development Code.

Member Katz asked whether there would sufficient landscaping to screen the building. Mr. Larrañaga said the applicant reduced the number of shrubs and is following the new Sustainable Land Development Code.

Member Gonzales asked whether the height would be allowable under the new code and Mr. Larrañaga said the new code allows up to 36 feet.

Mr. Larrañaga said the plans call for a cistern to collect water onsite for landscaping. An onsite well will provide water for the facility.

Duly sworn, Lorn Tryk project architect, commended staff on the abundance of caution they used in reviewing this project. The cistern is sized for a year's worth of water rather than the usual month's worth. The well water budget contains landscaping as if the cistern were empty and still the water use is less than .25 acre-feet per year.

Mr. Tryk said the building is designed for 30 pounds per square foot snow load and is pre-engineered for wind and snow in Stanley.

There were no other speakers on this case.

Member Katz moved to approve V/FDP 14-5090 with staff conditions. The motion was seconded by Member Booth and passed by unanimous [7-0] voice vote.

Member Anaya was complimentary of the project that is needed by the youth in southern Santa Fe County.

**D. CDRC CASE # S 13-5201 Oshara Village Preliminary and Final Plat and Development Plan: Century Bank, Applicant, Design Eniginuity (Oralynn Guerrerortiz), Agent, request Preliminary and Final Plat and Development Plan approval for a 5-lot residential subdivision located within Tract C of Oshara Village Phase 1, which consists of 10.41 acres (5 residential lots within Tract C). The property is located on the east side of Richard's Avenue, south of I-25, within Section 16, Township 16 North, Range 9 East (Commission District 5)**

Mr. Archuleta presented the staff report as follows:

“On April 30, 2002, the Extraterritorial Zoning Authority granted Master Plan approval for a mixed-use development 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 now known as Oshara Village, 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.

“On September 19, 2013 the County Development Review Committee recommended approval of the proposed Master Plan Amendment to rezone 36 live/work lots and 17 small commercial lots to 26 residential town home lots and 21 residential patio home lots and to create 5 residential patio home lots on Tract C which was reserved open space.

“On November 12, 2013 the Board of County Commissioners approved a Master Plan Amendment request to rezone 36 live/work lots and 17 small commercial lots to 26 residential town home lots and 21 residential patio home lots and to create 5 residential patio home lots on Tract C which was reserve as open space on the original Master Plan

“The Applicants now request Preliminary and Final Plat and Development Plan approval for the creation of five residential lots within Tract C of the Oshara Village Subdivision Phase 1. The lots will range in size from .12 acres to .14 acres. The remainder of Tract C will remain reserved open space. The five lots to be created will be located on the south side of Willowback Road about 400 feet to the east of Richards Avenue. Currently Tract C is vacant land platted as reserved open space. It has been reserved to permit future development as long as 50 percent required open space is provided within the development.”

Mr. Archuleta said Staff recommends approval of the Applicant’s request for Preliminary and Final Plat and Development Plan approval to create 5 residential lots located within Tract C of the Oshara Village Phase 1 Subdivision, which consists of 10.41 acres, subject to the following conditions:

1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.

Mr. Archuleta added that the County’s Affordable Housing Administrator confirmed that the applicant has addressed the affordable housing requirements with the previous development.

Mr. Archuleta confirmed that Century Bank is the owner and applicant in this case.

Member Katz asked whether the water-related issues have been resolved. Mr. Archuleta said he understood the County Hydrologist requested that the water agreement be clarified with the new owners and at this point that has not occurred.

Previously sworn, Oralynn Guerrerortiz, Design Enginuity, used a site map and identified where the project was located. A number of skinny commercial lots and live/work units were converted to five patio homes and reduced the amount of lots by 17. Utilities are present and there are no new roads for the homes.

Ms. Guerrerortiz said the County Hydrologist requested an update on the discharge permit which was provided. The hydrologist raised questions about the water budget numbers. She said she understood the use was .11 acre-feet and based the budget on that figure. The Hydrologist preferred .17 or .19. Oshara is one of the lowest water users in the County. Ms. Guerrerortiz said a meeting is scheduled with the County's Utility Director Claudia Borchert to discuss the original water agreement. Century Bank is a lot owner and did not assume the developer's interest.

Chair Drobnis asked whether it wasn't premature to request preliminary and final plat and develop approval when the water issue was not clarified. Ms. Guerrerortiz said County water utility staff defined what the applicant needed to do – install water taps, pay a meter connection fee – and the applicant is prepared to do so. The Hydrologist's question is different.

There were no other speakers on this case.

Member Roybal moved to approve S 13-5201 with the staff condition. Member Martin seconded and the motion passed by unanimous [7-0] voice vote.

**E. PETITIONS FROM THE FLOOR**

None were presented

**F. COMMUNICATIONS FROM THE COMMITTEE**

The Committee requested that staff provide status information on CDRC cases that are forwarded to the BCC and whether the CDRC's recommendations are upheld.

**G. COMMUNICATIONS FROM THE ATTORNEY**

None were presented.

**H. COMMUNICATIONS FROM STAFF**

None were presented.

I. NEXT CDRC REGULAR MEETING: June 19, 2014

J. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Drobnis declared this meeting adjourned at approximately 7:45 p.m.

Approved by:

\_\_\_\_\_  
Dan Drobnis, Chair  
CDRC

ATTEST TO:

COUNTY CLERK

Before me, this \_\_\_\_ day of \_\_\_\_\_, 2014.

My Commission Expires:

\_\_\_\_\_  
Notary Public

Respectfully submitted by:

  
Karen Farrell, Wordswork



# Graeser & McQueen, LLC

-Attorneys at Law-

316 East Marcy Street, Post Office Box 220 Santa Fe, New Mexico 87504-0220  
(505) 982-9074

April 2, 2014

Santa Fe County Board of County Commissioners  
c/o Jose Larrañaga, Commercial Development Case Manager

via: email to [joselarra@santafecountynm.gov](mailto:joselarra@santafecountynm.gov)

re: Elevation at Rancho Viejo, #MPA 13-5380

Dear Jose,

This firm represents neighbors of the proposed Elevation at Rancho Viejo project (residents of College Heights Phase 1) and submits this letter on their behalf in opposition to the requested master plan amendment. Their objection to the master plan amendment to allow at least 214 rental apartments where 53 homes were previously approved and expected is based on several factors.

## BCC Discretionary Review Criteria

Section §4(B)(3) of the Community College District Ordinance, Ordinance 2000-12 (CCDO), requires the BCC to review the application for "Conformance to the Santa Fe County Growth Management Plan as amended by the Community College District Plan" as well as "Impacts to schools, adjacent lands or the County in general." Fundamentally, this application does not comply with the Community College District Plan, Resolution 2000-148 (CCDP), and presents an unreasonable impact on the adjacent lands. The amendment request should be denied, and the applicants can be apprised of the reasons for denial as set forth in this letter. CCDO §4(B)(4).

County staff has done a thorough job in their review, and has recommended approval. Although the staff memorandum may recommend the project as in compliance with the Code, that recommendation only addresses prescriptive Code requirements. The BCCC may still reject the project under its discretionary authority.

## Master Plan Expired

The 1997 College North Master Plan has expired. Thus, a new master plan is required. CCDO §4. Granting any new master plan is within the BCC's discretion and may be done taking into mind appropriate, planned-for development and its impact on the neighbors.

### Community College District Plan

The CCDO allowed development in accordance with approved master plans "without amendment." CCDO Section 9(A). The applicants could have developed their property in accordance with the 1997 master plan but did not do so. There continues to be little resistance to development as planned at that time (i.e., adoption of a new master plan that tracks the expired one).

The CCDP accepted and anticipated continuation of approved development as of the plan's adoption in late 2000. The plan was adopted in anticipation of College Heights buildout as initially approved and expected. For instance, the plan incorporated the Future Road Network Study that specifically notes 73 approved dwelling units for College Heights Subdivision (with 0 existing at the time). FRNS, Pg. 4.

**This application amends the CCDP itself, and it does so without consideration of the needs, expectations or health of the surrounding community.**

### Master Plan Area

Under CCDO §4(B)(2), "The minimum area which must be included within a master plan shall be an entire Village Zone, Employment Center Zone or Institutional Campus Zone, or that portion of such zone owned by the applicant."

The master plan encompasses substantially less than an entire village zone. Applicant Univest Rancho Viejo has numerous landholdings in Rancho Viejo, including the portion marked "Future Development" located between College Heights Phase 1 and the current project. Thus, the master plan must include at least this property. Failure to do so both violates the CCDO and unfairly leaves the applicants' neighbors in limbo fearing what even more intense use might be proposed for the remaining land.

**Given the applicants' current intention to substantially modify the expected land uses and thus interfere with the community's settled expectations, the applicants must adhere to the code requirement to master plan all of their holdings in the area that may impact the residents of College Heights Phase 1.**

### Zoning Limitations

Applicants seek a new master plan. The term "master plan" has two associated meanings in land use planning. The first is as a jurisdiction-wide comprehensive or general plan. *See*, Santa Fe County Land Development Code Art. X, §1.33, Ordinance 1996-10 (the Code); Michael Davidson and Fay Dolnick, *A Glossary of Zoning, Development and Planning Terms* 146 (1999). The second, as used in this context, is a vehicle for zoning or subdivision approval (this application does not seek to subdivide the land; subdivision regulations may be found in Art. V of the Code). The

Code does not define "zoning." However, it does define "master plan" as "a report, plans, and other submittals as required by this Code for a proposed subdivision or zoning or re-zoning of land showing the development proposal in a manner comprehensive enough to evaluate the scope, size, intensity, compatibility, benefits, relationships, and impacts of a project..." Code Art. III, §5.2 (emphasis supplied). Thus, a master plan zones. It is not legally permissible to do so in such a limited context.

In *Albuquerque Commons Partnership v. City of Albuquerque*, 144 N.M. 99, 2008-NMSC-25 the New Mexico Supreme Court reviewed its own case law on piecemeal zoning and revitalized several important concepts. "A targeted rezoning action is also called a piecemeal rezoning and stands in contrast to a comprehensive rezoning, which affects a substantial portion of land within the zoning jurisdiction belonging to many landowners." (internal quotations removed). A piecemeal rezoning results in "specific properties or small groups of properties within an otherwise similarly situated class, restricting or allowing uses in ways that do not apply to the surrounding area or similar areas within the [zoning district]." ¶26.

Under *Albuquerque Commons*, such piecemeal rezonings must be justified by 1) a change in conditions in the community or 2) a mistake in the original zoning. See also, *Miller v. City of Albuquerque*, 89 N.M. 503, 554 P.2d 665 (1976) and *Davis v. City of Albuquerque*, 98 N.M. 319, 648 P.2d 777 (1982). There is no evidence in the record, nor do the applicants submit any information, regarding any change in the community or mistake in the original zoning. Their zoning request completely fails under this rule.

*Albuquerque Commons* does open up one other avenue to new zoning, if it is "more advantageous to the community, as articulated in the Comprehensive Plan or other [zoning district] master plan." In the case of a "more advantageous" zoning, there must be a public need for the change and proof that "that need will be best served by changing the classification of the particular piece of property in question as compared with other available property." *Albuquerque Commons* at ¶30. There is also no evidence in the record of any particular public need or site-specific appropriateness. In this respect, the zoning is not only contrary to law, §39-3-1.1(D)(3), but also unsupported by substantial evidence, §39-3-1.1(D)(2).

The basis of the rule re-articulated in *Albuquerque Commons* is logical. The *Miller* court, in exploring the basis of zoning restrictions, noted the "desirable stability of zoning classifications upon which the property owner has a right to rely, since property may be purchased or sold or uses of the property undertaken in reliance on existing classifications." *Miller* at 506, 554 P.2d at 668 (emphasis supplied). Here, the community has come to expect continuation of the quiet, low intensity single-family use that as represented to them when they purchased their homes, and as has become an essential part of the community's identity.

### Compliance with General Plan

Art XV, Sec. 4.B.3.a of the Code requires conformance to the County's Growth Management Plan (currently, the 2010 Sustainable Growth Management Plan). The SGMP requires "transitioning between land use types, intensities, and densities using buffers and floor area ratios..." SGMP, Pg. 42. Here, **there is no transition zone between the single family residences and the 214 unit complex.**

Notably, when the original developer was seeking approval for the 1997 master plan, their land use planner stated that "College North is a transitional area between the rural densities and the Community College." April 30, 1996 EZA minutes.

### Adjacent Lands Impact Analysis

Art. XV, Sec. 4.B.3.d of the Code requires analysis of impacts to adjacent lands. **The application contains no such analysis, rendering it deficient.**

### HOA Membership

Owners of single-family residences in College Heights are automatically members of the homeowners association. Dues are substantial (~\$1,000 per year) and support many of the amenities and services enjoyed by community residents. Residents have proceeded with the settled expectation that 53 new single-family residences would be built, assisting them in paying these hefty dues. However, the apartment project, on a single lot, would be all but exempt from such dues. **This results in an unfair financial burden on the College Heights Phase 1 residents.**

### Violation of Restrictive Covenants

The current private restrictive covenants that govern the property prohibit the applicants' anticipated project. My clients recognize that the County does not enforce restrictive covenants, and they are prepared to do so themselves, although the covenants were specifically approved by the County as part of the development review process (See may 12, 1997 EZA minutes). However, the covenant restriction is relevant for the County's discretionary review as to whether amendment of the master plan is appropriate and honors residents' established expectations.

There is no question that the project is prohibited by the covenants (Village At Rancho Viejo Covenant Declaration, Section 9.2): "All Lots may only be used for single family residential use..." Although current applicants' ability to amend the covenants is far from clear based on a review of the relevant transactions, they presumably assert the ability to amend the covenants under the Declarant's rights.<sup>1</sup>

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<sup>1</sup> Declarant rights are tightly regulated by the Homeowner Association Act, NMSA 1978 Section 47-7E-1, and such an amendment may be in violation of applicants' obligations under that act as well.

<sup>2</sup> Uninvest-Rancho Viejo LLC has accepted all rights and obligations of Rancho Viejo de Santa Fe, Inc. in a

However, there are substantive legal restrictions and prohibitions on their right to do so.

The first of those is the requirement of uniformity. In *Montoya v. Barreras*, 81 N.M. 749 (1970) the Supreme Court looked at a case in which protective covenants ("detailed plan for residential development and restriction as to all of the lots in the subdivision" *Id.* at 751) were amended to remove the restrictions on a single lot, allowing it to be used for nonresidential purposes. The Court stated, "Historically, restrictive covenants have been used to assure uniformity of development and use of a residential area to give the owners of lots within such an area some degree of environmental stability. To permit individual lots within an area to be relieved of the burden of such covenants, in the absence of a clear expression in the instrument so providing, would destroy the right to rely on restrictive covenants which has traditionally been upheld by our law of real property" and that "All of the lots in the subdivision were sold subject to the provisions of the declaration. Restrictions as to the use of land are mutual, reciprocal, equitable easements in the nature of servitudes in favor of owners of other lots within the restricted area, and constitute property rights which run with the land... Where the covenants manifest a general plan of restriction to residential purposes, such covenants constitute valuable property rights of the owners of all lots in the tract." *Id.* The Court then held, "Because the grantor encumbered all of the property with restrictions, we cannot infer from the declaration the intention that any subsequent change or changes in the restrictions could be made applicable to only one lot or a portion of the lots in the residential subdivision." *Id.* at 753.

**Just as in *Montoya*, the applicants seek to amend the covenants in a non-uniform fashion. They are not permitted to do so.**

Just last summer our Supreme Court looked at another substantive restriction on amending covenants, namely the requirement of reasonableness. In *Nettles v. Ticonderoga Owners' Association, Inc.*, 2013-NMSC-30 certain protective covenants were amended to eliminate previously required road maintenance and to dilute the plaintiff residents' votes. The Supreme Court took on the case to "address an area of the law that... remains vital to those with property interests in planned subdivisions... throughout our state." 2013-NMSC-30 at ¶9. The Court relied on established authority and the *Restatement* in its analysis developing and strengthening the reasonableness requirement.

Thus, the *Nettles* Court held, "this Court will consider not only the rights of the individual owner, but also the rights of the other association members who expect maintenance in keeping with the general plan.... The purpose of balancing these considerations is to ensure that the strength of the association is maintained and the expectations and purpose are not frustrated, while also ensuring that *no individual property owner or class of owners is unduly and unexpectedly burdened for the benefit of others in the association.*" (emphasis in original; quoting *Griffin v. Tall Timbers Dev., Inc.*, 681 So.2d 546, 554 (Miss.1996)).

If the applicants go forward with the master plan, they are the only ones benefitted; the rest are unduly and unexpectedly burdened for their sole benefit. This is exactly the situation prohibited as being unreasonable by the Supreme Court.

Marketing representations and subsequent reliance by purchasers on those representations forms an independent prohibition on such a drastic change in plans as well. NMSA 1978, Section 47-6-17 (Disclosure) requires a subdivider to disclose in writing certain information about the subdivision as required by county regulations. Santa Fe County, in turn, has adopted a subdivision disclosure format (Code Appendix 5.C.1). The required disclosure includes the anticipated number of parcels. Accordingly, Rancho Viejo de Santa Fe, Inc.<sup>2</sup> filed its *College Heights Subdivision First Amended and Restated Disclosure Statement* at Book 1767, Page 468 of the records of the Santa Fe County Clerk. That disclosure statement specifies the number of parcels as 73.<sup>3</sup> In addition, we understand that marketing materials at the time also made a similar representation, although they appear not to have been filed with Santa Fe County as required by Section 47-6-18(B) (no such materials should be destroyed).

*Knight v. City of Albuquerque*, 110 N.M. 265 (N.M. App. 1990) concerned the Paradise Hills Country Club Estates in Albuquerque. The original developers denominated certain areas as part of a golf course on the subdivision plat. A successor developer then attempted to amend the plat to develop those areas in a manner contrary to that shown on the plat. The Court of Appeals, noting the designation and use of the golf course and purchasers' reliance on that designation, found that the facts gave rise to a private right of action to prohibit development of the golf course for other purposes. Addressing the developer's point that the recorded covenants, conditions and restrictions (CCR's) seemed to reserve a right in the developer to "unilaterally change the character of the open space" the Court found such a result "patently unfair and violative of public policy."

The applicants' proposal is functionally the same. The developer consistently represented in numerous ways, at numerous times that the subject property (Lot 1) would contain only 73 single-family homes. This character of the subdivision was a significant part of how the properties were represented in marketing materials and sales pitches. Buyers who chose to live at College Heights made their choice based on the character of the neighborhood and their understanding that it would not change. The applicants cannot now attempt to amend the covenants or de-annex the property in order to fundamentally change the neighborhood character, density and form. Please refer also to *Ute Park Summer Homes Ass'n v. Maxwell Land Grant Co.* 77

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<sup>2</sup> Uninvest-Rancho Viejo LLC has accepted all rights and obligations of Rancho Viejo de Santa Fe, Inc. in a series of agreements filed with the County Clerk on December 23, 2010.

<sup>3</sup> It is worth noting that while the disclosure statement includes a bold face note regarding development of other land within the vicinity, it makes no such reservations regarding future development of College Heights itself.

N.M. 730 (1967) (plat showing golf course/playground/recreation area, tennis courts and clubhouse used in connection with sale of lots gives rise to equitable right of enforcement, surveying other similar cases). On the point of amending covenants or de-annexation, *Cree Meadows, Inc. v. Palmer* 362 P.2d 1007 (1961) is squarely on point. In *Cree*, the question presented was "whether or not any rights are created to other areas owned by the dedicators when a plat of the subdivision is used in making sales of lots." Noting that "defendants had sold lots to purchasers in some of the subdivisions by references to the then-existing plat and the restrictive covenants, and that some persons had purchased lots at higher prices than ordinarily would have been paid after having examined the plat, the covenants, and heard the representations of the owners or their agents" the Court held that the developers were prohibited from changing covenants, and thus changing the use, on land adjoining land that had been sold to individual purchasers through use of plats noting the originally contemplated uses.

In *Appel v. Presley Companies*, 806 P.2d 1054 (1991) the original covenants on which the purchasers relied regulated the "land use, building type, quality and size of the residential single-family dwellings" permitted in the subdivision. The developer later attempted to modify the covenants to permit smaller lots and townhouses to be built on them. The Supreme Court reversed summary judgment in favor of the developers and directed that trial was appropriate. Citing *Flamingo Ranch Estates, Inc. v. Sunshine Ranches Homeowners, Inc.*, 303 So.2d 665 (Fla. Dist. Ct. App. 1974) and *Moore v. Megginson*, 416 So.2d 993 (Ala. 1982) (both involving unreasonable attempted amendment of covenants by developer to permit commercial uses without due regard to property rights of residents), the Court held that the appropriate determination was "whether the exceptions were reasonably exercised or whether they essentially destroyed the covenants." **This proposal indisputably destroys the covenants.**

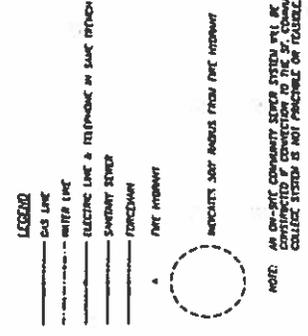
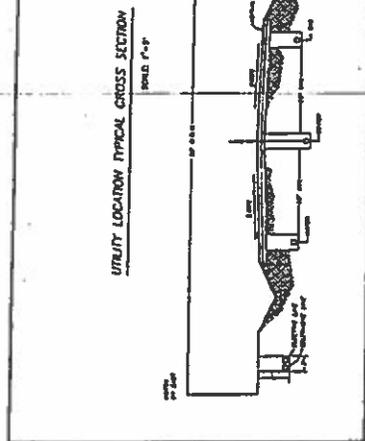
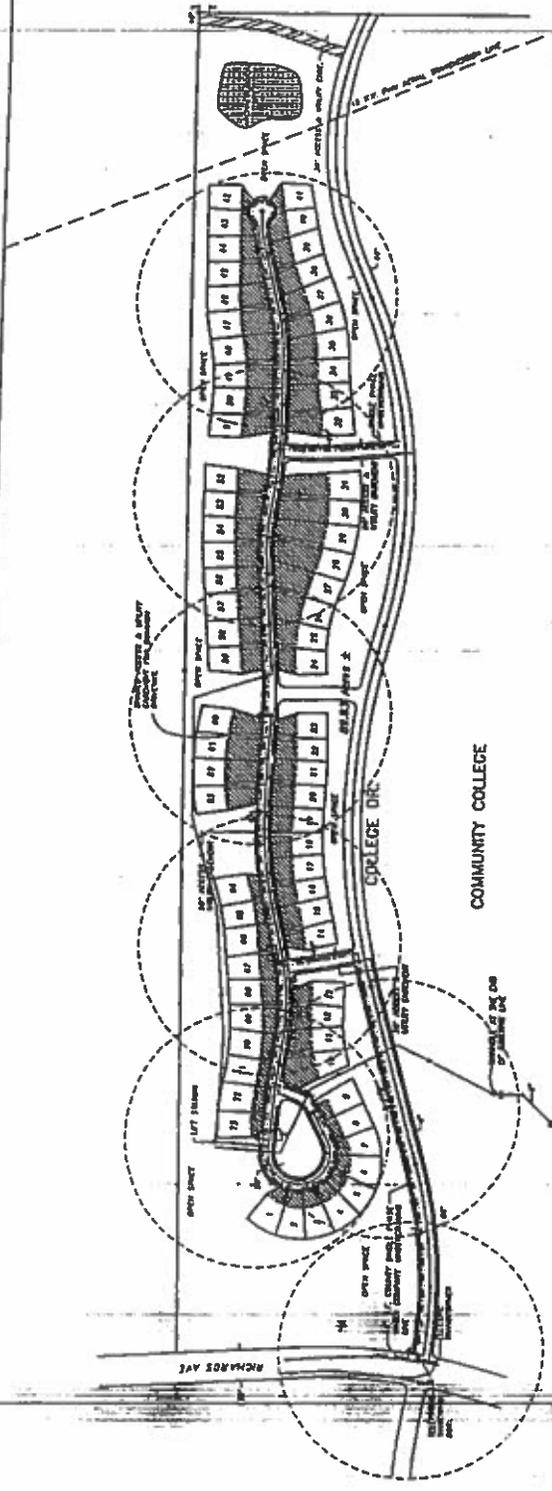
For these reasons, my clients object to the proposed master plan and urge you to reject the application, allowing the applicants to move forward with the project as originally planned and platted.

Sincerely



Christopher L. Graeser

6335819



<b>JAMES H. SEBERT</b> ARCHITECT & ENGINEER, INC. 1000 UNIVERSITY AVENUE, SUITE 100 ST. LOUIS, MISSOURI 63102 PHONE: (314) 435-1234	<b>COLLEGE NORTH</b> MASTER PLAN	DATE: 11-15-85 SCALE: 1"=200' DRAWN BY: J.H.S.	SHEET NO.: 101 TOTAL SHEETS: 105
	<b>CONCEPT UTILITY &amp; FIRE PROTECTION</b>	PROJECT NO.: 85-001 CLIENT: ST. COMMUNITY COLLEGE	DATE: 11-15-85

OCT. 31, 2000  
 Adopted BCC

**III. OVERVIEW OF EXISTING CONDITIONS**

LOCATION AND DEVELOPMENT STATUS

The Santa Fe Community College District is located generally north of El Dorado and the San Marcos Land Grant, south of U.S. Interstate Highway 25, generally east of State Road 14, and generally west of the right-of-way of the Acheson, Topoka, and Santa Fe Railroad. The District encompasses approximately 17,100 acres (roughly 26.7 square miles), of which approximately 14,700 acres remain undeveloped at this time.

CURRENT LAND USAGE

By year-end 1999, the District had experienced the following degrees of development:

2,924 acres	Existing and approved development
260	Approved projects as-yet-unbuilt
198	Proposed projects currently under review
700	Existing density transfer reserves (currently undeveloped)
13,976 acres	Undeveloped land not subject to existing development plats, agreements, or proposals

Characterized by use, existing and approved development within the District at year-end 1999 was distributed as follows:

1,477 acres	Residential uses
141	Commercial uses
534	Institutional uses
351	Dedicated open space
700 acres	Density transfer reserves (currently undeveloped)

The District's present population is approximately 1200 (465 households). Employment within the District numbers approximately 916 workers. The Santa Fe Community College currently has an enrollment of 13,494 (4850, on a full-time equivalent basis).

CURRENT RESIDENTIAL DEVELOPMENT

At year-end 1999, the locations of existing and approved residential development within the District, and their principal characteristics, included the following:

DEVELOPMENT	APPROVED DWELLING UNITS	EXISTING DWELLING UNITS	AVERAGE LOT SIZE (ACRES)	TOTAL RESIDENTIAL ACRES	DEDICATED OPEN SPACE (ACRES)
Village at Rancho Viejo Subdivision	314	140	0.4	120	180
Arroyo Hondo West Neighborhood	240	157	2.9	706	0
Windmill Ridge Village Subdivision, Unit 1	224	0	0.3	58	106
Valle Lindo Subdivision	152	117	1.8	276	4
College Heights Subdivision	73	0	0.5	36	54
Vista Ocase Subdivision	46	35	3.5	161	0
Churchill Road Neighborhood	10	2	4.8	48	3
Other Residential Parcels	18	14	4.1	73	0
<b>Total</b>	<b>1077</b>	<b>465</b>	<b>1.5</b>	<b>1477</b>	<b>347</b>

Community College Dist. Plan / TABLE 5

**DECLARATION OF DE-ANNEXATION**

This Declaration of De-Annexation (this "Declaration") is made by Univest-Rancho Viejo, LLC, a New Mexico limited liability company (the "Declarant").

**BACKGROUND RECITALS**

- A. Declarant is the Successor in interest to Rancho Viejo de Santa Fe, Inc., a New Mexico corporation, as described in the Assignment and Assumption of Declarant's Rights recorded December 22, 2012 as Instrument No. 1621127, records of Santa Fe County, where Rancho Viejo de Santa Fe, Inc., is the Assignor and Univest-Rancho Viejo, LLC, is the Assignee.
- B. Declarant reserved the right to De-Annex certain portions of the property subject to the First Amended and Restated Declaration Covenants, Conditions and Restrictions and for the Village at Rancho Viejo recorded November 2, 1998 in Book 1560, pages 354-391, records of Santa Fe County, New Mexico (the "First Amended and Restated Declaration").
- C. This reservation is created by Article 6, Section 6.5 of the First Amended and Restated Declaration and reads as follows:

6.5 De-Annexation. Notwithstanding any other provisions of this Declaration, Declarant shall have the right from time to time, at its sole option and without the consent of any other Person, (except as provided in this Section 6.5), to delete from the Property and remove from the effect of this Declaration one or more portions of the Property, provided, however, that: (a) a portion of the Property may not be so deleted and removed unless at the time of such deletion and removal such portion is owned by Declarant or Declarant executes and Records an instrument approving such deletion and removal. Declarant may exercise its rights under this Section 6.5 by executing and Recording an instrument which identifies the portion of the Property to be so deleted and removed and which is executed by each owner of such portion (if other than Declarant), and the deletion and removal of such portion of the Property shall be effective upon the later of: (i) the date such instrument is Recorded; or (ii) the effective date specified in such instrument, if any, whereupon the portion of the Property so deleted and removed shall thereafter for all purposes be deemed not a part of the Property and not subject to this Declaration, and the owner(s) thereof (or of interests therein) shall not be Owners or Members or have any other rights or obligations hereunder except as members of the general public. No such deletion and removal of a portion of the Property shall act to release such portion from the lien for Assessments or other charges hereunder which have accrued prior to the effective date of such deletion and removal, but all such Assessments or other charges shall be appropriately prorated to the effective date of such deletion and removal, and no Assessments or other charges shall thereafter accrue hereunder with respect to the portion of the Property so deleted and removed. Each portion of the Property deleted and removed pursuant to this Section 6.5 shall thereafter be deemed to be a part of the Annexable Property unless otherwise expressly provided to the contrary in the instrument Recorded by Declarant to effect such deletion and removal.

SEC CLERK RECORDED 03/28/2014



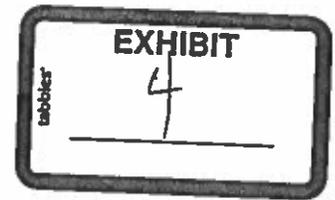
**EXHIBIT A**  
**Plat Book 422, page 5**

**SEC CLERK RECORDED 03/20/2014**





STATE OF NEW MEXICO  
DEPARTMENT OF CULTURAL AFFAIRS  
HISTORIC PRESERVATION DIVISION



Susana Martinez  
Governor

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

May 13, 2014

Jose E. Larrañaga  
Development Review Team Leader  
County of Santa Fe  
102 Grant Avenue  
P.O. Box 276  
Santa Fe, NM 87504-0276

RE: CDRC CASE # MIS 13-5380 Elevation at Rancho Viejo Master Plan Amendment

Dear Mr. Larrañaga:

I am writing in response to your request for review and comment on the above referenced master plan amendment and the archaeological assessment for archaeological site LA 110168. The site assessment was received at the Historic Preservation Division (HPD) on May 1, 2014.

During his archaeological site assessment, Mr. Ron Winters verified the archaeological site location for the LA 110168, drew a new site map, and revised the boundaries of the non-disturbance easement. Mr. Winters found that the site is relatively unchanged since it was initially recorded in 1995; however he did revise the site map to more accurately reflect the location of the possible house foundation, tank and artifact concentrations. Mr. Winters also revised the boundaries of the non-disturbance easement to reflect the new site boundaries.

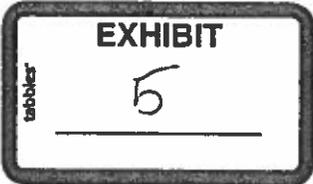
The Historic Preservation Division (HPD) has no concerns with the revisions conducted by Mr. Winters and as long as the non-disturbance easement remains in place for LA 110168, the proposed subdivision will not impact significant archaeological or cultural sites.

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

Sincerely,

Michelle M. Ensey

Log: 99128



**DECLARATION OF COVENANTS AND RESTRICTIONS**

This Declaration of Covenants and Restrictions is made this 18<sup>th</sup> day of May, 1999, by  
Rancho Viejo de Santa Fe, Inc., a New Mexico Corporation.

**1674777**

**RECITALS**

WHEREAS, Rancho Viejo de Santa Fe, Inc., a New Mexico corporation (hereinafter referred to as the "Declarant") is the owner of the real property described in Exhibit A attached hereto (hereinafter referred to as College Heights);

WHEREAS, Declarant is also the owner of The Village at Rancho Viejo as shown on the certain subdivision plat and lot line adjustment plat recorded in the records of Santa Fe County Clerk at Plat Book 389-390, Pages 049-008, as Document No. 1031147, and at Plat Book 389, Page 010-011, as Document No. 1029907 (hereinafter referred to as "Units 1 and 2 of the Village");

WHEREAS, Declarant has subjected Units 1 and 2 of the Village to that certain Declaration of Restrictive Covenants as recorded in Book 1560, Pages 354-391, as Document No. 1560354 (the "Covenants"); and

WHEREAS, Declarant wishes to subject College Heights to the Covenants by this Declaration and include College Heights within the jurisdiction of the Rancho Viejo Master Association.

**DECLARATION**

Now, therefore, Declarant hereby declares that the real property described in Exhibit A attached hereto known as College Heights shall be held, sold, transferred, conveyed, occupied and used subject to the covenants, and Declarant shall hereafter record a separate and individual tract declaration concerning the development of the lots within College Heights.

**CERTIFICATION**



EXHIBIT A

1674773

COLLEGE HEIGHTS - 86.7 ACRES

Lot 1 as shown on the Land Division plat recorded in the records of Santa Fe County Clerk at Plat Book 352, Page 002, as Document No. 968-719.



COUNTY OF SANTA FE  
STATE OF NEW MEXICO 1086) SS 129  
I hereby certify that this instrument was filed  
for record on the 13 day of Aug. A.D.  
19 99 at 139 o'clock P m  
and was duly recorded in book 1654  
page 777-779 of the records of  
Santa Fe County.

Witness my Hand and Seal of Office  
Rebecca Bustamante  
County Clerk, Santa Fe County, N.M.

*Cathy Wilburn*  
Deputy

CERTIFICATION

reduce household transportation costs, reduce pollution and traffic congestion and increase interaction between neighbors.

Increasing congestion and escalating energy costs will likely serve as an incentive to use modes of transportation other than single occupancy vehicles. It is important to avoid development patterns that preclude transit options. Transit is neither cost effective nor convenient in very low-density neighborhoods.

2.2.4.3 JOBS / HOUSING BALANCE

The jobs/housing balance within a community or development has implications for residents and employers as well as for service providers. A balanced community has employment options for residents so that they can live and work in the same community; and an educated workforce for employers so that they are able to hire employees who are vested in their community and in their job. Communities with an imbalanced ratio of jobs to housing are unsustainable for both residents and employers. Commercial uses generate more revenues for the County than residential uses, and an imbalanced land use mix negatively impacts the ability of service providers to maintain levels of service.

The SGMP creates the opportunity for planned growth areas to develop with a balanced jobs to housing ratio from the outset to reduce traffic congestion, support revenue generation and provide a high quality of life for residents. While the future land use mix is ultimately important, it is also important to encourage jobs / housing balance during the initial phase of development in growth areas. Critical to the achievement of jobs / housing balance is the designation of appropriate sites for nonresidential development on the Future Land Use Map (Map 2-4).

2.2.4.4 FLEXIBILITY / CERTAINTY

The factors that influence development of growth areas continually evolve. From rapid technology advances to natural resource limitations to lifestyle preferences, innumerable factors will contribute to public and private decision-making over the planning period. The SGMP creates the framework to ensure economic, environmental and renewable energy sustainability while providing flexibility for the County to respond to changing conditions.

The balance between flexibility and certainty is a key aspect of the SGMP. The public, developers, County staff and decision-makers perform their roles more effectively when there is certainty in the Plan policies and development review process. The knowledge that the process will occur in a predictable manner helps participants remain focused on creating quality development rather than navigating a confusing and unpredictable process, while flexibility allows them to create the best possible development without the burden of excessive regulation that stifles the ability to create a high quality product.

2.2.4.5 LAND USE COMPATIBILITY

One of the primary goals of the SGMP is to ensure compatibility among various land uses in order to preserve and protect the health, safety and general welfare of the County. Ensuring compatibility provides predictability and security by protecting property values and public and private investments in property improvements. Land use compatibility provides buffers between communities, ensures adequate transportation network capacity and establishes connectivity between existing communities and new development. A significant policy of the SGMP provides that when a use is authorized in a base or planned district zone, the use itself is deemed compatible with the adjoining area. The remaining compatibility issues relate to the availability of adequate facilities to serve the proposed use; the studies, reports and assessments on environmental impact, traffic, adequate public facilities, fiscal impact, water availability and quality and plan consistency; and protection of residential areas through open space and buffering site design. Site design plays the most significant role in assuring land use compatibility. Factors must include transitioning between land use types, intensities, and densities using buffers and floor area ratios; conserving environmental assets using standards to preserve open space and to limit impervious surfaces; providing adequate vehicular and pedestrian traffic circulation and connectivity; mitigating potential nuisances,

**Jose Larranaga**

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**From:** David Burrell <hawkp60@gmail.com>  
**Sent:** Wednesday, May 07, 2014 6:57 PM  
**To:** Robert Griego; Penny Ellis-Green; Jose Larranaga  
**Subject:** CDRC CASE MPA 13-5380 ELEVATION AT RANCHO VIEJO



David & Sukrae Burrell  
191 E Chili Line Rd  
Santa Fe, NM 87508

TO: Jose Larranaga, Commercial Development Case Manager  
Penny Ellis-Green, Director, Growth Management Division  
Robert Griego, Planning Manager, Growth Management Division

Dear Mr. Larranaga, Ms. Ellis-Green, Mr Griego,

As residents of Rancho Viejo we want to voice our strong opposition to the amendment allowing an apartment complex in our community. Like so many of our neighbors we moved to this community because the Master Plan would preserve the aesthetic living environment. We were willing to pay a premium for living in Rancho Viejo. This is all in jeopardy by building an apartment complex where those residents will have no stake in the community. Most if not all of those residents (students) will be temporary tenants with no obligation to the community. We will feel cheated if this amendment passes. We our retiring soon, and planned on living in this community but now our considering moving from this community, possibly out of state, where we can find a community that actually honors its Master Plan. It started with the Bicycle Factory, this Apartment Complex and a potential commercial center on the corner of Richards and Avenida Del Sur. Please take action to Honor our Master Plan!!

Very respectfully,

David & Sukrae Burrell  
191 E Chili line Rd

## Jose Larranaga

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**From:** Penny Ellis-Green  
**Sent:** Monday, May 12, 2014 8:41 AM  
**To:** Jose Larranaga  
**Subject:** FW: Rancho Viejo development

---

**From:** Liz Stefanics  
**Sent:** Sunday, May 11, 2014 3:41 PM  
**To:** Julia Valdez; Penny Ellis-Green  
**Subject:** Fwd: Rancho Viejo development

Thanks,  
Liz Stefanics (cell 505-699-4808)

Sent by iPad

Begin forwarded message:

**From:** "[lm1gallagher@comcast.net](mailto:lm1gallagher@comcast.net)" <[lm1gallagher@comcast.net](mailto:lm1gallagher@comcast.net)>  
**Date:** May 11, 2014 at 3:07:46 PM MDT  
**To:** Liz Stefanics <[lstanics@co.santa-fe.nm.us](mailto:lstanics@co.santa-fe.nm.us)>  
**Subject:** Rancho Viejo development

Is this the way,back door as it seems, the county is going to do business with these developers?

**Jose Larranaga**

---

**From:** Julia Valdez  
**Sent:** Monday, May 12, 2014 9:36 AM  
**To:** Penny Ellis-Green; Jose Larranaga  
**Subject:** FW: 2014 Primary Election Absentee and Early Voting Schedule

**From:** Sylvia Wheeler [<mailto:buffalonickle@comcast.net>]  
**Sent:** Friday, May 09, 2014 8:24 PM  
**To:** Julia Valdez  
**Subject:** Re: 2014 Primary Election Absentee and Early Voting Schedule

We are opposed to the annexation of Rancho Viejo land by the developer. This annexation by the college is for apartments and high density uses not in the master plan. Please vote against this on May 17. Thank you, Sylvia and Charles Wheeler, Lot 734, Rancho Viejo. 505-424-0399

April 9, 2014

Jerry & Carol Wells  
14A Deans Court  
Santa Fe, NM 87508

Jose Larranaga  
Commercial Development Case Manager  
County Land Use Administrator  
P. O. Box 276  
Santa Fe, NM 87504-0276

Dear Mr. Larranaga

Re: Elevation at Rancho Viejo #MPA 13-5380

This letter is in opposition to CDRC CASE # Z 13-5380 Elevation, Vedula Residential Operations LLC Apartment complex on College Drive in Santa Fe County. This will be my letter this year in opposition to this apartment complex. I voiced my objections at the April 17<sup>th</sup> meeting as well.

I and many of my neighbors are opposed to this proposed development as we purchased our homes with the understanding and promise that our neighborhood would be subject to HOA controlled covenant and that the property proposed for development would be an extension of HOA controlled single family housing.

We are of the opinion that the covenants flow with the land and should not be removed by the sale or DE-annexation of the property in view of reliance upon the covenants and promises for development of additional single family homes.

Univest-Rancho Viejo proposed this development over a year ago at which time we voiced our objections to this development as it would substantially increase traffic on College Drive and it was a change in the original master plan for this neighborhood from single family housing to multifamily rental housing. The proposal submitted by Univest-Rancho Viejo in 2011 was to build two multifamily rental housing units in two phases, each development consisting of approximately 240 housing units. The proposal was marketed as a "Luxury" apartment complex.

After receiving considerable opposition to these plans, Univest-Rancho Viejo altered their plans and presented a proposal very similar to the current proposal. Once again the Community voiced opposition to this plan.

At a meeting in the fall of 2013 a meeting was held to establish a Community/Developer joint task force for purposes of addressing many of the issues voiced in our opposition to this development. At the end of the meeting we were informed that this proposed development was not included in this new joint task force as the College Drive property was being sold to Vedula Residential Operating LLC.

We are now told that this sale has not been completed and it appears that Uninvest-Rancho Viejo is a partner or is spearheading the development for Vedula Residential Operating LLC because of their ties to the community.

Our original opposition to this development has not been resolved. Our issues are the increase in traffic on College Drive, the change from single family owner occupied homes to multifamily rental units.

We do not believe these rental units will be "Luxury" apartments as it is quite evident that they are intended as student housing for SFCC.

Our concerns with student housing is the fact that College students do not maintain the property, have late night parties and are constantly traveling back and forth to social events, work, school, friends houses etc. We have rented to College students in a College town and know the ramifications of renting to College students.

The traffic study presented assumes that the traffic on College Drive will not increase significantly. It is unknown how many automobiles the study assumes for each apartments but I would expect no fewer than at least two per unit and considering the residents would in all likelihood be students, I would expect some units would have up to four automobiles per unit.

The multifamily rental housing is proposed assuming the South East Connector runs west of the proposed site. As the developer probably is working with the county to make that happen, it may relieve some of the traffic concerns, but not as many as the traffic study seems to imply.

The multifamily rental housing is only a short distance from a significant archaeological site. Knowing young adolescent children tend to wonder off to explore unoccupied areas of the surrounding areas to the homes, I would expect this site is at risk.

The proposal as submitted leaves open the question of the second multifamily rental units and would in fact increase traffic substantially above the projections.

It may be noted that the round about at Richards and College Drive is rated as a failure. While it is true the South East Connector may help the rating on this roundabout, it would still be rated at a failure or near failure rating with the rental units. As yet Uninvest-Rancho Viejo has not identified what facilities will be built on the property adjacent to this roundabout, which will add additional traffic congestion to this intersection.

As a homeowner in College Heights, I must follow the covenants established by the Rancho Viejo Homeowners associations. These covenants protect homeowners rights, rights which the multifamily rental units will not be required to follow.

We live in a natural dry land environment which is highly flammable and easily destroyed by wildfires, unplanned pedestrian, bike and off road vehicle trails.

As a final issue, we find it unreasonable for multifamily housing to be allowed a swimming pool when residents of Rancho Viejo are not allowed to have swimming pools and which saves our valuable water resources. The pool would make the multifamily rental units for College students even more attractive for late night parties with significant use of alcohol and drugs.

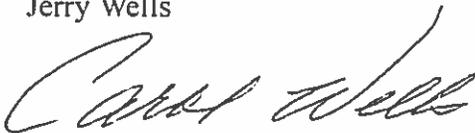
We have real concerns over our ability to exit or enter our street during heavy traffic periods. We are also concerned about our ability to evacuate our neighborhood in case of a wildfire in the grasslands surrounding our neighborhood., as there is only one exit out of the neighborhood. We need a turning lane on College Drive into Burnt Water so as not to tie up traffic exiting SFCC and utilizing College Drive to connect to the South East connector . We would like to see a parking lot for SFCC to be planned along the side of the South East connector behind the Witter Fitness Center to reduce traffic on College Drive.

We ask that you require this section of land be developed as originally platted in the Master Plan and as presented to the residents of College Heights at the time they purchased their single family homes.

Sincerely,



Jerry Wells



Carol Wells

CC: Liz Stefanics, Commissioner

## Jose Larranaga

---

**From:** Penny Ellis-Green  
**Sent:** Monday, May 12, 2014 8:09 PM  
**To:** Jose Larranaga  
**Subject:** Fwd: CDRC Case # MIS 13-5380 Elevation at Rancho Viejo Master Plan Amendment,

*Sent from my Verizon Wireless 4G LTE DROID*

----- Original Message -----

**Subject:** CDRC Case # MIS 13-5380 Elevation at Rancho Viejo Master Plan Amendment,  
**From:** sumac3b@comcast.net  
**To:** Penny Ellis-Green <pengreen@co.santa-fe.nm.us>  
**CC:**

To Penny Ellis-Green, Growth Management Administrator, (505) 986-6221,

At the urging of RV residents and your Committee/Commission, Univest owner Warren Thompson held a meeting last year to propose a process for RV residents to have input in RV decisions. At the end of the meeting, in answer to a question, he said, "Oh, by the way, the College Drive apartment complex won't be part of this process." And since then we have not been notified of any "review process" meeting.....it was just a disingenuous ploy to look like Mr. Thompson was willing to work with residents. The following details the potential results of his actions.

### BREAKING OUR CONTRACT

Mr. Thompson has supposedly sold the parcel in question to Vedura, a Phoenix company, in an attempt to circumvent the promise, the contractual commitment of the RV development plan on which all of our homes were purchased. This is a fraudulent "sleight of hand," in that he sold us a vision that is very different from putting an apt. complex next to our homes. An apartment complex on College Drive will have a negative impact on the Deans Court neighborhood, the Oshara neighborhood behind the proposed development, and the families that live along the Burnt Water Road. And if he can do it at this location, he can and will do it at other areas of RV. Property owners in RV have a right to rely on the stability of the plan that was in effect when they purchased. The fact that Mr. Thompson "de-annexed" the parcel of land in question only serves to support the fact that we bought our houses on the promise that the parcel of land in question would contain 53 single family homes similar to ours. He wouldn't have to de-annex if there was no original promise for something different.

### DISREGARDING OUR COVENANTS AND ASSOCIATION DUES

In addition, RV is a development with covenants that residents must adhere to and association dues that residents must pay to provide for our community's services. If a rental apartment complex is allowed, renters will not have to abide by the covenants. In addition, we will lose the association dues that would derive from the 53 homes that were originally supposed to be built in that area. This loss of more than \$50,000 will place an undue burden on the rest of the RV homeowners. RV will also have to deal with rental residents who do not have to adhere to our covenants or pay association dues while enjoying some of our services. Our Home Owners' Association also opposes this apartment development as "...inconsistent with the existing residential neighborhood.....At the time

the residents of College Heights bought their homes, there were representations made that future development phases would continue the single family residential character." (see attached copy of letter from RV North Community Association, Inc.)

#### DETERIORATING THE QUALITY OF OUR COMMUNITY

Vedura's website states in its "About Vedura" section that, "Our company's strategy is simple: never pay more than replacement cost. We buy, below replacement cost, when markets dip; build as markets improve; and sell at the peaks." Since Verdura builds and then sells to someone else, the quality of maintenance and upkeep, plus the level of conduct required of the rental residents, is unknown. This is the opposite of our covenants, which promise stability and safety based on these covenants. As a former apartment complex manager and resident of RV stated, these complexes generally deteriorate in upkeep and in residents' behavior over time.

#### IGNORING MORE APPROPRIATE AREAS FOR THE COMPLEX

RV residents are not restricting Univest's ability to build apartments and make money. Univest owns other land, adjacent to the RV development, which is infinitely more appropriate for an apartment complex. It has immediate access to two major roads, Rt. 14 and I 25, and does not add density and traffic to already developed areas. Furthermore, there is plenty of land there. Early in the process, Univest agents let slip that the 200 plus apartment complex was the first of two phases, each containing 200-250 apartments, so they will need plenty of space for the second phase. The College Heights plot in question does not have that kind of space if a buffer zone and green space are inserted between Deans Court and this mega complex, as earlier promised.

#### PROVIDING NO NEW HOUSING DIVERSITY

Ms. Jenkins mentioned that the complex would provide housing diversity and aid Santa Fe's economic development. However, the diversity she mentions does not include housing for middle and low income people, which is what comes to mind when diversity is mentioned. The rent for a 3 bedroom apartment in "The Elevation" would cost more than the mortgage payment or rent for a 3 bedroom single family house in RV. In addition, there are rooms available to rent in RV for \$500 a month or a townhouse for \$1200 or an entire house for \$1500. The alternate location for an apartment complex, next to the fire station, has the space to accommodate true housing diversity, with some apartments priced for middle and low income families.

#### PUTTING THE CART BEFORE THE HORSE

According to the presentation by Ms. Jenkins, the apartment complex is linked to the Southeast Connector and would be built in three phases, the last to be completed at the end of 2016 just as the Southeast Connector is being completed. There are several serious problems with this schedule. First, the SE Connector hasn't even been finalized as to placement, financing, dates, etc. Her contention that the Connector will be built next to the parcel in question is a possibility, not a fact. In addition, the necessity for exits from the Connector to the College and for required number of fire exits hasn't even been discussed yet. Second, we all know that once all of this is finalized, construction delays do occur. And third, for the apartment construction to occur before the Connector is finished would mean that heavy equipment and heavy traffic would daily stream down College Drive during that process, on a poorly constructed road that already has a serious accident potential. In addition, this "spot zoning" is occurring before the master plan is even finalized.

#### CREATING A SERIOUS TRAFFIC AND FIRE HAZARD

And if and until the SE Connector is built and open, apartment residents would have to exit via College Drive to Richards, a route that would be dangerously clogged in the case of a wildfire in the area, something that is quite possible due to our drought conditions. Just having one exit route for Deans Court residents, Burnt Water residents, and up to half of the SFCC students and staff is

already a disaster waiting to happen without adding another 200-600 people. Even without a fire threat, the traffic density would be monumental. Surely common sense would dictate that the apartment complex would not be started until adequate roads are in service (fire officials require three different exits).

#### IGNORING ARCHAEOLOGICAL REQUIREMENTS

They refuse to have the archaeological easement clarified, as requested by the state archaeologist, thereby endangering an important site.

We wonder who is going to rent these apartments anyway, since a 600 apartment complex by St. Francis and Rabbit Road that is more centrally located is further along in the planning process and probably will open before this one. We have also heard that Santa Fe has a number of empty apartments going begging, so 600 plus 200 more seems like overkill and definitely not a necessity.

We urge you to assess this situation clearly and do the right thing.....deny this proposal for an apartment complex in this area via their master plan amendment.

Sincerely,  
Susan E.McGrew  
3B Deans Court  
Santa Fe, NM 87508

## Jose Larranaga

---

**From:** Vicki Lucero  
**Sent:** Tuesday, May 13, 2014 3:02 PM  
**To:** Jose Larranaga  
**Subject:** FW: developer protest

Jose,

I'm assuming this is for Elevations.

-----Original Message-----

**From:** Liz Stefanics  
**Sent:** Tuesday, May 13, 2014 7:15 AM  
**To:** Helen Molanphy  
**Cc:** Penny Ellis-Green; Vicki Lucero; Julia Valdez  
**Subject:** Re: developer protest

Only land use can deal with this.

Thanks, Liz Stefanics  
Julia Valdez, Liaison. 505-986-6202

Sent from my BlackBerry 10.

Original Message  
**From:** Helen Molanphy  
**Sent:** Monday, May 12, 2014 7:34 PM  
**To:** Liz Stefanics  
**Subject:** developer protest

We received a notice that the developer is not obeying the covenants of the rancho viejo community and were advised to email you our protest of this action

best - helen and john molanphy  
18 coyote pass road - 87508



SUSANA MARTINEZ  
Governor

JOHN A. SANCHEZ  
Lieutenant Governor

**NEW MEXICO  
ENVIRONMENT DEPARTMENT**

**Surface Water Quality Bureau**

Harold Runnels Building, N2050  
1190 South St. Francis Drive (87505)  
P.O. Box 5469, Santa Fe, NM 87502-5469  
Phone (505) 827-0187 Fax (505) 827-0160  
[www.nmenv.state.nm.us](http://www.nmenv.state.nm.us)



RYAN H. LYNN  
Cabinet Secretary

BUTCH TONGATE  
Deputy Secretary

ERIKA SCHWENDER  
Director  
Resource Protection Division

**Certified Mail - Return Receipt Requested**

March 6, 2014

Mr. Warren Thompson, President  
Ranchland Utility Company  
Post Office Box 28039  
Santa Fe, New Mexico 87592

**Re: Ranchland Utility Wastewater Treatment Plant; Minor; Individual Permit; SIC 4952;  
Compliance Evaluation Inspection; NPDES Permit NM0030368; February 25, 2014**

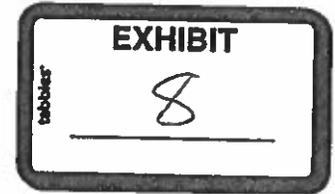
Dear Mr. Thompson:

Enclosed please find a copy of the report and check list for the referenced inspection that the New Mexico Environment Department (NMED) conducted at your facility on behalf of the U.S. Environmental Protection Agency (USEPA). This inspection report will be sent to the USEPA in Dallas for their review. These inspections are used by USEPA to determine compliance with the National Pollutant Discharge Elimination System (NPDES) permitting program in accordance with requirements of the federal Clean Water Act.

You are encouraged to review the inspection report, required to correct any problems noted during the inspection, and advised to modify your operational and/or administrative procedures, as appropriate. If you have comments on or concerns with the basis for the findings in the NMED inspection report, please contact us (see the address below) in writing within 30 days from the date of this letter. Further you are encouraged to notify in writing both the USEPA and NMED regarding modifications and compliance schedules at the addresses below:

Racquel Douglas  
US Environmental Protection Agency, Region VI  
Enforcement Branch (6EN-WM)  
Fountain Place  
1445 Ross Avenue  
Dallas, Texas 75202-2733

Bruce Yurdin  
New Mexico Environment Department  
Surface Water Quality Bureau  
Point Source Regulation Section  
P.O. Box 5469  
Santa Fe, New Mexico 87502



Ranchland Utility Company

March 6, 2014

Page 2

If you have any questions about this inspection report, please contact Sandra Gabaldon at (505) 827-1041 or at [sandra.gabaldon@state.nm.us](mailto:sandra.gabaldon@state.nm.us).

Sincerely,

*/s/ Bruce J. Yurdin*

Bruce J. Yurdin  
Program Manager  
Point Source Regulation Section  
Surface Water Quality Bureau

cc: Rashida Bowlin, USEPA (6EN-AS) by e-mail  
Carol Peters-Wagnon, USEPA (6EN-WM) by e-mail  
Racquel Douglas, USEPA (6EN-WM) by e-mail  
Gladys Gooden-Jackson (6EN-WC) by e-mail  
NMED District II, by e-mail



RANCHLAND UTILITIES

PERMIT NO. NM0030368

SECTION A - PERMIT VERIFICATION

PERMIT SATISFACTORILY ADDRESSES OBSERVATIONS  S  M  U  NA (FURTHER EXPLANATION ATTACHED YES)  
 DETAILS: Typographical error has been found in Part I, Effluent Limitations of the permit. EPA has been notified.

- 1. CORRECT NAME AND MAILING ADDRESS OF PERMITTEE  Y  N  NA
- 2. NOTIFICATION GIVEN TO EPA/STATE OF NEW DIFFERENT OR INCREASED DISCHARGES  Y  N  NA
- 3. NUMBER AND LOCATION OF DISCHARGE POINTS AS DESCRIBED IN PERMIT  Y  N  NA
- 4. ALL DISCHARGES ARE PERMITTED  Y  N  NA

SECTION B - RECORDKEEPING AND REPORTING EVALUATION

RECORDS AND REPORTS MAINTAINED AS REQUIRED BY PERMIT.  S  M  U  NA (FURTHER EXPLANATION ATTACHED YES)  
 DETAILS:

- 1. ANALYTICAL RESULTS CONSISTENT WITH DATA REPORTED ON DMRs.  Y  N  NA
- 2. SAMPLING AND ANALYSES DATA ADEQUATE AND INCLUDE.  S  M  U  NA
  - a) DATES, TIME(S) AND LOCATION(S) OF SAMPLING  Y  N  NA
  - b) NAME OF INDIVIDUAL PERFORMING SAMPLING  Y  N  NA
  - c) ANALYTICAL METHODS AND TECHNIQUES  Y  N  NA
  - d) RESULTS OF ANALYSES AND CALIBRATIONS.  Y  N  NA
  - e) DATES AND TIMES OF ANALYSES.  Y  N  NA
  - f) NAME OF PERSON(S) PERFORMING ANALYSES  Y  N  NA
- 3. LABORATORY EQUIPMENT CALIBRATION AND MAINTENANCE RECORDS ADEQUATE.  S  M  U  NA \*
- 4. PLANT RECORDS INCLUDE SCHEDULES, DATES OF EQUIPMENT MAINTENANCE AND REPAIR.  S  M  U  NA
- 5. EFFLUENT LOADINGS CALCULATED USING DAILY EFFLUENT FLOW AND DAILY ANALYTICAL DATA.  Y  N  NA

SECTION C - OPERATIONS AND MAINTENANCE

TREATMENT FACILITY PROPERLY OPERATED AND MAINTAINED.  S  M  U  NA (FURTHER EXPLANATION ATTACHED YES)  
 DETAILS:

- 1. TREATMENT UNITS PROPERLY OPERATED  S  M  U  NA
- 2. TREATMENT UNITS PROPERLY MAINTAINED.  S  M  U  NA
- 3. STANDBY POWER OR OTHER EQUIVALENT PROVIDED.  S  M  U  NA
- 4. ADEQUATE ALARM SYSTEM FOR POWER OR EQUIPMENT FAILURES AVAILABLE  S  M  U  NA \* Now OK
- 5. ALL NEEDED TREATMENT UNITS IN SERVICE  S  M  U  NA
- 6. ADEQUATE NUMBER OF QUALIFIED OPERATORS PROVIDED  S  M  U  NA \*
- 7. SPARE PARTS AND SUPPLIES INVENTORY MAINTAINED.  S  M  U  NA
- 8. OPERATION AND MAINTENANCE MANUAL AVAILABLE  Y  N  NA  
 STANDARD OPERATING PROCEDURES AND SCHEDULES ESTABLISHED  Y  N  NA  
 PROCEDURES FOR EMERGENCY TREATMENT CONTROL ESTABLISHED.  Y  N  NA

RANCHLAND UTILITIES

PERMIT NO. 1000000506

SECTION C - OPERATIONS AND MAINTENANCE (CONTD)

9. HAVE BYPASSES/OVERFLOWS OCCURRED AT THE PLANT OR IN THE COLLECTION SYSTEM IN THE LAST YEAR?  
 IF SO, HAS THE REGULATORY AGENCY BEEN NOTIFIED?  
 HAS CORRECTIVE ACTION BEEN TAKEN TO PREVENT ADDITIONAL BYPASSES/OVERFLOWS?  
 Y  N  NA  
 Y  N  NA  
 Y  N  NA

10. HAVE ANY HYDRAULIC OVERLOADS OCCURRED AT THE TREATMENT PLANT?  
 IF SO, DID PERMIT VIOLATIONS OCCUR AS A RESULT?  
 Y  N  NA  
 Y  N  NA

SECTION D - SELF-MONITORING

PERMITTEE SELF-MONITORING MEETS PERMIT REQUIREMENTS  
 DETAILS:  S  M  U  NA (FURTHER EXPLANATION ATTACHED YES)  
See further explanations for details.

1. SAMPLES TAKEN AT SITE(S) SPECIFIED IN PERMIT.  Y  N  NA

2. LOCATIONS ADEQUATE FOR REPRESENTATIVE SAMPLES.  Y  N  NA

3. FLOW PROPORTIONED SAMPLES OBTAINED WHEN REQUIRED BY PERMIT.  Y  N  NA

4. SAMPLING AND ANALYSES COMPLETED ON PARAMETERS SPECIFIED IN PERMIT.  Y  N  NA

5. SAMPLING AND ANALYSES PERFORMED AT FREQUENCY SPECIFIED IN PERMIT.  Y  N  NA

6. SAMPLE COLLECTION PROCEDURES ADEQUATE:  Y  N  NA

a) SAMPLES REFRIGERATED DURING COMPOSITING.  Y  N  NA

b) PROPER PRESERVATION TECHNIQUES USED.  Y  N  NA

c) CONTAINERS AND SAMPLE HOLDING TIMES CONFORM TO 40 CFR 136.3.  Y  N  NA

IF MONITORING AND ANALYSES ARE PERFORMED MORE OFTEN THAN REQUIRED BY PERMIT, ARE  
 THE RESULTS REPORTED IN PERMITTEE'S SELF-MONITORING REPORT?  
 Y  N  NA

SECTION E - FLOW MEASUREMENT

PERMITTEE FLOW MEASUREMENT MEETS PERMIT REQUIREMENTS.  
 DETAILS:  S  M  U  NA (FURTHER EXPLANATION ATTACHED NO)

1. PRIMARY FLOW MEASUREMENT DEVICE PROPERLY INSTALLED AND MAINTAINED.  
 TYPE OF DEVICE: 6-inch Parshall flume  Y  N  NA

2. FLOW MEASURED AT EACH OUTFALL AS REQUIRED.  Y  N  NA

3. SECONDARY INSTRUMENTS (TOTALIZERS, RECORDERS, ETC) PROPERLY OPERATED AND MAINTAINED.  Y  N  NA

4. CALIBRATION FREQUENCY ADEQUATE.  
 RECORDS MAINTAINED OF CALIBRATION PROCEDURES.  
 CALIBRATION CHECKS DONE TO ASSURE CONTINUED COMPLIANCE.  Y  N  NA  
 Y  N  NA  
 Y  N  NA

5. FLOW ENTERING DEVICE WELL DISTRIBUTED ACROSS THE CHANNEL AND FREE OF TURBULENCE.  Y  N  NA

6. HEADS MEASURED AT PROPER LOCATION.  Y  N  NA

7. FLOW MEASUREMENT EQUIPMENT ADEQUATE TO HANDLE EXPECTED RANGE OF FLOW RATES.  Y  N  NA

SECTION F - LABORATORY

PERMITTEE LABORATORY PROCEDURES MEET PERMIT REQUIREMENTS.  
 DETAILS:  S  M  U  NA (FURTHER EXPLANATION ATTACHED YES)

1. EPA APPROVED ANALYTICAL PROCEDURES USED (40 CFR 136.3 FOR LIQUIDS, 503.8(b) FOR SLUDGES)  Y  N  NA

RANCHLAND UTILITIES

PERMIT NO. 224003008

SECTION F - LABORATORY (CONT'D)

- 2. IF ALTERNATIVE ANALYTICAL PROCEDURES ARE USED, PROPER APPROVAL HAS BEEN OBTAINED  Y  N  NA
  - 3. SATISFACTORY CALIBRATION AND MAINTENANCE OF INSTRUMENTS AND EQUIPMENT (WH)  S  M  U  NA
  - 4. QUALITY CONTROL PROCEDURES ADEQUATE.  S  M  U  NA
  - 5. DUPLICATE SAMPLES ARE ANALYZED, 0 % OF THE TIME.  Y  N  NA
  - 6. SPIKED SAMPLES ARE ANALYZED, \_\_\_ % OF THE TIME.  Y  N  NA
  - 7. COMMERCIAL LABORATORY USED.  Y  N  NA
- LAB NAME SUMMIT ENVIRONMENTAL TECHNOLOGIES, INC. BIO AQUATIC TESTING, INC.
- LAB ADDRESS 3310 Win Street, Cuyahoga Falls, OH 44223 2501 Maves Road, Suite 100, Carrollton, TX 75006
- PARAMETERS PERFORMED BOD, TSS, F. Coli Biomonitoring

SECTION G - EFFLUENT/RECEIVING WATERS OBSERVATIONS.  S  M  U  NA (FURTHER EXPLANATION ATTACHED YES)

OUTFALL NO.	OIL SHEEN	GREASE	TURBIDITY	VISIBLE FOAM	FLOAT SOL.	COLOR	OTHER
(001)	NONE	NONE	NONE	NONE	NONE	CLEAR	

RECEIVING WATER OBSERVATIONS

SECTION H - SLUDGE DISPOSAL

- SLUDGE DISPOSAL MEETS PERMIT REQUIREMENTS DETAILS:  S  M  U  NA (FURTHER EXPLANATION ATTACHED NO.)
- 1. SLUDGE MANAGEMENT ADEQUATE TO MAINTAIN EFFLUENT QUALITY.  S  M  U  NA
  - 2. SLUDGE RECORDS MAINTAINED AS REQUIRED BY 40 CFR 503.  S  M  U  NA
  - 3. FOR LAND APPLIED SLUDGE, TYPE OF LAND APPLIED TO: N/A (e.g., FOREST, AGRICULTURAL, PUBLIC CONTACT SITE)

SECTION I - SAMPLING INSPECTION PROCEDURES (FURTHER EXPLANATION ATTACHED)

- 1. SAMPLES OBTAINED THIS INSPECTION  Y  N  NA
- 2. TYPE OF SAMPLE OBTAINED  
 GRAB \_\_\_\_\_ COMPOSITE SAMPLE \_\_\_\_\_ METHOD \_\_\_\_\_ FREQUENCY \_\_\_\_\_
- 3. SAMPLES PRESERVED  Y  N  NA
- 4. FLOW PROPORTIONED SAMPLES OBTAINED.  Y  N  NA
- 5. SAMPLE OBTAINED FROM FACILITY'S SAMPLING DEVICE  Y  N  NA
- 6. SAMPLE REPRESENTATIVE OF VOLUME AND NATURE OF DISCHARGE.  Y  N  NA
- 7. SAMPLE SPLIT WITH PERMITTED  Y  N  NA
- 8. CHAIN-OF-CUSTODY PROCEDURES EMPLOYED  Y  N  NA
- 9. SAMPLES COLLECTED IN ACCORDANCE WITH PERMIT  Y  N  NA

**Compliance Evaluation Inspection**  
**Ranchland Utilities Water Reclamation Facility**  
**NPDES Permit No. NM0030368**  
**February 25, 2014**

**Introduction**

A Compliance Evaluation Inspection (CEI) was conducted at the Ranchland Utilities Water Reclamation Facility, located in Santa Fe, New Mexico on May 8, 2012 by Ms. Sandra Gabaldón, accompanied by Mr. Daniel Valenta, of the State of New Mexico Environment Department (NMED), Surface Water Quality Bureau (SWQB). This facility is classified as a minor private domestic discharger under the federal Clean Water Act (CWA), Section 402. This facility is regulated under the National Pollutant Discharge Elimination System (NPDES) permit program, and is assigned NPDES permit number NM0030368. The facility design flow is 0.375 million gallons per day (MGD).

The Ranchland Utilities Water Reclamation facility discharges into the Canada del Rancho, thence to Arroyo Hondo, thence to Cienega Creek, thence to the Santa Fe River. The receiving waters of this facility are designated as NMAC 20.6.4.98 (State of New Mexico Standards for Interstate and Intrastate Surface Waters). The designated uses of this segment include: livestock watering, wildlife habitat, marginal warmwater aquatic life and primary contact.

The inspectors arrived at the Ranchland Utilities Water Reclamation Facility at 0900 hours and conducted an entrance interview with Mr. Leonard Quintana, Level IV Operator. The inspector made introductions, presented her credentials, and discussed the purpose of the inspection with Mr. Quintana. An exit interview to discuss preliminary findings of the inspection was conducted with Mr. Quintana and Mr. Cass Thompson, Vice-President, on site.

The NMED performs a specific number of CEI's annually for the United States Environmental Protection Agency (USEPA). The purpose of this inspection is to provide the USEPA with information to evaluate the permittee's compliance with their NPDES permit. The enclosed inspection report is based on verbal information supplied by the permittee's representatives, observations made by the NMED inspector, and a review of records maintained by the permittee, commercial laboratories, and/or NMED. Findings of the inspection are detailed on the attached EPA form 3560-3 and in the narrative Further Explanations section of the report.

**Treatment Scheme**

\* There are approximately 1500 homes currently served by the wastewater treatment facility. Two lift stations bring the influent into the headworks which consist of an auger for grit removal. The grit removed is taken to the Rio Rancho landfill for final disposal. From the headworks, flow continues to the Biolac basin which is a synthetically lined basin with wave-oxidation fine bubble diffusers. On this date, three diffusers were malfunctioning. The Biolac system uses moving aeration chains which improve the mixing efficiency of the basin. From the Biolac basin, flow enters one of two circular clarifiers. At the time of the inspection, one clarifier was on-line. Influent then travels to the discfilter for polishing. There are two discfilters, one used, and the other on stand-by. Flow then goes through the Ultraviolet system for disinfection. Then, it is discharged through a Parshall flume to a holding

pond where it is later used for irrigation on land application sites located within the Rancho Viejo development area or is directly discharged. On this day, the facility was discharging its effluent.

**Sludge:**

The aerobic sludge digester has a capacity of 85,000 gallons. The digester receives WAS from the clarifier and is digested and gravity thickened. Supernatant from the sludge digester is returned to the influent wet well.

A private contractor hauls digested sludge to a septage/sludge receiving station operated by the City of Santa Fe Wastewater Treatment Facility. The city completes additional treatment of the sludge prior to final surface disposal/composting.

Compliance Evaluation Inspection  
Ranchland Utilities Water Reclamation Facility  
NPDES Permit No. NM0030368  
February 25, 2014

**Further Explanations**

Note: The sections are arranged according to the format of the enclosed EPA inspection checklist (Form 3560-3), rather than being ranked in order of importance.

**Section A – Permit**

It was noted during this inspection that the permit has a typographical error in Part I, Effluent Limitations for E. coli. The permit limits are stated as 126 cfu/100 ml for the 30-day geometric mean and 410 cfu/100 ml for the daily maximum. These are incorrect. The correct limitations should be 206 cfu/100 ml for the 30-day geometric mean and 940 cfu/100 ml for the daily maximum, as per the fact sheet. EPA has been contacted.

Permit became effective August 1, 2013 and expires at midnight on July 31, 2018.

**Section B – Recordkeeping and Reporting – Overall Rating “Marginal”**

Permit requires in Part I, Section B Schedule of Compliance:

- a. *The permittee shall submit a progress report outlining the status of the activities during the months of January, April, July and October until compliance is achieved as stated.*

**Findings for Section B – Recordkeeping and Reporting:**

The operator was unaware that he was required to submit progress reports to EPA and NMED for their compliance schedule to determine toxicity. The operator stated that he will comply with the requirements of the permit and submit the progress reports as needed.

**Section C – Operations and Maintenance – Overall Rating of “Unsatisfactory”**

Permit requires in Part III, Section B.3 Proper Operation and Maintenance:

- a. *The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by permittee as efficiently as possible and in a manner which will minimize upsets or discharges of excessive pollutants and will achieve compliance with the conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back or auxiliary facilities or*

*similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of this permit.*

- b. The permittee shall provide adequate operating staff which is duly qualified to carry out operation, maintenance and testing functions required to insure compliance with the conditions of this permit.*

#### **Findings for Section C - Operation and Maintenance:**

The biolac system has floating solids as well as noticeable grease. Three of the fine bubble diffusers were malfunctioning.

The automatic dial alarm system was not functioning properly during this inspection. The inspector requested the operator to manually trigger the alarm and it did not call the operator's cell telephone nor did the beacon light function. The operator did notify the inspector a few days later stating that the wires were checked and tightened and the alarm system was now functional.

Mr. Quintana, level IV operator, is the only certified operator on site. The operator stated that he is currently training Marcus Ortiz, who has no certification. The operator did state that they are contracted with Magnum Environmental to help with operational duties. However, the operator from Magnum Environmental is certified at a Level II. A certified Level III operator is required for this facility.

The facility has a generator on site. However, this generator does not provide power to the entire facility if there is a power failure. The generator provides power to one lift station (there are two lift stations), the blowers and barscreen.

The operator stated that there are limited spare parts. There is no inventory list of spare parts available.

The totalizer is placed in an improper location; the totalizer is located in the wrong position relative to the primary device. It is placed close to the discharge point in an area of turbulence.

#### **Section D - Self-Monitoring - Overall Rating "Marginal"**

Permit requires in Part III, C.5 Monitoring Procedures:

- a. Monitoring must be conducted according to test procedures approved under 40 CFR 136, unless other test procedures have been specified or approved by the Regional Administrator.*
- b. The permittee shall calibrate and perform maintenance procedures on all monitoring and analytical instruments at intervals frequent enough to insure accuracy of measurement and shall maintain appropriate records of such activities.*

**Findings for Self-Monitoring:**

The permittee stated that they are following 40 CFR 136 requirements for pH. However, it was noted that the permittee is only using a one point calibration for their compliance sample. 40 CFR 136 requires a calibration of two points with a check of the third. This was explained to the operator. The operator stated that he will start doing the calibrations as required by the methodology.

The permittee has a contracted laboratory, Summit Environmental Technologies, Inc., that performs TSS, BOD and E. coli for the permittee. However, the laboratory does not provide the actual time that these parameters are analyzed. It provides only the date. The actual time is crucial in verifying the holding times for each parameter, especially E. coli which has a holding time of six hours.

**Section F – Laboratory – Overall rating of “Marginal”**

Permit requires in Part III, C.5 Monitoring Procedures:

- a. *An adequate analytical quality control program, including the analysis of sufficient standards, spikes and duplicate samples to insure the accuracy of all required analytical results shall be maintained by the permittee or designated commercial laboratory.*

**Findings for Laboratory:**

It appears that the permittee has failed to do 10% duplicate sampling as part of their quality control procedures. The purpose of laboratory control procedures is to ensure high-quality analyses by the use of control samples, control charts, reference materials, and instrument calibration. The permittee must initiate and maintain controls throughout the analysis of samples. Specifically, each testing batch must contain at least one blank, standard, duplicate, and spiked (as applicable) sample analysis. When a batch contains more than 10 samples, every tenth sample should be followed by a duplicate and a spike (as applicable).

# DISCHARGE MONITORING REPORT CALCULATION CHECK

**NOVEMBER 2013**  
**(FACILITY STARTED DISCHARGING SECOND WEEK IN NOVEMBER)**

## E. Coli

Sample Dates:	11/13/2013	11/20/2013	11/26/2013		Data reported on DMR
E. coli (#100ml)	<1.0 MPN	<1.0 MPN	<1.0 MPN		
Daily Max					<1.0
30-day Average: Log of colonies per 100 mL Add all logs and divide by number of samples. Geometric Mean is antilog.	$\text{Log}(1.0) + \text{log}(1.0) + \text{log}(1.0) = 0$ $0 + 0 + 0 = 0/3 = 0$ Antilog $0 = 1^*$				<u>10.0</u>

\*Does not match what was reported on DMR (10 MPN/100 ml)

## BOD

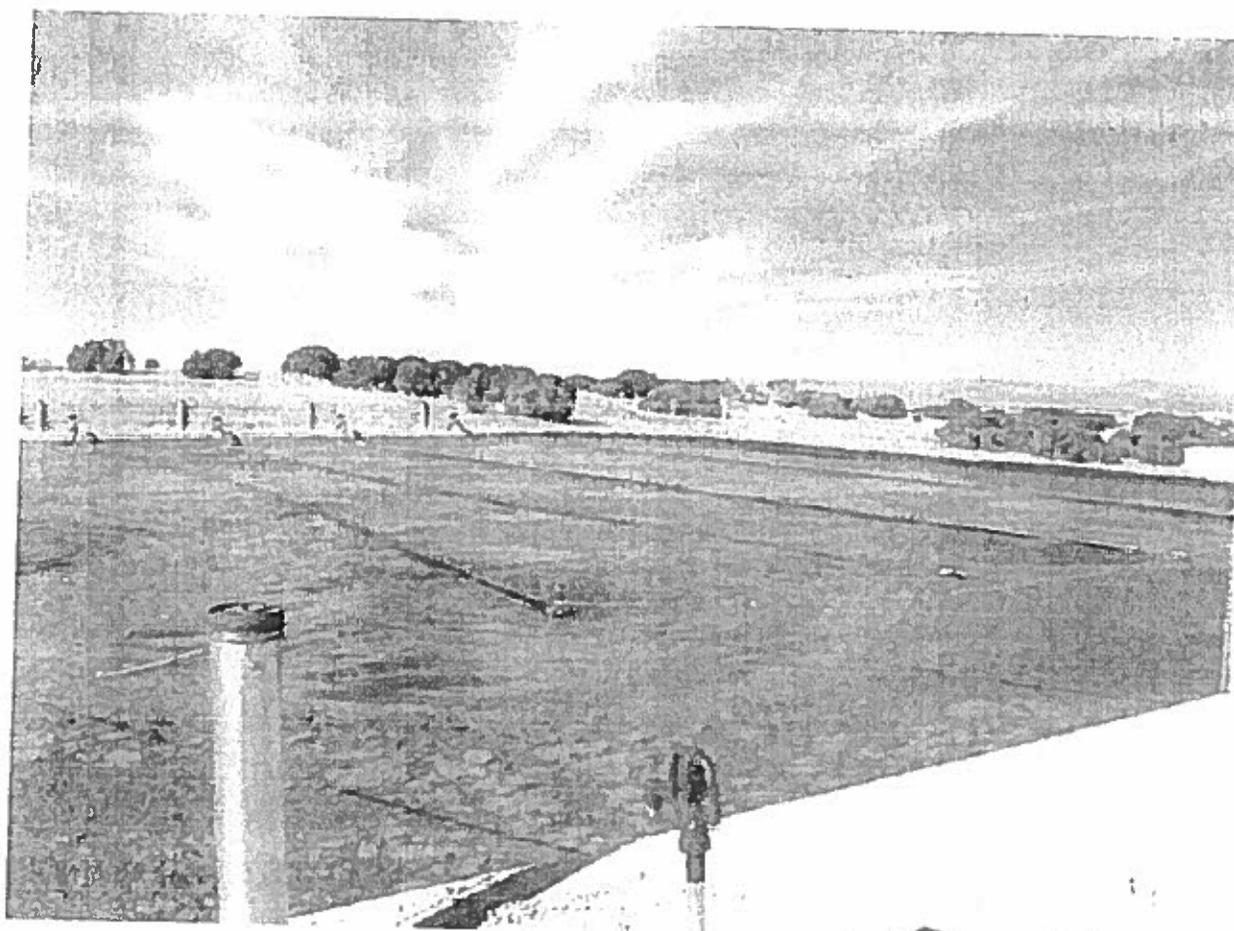
Sample Date	Daily Flow (MGD)	BOD (mg/l)	Calculated Daily Load
11/12/2013	0.1372	8.1	$(0.1372)(8.34)(8.1) = 9.268$
11/19/2013	0.0506	18	$(0.0506)(8.34)(18) = 7.596$
11/25/2013	0.1458	13	$(0.1458)(8.34)(13) = 15.808$
Calculated Monthly Average (Loading):	$9.268 + 7.596 + 15.808 = 32.672 / 3 = 10.891 \text{ lbs/day}$		
Calculated Monthly Average (Conc.):	$8.1 + 18 + 13 = 39.10 / 3 = 13.03 \text{ mg/L}$		
Reported on DMR	10.9 lbs/d 30-D Avg.; 18.6 lbs/d 7-D Avg. 13.0 mg/L 30-D Avg.; 18 mg/L 7-D Avg.		

## TSS

Sample Date	Daily Flow (MGD)	TSS (mg/l)	Calculated Daily Load
11/12/2013	0.1372	9.0	$(0.1372)(8.34)(9.0) = 10.298$
11/19/2013	0.0506	12.0	$(0.0506)(8.34)(12.0) = 5.064$
11/25/2013	0.1458	6.0	$(0.1458)(8.34)(6.0) = 7.296$
Calculated Monthly Average (Loading):	$10.298 + 5.064 + 7.296 = 22.658 / 3 = 7.553 \text{ lbs/day}$		
Calculated Monthly Average (Conc.):	$9.0 + 12.0 + 6.0 = 27 / 3 = 9 \text{ mg/L}$		
Reported on DMR	7.6 lbs/d 30-D avg.; 12.4 lbs/d 7-D avg. 9.0 mg/L 30-D avg.; 12.0 mg/L 7-D avg.		

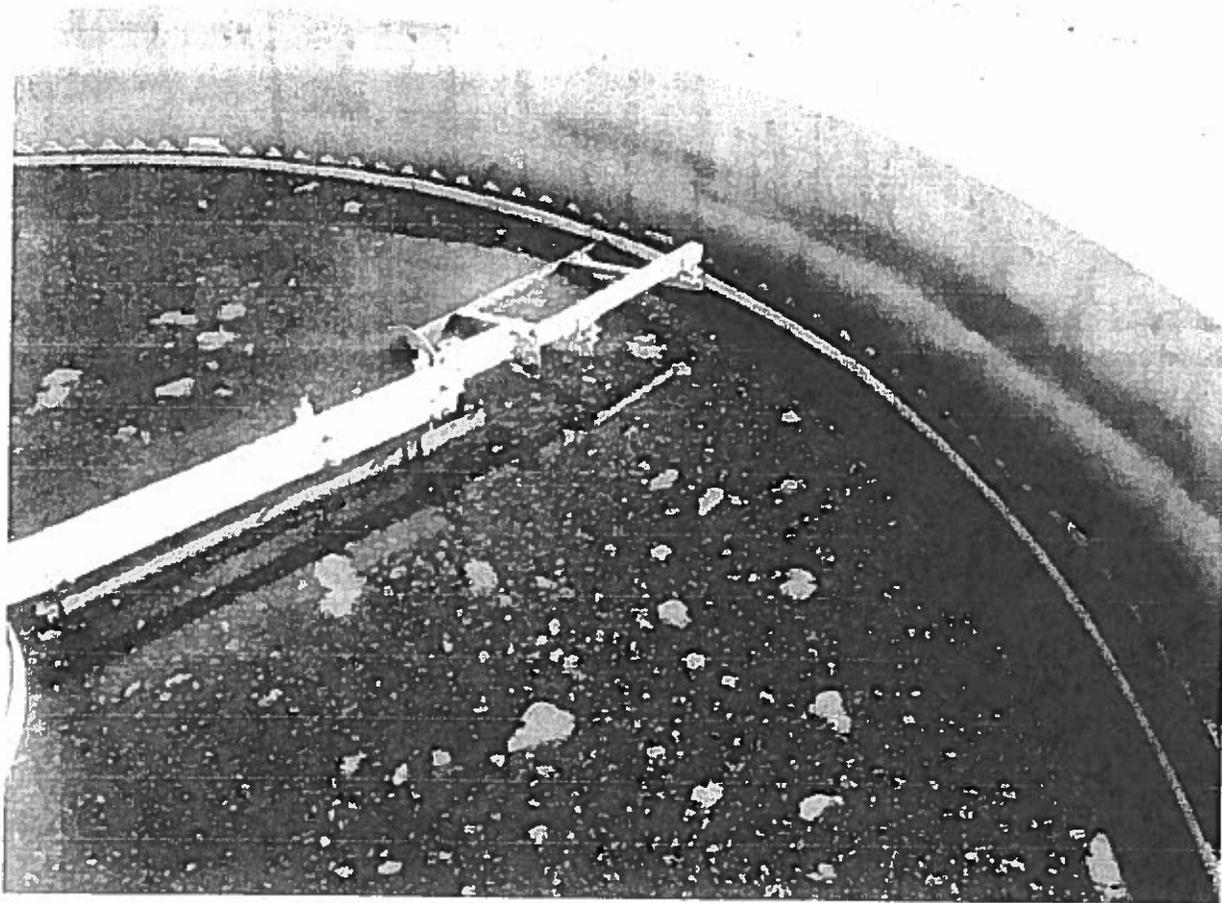
NMED/SWQB  
Official Photograph Log  
Photo # 1

Photographer: Daniel Valenta	Date: February 25, 2013	Time: 0950 hours
City/County: Santa Fe / Santa Fe		State: New Mexico
Location: Ranchland Utilities		
Subject: Biolac aeration pond.		



**NMED/SWQB**  
**Official Photograph Log**  
**Photo # 2**

Photographer: Daniel Valenta	Date: February 25, 2014	Time: 0950 Hours
City/County: Santa Fe / Santa Fe		State: New Mexico
Location: Ranchland Utilities		
Subject: East clarifier		





**Rancho Viejo North Community Association, Inc.**

55 Canada del Rancho, Suite B, Santa Fe, NM 87508 (505) 473-3516  
[www.ranchoviejonorth.com](http://www.ranchoviejonorth.com)



April 16, 2014

Santa Fe County Board of County Commissioners  
c/o Jose Larranaga, Commercial Development Case Manager

via: email to [joselarra@santafecountynm.gov](mailto:joselarra@santafecountynm.gov)

RE: Elevation at Rancho Viejo, #MPA 13-5380

Dear Mr. Larranaga,

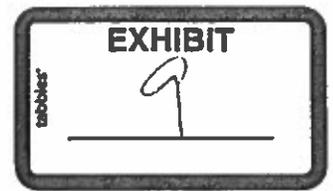
The Rancho Viejo North Community Association Board of Directors submits this letter on behalf of the homeowners of Rancho Viejo North, particularly those in College Heights. The Board strongly opposes the requested master plan amendment to allow the construction of 214 apartment units. The proposed apartments are inconsistent with the existing residential neighborhood at College Heights. At the time the residents of College Heights bought their homes, there were representations made that future development phases would continue the single family residential character. Residents are now concerned that an apartment complex will negatively impact current home values in this area.

The Rancho Viejo North Community Association Board requests that this master plan amendment be denied.

Sincerely,

On behalf of the Rancho Viejo North Community Association Board of Directors

Bruno Keller, President  
Rancho Viejo North Community Association  
[bkeller@ranchoviejonorth.com](mailto:bkeller@ranchoviejonorth.com)



~~TO PARAPHRASE POGO:~~

Mr. Chairman and Committee Members

I sat here last month while Ms Jenkins of Jenkins Gavin acting as agent for Univest Rancho Viejo and Vedula Residential presented the proposal for the multifamily development in College Heights/Rancho Viejo (case # MPA 13-5380). I'm not sure how many times during her presentation Ms Jenkins referred to "THE COUNTY" but it was a lot. She told us what the county wanted and needed. She explained how this development was going to benefit the county and provide something that was not otherwise available in the county.

But the county is not an abstract entity, it is the men, women and children who live, shop, own businesses and homes, employ our citizens, attend our schools, play in our parks and pay taxes in and to the county of Santa Fe. It's the people who are sitting here tonight and those who have come to be heard at the last two monthly meetings of this committee, and to the numerous other meetings regarding this and other related issues. It's the homeowners, and renters who have signed petitions, sent e-mails, and written letters. To paraphrase POGO "we have met the county and they is us", and Mister Chairman and committee members, The county wants to be heard—not just politely listened to, but actually heard. The applicant and their agents do not speak for us.

- The applicant is in Arizona.
- The applicant according to their own website is only interested in maximizing their return on investment. "Buy low and sell high" is their motto.
- The applicant does not always maintain ownership and manage the projects they develop contrary to what their agent told you.
- The applicant makes decisions based only on their bottom line.

We, on the other hand, are interested in investing in our community and making it the best living and working environment that we can because it is "OUR COMMUNITY—OUR HOME—OUR COUNTY."

It has been intimated that the developer has addressed the concerns of the residents by moving the site ¼ mile east of the current College Heights development to the eastern side of the yet to be built SE Connector and allowing for a buffer zone of indeterminate description to be built between the existing homes and the apartments.

NOTHING COULD BE FURTHER FROM THE TRUTH. The residents of Rancho Viejo have been consistently and unequivocally opposed to this project in all its changing forms. There are much better locations for apartments in terms of public transportation, local shopping, employment, and wider roads AND with good access to trails, bike paths and the Community College. Contrary to the intimations presented here, our objections are not because they are apartments, but because these apartments are not consistent with the planned development that the residents bought into and will result in a devaluation of our environment. This devaluation will be real regardless of whether or not it results in a devaluation of our house values which is a questionable assumption at best.

Ms Jenkins took a fair amount of time discussing her neighborhood (which incidentally is in the city not the county) and postulated that the existence of two apartment complexes, which she drives by every day, have no impact on the value of her home and others in her neighborhood because those homes sell

for a lot of money. You cannot prove a negative in that way. Since the apartment complexes do exist and preexisted most of the homes built, there is no way to determine what impact their existence had or has on the price of homes. You cannot say with any certainty that the \$600,000.00 home would not be a \$900,000.00 home if the apartments did not exist. Her example may have an emotional appeal, but it is an invalid argument and has no bearing on the current proposal.

During last month's presentation for the College Heights project there was a slide that the applicant's agent did not show you. It is the one that designates the acreage to the east of the current site in their application as reserved for future multifamily development. So contrary to the 214 apartments you are being asked to approve, we could actually be looking at 400+ apartments and the cars and other potential problems that go with them and they also failed to indicate what would be built in the buffer zone.

The applicant assured you that the number of residents and income requirements will be strictly adhered to. The largest apartment, 3 bedroom, 3 bath, will rent for approximately \$1350.00 mo. Anyone renting this apartment would need to make 3 X the rent or \$4050.00 mo. If a family consisting of say a mother, father and 4 children (2 boys and 2 girls) earning the 4000+ a month salary were allowed to rent this apartment, the management could not refuse to rent to 6 single people with a combined income of \$4000. That would be discrimination. Each of those 6 people would have to put up \$225.00 a month rent. Pretty affordable I would say. And the much touted amenities would make it an even better deal.

The applicant assured you that these apartments would not be "student housing" and that the college has nothing to do with the development. That may be technically true, but at a meeting with the college administration, we were told they would make wonderful housing for the International students the college was hoping to attract, and for other students who come from out of town and want to take advantage of the new 4 year program that is being developed. The college hopes to double in size within the next decade. The applicant assures us that the college is very much in favor of these apartments. Of course they are. Having these apartments so close by allows the college to devote their funds and future development to other areas. They won't have to build on-campus housing.

There is another project at St. Francis and Rabbit Road that is being proposed that will include 650 dwelling units and 760,000 sq.ft. of non-residential space. You and we were told that the traffic issues were being addressed, but the number of cars referenced referred to only a small portion of these proposed units. Even if you could limit the number to 2 cars per residential unit and 1 car to each 500 sq.ft of non-residential space (which you cannot), you are still talking about 2820 cars.

The so-called employment center within Rancho Viejo and the build-out of the rest of the residential units within Rancho Viejo will add even more density and traffic congestion. I wish I could give you a number, but that seems to be an ever-moving target as well.

And these are just two developments that we are aware of.

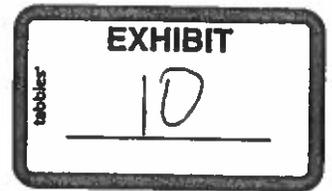
None of these concerns are being adequately addressed because the whole picture is never presented. The developers are attempting to break the various projects into small increments so that the total impact is not apparent. But somebody needs to look at all the projects—not only in Rancho Viejo but nearby in the county—and evaluate each project within the context of that whole. That is the idea behind a Master Plan whether it is a single development or a whole district.

The Community College District may be the area that the county representatives have designated for development, but that development has to be done responsibly and with a view to maximizing not only tax revenues, but the benefits accrued by the residents of the county—present and future.

We have great respect and appreciation for all of the people who work with and for the county--paid and unpaid. You represent all of us in trying to insure that our best interests are served and that the codes are adhered to. When new applications for development are presented to the county there are requirements like traffic and environmental impact studies, archeological evaluations, etc. But many of those occur after the approval process. How can you adequately evaluate a project unless the environmental impact study includes other proposed and approved projects within that environment? There will always be unknowns, but we should at least require that the knowns be acknowledged and considered.

We have been told that we are not “the applicant” who is granted time and great latitude in presenting their proposal to the committee. But we are the ones who will have to live with the consequences of your recommendations. It is our homes and our neighborhoods that will be irrevocably changed and negatively impacted. It is the vision that we were sold that will be tossed out to be replaced by something totally different and significantly inferior. You are our voice, and we ask that you act as our voice by rejecting this application.

Thank you  
Eunice Vellon  
95 Via Orilla Dorado  
Rancho Viejo  
Santa Fe, NM 87508



May 7, 2014

Addressed to all the following:

Santa Fe County Growth Management Department Building and Development Services Division.

Attn: Mr. Miguel Mike Romeo

All C D R C Members

Board of County Commissioners

From: All five surrounding property owners adjacent to property 11 Virginia Lane, Santa Fe County, N.M. zip code 87508 owned by Jason Mohamed.

The five property owners are as follows:

Two properties border the property 11 Virginia Lane to the east directly in front of the home on 11 Virginia Lane.

One property owner is Mrs. Cathy Catanach,  
91 Northfork  
Santa Fe County N.M., zip code 87508

The other is Corine Martinez, property owner of:  
Lots 85A and 85B Northfork  
Santa Fe County N.M., zip code 87508.

The property that borders 11 Virginia Lane to the (South) is owned by Mr. Joseph and Doris Pecos,  
19 Virginia Lane  
Santa Fe County, NM, zip code 87508.

The property that borders 11 Virginia Lane to the (North) is owned by, James and Lucy Montoya,  
07 Virginia Lane  
Santa Fe County, N.M., zip code 87508.

The property that borders to the rear of the home on 11 Virginia Lane (West) is owned by,  
Ms. Henrietta D. Larkin,  
12B Sunset Trail W  
Santa Fe County, N.M., zip code 87508.

To everyone that this letter is addressed to we five property owners listed above, first want to thank everyone for letting our voices be heard with this letter and upcoming public hearings.

In the matter of the application filed by Jason Mohamed, 11 Virginia Lane, Santa Fe County, for variance of Article III, Section 10 (Lot size requirement) to be allowed to put two dwellings units on 2.5 Acres:

We five surrounding property owners, who border the property 11 Virginia Lane, want to inform everyone that we are all Strongly and Passionately opposed to this variance being granted.

The reason we five property owners have called this area home for so long (average 28 years amongst us) are many but foremost is the fact that this area has always been a rural area. We embrace this rural setting for the views we have, for the peace and quiet and tranquility it provides us. This variance if approved would bring congestions to our neighborhood and open the door to all the negative consequences that overcrowding would certainly bring. Our home and property values would be adversely affected; our precious water supply already very fragile would be in jeopardy. Many home owners in this area are having problems with their water wells this includes Jason Mohamed's property. It is common every day in this area to see trucks with large water containers going to the Adult Detention Facility on HWY 14 to fill their containers.

We have all worked very hard for so long to maintain our way of life here. We believe it would be unjust to diminish our hard earned assets for the benefit of one family in our area.

With no permits Jason Mohamed brought in this large older double wide mobile home to his property in clear violation of Article III, Section 10, with no regards for his neighbors. This home greatly detracts from our neighborhood.

We are looking forward to the hearings where we can further state our case against this variance.

We again sincerely thank all concerned and urge that this variance not be granted.

Mrs. Cathy Catanach:

Cathy Catanach

Mrs. Corine Martinez:

Corine Martinez

Joseph and Doris Pecos:

Joseph W Pecos

Doris W Pecos

James and Lucy Montoya:

James Montoya  
Lucy Montoya

Ms. Henrietta D. Larkin:

*Henrietta D. Larkin*

**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. V 13-5390**

**EXEMPTION 5 YEAR**

**LOUIE RAEL & LOUIE RAEL JR, APPLICANTS**

**ORDER**

**THIS MATTER** came before the County Development Review Committee (hereinafter referred to as "the CDRC") for hearing on March 20, 2014 on the Application of Louie Rael and Louie Rael Jr. (hereinafter referred to as "the Applicants") for an Exemption for five year holding between Family Transfer Applications, Section 6.14.4 of Ordinance No. 2002-9, to allow a Small Lot Family Transfer Land Division of 2 lots consisting of 2.54 and 2.56 acres into four lots. The CDRC, 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:

1. The Applicants request an Exemption for five year holding between Family Transfer Applications, Section 6.14.4 of Ordinance No. 2002-9, to allow a Small Lot Family Transfer Land Division of 2 lots consisting of 2.54 and 2.56 acres into four lots.
2. Article III, Section 10, which governs development of the subject property, imposes a minimum lot size of 10 acres per dwelling.

3. The property is located at 34 A Camino Montoya and 53B Paseo Martinez, within Section 20& 29, Township 16 North, Range 8 East (“Property”).
4. Section 6.14.3 of Ordinance No. 2002-9 La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District states, “Any Applicant for a Family Transfer must demonstrate a minimum of five (5) years direct ownership of the lot(s) since the last Land Division(s) or sale or Transfer of the property”.
5. The 2.5-acre lots which the Applicants intend to divide further and transfer to family members have been in their divided state since 2010. However, they have not been held by the Applicants in their divided state for a five year period. Therefore, they are requesting an exception to the five year holding period.
6. The lots are of sufficient size to allow for their division into lots of at least 1.25 acres through the Small Lot Family Transfer Land Division process with signed and recorded water restrictions.
7. An exemption to the five-year holding period may be applied for and must clearly state how the additional family transfer lot division is needed in order to avoid an unnecessary hardship, that the request is a minimal easing of the Ordinance requirements, making possible the reasonable use of the land and that it will have no adverse impact to the neighboring properties, the community or the environment.
8. The Applicants (father and son) stated that the father was elderly and wanted to transfer land to his Grandchild and Child.

9. At the February 20, 2014 CDRC meeting, Katherine Becker and Gabriel Martinez spoke in opposition to the Application.

10. Staff recommended denial of the Application and recommended imposition of the following conditions if the Application were approved:

A. 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.

B. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval.

C. The Applicants shall provide an updated liquid waste permit from the New Mexico Environment Department with development permit Application.

D. The Applicants shall comply with all Fire Prevention Division requirements at time of Plat Review. The Applicant shall comply with all Fire Prevention Division requirements.

11. The Applicants consented to staff's proposed conditions.

12. The evidence presented confirms that in order to avoid an unnecessary hardship the five year holding period should not be enforced.

13. The request is a minimal easing of the Ordinance requirements, making possible the reasonable use of the land.

14. Holding the land for approximately four years rather than five prior to the family transfer will not have an adverse impact on the neighboring properties, the community or the environment.

15. This case was heard by the CDRC on February 20, 2014, where a motion was made by Member Anaya for approval of the Application. The motion was seconded by member Gonzales. The motion died at 3-3 vote and member Roybal not present for the vote. The case was tabled until all seven members were present for a vote. The case was heard for vote only on March 20, 2014 and the Application was unanimously approved.

**WHEREFORE** the County Development Review Committee of Santa Fe County hereby approves the request for an Exemption of the five year holding between Family Transfer Applications, Section 6.14.4 of Ordinance No. 2002-9, to allow a Small Lot Family Transfer Land Division of 2 lots consisting of 2.54 and 2.56 acres into four lots subject to the conditions as stated in Paragraph 10.

**IT IS SO ORDERED**

This Order was approved by the County Development Review Committee of Santa Fe County on this \_\_\_ day of \_\_\_\_\_, 2014.

By: \_\_\_\_\_  
Daniel Drobnis, Chair

Attest:

\_\_\_\_\_  
Geraldine Salazar, County Clerk

Approved as to form:

  
\_\_\_\_\_  
Gregory S. Shaffer, County Attorney

Member Booth sought and received verification there would be no emissions and no smoke. Mr. Sommer said the Air Quality Bureau has no regulations for this equipment since there is no smell or particulate emissions.

In response to questions from Member Gonzales, Ms. Tapia said she has been in business since 1992 and at this location since 2000. She's had no complaints from the neighbors. She anticipates there will be around 70 cremations per year and only of small animals.

Member Katz asked Mr. Sommer about the difference between the current application and previous request. Mr. Sommer said it was his understanding that the previous attorney failed to file a notice of appeal pursuant to Rule 74 and instead filed a complaint. He said it was dismissed due to the misfiling. Ms. Brown noted the order addresses the land use standards it was applying and a misfiling is not reflected in the court order.

Member Gonzales asked if the current home occupation is in good standing and only an amendment is requested. Mr. Salazar said the original request was for a home occupation office and this is a request to amend that. Mr. Sommer said she is required to comply with other County requirements covering square footage, number of employees, etc.

Member Anaya asked if she had a fireplace at her house and Ms. Tapia said she has a wood-burning stove and two fireplaces, and the neighbors also have stoves and fireplaces.

Mr. Salazar referred to the final order, #7, which quotes the Extraterritorial Zoning Ordinance, a more detailed exposition or requirements.

There was no one from the public wishing to speak about this issue.

Member Katz moved to grant the appeal and overturn the previous decision, with staff recommended conditions, noting the findings of fact relied on erroneous information. Member Booth seconded and the motion carried by unanimous 6-0 voice vote.

- VII. C. **CDRC CASE # MIS 13-5390 Louie Rael Sr. Exemption. Louie Rael Sr. and Louie Rael Jr., Applicants, request an Exemption for five year holding between Family Transfer Applications, Section 6.14.4 of Ordinance No. 2002-9, to allow a Small Lot Family Transfer Land Division of 2 lots consisting of 2.54 and 2.56 acres into four lots. The property is located at 34A Camino Montoya and 53B Paseo Martinez, within the Traditional Historic Community of La Cienega/La Cieneguilla, within Section 20 & 29 Township 16 North, Range 8 East, (Commission District 3) [Exhibit 2: Plat]**

John Lovato read the case caption and gave the following staff report:

“The Applicants intend to divide one 2.54-acre lot into two 1.27 acre lots, and one 2.56 acre lot into two 1.28 acre lots. Louie Rael Sr. has owned the subject property for over forty years. In 2010, a Family Transfer Land Division was approved (4 lots) in which then they transferred parcels to their daughters Valarie Rael (Tract 6I), Tammy Rael (Tract 6K), and son Louie Rael Jr, (Tract 6J) and also retained a parcel for Louie Rael Sr. (Tract 6H)

“The Applicants now wish to divide tracts 6H and 6J in order to give property to their adult child and grandchild. The Applicant Louie Rael Sr. wishes to complete this final family transfer because of poor health and limited income available.

“Section 6.14.3 of Ordinance No. 2002-9 La Cienega and La Cieneguilla Traditional Community Planning Area and La Cienega Traditional Community Zoning District states, ‘Any Applicant for a Family Transfer must demonstrate a minimum of five years direct ownership of the lot(s) since the last Land Division(s) or sale or Transfer of the property’. The 2.5-acre lots which the Applicants intend to divide further and transfer to family members have been in their divided state since 2010. However, they have not been held by the Applicants in their divided state for a five year period. Therefore, they are requesting an exception to the five year holding period. The lots are of sufficient size to allow for their division into lots of at least 1.25 acres through the Small Lot Family Transfer Land Division process with signed and recorded water restrictions.”

Mr. Lovato gave the following staff recommendation: Ordinance 2002-9 states, “Any Applicant for a family transfer or small lot family transfer must demonstrate a minimum of five years direct ownership of lot(s) since the last land division(s) or sale of transfer property.” Therefore staff recommends denial of the Exemption for Five-Year Holding between Family Transfer Applications. If the decision of the CDRC is to approve the Applicants request, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre feet per year per lot. A water meter shall be installed for each lot. 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. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (Article III, § 2.4.2).
3. The Applicants shall comply with all Fire Prevention Division requirements at time of Plat Review (As per 1997 Fire Code and NFPA Life Safety Code).

Member Gonzales asked if the property was in a subdivision and Mr. Lovato said it was part of a land division among large lots.

Richard Chatroop, under oath, said the Rael family originally owned all the land near the Racetrack Subdivision and the airport and this has been divided and passed down over the years. He said Exhibit 6 in the packet shows over 20 lots of similar size in the area.

Member Katz asked why there was urgency in not waiting for the five-year time period. Mr. Chatroop said Mr. Rael is aging and in poor health, he has trouble paying all the taxes, and this type of small-lot family transfers will not be allowed under the new land use code.

Citing similar circumstances in his family, Member Anaya ascertained that there was no conflict of interest.

Member Booth noted a reference to the approval required from the La Cienega Development Review Committee. Mr. Lovato said that committee was disbanded.

Member Gonzales asked if this was in the traditional community and Mr. Chatroop said he believed it was. Mr. Lovato said it is within the traditional historic community and the minimum lot size is 10 acres. It can be divided further with water restrictions and under family transfer. With the holding period of five years met the division could be approved administratively.

Land Use Administrator Penny Ellis-Green stated they are currently in the process of approving the zoning map which she anticipated would take four to six months. At that point the SLDC will go into effect.

Member Gonzales established the five years will expire in September 2015. Ms. Ellis-Green explained that family transfers will still be allowed but lots will not be allowed at half the minimum size. All lots will be zoned and have a minimum lot size; this has not yet occurred on this tract.

Duly sworn, Katherine Becker, a resident of La Cieneguilla and member of the La Cienega Valley Association. She referred to a letter from the LCVA [Exhibit 3] which asks that the request be denied in order to preserve the rural nature of the area and conserve water. The standard acreage in the area is 2.5. There are no extraordinary circumstances of hardship to warrant an exemption. She suggested the same aims could be achieved through a codicil.

Under oath, Gabriel Martinez who lives directly across from the property, voiced his concern that the .6 mile road, which he personally maintains, will suffer from the additional traffic. He wondered if the Rael family would be willing to help with maintenance. He was also concerned with water and whether the homes would be stick-built. He said he tried to buy the property in the past.

Member Anaya asked if there were covenants in the area. Mr. Martinez said the situation is vague. There are currently four properties served by the road and if four more were added he would think about forming a homeowners association.

Member Gonzales asked if a condition could be imposed requiring help with road maintenance. Ms. Brown stated private parties can make agreements between themselves. Mr. Lovato pointed out that offsite road improvements are exempt in small-lot family transfers.

Citing groundwater concerns, Member Gonzales also asked if they could be forced to do shared wells. Ms. Lucero said La Cienega watershed conditions encourages sharing of wells, and when the County system is within 200 feet they would be required to hook up.

Member Martin asked if there was a time frame when community water would be available. Ms. Lucero said she did not know but when the time comes the Utilities Department will coordinate with Land Use.

Mr. Chatroop clarified that only two of the lots would have access off Mr. Martinez' road; the other two would use Camino Montoya. There is one existing well and they intend to share.

Member Katz said the issue is one of density, not sharing, since the amount of water used will be the same. He saw no reason for an exception in this case and the only motivation seemed to be enhancing the value of the property.

Member Anaya move to approve the exception with staff conditions, based on common sense. Member Gonzales seconded. The vote tied 3-3 with Members Anaya, Booth and Gonzales voting in favor and Members Drobnis, Katz and Martin voting against. A vote will be taken when the full committee is present to break the tie.

**VII. D. CDRC CASE # V 13-5400 Tod Amon Variance. Tod Amon, Applicant, requests a variance of Article V, Section 8.1.3 (Legal Access) of the Land Development Code to allow a road that does not have all weather access and does not meet the required 20' width to access a driveway to a property consisting of 18.46 acres. The property is located at 29 Puertecito Road, within the vicinity of Golden, within Section 19, Township 12 North, Range 7 East (Commission District 3)**

Mr. Lovato gave the staff report as follows:

“The Applicant requests a variance to allow a driveway to access a buildable site on 18.46 acres. The access is located off of Puertecito Road which is a private road that does not meet County Road standards of having 20-foot wide driving surface and it crosses a drainage way through a low water dirt surface. Puertecito

VII. Public Hearings

- A. **CDRC CASE # MIS 13-5390 Louie Rael Sr., Exemption.** Louie Rael, Sr. and Louie Rael Jr., Applicants, request an Exemption for five year holding between Family Transfer Applications, Section 6.14.4 of Ordinance No. 2002-9, to allow a Small Lot Family Transfer Land Division of two lots consisting of 2.54 and 2.56 acres into four lots. The property is located at 34A Camino Montoya and 53B Pasco Martinez, within the Traditional Historic Community of La Cienega/La Cieneguilla, within Section 20 & 29 Township 16 North, Range 8 East, (Commission District 3)

Chair Drobnis reminded the Committee that at its February meeting the vote on this case ended in a tie vote. Under Commission Rules of Order the application is automatically tabled until the next meeting when a tie can be broken. The case is being presented for vote only.

Ms. Lucero advised the Committee that the motion at last month's meeting was to grant the applicant's request for the exemption.

The motion to approve the request was approved by majority [4-3] voice vote with members Roybal, Gonzales, Booth and Anaya voting for and members Drobnis, Martin and Katz voting against.

- B. **CDRC CASE # ZMXT 13-5360 Buena Vista Estates, Inc. & Rockology LLC** Buena Vista Estates, Inc, Applicant, Jim Siebert, Agent, requests zoning approval to create a mining zone, on a 50 acre + site, to allow the extraction of aggregate for use as construction material. The site will take access off of Waldo Canyon Road (County Road 57) and the property is located on the south side of I-25, within Section 21, Township 15 North, Range 7 East (Commission District 3)

*[Exhibit 1: Red binder of materials opposing the strip mine application on La Bajada Mesa compiled by the Rural Conservation Alliance; Exhibit 2: League of Women Voter letter in opposition of request; Exhibit 3: San Marcos Association letter in opposition to request, dated 3/20/14; Exhibit 4: 101 signatures of individuals outside the County Chambers; Exhibit 5: Ross Lockridge letter, dated 3/20/14 against the request; Exhibit 6: Sam Worthman, email in support of the request; Exhibit 7: Packet of emails sent to County staff opposing the application]*

JOSE LARRAÑAGA: Buena Vista Estates, Inc. owner, Rockology Limited, LLC, operator, are proposing the creation of a Mining Zone to allow the extraction of aggregate for construction purposes to be used in redi-mix concrete, asphalt, landscaping, and base coarse. The Applicant states: "the basaltic material is a durable,



**SUMMARY:**

The subject lot was created in 1995 by way of a land division and is recognized as a legal lot of record. There is currently a residence under construction on the property. A permit for a 3,462 square foot home was issued on October 3, 2013.

The Applicant states, a variance is needed due to his medical condition. The Applicant states he can no longer maintain the 1.45 acre parcel and wishes to sell one of the lots he is proposing to divide. The size of lots will be 0.725 acres each. The Applicant further states, the size of lots to be created are close to the minimum 0.75 acre lot size and will not impact potential buyer's health, safety, or welfare.

Ordinance No 2008-5, § 12.5 (Density Standards) States, the minimum lot size in Pojoaque Valley Traditional Community District is 0.75 Acres per dwelling unit.

Article II, § 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 April 11, 2014.**

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

**APPROVAL SOUGHT:** Approval of a variance from Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), § 12.5 (Density Standards) to allow a Land Division of 1.45 acres into two lots. The current residence is three bedrooms.

**GROWTH MANAGEMENT AREA: SDA-2**

**HYDROLOGIC ZONE:** Traditional Community of Pojoaque. The minimum lot size is 0.75 acres per dwelling unit. The request exceeds the minimum lot size requirements for this area.

**FIRE PROTECTION:** Pojoaque Fire District.

**WATER SUPPLY:** Domestic Well

**LIQUID WASTE:** EID allows for a conventional septic system for the lot size proposed for a two bedroom residence. However, a three bedroom will require a split flow system. (Letter attached as Exhibit 4)

**VARIANCES:** Yes

**AGENCY REVIEW:** None

**STAFF RECOMMENDATION:** Denial of a variance from Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), § 12.5 (Density Standards) to allow a Land Division of 1.45 acres into two lots.

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 0.50 acre feet per year per lot. A water meter shall be installed for each lot. 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. 2008-05).
2. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval (As per Article III, § 2.4.2).
3. Further Division of land is prohibited on the property. (As per Article Ordinance No. 2008-5, § 12.5).
4. The proposed vacant lot may be subject to utilizing an advanced liquid waste disposal system in conformance with NMED requirements. This shall be noted on the plat.
5. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat Review (As per 1997 Fire Code and NFPA Life Safety Code).

**EXHIBITS:**

1. Letter of request
2. Ordinance 2008-5, § 12.5 (Density Standards)
3. Article II, § 3 (Variances)
4. Letters of opposition
5. Site Photographs
6. Site Plan
7. Aerial of Site and Surrounding Area

**LORENZO & YVONNE ATENCIO**  
**P. O. Box 1538**  
**Espanola, N. M. 87532**

April 9, 2014

Santa Fe County Commission  
102 Grant Avenue  
Santa Fe, N. M. 87504

Commissioners:

We come before the Committee to request a minimal variance of the County of Santa Fe Code requirement that a residence be built on a lot that is at least 0.75 acre in size.

My wife and I are both retired although she continues to teach English as a Second Language to immigrants through the Santa Fe Community College. I aspire to write good poetry. We were married in 2013 and decided to live in the Pojoaque/Nambe area. We searched for a house but settled on a nice piece of land to build on. However, at 1.455 acre, this parcel is too big for us. I suffer Parkinson's Disease that prevents me from doing yard work. We have built our home on the acreage so that it can be divided into two parcels. Our septic system is designed so as not to interfere with a second system and we are prepared to share our water well.

We submit that the size of the lot is so close to the 0.75 acre limit that a variance as requested will not impact a potential buyer's health, safety or welfare. It would also help meet the demand for residential real estate. A home on this land will also raise the County's revenue.

Having substantially complied with the Santa Fe County Code, we respectfully request the Commission to approve our application for a variance and allow us to divide our lot as shown in the survey drawing of proposed lot split.

Sincerely,

*Lorenzo Atencio*  
*Yvonne Atencio Luna*



A-5

## 12.5 Density and Dimensional Standards

The following density and dimensional standards apply in the PVTC District.

**Commentary:** The density and dimensional standards set forth in this section are not a guarantee that stated development density and intensities can be attained. Other factors—water and other public facility availability, infrastructure capacity, building layout, physical limitations, and parking configuration to name a few—may have the effect of limiting development intensity more than the stated standards

<b>PVTC District Density and Dimensional Standards</b>															
Sub Districts	Minimum Lot Area/Principal Use (acres)						Max Lot Coverage (%)		Max. Height (ft)			Min. Setbacks (ft) (1-Residential and Nonresidential Uses)			
	Base Density/Intensity		Water Cons.	Long Term Water	Community Services										
	Res Uses	Non Res Uses			Water	Sewer	Both W&S	Residential Uses	Non Res Uses	Residential Uses	Non Res Uses	Front & Street Side	Interior Side	Rear	
Residential	.75	.75			.75	.75	.33		40	24	24	24	0	5	5
Mixed Use	.75	.75			.75	.75	.33		40	24	24	24	0	20	20

Note:  
 1) Setbacks shall be measured from the property line, unless the property line is within a road easement, in which case the setback shall be measured from the interior edge of the road easement.



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 comply 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

**OPPOSITION TO PROPOSAL FOR VARIANCE ON PROPERTY LOCATED ON FRANCES LANE  
(Pojoque Valley)**

Harold and Sylvia Gomez Sexton, owners of Tract B-1, 6 Frances Lane, Santa Fe, New Mexico strongly oppose approval of the property variance requested by Mr. and Mrs. Larry Atencio, owners of Tract B-2.

Yvonne and Larry Atencio purchased Tract B-2, 1.445 acre Frances Lane, Santa Fe, New Mexico and have built a home on this property. The Atencio's property is between our tract and the McDougal's Tract B-3. We were informed by Mrs. Atencio during a conversation in May that she and her husband have plans to sell the remaining property on this tract to have additional income thus having two homes on that tract. She was immediately informed by my husband and myself that this would not be possible because of the law in Santa Fe County requiring 3/4 acre for development of any type on this property. She informed us that they would be requesting a variance for this property. We told her that there are covenants attached to the property which means that only one residence could be built per tract. My mother (Frances Gomez) also insisted that each tract have less than 1.5 acres so that the properties could not be divided. Her intent was to keep her properties as pristine as possible.

1. The drilling of an additional well would impact the water supply for the current four homeowners residing in this area.
2. We do not see how an additional septic system could be put on the property without affecting the wells close by.
3. The private one lane dirt road leading to the property would create additional traffic and dust.
4. The covenants that were written up when this property was divided by the original owner, Frances Gomez, specified that the property may have only one single residence on each tract. The reason for dividing the property in less than 1.5 acres was to make it impossible to build more than one residence per the 3/4 acre ruling by Santa Fe County.
5. Should this variance be approved, it would encourage other homeowners to sell their property to also have additional income.
6. It would affect the privacy which we now enjoy.
7. The additional residence would impact the evaluation of every homeowner's property.

Thank you for your consideration on this important issue.

Of major concern is the thoughtful planning and wishes of my parents who owned this property since 1930 and were very concerned about maintaining the beauty and value of their land.

*Harold Sexton*

*Sylvia Sexton A-8  
6 Frances Lane  
Santa Fe, NM 87506  
505-454-1071*

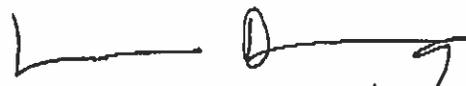


S-28-14

**OPPOSITION TO APPLICATION FOR VARIANCE ON PROPERTY LOCATED ON FRANCES LANE**

Laurie Wong, owner and resident of Tract A-1, Caminito Sena, Santa Fe, New Mexico is opposed to the division of Tract B-2, 1.445 purchased by Yvonne and Larry Atencio.

1. This is a violation of the Santa Fe County ruling of  $\frac{3}{4}$  acre per building.
2. This is a violation of the covenants that were intended to cover all of the properties on Tract A-1 through Tract B-3 and states that there is to be only one single family residence in each individual tract.



May 21, 2014

LAURIE A. WONG

PO Box 1564

Los Alamos, NM 87544

455-9247

5-20-14

Kimball R. Udall  
Janet McL. McKay  
Eric M. Sommer  
Jack N. Hardwick

Kurt A. Sommer  
Tracy T. Sanders  
Jeremy R. Jones  
Mark Kriendler Nelson

Jacqueline Berg  
Joseph P. Walsh  
Patrick D. Barry  
Lisa G. Adelman

*Of Counsel to the Law Firm*  
Michael G. Sutin  
Robert F. Worcester  
J. Michael Hyatt  
Joseph A. Sommer  
1922 - 2006

May 23, 2014

*Via Certified and Regular First Class Mail*

Mr. and Mrs. Lorenzo Atencio  
P.O. Box 1538  
Española, NM 87532

Re: Proposed Lot Division; 10 Frances Lane

Dear Mr. and Mrs. Atencio:

We represent your neighbors, the McDougals. The McDougals have retained us to review the legality of your proposed division of Tract B-2 ("your property"), which property is shown on the "Plat of Survey Requested by Frances S. Gomez" filed for record on May 17, 1995 in Book 304 at Page 007 in the records of Santa Fe County (the "Plat"). Your property, along with the McDougals' property and the property of 3 of your other neighbors, are part of a 5 lot division that was made by Frances Gomez in 1995. All 5 lots are subject to the Protective Covenants and Restrictions filed on September 30, 2004, Document No. 1348681 (the "Covenants"). In addition, 4 of the lots, including yours, are subject to the 20 foot Easement shown on the Plat (the "Easement"), and the Road Maintenance Agreement filed on February 15, 2005 as Instrument No. 1366929 (the "Maintenance Agreement"). It is our conclusion, based on those documents and on relevant law, that you are prohibited from dividing your property into two lots. If you proceed, the matter will likely end up in litigation. Below we set forth the grounds for our conclusion.

The Covenants limit the use of the five Tracts to "single family residential purposes". The term "Tracts" is defined as "each of the Tracts set forth on the Plat". Paragraph 1 goes on to state that "[u]nder no circumstances shall the Tracts used [sic] for any other purpose including, without limitation, ... the construction of multi-family housing units." Based upon the restrictive and narrow language in the Paragraph 1 of the Covenants, it is clear that subdividing one of the Tracts as defined in the Covenants would be in contravention of the prohibition on multi-family housing units on each Tract. This is the same result that was reached in *Lockwood v. Stetner*, 101 N.M. 783, 689 P. 2d 932 (1984), where the New Mexico Supreme Court ruled that a property owner could not divide his lot, because the covenants provided that only "a private dwelling house" (meaning one house) could be erected in each lot. Your Covenants also refer to "a single family residence" to be constructed on the Tracts, meaning each Tract may have only one house.

The Easement, which is a 20 foot, one lane roadway as shown on the Plat, provides access to the McDougal Tract (Tract B-3), the Sexton Tract (Tract B-1) and your Tract B-2. In New Mexico,

A-10

Mr. and Mrs. Atencio

May 23, 2014

Page 2 of 3

when construing an easement, a Court must determine and give effect to the intent of the parties. In determining the intent of the parties, the Court may examine the surrounding circumstances that shed light on the parties' intent. *Northrip v. Conner*, 107 N.M. at 143, 754 P.2d at 520. We have spoken to Sylvia Sexton, whose mother, Frances Gomez, created the Tracts and the 20 foot Easement which serves Tracts B-1, B-2 and B-3. Each of those tracts is less than 1.5 acres, being approximately 1.44 acres each. Mrs. Sexton told us that her mother deliberately made each of those tracts less than 1.5 acres, because the Santa Fe County Code would not allow lots less than .75 acres, and Mrs. Gomez did not want anyone to be able to divide their lot into two lots. It was for that express reason that she made each of the Tracts less than 1.5 acres, so they could not be divided. Mrs. Gomez' intent would be persuasive to a Court if this matter were litigated.

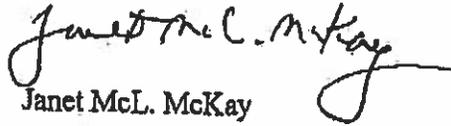
Further, you are seeking to overburden the Easement by expanding its use to include an additional household. In the cases of *Brooks v. Tanner*, 101 N.M. 203, 207, 680 P.2d 343, 347 (1984); *Posey v. Dove*, 57 N.M. 200, 212, 257 P.2d 541, 548 (1953); and *Kikta v. Hughes*, 108 N.M. 61, 63, 766 P.2d 321, 323 (Ct. App. 1988), New Mexico Courts held that easements created to benefit a dominant estate cannot be expanded, changed, or modified without the express consent of the servient estate. This means that the scope, or intended use of an easement cannot be expanded without the consent of the persons over whose land the easement passes. Your neighbors, both the McDougals and the Sextons, will not agree to this expanded use if you attempt to divide your lot. Adding another family would expand the scope of use originally contemplated when the Easement was created, and would result in additional traffic, and wear and tear on what is only a one lane road.

Our conclusion that you may not divide your lot is also supported by the Maintenance Agreement, which identifies the four lots entitled to use the Easement, being the owners of Tract A-1, B-1, B-2 and B-3. Paragraph 2 of the Agreement allocates each Tract's percentage of responsibility for expenses related to road maintenance, and does so based upon the linear feet of the Easement used by each Tract. No language in the Maintenance Agreement contemplates additional tracts being created, which would require an amendment to the Maintenance Agreement in order to keep the allocation of percentages of responsibility fair, since your Tract would then be putting twice as much wear and tear on the road. The road agreement may only be modified by persons owning 3 of the Tracts. The McDougals and the Sextons will not agree to amend the Maintenance Agreement to include another user of the road.

We understand that you have applied to the County for your lot split. Please be advised that the McDougals and the Sextons will object to your variance application on several grounds, including the unsafe conditions that your lot split would present for emergency vehicular access on the road. They will also, along with your neighbors who own Tract A-1 and A-2, Laurie Wong and Paul Herrera, object to the increased burden an additional lot will place on the water table and any increase in septic system which would impact their wells. Moreover, be advised that the Covenants and the Maintenance Agreement both provide for attorneys fees to be awarded to the prevailing party in any litigation. If my clients seek to enforce their rights under the agreements in Court, they will seek to recover their attorneys fees and costs against you in any such litigation.

A-11

Very truly yours,

  
Janet McL. McKay

cc: Barbara and David McDougal  
Sylvia and Harold Sexton ✓  
Paul Herrera  
Laurie Wong  
Karl Sommer, Esq. ( via email)

A-12



**EXHIBIT**  
**5.**

A-13





A-15







**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:** June 19, 2014

**TO:** County Development Review Committee

**FROM:** Vicente Archuleta, Development Review Team Leader *VA*

**VIA:** Penny Ellis-Green, Growth Management Director *PEG*  
Vicki Lucero, Building and Development Services Manager *VL*  
Wayne Dalton, Building and Development Services Supervisor *WD*

**FILE REF.:** CDRC CASE # S 10-5551 Tessera Subdivision Phase 2 Preliminary Plat and Development Plan

**ISSUE:**

Homewise Inc., Applicant, Design Enginuity (Oralynn Guerrerortiz), Agent, request Preliminary Plat and Development Plan approval for Phase 2 of the Tessera Subdivision (formerly College Hills) which consists of 78 residential lots on 69.4 remaining acres of 146 acres.

The property is located off the NM599 West Frontage Road, west of the La Tierra exit, within Section 20, Township 17 North, Range 9 East (Commission District 2).

**VICINITY MAP:**



## **SUMMARY:**

The subject property received Master Plan approval for a request for 88 lots on 84 acres in the late 1990's under the name of College Hills.

On December 18, 2001 the EZA (Extraterritorial Zoning Authority) granted a Master Plan Amendment for the Tessera subdivision (formerly College Hills) which consisted of 166 residential lots on 145.97 acres to be developed in 2 phases. Phase 1 consisted of 88 lots on 76.57 acres and Phase 2 consisted of 78 lots on 69.4 acres.

On December 12, 2002, the EZC granted Preliminary Plat and Development Plan approval for Phase I of the Tessera subdivision which consisted of 88 lots. On January 13, 2004, the BCC granted Final Plat and Development Plan approval for Phase I (January 13, 2004 BCC Meeting Minutes as Exhibit 5). The Final Plat for Phase 1 was recorded on April 5, 2007. There are currently three homes within Phase 1.

On December 14, 2010, the Board of County Commissioners (BCC) granted approval of a two-year time extension of the Master Plan for the Tessera Subdivision.

On December 11, 2012, the BCC approved an additional 2-year time extension of the previously approved Master Plan for Tessera Subdivision (formerly College Hills) consisting of 166 lots on 146 acres (refer to December 11, 2012 BCC meeting minutes as Exhibit 6).

The Master Plan was amended in December 2001, by the EZA under the Extraterritorial Zoning Regulations to have a total of 166 lots on 145.97 acres and to be developed in two phases. The Applicants now request Preliminary Plat and Development Plan approval for Phase 2 of the Tessera Subdivision which consists of 78 lots on 69.4 acres. Seventy-eight (78) lots will be added to the Tessera development for a total of 166 residential lots on 146 acres. Phase 2 will encompass 69.4 acres, with 35 acres or 50% of the property designated as permanent open space.

In 2012, Homewise Inc. purchased the property and intends to build and sell all the homes and it anticipates having the entire 166 lots fully built out within 7 years.

The previous developer installed the infrastructure needed for Phase 1 prior to the economic downturn. Homewise has posted a financial guarantee for the remaining deficiencies in Phase 1, such as trails which had not been completed.

**This Application was submitted on April 11, 2014.**

**Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is in compliance with County criteria for Preliminary Plat and Development Plan Approval under the current Land Development Code.**

**APPROVAL SOUGHT:** Preliminary Plat and Development Plan approval for Phase 2 of the Tessera Subdivision which consists of 78 residential lots on 69.4 acres.

**GROWTH MANAGEMENT AREA:** SDA-2

**LOCATION:** The development is located to the north of the NM 599 West Frontage Road, west of the La Tierra intersection.

**HYDROLOGIC ZONE:** Basin Hydrologic Zone, minimum lot size per code is 10 acres per dwelling unit. Lot size can be reduced to 2.5 acres per dwelling unit with signed and recorded water restrictions.

The density as approved in the Amended Master Plan (2001), under the Extraterritorial Zoning Ordinance, was based on a portion of the property consisting of 34 acres within the Santa Fe Urban Area where the zoning allowed one residential unit per .50 acre when utilizing a community water and sewer system. The remaining 112 acres was within the basin zone which is one residential unit per 2.5 acres, including a 120 percent density bonus based on a minimum 60 percent open space.

**ARCHAEOLOGIC ZONE:** The proposed project lies within the Medium Potential, Archeological Zone. An Archeological report is required for development of 10 acres or more. An Archeological survey was conducted and submitted to NMSHPO for review.

An Archeological investigation of the entire property was conducted in 2003. Two Archeological sites exist on the Tessera Phase 2 property. The sites have been placed within the permanent open space and will not be disturbed.

**ACCESS AND TRAFFIC:** The primary access to the subdivision is Via Tessera's connection to the NM 599 Frontage Road. Secondary access is from East Via Plaza Nueva which connects to the Aldea Subdivision to the west. Both accesses are paved.

A Traffic Impact Analysis was prepared for the entire project. There is an existing right turn deceleration lane on NM 599 that serves Via Tessler Road. No further off-site road improvements are warranted at this time.

**AFFORDABLE HOUSING:**

Tessler 2 is required to have 15% affordable housing. Twelve lots scattered throughout the development have been identified and comply with the County's Affordable Housing regulations. Three (3) homes will be provided in each of the 4 Income Ranges.

**FIRE PROTECTION:**

The subject property lies within the jurisdiction of the Agua Fria Volunteer Fire Department. One fire hydrant currently exists within Phase 2 of Tessler and six additional hydrants will be installed. All roadways have been designed meeting Santa Fe County Fire Marshal requirements.

**WATER SUPPLY:**

The project is within the Santa Fe County Utilities service area boundary and Phase 1 is currently serviced by the Santa Fe County Utility. The project is served by a series of County owned 8-inch water lines, all lying within the existing roadways.

Low water use landscaping techniques will be utilized including the use of timed drip irrigation, mulching and low water use grasses and plants. Indoor water saving fixtures will be standard, including low-flow toilets and hot-water circulating systems that provide hot water within 5 seconds of a tap being opened.

Santa Fe County Utilities issued a letter to the Applicant which states that they are ready, willing and able to serve the development subject to conditions. (Refer to SFC Utility letter in Exhibit 4).

**LIQUID WASTE:**

A low-pressure wastewater collection system was installed in Phase 1. That system passes through the existing roads in Phase 2. A low pressure line was extended under NM 599 of Santa Fe sewer manhole located on the north bank of the

Santa Fe River. The wastewater system is privately owned by the Tessera Sewer Cooperative.

In 2003, the City of Santa Fe granted sewer service to Phase 1 only, with a requirement that any future phase must request a separate City approval. The 2008 City-County Annexation Agreement and relevant City Ordinances provide grounds for such a service to be granted on a case-by-case basis to developments outside the City limits.

An alternative to using the existing low-pressure sewer line would be to connect to the Aldea wastewater collection system which is a Santa Fe County system. Such a change would require City approval and documentation that the Aldea collection system and its associated lift station could handle the flows from the Tessera Subdivision.

All homes within the Phase 2 development will be equipped with individual grinder pumps to connect to the low-pressure collection lines.

**SOLID WASTE:**

Currently Phase 1 is served by a trash service company and Phase 2 will also be served by this company.

**FLOODPLAIN &  
TERRAIN MANAGEMENT:**

The Arroyo Frijoles is located on the north boundary of Phase 1, within the open space. Within Phase 2 there are 9 well defined arroyos. All arroyos are located within the designated open space and no lots will be located within 25 feet of an arroyo. Only one new arroyo crossing will be developed with the project and a 24-inch culvert will be installed to carry the stormwater under the road.

The development was designed to protect and enhance the natural beauty of the land while minimizing soil erosion and sediment transport during storms. The roads to be constructed have been designed to follow the natural contours of the land and minimize disturbance. There will be 2 disturbances of 30% slopes which both are located at the only proposed arroyo crossing. Each disturbance will be

less than 1000 square feet, which is allowable by the existing Land Development Code.

Phase 2 will contain 7 detention ponds with the capacity to handle more than 78,350 cubic feet of water. The centralized ponds will be maintained by the Tessera Homeowners Association and individual on-site ponds will not be necessary for each individual lot.

**OPEN SPACE:**

Approximately 35 acres of land will be dedicated as permanent open space in Phase 2. This is over 50% of the project site. The entire development will consist of a total of 68.1 acres of open space. Within the open space a trail system will be developed for pedestrian, equestrian and bicyclist that connects to the trails within Phase 1 and the NM 599 pedestrian-equestrian underpass.

The Trails will be maintained by the Tessera Homeowners Association and dedicated for public use.

**AGENCY REVIEW:**

<u>Agency</u>	<u>Recommendation</u>
SFC Fire	Approval with Conditions
SFC Utilities	Approval with Conditions
NMDOT	Approval with Conditions
SFC Open Space	Approval with Conditions
SFC Public Works	Approval with Conditions
OSE	Negative
NMED	No Response
Public Schools	No Response
SFC Planning	No Response
Soil & Water	No Response
Affordable Housing	Approval
NMSHPO	Approved with Conditions

**STAFF RECOMMENDATION:** Staff recommends **approval** of the Applicant's request for Preliminary Plat and Development Plan approval for Phase 2 of the Tessera Subdivision which consists of 78 residential lots on 69.4 acres subject to the following conditions:

1. The Applicant shall comply with all review agency comments and conditions, **Article V, Section 7.1.3.c.**
2. The Applicant shall submit documentation in regards to the Board of County Commissioners (BCC) approval of

New Water Deliveries for Phase 2, as required by Resolution 2006-57, "Adopting A Santa Fe County Water Resource Department Line Extension and Water Service Policy", and all other conditions in that resolution and other SFCU policies are met.

3. The Applicant shall obtain a letter from the City of Santa Fe Water Division (City) that identifies what, if any, additional water utility infrastructure is needed in order supply the maximum 19.5 acre-foot-year demand proposed by Phase 2 prior to Final Plat and Development Plan submittal.
4. The Applicant shall agree to construct and dedicate all infrastructure needs identified by the City's water utility hydraulic modeling.
5. The Applicant shall enter into a Water Delivery Agreement and Wastewater Service Agreement with SFCU, which will specify construction standards (e.g., line-taps and meter cans) and inspection and dedication requirements for Phase 2 prior to Final Plat and Development Plan submittal. The agreement will specify many of the requirements identified in SFCU's March 27, 2014 letter.
6. Copies of the Water Delivery and Sewer Service agreements shall be submitted to the County Growth Management Department along with the Final Design of the Sewer System for review and approval prior to Final Plat and Development Plan submittal

#### **EXHIBITS:**

1. Letter of Request
2. Developer's Report
3. Developer's Plans
4. Reviewing Agency Comments
5. January 13, 2004 BCC Meeting Minutes
6. November 12, 2012 BCC Meeting Minutes
7. Aerial Photo of Site and Surrounding Areas

# 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](mailto:oralynn@designenginuity.biz)

April 11, 2014

Santa Fe County Commissioners  
County Development Review Commissioners

RE: Tessera 2 Preliminary Development Plan and Preliminary Subdivision Plat for a  
78-lot Residential Project by Homewise

Dear Commissioners,

On behalf of our client, Homewise, we submit the attached application for Preliminary Development Plan and Plat approval for the second phase of the Tessera project. The project received Master Plan approval in late 1990's under the name of "College Hills". The master plan was amended in December 2001 by the EZA under the old Extraterritorial Zoning Regulations to have a total of 166 lots on 146 acres, and to be developed in two phases of 88 lots and 78 lots each respectively. In January 2004, Phase 1 was approved by the Board of County Commissioners. The developer, Northwest Villages LLC, installed the roads and utilities needed for Phase 1, before losing the property during the economic downturn. In 2012 Homewise purchased the land and posted a financial guarantee for the few items in Phase 1, such as trails, which had not been installed. Currently there are three existing homes and several more under construction within Phase 1.

It is anticipated that the Sustainable Land Development Code will take effect before this project receives final plat and plan approval, and the second phase has being designed to meet the new code requirements. The project facts are summarized below.

## REQUEST

On behalf of Homewise, we request Preliminary Development Plan (Figure 1) and Preliminary Plat approval for Tessera 2, a 78-lot subdivision. No variances are necessary.

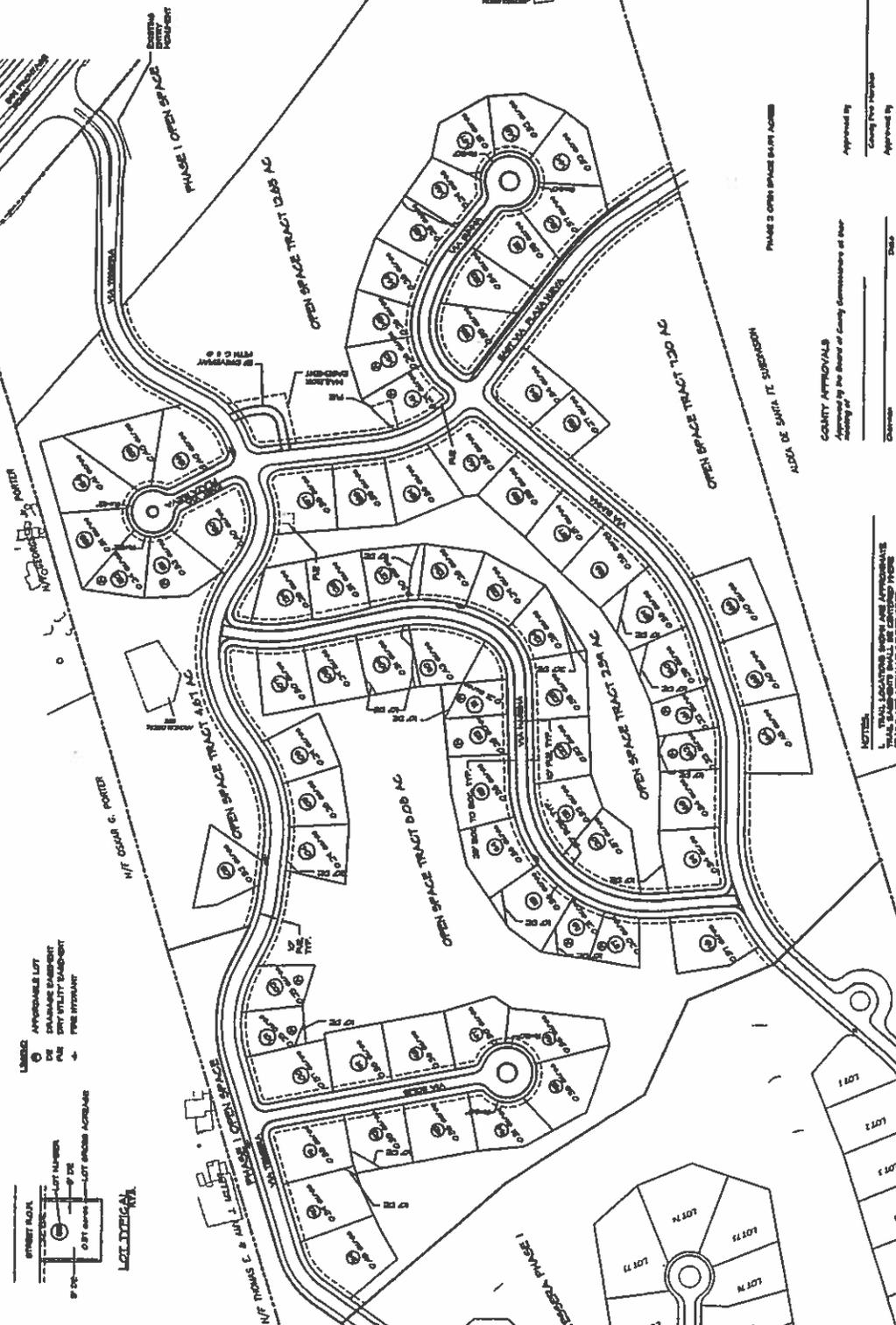


NBB-8

**Preliminary Development Plan for Tessera 2**

TRN, INC. Section 30, Santa Fe County, New Mexico  
 Dedication and Attitudes  
 The undersigned hereby certifies that the information contained herein is true and correct to the best of his knowledge and belief, and that he is the owner of the property described herein. This information is submitted for the purpose of the plan to be recorded in the public records of Santa Fe County, New Mexico, and the undersigned hereby certifies that the information is true and correct to the best of his knowledge and belief.

Owner:  
 Richard D. Luffin, Executive Director  
 The foregoing map, survey, plat, and other information are submitted hereunder and by reference to this plan.  
 My Commission Expires on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 My Address is \_\_\_\_\_



REVISIONS  
 DATE BY


SCALE 1" = 100'

DESIGN ENGINTEER  
 TESSERA  
 DEVELOPMENT PLAN

COUNTY APPROVALS  
 Approved by the Board of County Commissioners at their \_\_\_\_\_ meeting on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
 Approved by \_\_\_\_\_  
 Approved by \_\_\_\_\_  
 Approved by \_\_\_\_\_

APPROVED BY  
 County Engineer  
 Date \_\_\_\_\_

APPROVED BY  
 County Planning Director  
 Date \_\_\_\_\_

APPROVED BY  
 County Public Works Director  
 Date \_\_\_\_\_

APPROVED BY  
 County Public Safety Director  
 Date \_\_\_\_\_

APPROVED BY  
 County Public Health Director  
 Date \_\_\_\_\_

APPROVED BY  
 County Public Works Director  
 Date \_\_\_\_\_

- NOTES:
1. ALL LOCATIONS SHOWN ARE APPROXIMATE. THE EXACT LOCATION OF THE UTILITY EMBANKMENT SHALL BE DETERMINED BY THE UTILITY PROVIDER.
  2. NO SIGNAGE IS PERMITTED IN OPEN SPACE.
  3. VA THOMAS EAST VA PLAZA NORTH AND VA THOMAS EAST VA PLAZA SOUTH ARE TO BE DEVELOPED IN PHASES. THE PHASES ARE TO BE DEVELOPED IN PHASES WITH A MINIMUM OF 100' SEPARATION BETWEEN PHASES.
  4. PROJECT SHALL BE SERVICED BY COUNTY WATER.
  5. PROJECT SHALL BE SERVICED BY COUNTY WASTEWATER COLLECTION SYSTEM. SEWERAGE IS REQUIRED TO HAVE AN INDIVIDUAL, SEPARATE PUMP.
  6. ALL APPLICATIONS FOR THIS PROJECT SHALL BE REVIEWED BY THE COUNTY ENGINEER, COUNTY PLANNING DIRECTOR, COUNTY PUBLIC WORKS DIRECTOR, COUNTY PUBLIC SAFETY DIRECTOR, COUNTY PUBLIC HEALTH DIRECTOR AND THE CITY.

SITE DATA FOR TESSERA 2

PROJECT AREA	84.56 AC +/-
NUMBER OF SELLING UNITS	75
APPROXIMATE UNITS	12 (8% OF TOTAL)
HIGH-RISE LOT SIZE	0.20 ACRES
HIGH-RISE LOT SIZE	0.48 ACRES
TOTAL OPEN SPACE	24.91 ACRES
FUTURE ZONING	PLANNED DEVELOPMENT DISTRICT

Figure 1 NB3-9

## GENERAL DESCRIPTION

Tessera 2 will add 78 homes to the Tessera development for a total of 166 residential lots. The entire project is on 146 acres; Tessera 2 will encompass 69.4 acres. Nearly 35 acres, or over 50% of the property, will be designated as permanent open space. Homewise, Inc. intends to build and sell all the homes, and it anticipates to have the entire 166 lots fully built out within 7 years. Tessera is served by County water. Fire hydrants are located throughout the project. Because of the topography, and in an effort to keep sewer lines outside arroyos, a low-pressure wastewater collection system was installed. Therefore, each home is required to have a grinder pump to connect to the system. Tessera Phase 1 wastewater is conveyed to the City system, at a manhole near the Santa Fe River. We have requested that the City accept the wastewater that will be generated at Tessera 2 and the request is being processed by County and City staff. Four interconnected roads will serve Tessera 2. Three short (500 feet or less) cul-de-sacs will also be developed. All roads will be paved and have mountable curbs. No homes will be developed in the former 599 Highway Corridor, and there is a 295-foot wide open space corridor along NM 599 Frontage Road. The closest home to 599 will be more than 400 feet away from the ROW line. Twelve homes, or 15% of the total to be built, will be sold in compliance with the County's Affordable Housing Regulations. Natural surface paths will be developed in a loop around the project.

## LOCATION

Tessera 2 is located to the north of the NM 599 West Frontage Road, and about  $\frac{3}{4}$  of a mile west of the La Tierra's exit ramp. Aldea de Santa Fe neighbors the property to the west. To the north is Tessera Phase 1 and Las Campanas. To the east are 3 large, narrow residential lots. And to the south is NM 599 West Frontage Road. The project is located within Section 20, of Township 17 North, Range 9 East, as shown on Figure 2.

## EXISTING CONDITIONS

Tessera 2 encompasses 69.4 ± acres. The development of Phase 1 of Tessera, included three 24-foot wide paved roads, which pass through the Tessera 2 site. These roads have curb and gutter and have been properly culverted to convey the 100-year storm event flows. Via Tessera connects NM 599 Frontage Road to Tessera Phase 1. East Via Plaza Nueva runs roughly east west and connects Via Tessera to the Aldea Plaza. Via Summa runs roughly north-south, parallel to Via Tessera, and connects East Via Plaza Nueva to Phase 1.

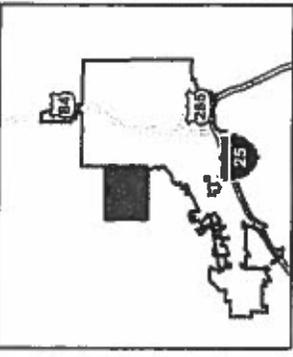
Within and along these three roads are 10" and 8" County-owned water lines, 4" low-pressure private sewer lines, installed within a joint-utility trench along with electric, cable, telephone and gas lines. Most of the necessary utility mains necessary for Tessera 2 have already been installed.

The remainder of the project site is undisturbed rolling hills cut by some minor arroyos. Terrain grades are generally less than 15% except along the banks of arroyos, where grades are steeper. A dirt stockpile exists on one future lot. The vegetation is dominated by juniper and piñon trees, along with thin understorey made of grass, cactus, and brush.

NBB-10



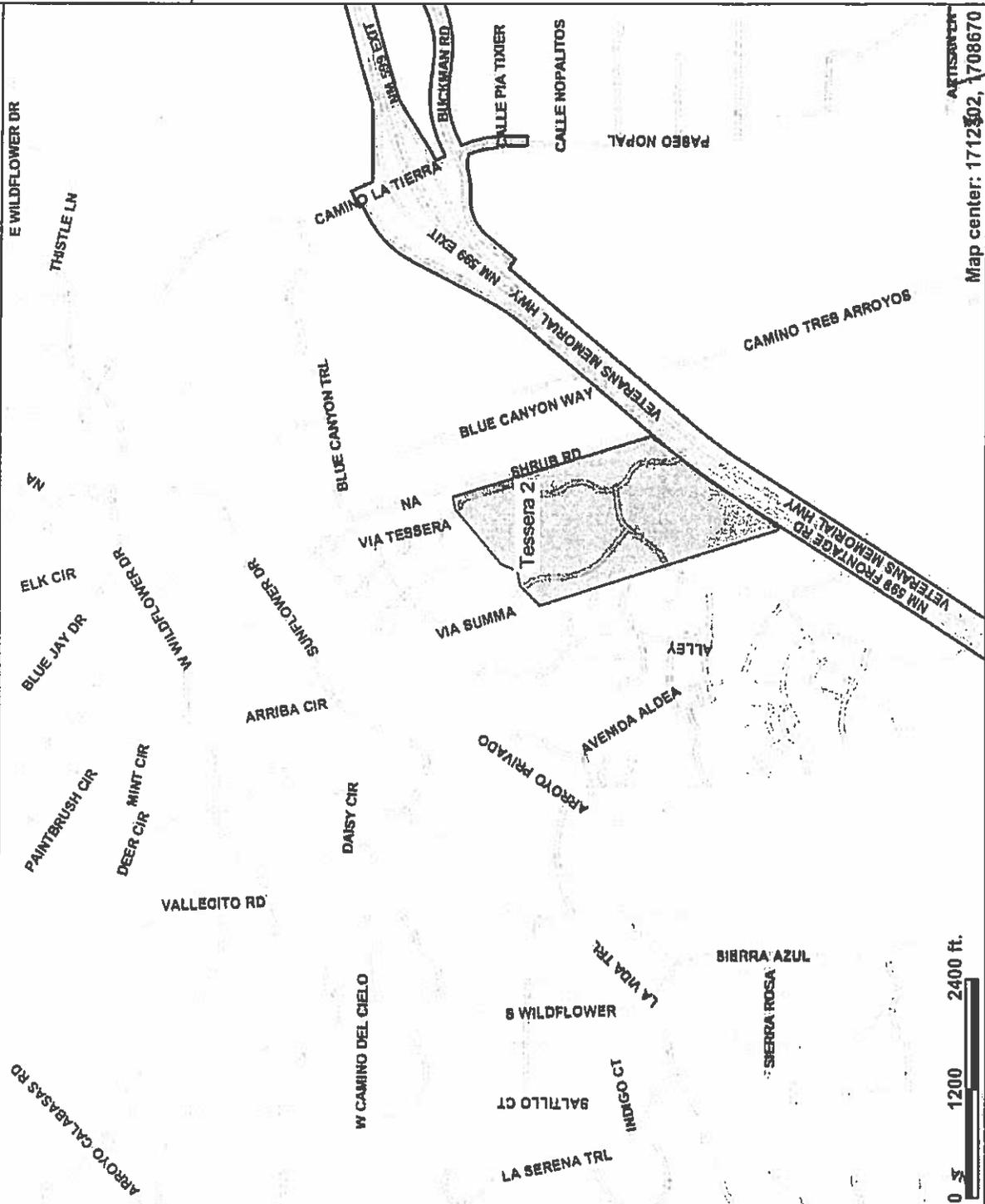
# City of Santa Fe



**Legend**

- City Limits
- Other Roads and Streets

Scale: 1:20,248



Notes: VICINITY MAP OF TESSERA 2

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.



Figure 2 NBB-11

Along the north border of the property, between existing Phases 1 and proposed Phase 2, there is an arroyo that would carry 200 cubic feet per second during the 100-year storm event. Smaller arroyos cross the site and convey their waters either to this northside arroyo or towards the Frontage Road. Two small detention ponds have been installed in Tesserera 2 to compensate for the road construction.

At the Frontage Road a deceleration lane was installed for right turns into the project.

#### PROJECT SOILS

The on-site soils have been mapped by the US Natural Resource Conservation Service and the soil mapping can be found on their web page: [websoilsurvey.nrcs.usda.gov](http://websoilsurvey.nrcs.usda.gov).

The soils present, percentage and hydrologic soil group are listed below:

- 68.1% Tanoan-Encantado Complex (201) Hydrologic Soil Group B
- 16.2% Buckhouse-Altazano Complex (203) Hydrologic Soil Group B
- 14.6% Nazario gravelly loam (205) Hydrologic Soil Group B
- 0.7% Levante-Riverwash Complex (213) Hydrologic Soil Group A
- 0.3% Alire Loam (202) Hydrologic Soil Group B

Tanoan-Encantado Complex and Buckhouse-Altazano Complex soils cover the lands which will be developed as roads and homes. These soils are gravelly sandy loams and sandy loams well suited for road and house foundations. The other soils are generally located in and along the arroyos. All on-site soils are very porous.

#### ACCESS

The primary access to Tesserera 2 is from Via Tesserera's connection to the 599 Frontage Road. Secondary access is from East Via Plaza Nueva which connects to the Aldea Plaza and Aldea's road system. Both accesses are paved.

#### FLOOD HAZARD

The Arroyo Frijoles, which has a FEMA designed floodplain is located on the north boundary of Tesserera Phase 1, within the open space adjacent to Las Campanas. No other floodplains pass through the project. Within Tesserera 2 there are nine well defined arroyos, all but 2 carry less than 25 cubic feet per second (cfs) during the 100-year, 24-hour storm event. The largest arroyo within the project is located on the north boundary of Tesserera 2. This arroyo is anticipated to carry 200 cfs during a 100-year, 24-hour storm event. All arroyos are within designated open spaces and no lot line will be within 25 feet of an arroyo capable of producing 25 cfs or more. Only one new arroyo crossing will be developed with this project, and a 24-inch culvert will be installed to carry the stormwater under the road.

#### TERRAIN MANAGEMENT

The proposed development has been designed to protect and enhance the natural beauty of the land and vegetation, while minimizing soil erosion and sediment transport during storms. The four roads to be constructed have been designed to follow the

## WASTEWATER

Given the rolling terrain, and a desire to keep wastewater lines out of water courses, a low-pressure wastewater collection system was installed in Phase 1, and that system passes through all the existing roads in Tesslera 2. A low-pressure line was extended under NM 599, and all along an alignment nearly 2- miles long, to end at a City of Santa Fe sewer manhole located on the northbank of the Santa Fe River. The wastewater collection system is privately owned and maintained by the Tesslera Sewer Cooperative.

In 2003, the City granted sewer service to Phase 1 of Tesslera only, with a requirement that any future phase must request a separate City approval. The 2008 City-County Annexation Agreement and relevant City ordinances provide the grounds for such a service to be granted on a case-by-case basis to developmments outside the City limits. We have begun the process by requesting the consideration by the City-County WWRT. Their recommendaion will be later considered by the City Council.

An alternative to using the existing offsite low-pressure sewer line would be to connect to the Aldea wastewater collection system which is a Santa Fe County system. The primary advantages of connecting to Aldea is that the Tesslera sewer cooperative would not have to maintain the nearly 2 miles of offsite low pressure sewer line and there would only be one point of connection to the City system, instead of two. Such a change would also require City approval and documentation that the Aldea collection system and its associated lift station could handle the flows from Tesslera. There is a County owned sewer manhole located within 220 of the Tesslera 2 property located on East Via Plaza Nueva.

Should the City of Santa Fe deny Tesslera 2's sewer connection request, one of two viable options could be pursued: (1) connecting to Las Campanas wastewater collection and treatment system, or (2) developing Tesslera's own wastewater system. For many reasons, the preferred option would be to connect to the City of Santa Fe system via Aldea.

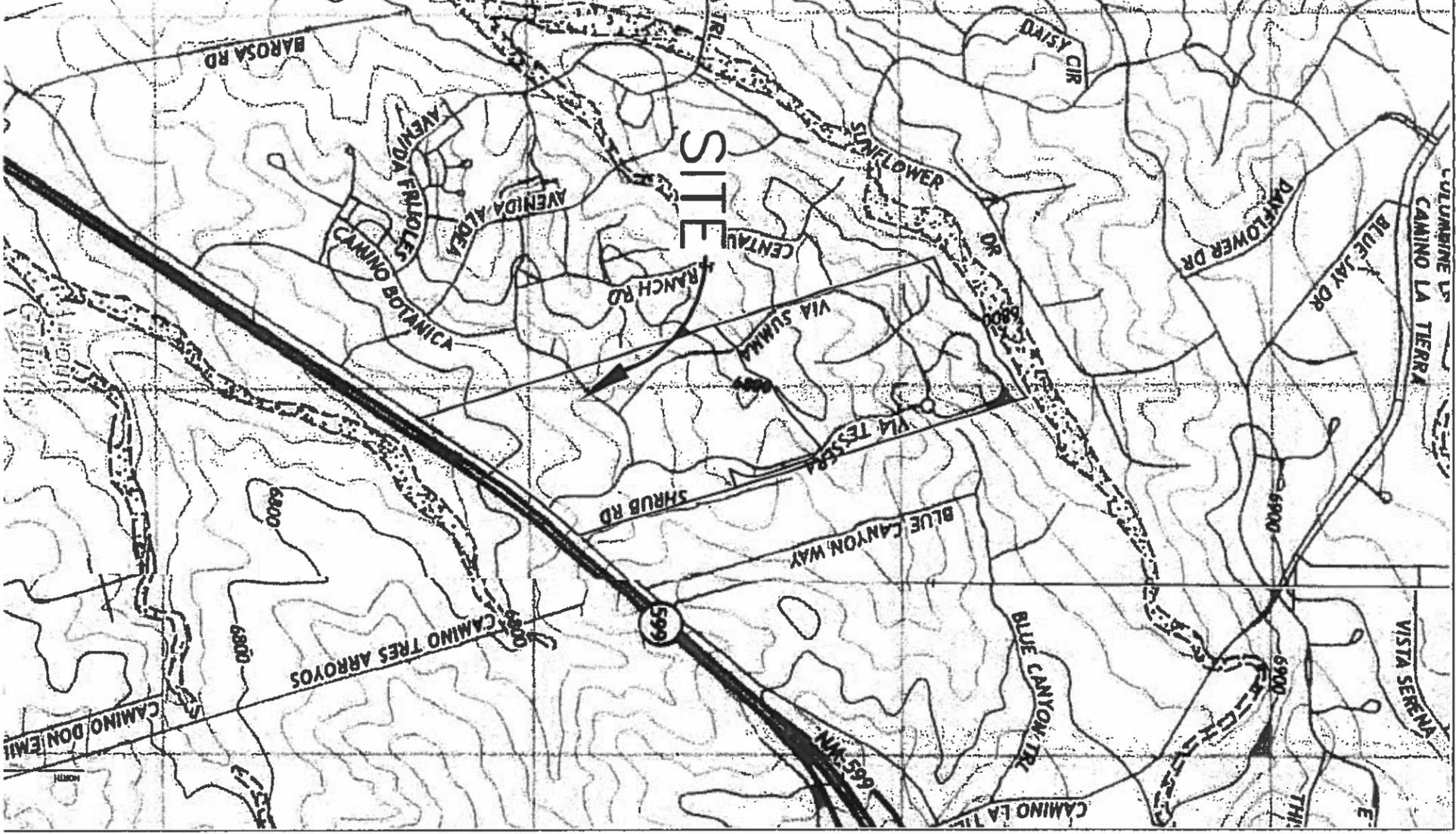
Under any of these scenarios, homes within Tesslera 2 development will have be equipped with individual grinder pumps, to connect to the low-pressure collection lines.

## DRY UTILITIES

Natural gas, electricity, telephone and Comcast mains lay within the existing Tesslera roadways. The developer will installed all required dry utility improvements so that each home will have direct access to these services.

## SOLID WASTE

Currently Tesslera, Phase 1 is served by Ibarra's Trash Service and Tesslera 2 will also be served by this company.



# TESSERA

## TESSERA 2

### PRELIMINARY DEVELOPMENT PLAN

SECTION 20, T17N R9E  
SANTA FE, NEW MEXICO

SHEET LIST	
1	COVER SHEET
2	PRELIMINARY DEVELOPMENT PLAN
3-6	PRELIMINARY SUBDIVISION PLAT
7	CERTIFIED TOPOGRAPHY
8	EXISTING CONDITIONS & SOILS MAP
9	SLOPE ANALYSIS
10	TRAILS & OPEN SPACE
11	ROADWAY PLAN & TYPICAL SECTIONS
12-15	ROAD PLANS & PROFILES
16	TRAFFIC SIGNAGE PLAN
17	TERRAIN MANAGEMENT PLAN
18-19	DETENTION POND GRADING
20	MISCELLANEOUS DETAILS
21-23	MASTER UTILITY PLAN
24	UTILITY SERVICES STANDARD DETAILS
25	FIRE PROTECTION PLAN
26-28	WATER PLAN
29-31	SANITARY SEWER PLAN
32	GENERAL CONSTRUCTION REQUIREMENTS
33-34	COUNTY STANDARD DETAILS
35-40	COUNTY UTILITY DETAILS
41	CURB DROP INLET DETAIL



OWNER:

**homewise**

*your partner in homeownership*

1301 Siler Road  
Santa Fe, NM 87507

CIVIL ENGINEERING:

**DESIGN ENGINEERING**



1421 Lohia Street, Suite E  
Santa Fe, New Mexico 87505  
(505) 981-9951

SURVEYING:

**CORNERSTONE LAND SURVEYING**  
JEFFERY L. LUDWIG  
N.M.L.S. No. 13054  
505-690-7010  
P.O. BOX 8348  
SANTA FE, NM 87504

TRAFFIC ENGINEER:

**SFE C** Santa Fe Engineering Consultants, LLC  
1999 St. Francis Drive, Suite B  
Santa Fe, N. M. 87505  
(505) 982-2845 Fax (505) 982-2641  
<http://www.sfeengr.com>



DATE	BY	DATE	BY
APRIL 11, 2014			
REVISIONS			





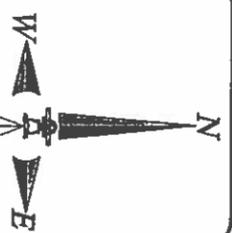


**LEGEND**

- MONUMENT FOUND AND USED, AS NOTED
- CAPPED REBAR "13054" SET
- COMPUTED POINT
- ⊕ UTILITY EASEMENT
- ⊖ DRAINAGE EASEMENT
- ⊗ ALUE ACCESS & UTILITY EASEMENT
- ⊙ AFFORDABLE LOT

PHASE TWO  
 UPC 1-090-099-351-378  
 28.88 ACRES ±

SCALE 1" = 50'



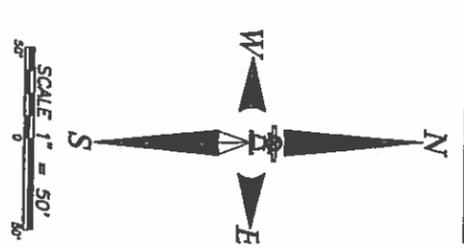
CORNERSTONE  
 LAND SURVEYING  
 TOWNSEND

SECTION 20  
 TOWNSHIP  
 SUBDIVISION SURVEY PLAT  
 PREPARED FOR  
**HOMEWISE INC.**  
 SHEET 3 OF 4  
**NB-B-19**  
 SCALE 1" = 50'  
 DATE

- LEGEND**
- MONUMENT FOUND AND USED, AS NOTED
  - CAPPED REBAR "1305.4" SET
  - COMPUTED POINT
  - ⊕ UTILITY EASEMENT
  - ⊖ DUE DRAINAGE & UTILITY EASEMENT
  - ⊖ DE DRAINAGE EASEMENT
  - ⊖ AVE ACCESS & UTILITY EASEMENT
  - ⊖ AFFORDABLE LOT
  - (CIS) CREATED THIS SURVEY

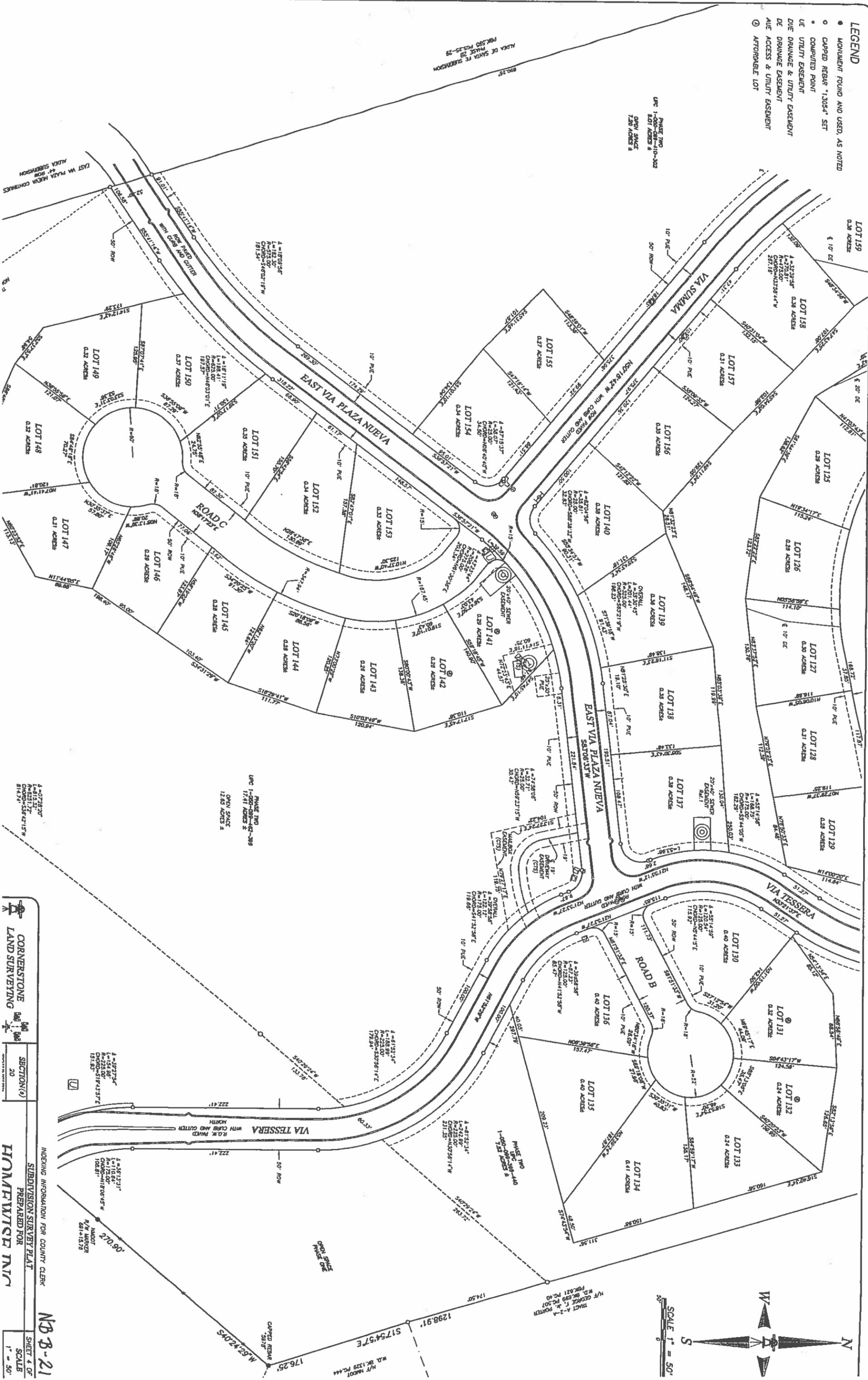


**CORNERSTONE**  
**LAND SURVEYING**  
 PREPARED FOR  
**HOMEWISE INC.**  
 SHEET 2 OF 2  
 SCALE  
 1" = 50'  
 DATE



**LEGEND**

- MONUMENT FOUND AND USED, AS NOTED
- CAPPED REBAR "13054" SET
- COMPUTED POINT
- UTILITY EASEMENT
- DUE DRAINAGE & UTILITY EASEMENT
- DUE DRAINAGE EASEMENT
- AVE ACCESS & UTILITY EASEMENT
- ② AFFORABLE LOT



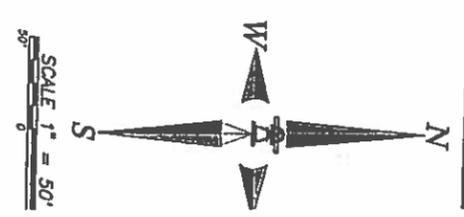
**CORNERSTONE**  
**LAND SURVEYING**

INDENING INFORMATION FOR COUNTY CLERK  
 SUBDIVISION SURVEY PLAT  
 PREPARED FOR  
**HOMEWYSE INC**

SECTION(9)  
 20

SHEET 4 OF 4  
 SCALE  
 1" = 50'

NB-B-21



AREA DE SANTA FE SUBDIVISION  
 PHASE TWO  
 LOTS 125-159  
 0.28 ACRES

AREA DE SANTA FE SUBDIVISION  
 PHASE TWO  
 LOTS 125-159  
 0.28 ACRES

AREA DE SANTA FE SUBDIVISION  
 PHASE TWO  
 LOTS 125-159  
 0.28 ACRES

AREA DE SANTA FE SUBDIVISION  
 PHASE TWO  
 LOTS 125-159  
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 PHASE TWO  
 LOTS 125-159  
 0.28 ACRES

AREA DE SANTA FE SUBDIVISION  
 PHASE TWO  
 LOTS 125-159  
 0.28 ACRES

AREA DE SANTA FE SUBDIVISION  
 PHASE TWO  
 LOTS 125-159  
 0.28 ACRES

AREA DE SANTA FE SUBDIVISION  
 PHASE TWO  
 LOTS 125-159  
 0.28 ACRES

**TOPOGRAPHIC CERTIFICA**  
 I HEREBY CERTIFY THAT THE TOPOGRAPHIC  
 HEREON WAS TAKEN FROM AERIAL SURVEY  
 COOPER AERIAL SURVEY CO. WHICH WAS  
 CONTROL POINTS SET BY ME OR UNDER  
 AND CONTROL AND IS TRUE AND CORRECT  
 KNOWLEDGE AND BELIEF AND COMPLES WITH  
 ACCURACY STANDARDS. ADDITIONALLY  
 THIS IS NOT A BOUNDARY SURVEY AP  
 ARE SHOWN FOR ORIENTATION ONLY.  
 FROM A PREVIOUS SURVEY REFERENCE

**PRELIMINARY - FOR**

JEFFERY L. LUDWIG N.M.L.S. 13

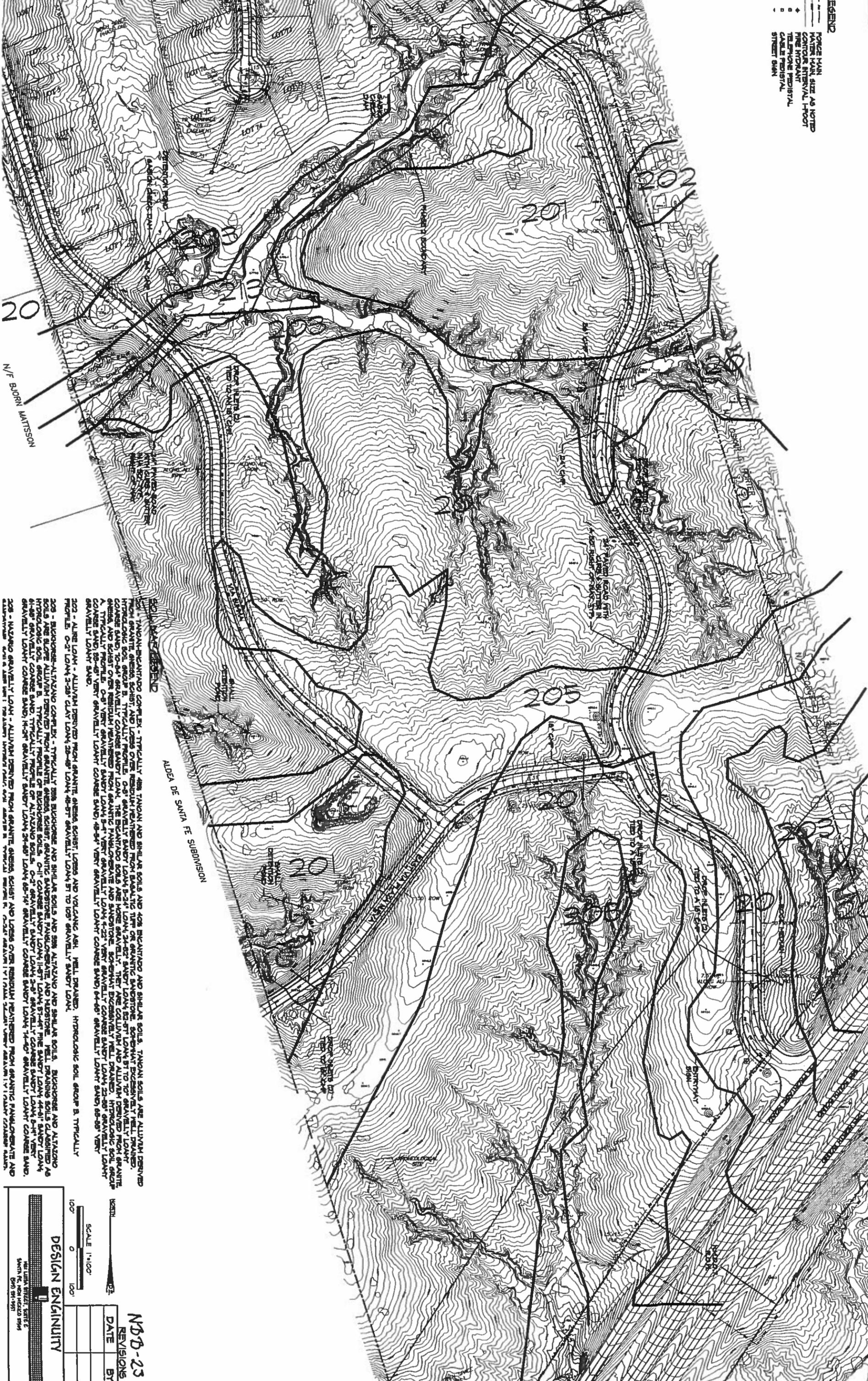
2-24



<p><b>CORNERSTONE</b>  <b>LAND SURVEYING</b>          JEFFERY L. LUDWIG</p>		<p>SECTION 20          TOWNSHIP 7-17-N</p>	<p>TOPOGRAPHIC SURVEY PLAT          PREPARED FOR  <b>HOME WISE INC.</b></p>	<p>SHEET 4 OF 5          SCALE          1" = 100'</p>
	<p>SECTION 20          TOWNSHIP 7-17-N</p>	<p>SECTION 20          TOWNSHIP 7-17-N</p>	<p>SECTION 20          TOWNSHIP 7-17-N</p>	<p>SECTION 20          TOWNSHIP 7-17-N</p>

**LEGEND**

- FORCE MAIN SIZE AS NOTED
- WATER MAIN SIZE AS NOTED
- CENTER LINE
- FIRE HYDRANT
- TELEPHONE PEDIestal
- CABLE PEDIestal
- STREET SIGN



**SOIL DATA SUMMARY**

**SOIL 1 - TANON-BUCARUADO COMPLEX -** TYPICALLY ARE TANON AND SHILAR SOILS AND ARE BUCARUADO AND SHILAR SOILS. TANON SOILS ARE ALLUVIUM DERIVED FROM GRANITE GNEISS, SCHIST, AND LORSA OVER RESIDUUM WEATHERED FROM BASALTIC TUFF OR GRANITIC SANDSTONE. SOMEWHAT EXCESSIVELY WELL DRAINED. HYDROLOGIC SOIL GROUP B. TYPICALLY PROFILE: 0-8" GRAVELLY SANDY LOAM 8-24" SANDY LOAM 24-82" SANDY LOAM 82-97" LOAM 97 TO 10" GRAVELLY LOAM COARSE SAND 10-94" GRAVELLY COARSE SANDY LOAM. THE BUCARUADO SOILS ARE MORE GRAVELLY. THEY ARE COLLUVIUM AND ALLUVIUM DERIVED FROM GRANITE GNEISS, AND SCHIST OVER RESIDUUM WEATHERED FROM GRANITIC SANDSTONE AND SANDSTONE. SOMEWHAT EXCESSIVELY WELL DRAINED. HYDROLOGIC SOIL GROUP A. TYPICALLY PROFILE: 0-8" VERY GRAVELLY SANDY LOAM 8-11" VERY GRAVELLY LOAM 11-22" VERY GRAVELLY COARSE SANDY LOAM 22-88" GRAVELLY LOAM COARSE SAND 88-98" VERY GRAVELLY LOAM COARSE SAND; 98-99" VERY GRAVELLY LOAM COARSE SAND; 99-99" VERY GRAVELLY LOAM SAND; 99-99" VERY GRAVELLY LOAM SAND.

**SOIL 2 - ALURE LOAM -** ALLUVIUM DERIVED FROM GRANITE GNEISS, SCHIST, LORSA AND VOLCANIC ASH. WELL DRAINED. HYDROLOGIC SOIL GROUP B. TYPICALLY PROFILE: 0-2" LOAM 2-28" CLAY LOAM 28-48" LOAM 48-87" GRAVELLY LOAM 87 TO 100" GRAVELLY SANDY LOAM.

**SOIL 3 - BUCARUADO-ALTAVANO COMPLEX -** TYPICALLY ARE BUCARUADO AND SHILAR SOILS AND ARE ALTAVANO AND SHILAR SOILS. BUCARUADO AND ALTAVANO SOILS ARE SLOPE ALLUVIUM DERIVED FROM GRANITE GNEISS, SCHIST, GRANITIC SANDSTONE, SANDSTONE, AND MUDSTONE. WELL DRAINING SOILS CLASSIFIED AS HYDROLOGIC SOIL GROUP B. TYPICALLY PROFILE OF BUCARUADO SOILS: 0-11" COARSE SANDY LOAM 11-87" LOAM 87-94" FINE SANDY LOAM 94-97" SANDY LOAM 97-99" GRAVELLY COARSE SAND 99-100" GRAVELLY COARSE SAND. TYPICALLY PROFILE OF ALTAVANO SOILS: 0-2" GRAVELLY SANDY LOAM 2-8" GRAVELLY COARSE SANDY LOAM 8-94" VERY GRAVELLY LOAM COARSE SAND; 94-99" GRAVELLY SANDY LOAM 99-100" GRAVELLY SANDY LOAM 100-100" GRAVELLY SANDY LOAM COARSE SAND.

**SOIL 4 - NAZARDO GRAVELLY LOAM -** ALLUVIUM DERIVED FROM GRANITE GNEISS, SCHIST AND LORSA OVER RESIDUUM WEATHERED FROM GRANITIC SANDSTONE AND SANDSTONE. SOIL 4 ARE DARK BROWN TO RED BROWN. TYPICALLY PROFILE: 0-2" CLAY SANDY LOAM 2-28" CLAY SANDY LOAM 28-48" CLAY SANDY LOAM 48-87" GRAVELLY SANDY LOAM 87 TO 100" GRAVELLY SANDY LOAM.

**SCALE 1"=100'**

**DESIGN ENGINEER**

**NO. 1000, STREET, SUITE 100, SANTA FE, NEW MEXICO 87505**

**DATE** \_\_\_\_\_

**BY** \_\_\_\_\_

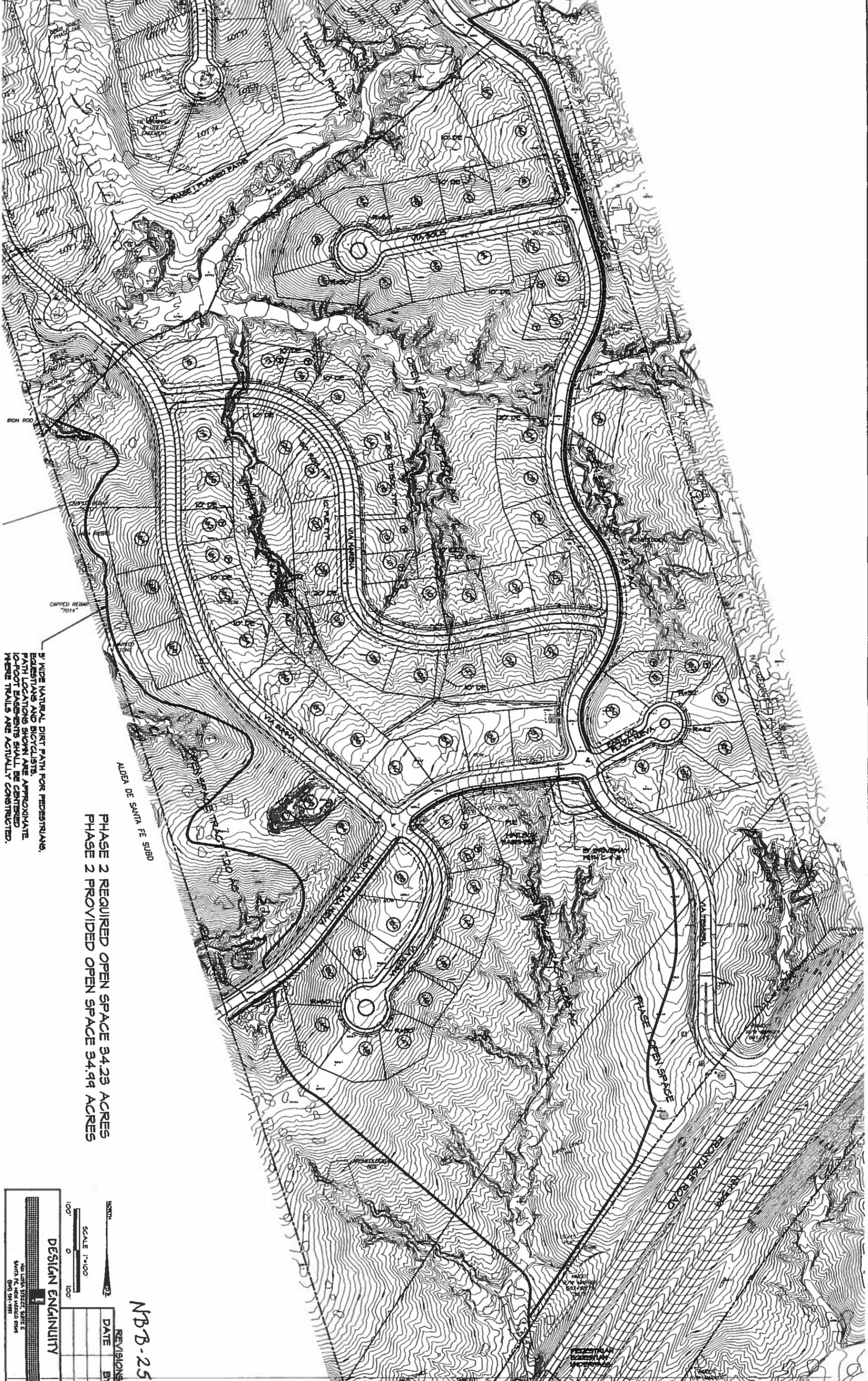
**REVISIONS**

**NO. 1000, STREET, SUITE 100, SANTA FE, NEW MEXICO 87505**

**NO. 1000, STREET, SUITE 100, SANTA FE, NEW MEXICO 87505**

**NSB-23**





5' WIDE NATURAL DIRT PATH FOR PEDESTRIANS,  
EQUESTRIANS AND BICYCLISTS.  
PATH LOCATIONS SHOWN ARE APPROXIMATE.  
10-FOOT EASEMENTS SHALL BE CENTERED  
WHERE TRAILS ARE ACTUALLY CONSTRUCTED.

PHASE 2 REQUIRED OPEN SPACE 34.23 ACRES  
PHASE 2 PROVIDED OPEN SPACE 34.99 ACRES

ADELA DE SANTA FE SUBD

DESIGN ENGINEER

SCALE 1"=100'

100' 0 100'

REVISIONS

NO.	DATE	BY

410 LINDA STREET, SUITE 2  
SANTA FE, NEW MEXICO 87504  
(505) 944-1981

NBB-25

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

## Santa Fe County Fire Department Fire Prevention Division

### Official Development Review

Date	05/18/2014		
Project Name	Tessera 2 Preliminary Development Plan		
Project Location	North of NM 599 West Frontage Road		
Description	78 lots for a residences subdivision	Case Manager	V. Archuleta
Applicant Name	Design Enginuity – Oralynn Guerrerortiz, PE	County Case #	10-5551
Applicant Address	1421 Luisa Street, Suite E Santa Fe, New Mexico 87504	Fire District	Agua Fria
Applicant Phone	505-989-3557		

Review Type: Commercial  Residential  Sprinklers  Hydrant Acceptance   
 Master Plan  Preliminary  Final  Inspection  Lot Split   
 Wildland  Variance

Project Status: Approved  Approved with Conditions  Denial

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

#### 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*

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

#### • Fire Access Lanes

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



NBB-26

No off-site parking shall be allowed and shall be marked accordingly as approved by the Fire Marshal.

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

### **Roadways/Driveways**

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

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

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

Maximum size for an island in a cul-de-sac shall be 20' diameter.

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.*

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

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

### **Slope/Road Grade**

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

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

## **Restricted Access/Gates/Security Systems**

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

All gates on a public way shall be operable by means of a key or switch, which is located in a Knox Lock entry system, keyed to the Santa Fe County system. Details, information and forms are available from the Fire Prevention Division

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

A final inspection by this office will be necessary to determine the applicability of the installation of the Knox lock access system in regards to emergency entrance into the fenced area. Should it be found suitable for such, the developer shall install the system.

## **Fire Protection Systems**

The design of the system shall be accordingly sized and constructed to accommodate for the required application of residential fire suppression sprinkler systems, on both the public utility side of the meter as well as the private property yard lines

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

The Developer, Homeowners and/or the Homeowners Association shall be responsible to maintain, in an approved working order, the water system for the duration of the development or until connection to a regional water system. The responsible party, as indicated above, shall be responsible to call for and submit to the Santa Fe County Fire Department for an annual testing of the fire protection system and the subsequent repairs ordered and costs associated with the testing.

## **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.*

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.

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

shall be coordinated and approved by the Santa Fe County Fire Department prior to installation. Additional hydrants and/or relocation of existing fire hydrants shown within the submittal packet may be required. Final fire hydrant locations shall be located in full view for incoming emergency responders. Landscape vegetation, utility pedestals, walls, fences, poles and the like shall not be located within a three foot radius of the hydrant per Article 10, Sections 1001.7.1 and 1001.7.2 of the 1997 UFC.

Supply lines shall be capable of delivering a minimum of 1,000 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 have NST ports.

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

All hydrants shall comply with Santa Fe County Resolution 2000-55, Hydrant color-coding, marking and testing. Note: Please have the installing contractor contact this office prior to the installation of the fire hydrant, so that we may assist you in the final location placement and avoid delays in your projects' final approval.

### **Automatic Fire Protection/Suppression**

- **Automatic Fire Protection/Suppression**

This office highly recommends the installation of an automatic fire suppression system as per 1997 Uniform Fire Code, Article 10 Section 1003.2.1 and the Building Code as adopted by the State of New Mexico and/or County of Santa Fe. Required automatic fire suppression systems shall be in accordance with NFPA 13 and 13D Standard for automatic fire suppression systems. It is recommended that the homeowner contact their insurance carrier to find their minimum requirements.

### **Fire Alarm/Notification Systems**

- **Fire Alarm/Notification Systems**

Automatic Fire Protection Alarm systems are highly recommended per 1997 Uniform Fire and Building Codes as adopted by the State of New Mexico and/or the County of Santa Fe. Required Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code for given type of structure and/or occupancy use. Said requirements will be applied as necessary as more project information becomes available to this office during the following approval process.

### **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.*

Portable fire extinguishers should be installed in occupancies and locations as set forth in the 1997 Uniform Fire Code. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.

## Life Safety

Fire Protection requirements listed for this development have taken into consideration the hazard factors of potential occupancies as presented in the developer's proposed use list. Each and every individual structure of a private designation will be reviewed and must meet compliance with the Santa Fe County Fire Code (1997 Uniform Fire Code and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code, which have been adopted by the State of New Mexico and/or the County of Santa Fe.

## 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.

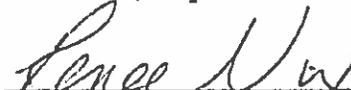
### Permits

As required

## Final Status

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

*Renee Nix, Inspector*

  
\_\_\_\_\_  
Code Enforcement Official

5.30.14  
Date

Through: David Sperling, Chief 

File: DEV/Tessera 2 Preliminary Dev Plan/051814/AF

Cy: Buster Patty, Fire Marshal  
Vicente Archuleta, Land Use  
Applicant  
District Chief Agua Fria  
File

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

May 14, 2014

To: Vicente Archuleta, Development Review Team Leader  
From: Karen Torres, County Hydrologist   
Re: CDRC Case # S 10-5551 Tessera Subdivision Phase II T17N, R9E Sec 20

The subject development plan was reviewed for technical accuracy and compliance with the SFC Land Development Code. The submittal by the applicant is complete and meets the requirements for Preliminary Development Plan.

**Nature of Project:**

The applicant is requesting preliminary development plan to develop 78 new residential lots which will increase the entire development to 166 residential lots. The development will be served by the Santa Fe County Water Utility and is requesting sewer service from the City of Santa Fe.

**SFC Land Development Code Preliminary and Final Development Plan Requirements for Water and Wastewater:**

**Preliminary Development Plan Requirements for Water**

Article V, Section 5.3.2 Preliminary Plat Submittals requires the following:

1. Water Supply Plan and Water Permits as required by Article VII, Section 6 of the Code.
2. Liquid Waste Disposal Plan as required by Article VII Section 2.4 10.

**Article VII, Section 6 - Water Supply Plan**

*Article VII, Section 6.2 entitled General Requirements and Submittals for a Water Supply Plan sets forth requirements based on the type and scale of the development. Table 7.4, entitled Required Code Sections for Water Supply, states all large scale residential development, which describes the subject development, is required to submit a water supply plan which consists of*

*submittals compliant with the following code requirements*

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

As the size of the development has been reduced the ready, willing and able to serve letter should be updated to reflect the current size and water budget for this project.

### **Article VII, Section 6.3: Water Supply Plan**

Since the Santa Fe County Utility is providing water service to this development *Article VII, Section 6.3* of the code does not apply to this development. The rest remaining code requirements do apply.

### **Article VII, Section 6.4 entitled "Water Availability Assessments"**

For all municipal or county owned water utilities a letter of intent from the utility that they are ready willing and able to provide the maximum annual water requirements for the development is required. The letter must also state any requirements for the applicant to provide water rights.

Letter dated March 27, 2014 from the Santa Fe County Water Utilities Division outlines the terms and conditions in which the subject development can connect. Though water rights were not specifically addressed, the current connection fee for the utility allows for purchase, if necessary, of necessary water rights to serve the development.

**Code requirements for water availability have been met.**

### **Article VII, Section 6.5 -Water Quality**

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

## **Article VII, Section 6.6- Water Conservation**

### *Water Budget*

A water budget of 0.25 acre-feet per household per year is proposed for this development. Based on the amount of water an average county utility customer uses this appears reasonable. Verification of water use for the first phase of this development should be done prior to final development plan approval.

### *Water Restrictive Covenants*

The Water Restrictive Covenants for this request appear complete and meet code requirements.

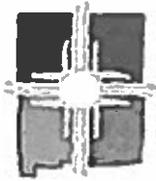
## **Article VII, Section 6.7- Fire Protection**

Article VII, Section 6.7.6, as amended by Ordinance 1998-10, states residential subdivisions shall have fire hydrants which are designed to flow at least 500 gallons per minute with 20 psi for a two hour minimum. Verification of this is done by the County Fire Marshall.

## **Article VII, Section 2 - Liquid Waste Disposal Requirements**

Liquid waste disposal is currently done by a combination of privately owned grinder pumps which delivers waste to a force main and ultimately to the City of Santa Fe Sewer system. The applicant proposes to continue this practice for this phase, pending approval from the City of Santa Fe.

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



**NEW MEXICO** DEPARTMENT OF  
**TRANSPORTATION**

May 29, 2014

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

**RE: Tessera Subdivision Phase 2**

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:

**Environmental Bureau:** If access to NMDOT right of way is required for the project, including any infrastructure improvements in NMDOT right of way particularly along NM 599 or the NM 599 Frontage Road, the project would require an access permit and environmental clearance from the NMDOT and the project proponent would need to contact Gary Funkhouser in the NMDOT Environmental Division at 505-827-5692.

**Drainage Bureau:** The Drainage Bureau has no objection to this Preliminary Development Plan provided that pond routing data is provided prior to approval of the Final Development Plan. This pond routing data must demonstrate that post-development peak flow rates do not exceed pre-development peak flow rates for Basins A and E.

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

Sincerely,

Jeremy Lujan  
Property Asset Management Agent

**FILE#: 1762**

**Susana Martinez**  
Governor

**Tom Church**  
Cabinet Secretary

**Commissioners**

**Pete K. Rahn**  
Chairman  
District 3

**Ronald Schmelts**  
Vice Chairman  
District 4

**Dr. Kenneth White**  
Secretary  
District 1

**Butch Mathews**  
Commissioner  
District 5

**Jackson Gibson**  
Commissioner  
District 6



**MEMORANDUM**

**DATE:** May 28, 2014

**TO:** Vicente Archuleta, Development Review Team Leader

**FROM:** Lisa Roach, Open Space and Trails Planner  
Planning Division / Growth Management Department

**VIA:** Robert Griego, Planning Division Manager, Growth Management Department

**RE:** **CASE #10-5551 Tessera Subdivision Phase Two**

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I have reviewed the case submittal for technical accuracy and for compliance with the Land Development Code, Sustainable Growth Management Plan, and Tres Arroyos del Poniente Community Plan and have the following comments:

- 1) As per the Tres Arroyos del Poniente Community Plan (Resolution 2006-41, Ordinance 2006-02), "new developments must provide trails and trail connections as shown on the Roads and Trails Map" (p.17). Although the submittal materials refer to trail locations, they are not depicted on the Tessera 2 Development Plan. Please show the approximate trail locations on the Development Plan and indicate points of connectivity to the existing trails in Tessera 1 and the 599 trail underpass.
- 2) Tessera 2 Development Plan notes indicate that trail easement widths shall be 10 feet. Although not required by the Land Development Code, it is highly recommended that a 20-foot easement be dedicated for all trails.

Daniel "Danny" 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:** May 8, 2014

**To:** Vicente Archuleta, Development Review Team Leader

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

**Re:** Case # S 10-5551 Tessera Subdivision, Phase II Preliminary Development Plan & Preliminary Plat

---

The referenced project has been reviewed for compliance of the Land Development Code, and shall conform to roads and driveway requirements of **Article V (Subdivision Design Standards) and Section 8.1 (General Policy on Roads)**. The project is located northwest of New Mexico 599 (Veterans Highway)/ Camino La Tierra intersection, northeast of Avenida Aldea, within Section 20, Township 17 North, Range 9 East. The applicant is requesting a Preliminary Development Plan approval and Preliminary Plat approval for Phase II consisting of seventy eight (78) parcels ranging in size from 0.20 to 0.43 acres.

**Access:**

The existing subdivision is accessed by a private road Via Tessera Road off of NM 599 Frontage Road. Via Tessera is an existing twenty (20') foot paved road with curb and gutter.

A Traffic Impact Analysis was prepared by Santa Fe Engineering Consultants, LLC, dated April 2014. The purpose of the study is to assess the traffic impacts the proposed project may have on road systems within the area and identify any necessary required on-site /off-site road improvements.

The Traffic Analysis states that *"No operational deficiencies exist and all intersections operate and will operate at an adequate Level of Service for existing conditions, Implementation Year Conditions and Horizon Year Conditions."* The project is not required a left turn deceleration lane based on the State Access Management Manuel. The project is required a right turn deceleration lane; however one currently exists to serve Via Tessera Road. The existing deceleration Lane meets the State Access Management Manuel requirements of 300 feet with a taper of 10.5:1 for a distance of 125 feet for the posted speed limit. This portion of road is under the jurisdiction of New Mexico Department of Transportation.

**Conclusion:**

Public Works has reviewed the submittal and Traffic Impact Analysis, dated April 2014, and feels that they can support the above mentioned project for a Preliminary Development Plan, Preliminary Plat Approval for Phase II with the following conditions;

- Applicant shall comply with all NMDOT regulatory requirements for driveway access onto NM 599 Frontage Road.
- Applicant shall provide an approval for the transition of Via Tessera Road and NM 599 Frontage Road.
- Applicant shall remove approximately forty (40') feet of rock median encroaching NMDOT Right-of-Way.
- Applicant shall place a note on Plat under the BUILDING PERMIT CONDITIONS which states, "All double fronted lots are allowed one access only meeting a 100' setback from intersection".
- Applicant shall provide an approval from Santa Fe County Fire Marshal for placement of island within the proposed cul-de-sacs.
- All internal signage and posts/hardware shall meet MUTCD Standards.
- Applicant shall replace all existing internal signage to meet MUTCD Standards, (current signs do not meet the reflect ability as specified in the current MUTCD manual).
- Applicant shall place a note on Sheet 11, Roadway Plan & Typical Sections "All internal roads shall be milled to ensure a consistent two inch edge for the last lift of HMA.
- Applicant shall revise notes regarding V-shaped channels and curb cuts on sheets 12, 13, and sheet 14.
- Applicant shall provide a striping plan for approval.
- Santa Fe County recommends the existing speed limit of 30 mph be reduced to a more residential speed limit of 20 mph.
- Applicant shall address all conditions prior to FINAL DEVELOPMENT PLAN APPROVAL.



STATE OF NEW MEXICO  
OFFICE OF THE STATE ENGINEER  
SANTA FE

Scott A. Verhines, P.E.  
State Engineer

May 12, 2014

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

Vicente Archuleta  
Senior Development Review Specialist  
Santa Fe County  
PO Box 276  
Santa Fe, NM 87504

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

**Re: Tessera Subdivision, Phase 2**

Dear Mr. Archuleta:

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

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

A staff memorandum providing specific comments is attached for your information. If you have any questions, please call Emily Geery at 505-827-6664.

Sincerely,

A handwritten signature in blue ink that reads "Molly L. Magnuson".

Molly Magnuson, P.E.  
Water Use & Conservation/Subdivision Review Acting Bureau Chief

Encl.

cc: OSE Water Rights Division, Santa Fe Office

NBB-38

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

**DATE:** May 12, 2014

**TO:** Molly Magnuson, P.E., Acting Water Use and Conservation Bureau Chief

**FROM:** Emily Geery, Senior Water Resource Specialist

**SUBJECT:** Tessera Subdivision, Phase 2

---

**SUMMARY**

On April 17, 2014 the Office of the State Engineer (OSE) received a request to review the proposal for the Tessera 2 Preliminary Development Plan and Preliminary Subdivision Plat for a 78-lot Residential Project, a Type 2 subdivision. The proposal is a request to develop Phase 2 of the Tessera development to add 78 homes on the remaining 81 acres of land for a total of 166 residential lots. The entire project is on 146 acres; Tessera 2 will encompass 69.4 acres. The largest lot is 0.43 acres and the smallest lot is 0.20 acres. Santa Fe County Water Utility will provide water. The property is located to the north of the NM 599 West Frontage Road and about ¾ of a mile west of the La Tierra's exit ramp. The project is located within Section 20 of Township 17 N, Range 9 E, N.M.P.M.

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

The water supply documents submitted to this office consist of a Letter from the Developer, Water Service Availability Letter, Disclosure Statement, The Declaration of Covenants, Conditions and Restrictions, and Plat.

**WATER DEMAND ANALYSIS AND WATER CONSERVATION**

Under Item No. 17 of the Disclosure Statement the developer states that each patio home will be limited to 0.25 acre feet per year (afy) for indoor and outdoor water use in accordance with Article III Section 10.2.4 of the Code.

The Declaration of Covenants, Conditions and Restrictions were reviewed to ensure that the water conservation measures reflect the assumptions used to develop the water budget. Both the indoor and outdoor conservation measures are in accordance with the requirements of Section 6.6.2(a) through 6.6.2(e) of the Code. These conservation measures are also listed under Item No. 17 of the Disclosure Statement.

**WATER AVAILABILITY ASSESSMENT**

The proposed water supply will be provided by the Santa Fe County Utilities. The developer provides a Water Service Availability letter from Santa Fe County, dated March 27, 2014, stating that the "*SFCU understands that these points of supply are sufficient for the full build out of Phases I and II of the Tessera subdivision.*" Section 6.4.4(a) of the Code requires that "*they are ready, willing and able to provide the maximum annual water requirements for the development.*"

NBB-39

Section 47-6-11.F(1) of the Act requires that the developer provide documents demonstrating that water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision is available. The letter provided by the developer does not satisfy the requirements of Section 6.4.4(a) of the Code. It is unknown if the County will furnish water in sufficient quantity to fulfill the subdivision's maximum annual requirements.

Based on the information provided, this office has determined, as required by Section 47-6-11.F (1) of the Act, that the developer cannot fulfill the statements in the proposals concerning water availability at this time. This office is prepared to re-evaluate the referenced proposal when the necessary water rights applications have been completed.



Susana Martinez  
Governor

State of New Mexico  
**ENVIRONMENT DEPARTMENT**  
Environmental Health Bureau  
Santa Fe Field Office  
2540 Camino Edward Ortiz  
Santa Fe, NM 87507  
505-827-1840  
www.nmenv.state.nm.us



Ryan Flynn  
Secretary

Butch Tongate  
Deputy Secretary

Tom Blaine  
Director

April 18, 2014

Mr. Vincente Archuleta, Development Review Team Leader  
Santa Fe County - Planning & Zoning Department  
P.O. Box 276  
Santa Fe, New Mexico 87504-0276

**RE: Case #S 10-5551 Tessera Subdivision Phase Two**

Dear Mr. Archuleta,

I have reviewed the **Case #S 10-5551 Tessera Subdivision Phase Two** submittal. My review is based upon information submitted by the applicant, in-house files and the State Liquid Waste regulations.

I have reviewed the plan submittal for compliance with the New Mexico Liquid Waste Disposal and Treatment Regulations (20.7.3 NMAC). These regulations are administered by the New Mexico Environment Department (NMED), Environmental Health Bureau.

The plan submitted is for phase 2 construction of 78 additional homes in the Tessera development for a total of 166 residential units. The project is on 146 acres. This second phase will be on 69.4 acres.

The plan states that a low-pressure wastewater collection system was installed and each home is required to have a grinder pump to connect to the system. Approval to have wastewater collected and processed by existing City facilities is required. A request has been submitted to the City and County.

Three alternate plans are also being considered if it becomes necessary: 1) connect to the Aldea waste water system, 2) connect to the Las Campanas system and 3) develop Tessera's own system.

The above described scenarios for wastewater disposal would not be subject to current State liquid waste regulations. However, if none of the above scenarios come to fruition another review would be required by this office.

If you have any questions regarding this review please contact me at the number above.

Respectfully submitted,

Robert Italiano, Manager  
Environmental Health Bureau - District II  
New Mexico Environment Department  
Santa Fe Field Office

NBB-41



May 29, 2014

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

**RE: Tessera Subdivision Phase 2**

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:

**Environmental Bureau:** If access to NMDOT right of way is required for the project, including any infrastructure improvements in NMDOT right of way particularly along NM 599 or the NM 599 Frontage Road, the project would require an access permit and environmental clearance from the NMDOT and the project proponent would need to contact Gary Funkhouser in the NMDOT Environmental Division at 505-827-5692.

**Drainage Bureau:** The Drainage Bureau has no objection to this Preliminary Development Plan provided that pond routing data is provided prior to approval of the Final Development Plan. This pond routing data must demonstrate that post-development peak flow rates do not exceed pre-development peak flow rates for Basins A and E.

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

Sincerely,

Jeremy Lujan  
Property Asset Management Agent

FILE#: **1762**

**Susana Martinez**  
Governor

**Tom Church**  
Cabinet Secretary

**Commissioners**

**Pete K. Rahn**  
Chairman  
District 3

**Ronald Schmelts**  
Vice Chairman  
District 4

**Dr. Kenneth White**  
Secretary  
District 1

**Butch Mathews**  
Commissioner  
District 5

**Jackson Gibson**  
Commissioner  
District 6

## Vicente Archuleta

---

**From:** Steven R. Brugger  
**Sent:** Wednesday, April 30, 2014 5:36 PM  
**To:** Oralynn Guerrerortiz (oralynn@designengenuity.biz)  
**Cc:** Vicente Archuleta; Vicki Lucero  
**Subject:** Tessera 2 Affordable Housing Plan

Oralynn:

I reviewed the Tessera 2 Affordable Housing Plan. Overall, this looks fine. Here are some comments and recommendations.

### General Comments

Only the Affordable Housing Plan, with exhibits, would be submitted as part of the request for Preliminary Development Plan and Preliminary Subdivision Plat Approval. The Affordable Housing Agreement would incorporate the substance of the approved Affordable Housing Plan and would be submitted separately as part of your request for Final Development Plan and Final Subdivision Plat Approval.

### Specific Comments

Section 1.1 : I would reference "the 78 unit Development" or "the 78 unit Tessera 2 development". You have this in parentheses, but putting the number in the narrative would make it even clearer that the 12 affordable units are based on the 78 units being approved, and that if one number changes, both may change.

Section 1.3: Strict application of the Regulations would create an even split of 3 units in Income Range 1, 3 in Income Range 2, 3 in Income Range 3 and 3 in Income Range 4. If you propose to do more in Income Range 2 and less in Income Range 4, that is fine with me, as that provides even greater affordability.

Section 1.4: Per our Regulations, we can't require 2 car garages, but I need to ask anyway: Where will parking be provided, especially for the 3 & 4 bedroom units?

Section 1.5: Are the affordable units detached and do they have similar architectural design to the market rate units? Please make a reference to that in this Integration section.

Section 3: As you have done in the Affordable Housing Agreement, it would be good to insert language here that states that the buildout and sales of affordable homes will be done proportionately with market rate sales.

Section 4: Don't include the Affordable Housing Agreement as part of the Affordable Housing Plan. That would be considered as part of the final plat review. Thank you for letting me take a look at it, but it would be better to include the preliminary subdivision plat that designates the affordable lots as an Exhibit here.

Exhibit A: I like the allocation of housing types by Income Range, as well as the overall allocation of 3 2BR units, 6 3 BR units and 3 4 BR units. Strict application of the Regulations would have resulted in less 2 BR and more 4BR and 3BR units. By the way, your Exhibit A of the Plan conflicts with the Exhibit A of the Agreement. The difference is the # of affordable units in Income Range 4.

Call with any questions. Thanks.



STATE OF NEW MEXICO  
**DEPARTMENT OF CULTURAL AFFAIRS**  
**HISTORIC PRESERVATION DIVISION**

Susana Martinez  
Governor

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

May 12, 2014

Vicente Archuleta  
Development Review Team Leader  
Santa Fe County Land Use Department  
102 Grant Avenue  
Santa Fe, NM 87501

Re: Case #S 10-5551 Tessera Subdivision Phase Two

Dear Mr. Archuleta:

I am writing concerning the above referenced preliminary development plan and preliminary subdivision plat, received at the Historic Preservation Division on April 17, 2014.

The enclosed development plan and preliminary plat notes that two archaeological sites have been placed in non-disturbance easements for avoidance and protection. Although the plan and plat do not include the archaeological site numbers, the sites are LA 113936 and LA 113952. I recommend that the site numbers be placed on the plat for ease of reference.

A third site, LA 113954, was also recommended for placement in a non-disturbance easement by Mr. Stephen Post in 2003; however, it is not clear whether this site is within the project boundaries. It may be located within the Phase I open space area.

As long as LA 113936, LA 113952 and LA 113954 are avoided, and continue to be located within non-disturbance easements, this office has no concerns with the proposed subdivision. Please do not hesitate to contact me if you have any questions. I can be reached by telephone at (505) 827-4064 or by email at [michelle.ensey@state.nm.us](mailto:michelle.ensey@state.nm.us).

Sincerely,

A handwritten signature in blue ink, appearing to read "Michelle M. Ensey".

Michelle M. Ensey  
Archaeologist

Log 99063

NBB-44

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*

## PUBLIC UTILITIES DIVISION

June 11, 2014

Oralynn Guerrerortiz, P.E.  
Design Enginuity  
1421 Luisa Street Suite E,  
Santa Fe, NM 87505

### **RE: WATER/SEWER SERVICE AVAILABILITY, TESSERA 2**

Dear Ms. Guerrerortiz:

This letter follows up on the March 27, 2014 letter from Santa Fe County Utilities (SFCU) Division regarding water service for Tessera Subdivision, Phase 2 (Phase 2). **SFCU is ready, willing and able to provide water service to Phase 2, provided the following conditions are met before final plat approval:**

- 1) The Board of County Commissioners (BCC) approves New Water Deliveries for Phase 2, as required by Resolution 2006-57, "Adopting A Santa Fe County Water Resource Department Line Extension and Water Service Policy", and all other conditions in that resolution and other SFCU policies are met.
- 2) Homewise, Inc. obtains a letter from the City of Santa Fe Water Division (City) that identifies what, if any, additional water utility infrastructure is needed in order to supply the maximum 19.5 acre-foot-year demand proposed by Phase 2.
- 3) Homewise, Inc. agrees to construct and dedicate all infrastructure needs identified by the City's water utility hydraulic modeling.
- 4) Homewise, Inc. enters into a Water Delivery Agreement and Wastewater Service Agreement with SFCU, which will specify construction standards (e.g., line-taps and meter cans) and inspection and dedication requirements for Phase 2. The agreement will specify many of the requirements identified in SFCU's March 27, 2014 letter.

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Oralynn Guerrerortiz, Design Enginuity

June 11, 2014

RE: Tessera 2 Water and Sewer Service

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We look forward to working with you toward the successful completion of this project. Please contact SFCU Engineering Associate Paul Casaus at (505) 986-6364 or me at 992-9872 if you have any questions and or concerns.

Sincerely,



Claudia Borchert, Director  
Santa Fe County Utilities Division

CB:PC/RJG

CC: Nick Schiavo PE, Public Utilities Director, City of Santa Fe (via email to:  
[naschiavo@ci.santa-fe.nm.us](mailto:naschiavo@ci.santa-fe.nm.us))

COMMISSIONER DURAN: Right.

COMMISSIONER SULLIVAN: Okay. I'm okay with that.

COMMISSIONER MONTROYA: I'm okay with that.

CHAIRMAN CAMPOS: Staff, any comments on that?

MR. WUST: If I may, Mr. Chair. I would have a comfort level with that and I'll explain really briefly why. First off, remember that Windmill Ridge III, 160 units will have roof catchment cistern systems already built in and the wastewater treatment recycling will come into place. And so it's not simply a case of whether or not that back-up water will be available. You would have to say the back-up water would not be available, plus everybody suddenly using .25 acre-feet for it to be a water deliverability issue for the utility. However, even the Windmill Ridge III system, they're going to be restricted to .2 anyway, no matter what. So that reduces that crisis amount, if you will. So that gives us some more of a comfort level that we will not even -- the probability that we'll get to and exceed is quite low.

CHAIRMAN CAMPOS: Okay. Thank you. Okay, let's vote on this.

The motion to approve the reduced water requirement for Rancho Viejo passed by unanimous [5-0] voice vote.

- XIII. A. 6. EZ CASE # S 01-4322 – Tessera Subdivision Phase I. North West Villages LLC (Michael Hurlocker) Applicant, Jim Siebert, Agent, is Requesting Final Plat and Development Plan Approval for Phase I of a Residential Development, which will Consist of 88 Lots on 75.01 Acres in Accordance with the Previously Approved Master Plan. The Request Includes a Variance to Allow Disturbance of 30 percent Slope for Road Construction and to Allow 3 percent Grade within 100 Feet of an Intersection. The Property is Located North of NM 599, within Sections 17 and 20, Township 17 North, Range 9 East (Commission District 2)

CHAIRMAN CAMPOS: I'm going to ask Commissioner Anaya to chair this case.

JAN DANIELS (Review Specialist): In December 2001, the EZA granted master plan approval for a residential subdivision consisting of 166 lots on 146 acres. On December 12, 2002, the EZC granted preliminary plat/development plan approval. On its regularly scheduled on October 9, 2003, the EZC met and approved Northwest Village LLC's request for its final plat and development plan for Phase I. The applicant is now requesting final plat and development approval for Phase I of the proposed subdivision, which consists of 88 lots, 8 of which will be affordable units in conformance with the City *NO B-46*



Housing Opportunity Program. The lots range in size from 0.12 acres to 0.60 acres, including 32.4 acres of common recreational open space. The proposed density transfer is in conformance with zoning for a portion of the property being within the urban area and a 120 percent density bonus based on a minimum of 60 percent open space for the remaining portion of the property.

The applicant is also requesting a variance of Section 3.5.4.g.2 of the Extraterritorial Subdivision Regulations to allow the approach to an intersection to exceed 3 percent grade for 100 linear feet in one location, and a variance of Section 12.1.C.2 of the Extraterritorial Zoning Ordinance to allow for disturbance of slopes in excess of 30 percent in two locations for the purpose of road construction. The disturbances of slopes in excess of 30 percent are proposed in response to significant natural drainage courses in the two locations. The applicant has addressed the variance criteria set forth in the Extraterritorial Subdivision Regulations

The application was reviewed for the following: water, wastewater, roads/access, fire protection, terrain management, landscaping, archeology, and traffic. The proposed subdivision is in conformance of the with approved master plan and the Extraterritorial Subdivision Regulations. Staff recommends that the variance for the finished road grade not exceed five percent as a minimum variance and a variance for disturbance of slope over 30 percent is acceptable as a minimum variance.

The conditions imposed for preliminary have been addressed and staff recommends final approval. The EZC recommended approval subject to the following conditions. Mr. Chair, may I enter the conditions into the record?

COMMISSIONER ANAYA: You may.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - a. Sangre de Cristo Water Utility
  - b. City Wastewater Division
  - c. State Highway Department
  - d. County Technical Review
  - e. City/County Fire Department
  - f. Soil and Water Dist.
  - g. Santa Fe Public Schools District
  - h. State Historic Preservation Division
2. A service agreement from Sangre de Cristo Water Utility shall be submitted before plat recordation.
3. Final homeowner documents (covenants, by-laws, articles of incorporation, to the disclosure statement) subject to approval by staff shall include but not be limited to the following:
  - a. Water restrictions/conservation measures
  - b. Homeowners Association shall contract for disposal of solid waste
  - c. Maintenance agreement for roads and drainage facilities
4. Final plat should include but not be limited to the following:

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- a. Specify lots that require on-site drainage ponds (lots that exceed 8,000 sq. ft. impervious surface).
  - b. Compliance with plat check list.
  - c. Dedication of roads and trails for public use.
  - d. A note that states permits for building construction will not be issued until required improvements for roads, drainage, and fire protection are completed as approved by staff.
  - e. Approval of rural addressing and street names.
  - f. Base flood elevation for limits of 100-year flood plain encroaching within subdivision.
5. Solid waste fee in accordance with subdivision regulations prior to final plat recordation.
  6. Submit cost estimate and financial surety for completion of required improvements as approved by staff.
  7. Development plan submittals shall include but not limited to the following:
    - a. Finished road grades shall not exceed 3% for 100' from intersection approach.
    - b. Horizontal road grades shall not be less than 1 percent.
    - c. Road section for collector road with curb and gutter and 50 foot right-of-way.
    - d. Width of roadway for local road shall be a minimum of 20 feet measured from edge of gutter pan.
    - e. 2 percent crown for paved road sections.
    - f. Cul-de-sac detail.
    - g. Asphalt pavement shall be 4 inches thick for collector road section.
    - h. Traffic control signs.
    - i. Fire review fees

MS. DANIELS: Thank you, Mr. Chair.

COMMISSIONER ANAYA: Thank you. Are there any questions of Jan? I'm hearing none. Is the applicant here?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer. Just to clarify a couple of issues. This subdivision is served by City water and City sewer and we're in agreement with all conditions as listed by the County and City.

COMMISSIONER ANAYA: Thank you, Jim. Are there any questions of the applicant? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jim, there was an issue originally, the staff recommended the road grades be reduced. Originally you had 3.5 or 4 percent or something. In addition to that, I saw language to that. Does that ring a bell?

MR. SIEBERT: We had originally asked for a variance from three percent to seven percent and staff had requested that we bring that down to five percent, which we agree

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to and will modify that one point where there's a grade within 100 feet of the intersection.

COMMISSIONER SULLIVAN: So the five percent relates to what?

MR. SIEBERT: There's a variance in your packet from within 100 feet of the intersection to go from a maximum three percent grade to a five percent. We had originally requested to go from three percent to seven percent and staff said that was not acceptable, and we agreed to reduce it to five percent.

COMMISSIONER SULLIVAN: But staff conditions say finish road grade shall not exceed three percent for 100 feet from intersection approach.

MR. SIEBERT: And we agreed to all intersections with the exception of the one we've requested a variance from. And staff has stated that that variance would be from three percent to five percent.

COMMISSIONER SULLIVAN: Okay, so the staff recommendation is that the variance says for finished road grade, not to exceed five percent, and you're saying that's for one intersection. Which intersection is that? Does it have a name?

MR. SIEBERT: It would be Via Quinta.

COMMISSIONER SULLIVAN: Via Quinta and what?

MR. SIEBERT: Via Quinta and Via Bella. In this case it's Latin, not Spanish.

COMMISSIONER SULLIVAN: Latin, not Spanish. So all the other road grades and intersections shall not exceed three percent. Is that correct?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: And only that one will not exceed five percent within 100 feet from the intersection. Is that correct?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: Okay. Thank you. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Any other questions? Commissioner Duran.

COMMISSIONER DURAN: Yes, Jim. What's the original number that was approved in College Hills? Number of dwelling units?

MR. SIEBERT: For the original College Hills, by the College itself?

COMMISSIONER DURAN: Right.

MR. SIEBERT: It was 80 units.

COMMISSIONER DURAN: And then it was increased because --

MR. SIEBERT: 88 units.

COMMISSIONER DURAN: And how did the developer get the increase in the number of units?

MR. SIEBERT: Originally they came in with a standard 2.5-acre lot subdivision, and it was on both sides of the road. What was done on a subsequent application by Hurlocker Properties is they utilized the density bonus that's provided by providing an open space, and by being within the urban area. The College of Santa Fe just did a standard subdivision. So that's the reason for the increase.

COMMISSIONER DURAN: So there are some development rights that are being reserved for future use, but only if they can get a water service agreement or if it meets

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existing Code?

MR. SIEBERT: That's correct. Actually, it's water service. Because the City has agreed to provide water service only for this phase and there's two reasons for that. One is obviously the water supply. The second is there is a limitation on the design on the water system for that particular district and that would need an additional tank to support additional —

COMMISSIONER DURAN: Just trying to refresh my memory. Okay. Thank you. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Any other? Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, Mr. Siebert, are you in agreement with the conditions that have been set by staff?

MR. SIEBERT: Yes, we are.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had one question for staff. There was an issue about the transfer of water rights and when this application went to the EZ it was passed only by a 3-2 majority. Was that because of the water rights transfer or what were the issues that were concerning the other two members of the EZ?

MS. DANIELS: I'll have to defer that question to Mr. Catanach.

COMMISSIONER SULLIVAN: Joe, do you remember?

MR. CATANACH: Mr. Chair, Commissioner Sullivan, trying to recall without reviewing the minutes.

COMMISSIONER SULLIVAN: I was looking at the minutes and one mentioned Commissioner Follingstad asking about the transfer of water rights and Mr. Siebert responded no. And that the property had originally belonged to the College of Santa Fe and it was approved for a water service boundary extension by ordinance. And then there was additional questions about a Fire Marshal's report. Was there something negative in the Fire Marshal's report about the application?

MR. CATANACH: This is a subdivision that will be served by City water, which will have fire hydrants. There'll be an alternative access through the connection with the Aldea Subdivision. Certainly there may have been some things that needed to be finalized as part of the Fire Department's review but I don't recall that it was anything major or anything recommending denial.

COMMISSIONER SULLIVAN: So there must have been some other issues there that you can't recall at this time.

MR. CATANACH: I do not recall.

COMMISSIONER SULLIVAN: Okay. Thank you. Mr. Siebert, you can recall?

MR. SIEBERT: Commissioner Sullivan, what I recall —

COMMISSIONER SULLIVAN: I didn't want to put you on the spot.

MR. SIEBERT: I recall Commissioner Follingstad's concern had to do with — she's part of the state agency, the Interstate Stream Commission, and I think she had a broader

concern relative to water for the City of Santa Fe and she was questioning whether the City of Santa Fe had an adequate water supply. That was my recollection on that.

COMMISSIONER SULLIVAN: This is not a situation — we had a problem that caused us some severe political repercussions with the City a couple of months ago where a developer came in and said that they had water supply to their development so that was a condition of approval. And then took the project to the City and indicated to the City that they had to get City approval for the water supply because that was a condition of the County's approval. And I want to be sure that that misunderstanding doesn't occur again. Is this water service agreement in place?

MR. SIEBERT: Yes, this is significantly different. After master plan review, we went back to City Council and there it was even a broader issue. The determination was can the College of Santa Fe transfer their water service agreement to another party, a third party. And this is when we went through the whole issue of how many units can be served. The City Council, and this was via both a Public Works Committee action and a City Council action, approved water service, limiting it to only Phase I, which is the same number as for the College of Santa Fe, with the understanding that any further service they would have to approve based on water availability.

COMMISSIONER SULLIVAN: And Phase I is 88 units.

MR. SIEBERT: Correct. And that's what we're requesting now. And they also approved, they also said, Yes, you can transfer it to another entity other than the College of Santa Fe.

COMMISSIONER SULLIVAN: Okay. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Thank you. This is a public hearing. Is there anybody in the audience that would like to speak either for or against this project? Hearing none, what's the pleasure of the Board?

COMMISSIONER DURAN: Move for approval, Mr. Chair, with all staff conditions.

COMMISSIONER ANAYA: There's been a motion. Is there a second? I second. There's a motion and a second. Any further discussion?

**The motion to approve EZ Case #S 01-4322 passed by unanimous [5-0] voice vote.**

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communication as can occur with those new owners and I think you're probably creating a larger benefit for the development and for the current and existing owners.

MR. HOEFT: Correct, Commissioner.

COMMISSIONER VIGIL: Thank you, Madam Chair.

COMMISSIONER HOLIAN: Any other questions. All right. I think we've had the public hearing, right. There's nobody from the public that would like to speak on this case, for or against? Okay. Do I have a motion? What are the wishes of the Board?

COMMISSIONER ANAYA: I'll move for approval, Madam Chair.

COMMISSIONER HOLIAN: Is there a second?

COMMISSIONER VIGIL: I'll second it.

The motion passed by unanimous [3-0] voice vote. [Commissioners Mayfield and Stefanics were not present for this action.]

- XVI. A. 3. **BCC Case # MIS 10-5550 Tessera Master Plan Time Extension.**  
**Homewise Inc., Applicant, Requests a 24-Month Time Extension of the Previously Approved Tessera Subdivision Master Plan (Formerly College Hills) Consisting of 166 Residential Lots on 145.90 Acres. The Property is Located on the North Side of State Road 599, at its Intersection with Via Tessera, within Sections 17 and 20, Township 17 North, Range 9 East, (Commission District 2) Vicente Archuleta, Case Manager**

COMMISSIONER HOLIAN: Vicki, are you taking this?

MS. LUCERO: Yes, Madam Chair, I'll be presenting this. Homewise Inc., applicant, requests a 24-month time extension of the previously approved master plan Tessera Subdivision, Formerly College Hills, consisting of 166 residential lots on 145.90 acres. The property is located on the north side of State Road 599, at its intersection with Via Tessera, within Sections 17 and 20, Township 17 North, Range 9 East, Commission District 2.

On December 14, 2010 granted approval of a two-year time extension of the master plan for the Tessera Subdivision. On December 8, 2001 the EZA granted master plan zoning approval of the Tessera Subdivision which consisted of 166 residential lots on 145.97 acres to be developed in two phases.

On December 12, 2002 the EZA granted preliminary plat and development plan approval for phase 1 of the Tessera Subdivision which consisted of 88 lots. On January 13, 2004 the BCC granted final plat and development plan approval for phase 1. At the time these approvals were granted the subject property was located in the two-mile EZ District and therefore under the jurisdiction of the Extraterritorial Zoning Ordinance. The EZO stated that approval of a master plan shall be considered valid for a period of five years from the date of approval by the EZA. This would have maintained the validity of the master plan until December 18, 2006. The EZO also stated that progress in the planning or development of the project approved in the master plan consist with the approved phasing schedule shall constitute an automatic renewal of the master plan approval. Progress means the submission



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of preliminary or final development plan or preliminary or final subdivision plat for any phase of the master plan project.

With an automatic two-year renewal for the preliminary plat approval of phase 1 and another two-year renewal for the final plat approval of phase 1 the master plan approval was valid until December 18, 2010. With the omission of the EZ District in 2009 this development now falls under the regulations of the County Land Development Code. The language in the code regarding expirations and renewals of master plans is consistent with the EZO.

Article V, Section 5.2.7 of the Code states master plan approvals may be renewed and extended for additional two-year periods by the Board at the request of the developer.

With the previous two-year time extension that was granted by the BCC in 2010 the master plan for the Tessera Subdivision will expire on December 18, 2012. The applicant's agent states, having recently purchased the property, Homewise, Inc. requests an opportunity through the time extension to evaluate the existing improvements and prior commitments to existing lot owners. There have been discussions of a transfer of the utilities from the City to the County. Homewise would like to more carefully review what impact that may have on the project. Homewise, Inc. anticipates designing housing prototypes and developing a marketing strategy over the next year before pursuing an aggressive construction schedule.

The improvements in phase 1 of the Tessera Subdivision are substantially complete and significant infrastructure has already been constructed in phase 2 of the development. The applicant is requesting a two-year time extension of the master plan approval which would render the approval valid until December 18, 2014.

Staff recommendation: Approval for a two-year time extension of the approved master plan for the Tessera Subdivision, phases 1 and 2, subject to the following condition. And that condition would be:

1. The applicant shall submit a new letter of credit for remaining improvements that need to be completed in phase 1 of the Tessera Subdivision.

Thank you, Madam Chair. I stand for questions.

COMMISSIONER HOLIAN: Thank you, Vicki. Commissioner Vigil.

COMMISSIONER VIGIL: Vicki, have you been out to this site at all to identify what improvements have occurred in phase 1 and the infrastructure improvements in phase 2?

MS. LUCERO: Madam Chair, the case manager did go out to the site. I have not been out to the site. The previous owner for Tessera actually had a financial guaranty pending with the County but now that the ownership changed the new owners will also have to submit a letter of credit for the remaining improvements but I'm not clear as to what exactly those are. Perhaps the agent will be able to address that.

COMMISSIONER VIGIL: What happens to the letter of financial credit when there is a transfer of ownership?

MS. LUCERO: Madam Chair, Commissioner Vigil, the current owner or the new owner would have to resubmit a letter of credit under their name to the County. So if any of the improvements aren't made to the County requirements then we would take out the letter of credit to do the improvements on our own.

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COMMISSIONER VIGIL: And there's some representatives here. The improvements to phase 1, what do they constitute? What are they? Are there actual homes out there?

MS. LUCERO: Madam Chair, Commissioner Vigil, the improvements would actually include like road improvements, utilities, drainage, that sort of thing.

COMMISSIONER VIGIL: Now, that's what is claimed is infrastructure improvements in phase 2. I guess what I'm asking is if we know specifically what the improvements are in phase 1.

MS. LUCERO: Madam Chair, Commissioner Vigil, I can't answer that question. I don't know but the agent may have more information.

COMMISSIONER VIGIL: I'll wait to ask that question then. Thanks.

COMMISSIONER HOLIAN: Okay. Is the applicant here? Would you like to add anything?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name's Jim Siebert. My address is 915 Mercer. To give you a little background on this, the original developer of the subdivision, because of economic circumstances had to give the land back to the bank. Homewise then subsequently purchased the land from the bank. Part of the complexities in this, and the reason we're asking to take more time is that both the water and the sewer is provided by the City of Santa Fe and it's our understanding that there will be an exchange of utilities at some point in time, but we're really not fully understanding how that's going to take place or what the consequences are.

Madam Chair, Commissioner Vigil, in terms of the improvements, all the improvements are basically in. Utilities are in, roads are in. The only outstanding – the principal outstanding item is one lift of asphalt. There is asphalt down there now. It's missing one lift to basically finalize all the improvements in phase 1. The way this particular subdivision works is they began from the back in phase 1 and then were proceeding forward with phase 2 which is closest to 599 frontage road. The reason for that, because I was involved in the planning for phase 1 and the master plan is the intent was to not have construction equipment and trucks going through the first phase of development to get to the second phase.

So there is, in terms of what kind of improvements are in what would be phase 2 is that there's a considerable amount of improvements because it's a loop road. So utilities and roads and curb and gutter, with the exception of one lift of asphalt had been completed through probably 50 percent of phase 2. And I'll answer any other questions you may have.

CHAIR STEFANICS: Thank you. Commissioner Vigil.

COMMISSIONER VIGIL: Is your client Homewise?

MR. SIEBERT: Yes.

COMMISSIONER VIGIL: Okay. So my question to you would be does Homewise recognize that the original final plat and development plan have to be complied with? Or are they going to come before the Commission for an amendment or a change to that in any way?

MR. SIEBERT: Well, at this time they're kind of taking their time evaluating what the market condition is. If they would come with a change and that change is an

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intensity in use, and I'm not saying there is going to be, that's something that would require going back to both the CDRC and to the County Commission. If there's an amendment to the plan within the existing intensity of use then it would still have to go back to the CDRC. If there's a change in the plan or the plat there will have to be another hearing to consider that.

COMMISSIONER VIGIL: That's my understanding, Madam Chair, and that is the issue that becomes problematic for homeowners in the area because their anticipation and expectation was a different development and now they're looking at a development that was not part of the final plat approval. It is on the books but whether or not it will remain that way I think will be their concern. So I guess what I would recommend as one of my last statements, and I've done this Jim, since you've been here. You need to work with the neighbors if there is going to be any kind of a change because they will have concerns with regard to what actually gets requested for a change. As it stands right now there's no request for that so I think the final development plan exists and it complements the current development patterns out there. Will a new one do that? I don't know. I would just recommend that Homewise work very closely with them and I know they're capable of doing that with many of the developments that they've done.

CHAIR STEFANICS: Okay. Thank you. Any other questions for staff or the applicant? Okay, this is a public hearing. Is there anybody in the audience that would like to speak for or against? Would you please come up? You need to be sworn in and then you'll be providing your name and address for the record.

[Duly sworn, Robert Bernard testified as follows:]

ROBERT BERNARD: Robert Bernard, 2 Summer Night.

CHAIR STEFANICS: Welcome.

MR. BERNARD: Madam Chair, Commissioners, I just want to repeat or amplify the comments that Mr. Siebert made. There is in the transfer of property from the previous developer to Homewise, there is a discrepancy between the Tessera master plan as it's currently written and the mission of Homewise. The master plan in phase 1 calls for 80 market rates houses and 8 affordable houses, which complies with the County requirements. But Homewise's mission is, from discussion with some people at Homewise, their mission is to build only affordable houses and that's going to change the character of that subdivision and impact on the three houses that are already constructed there and their owners.

We're concerned, in our case, about the impact that that has on neighboring subdivisions such as Aldea and La Mirada where we live. Secondly, I wanted to amplify or second the statement Mr. Siebert said about the statement on the application for extension that the infrastructure for phase 1 was substantially complete. The road is in serious need of that second layer of asphalt. Part of the roads in that subdivision are used as an egress from Aldea, as part of the master plan requirement and we use that entrance and egress as do many other people from the subdivisions to the west.

And my third point is that the streets that are actually as built in that subdivision do not comply with the streets that show on the master plan. There are some major changes in the layout of streets. Some streets were intended to be built that aren't and some of the open space areas were specifically delineated by the streets that were in the master plan, but now those streets don't exist and there doesn't seem to be any explanation whether there was a change in the streets from the plan.

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And my fourth and last point is that it seems that Homewise is already dumping fill from one of their other subdivisions on the – right off one of the streets in the Tessera Subdivision and when I inquired at the Land Use Department currently there is no permit open for that purpose. So it seems rather strange that Homewise or some subcontractor of Homewise is using that property even before they've got an extension of the plan. That's all I have to say. I bring those things to the attention of the Commission.

CHAIR STEFANICS: Thank you very much. Is there anybody else? Yes. Come forward, sir. If you'd come up and be sworn in.

[Duly sworn, Alan Hahn testified as follows:]

ALAN HAHN: Alan Hahn, 8 Via Alterra. I'm one of the current homeowners out there. There are three houses built. When I purchased my property in 2008 I purchased it under the auspices that it was approved by the County and the covenants and homeowners' regulations – whatever – were in place, and that the roads would be completed by December of 2010. Two years ago the developer came in and got a two-year extension and it still has not been completed. And as the former person just testified the roads are in fairly – starting to break up. The pavement is breaking up. And I can't concur on another two-year extension. I think it's unwise, and also it's not the expectations with which we bought the place or bought the land and we've built a home.

I've had discussions with Homewise and I haven't come away yet with a good feeling of what their intentions are with the subdivision. We bought it as it seemed to meet the minimum design requirements and whatever and I was unable to get any commitment that they're willing to agree to those or that they're going to come in and wholesale change them. That is not what we bought into as property owners and if they're willing to build it out as it was originally approved by the County Board – it probably wasn't you folks, that's fine. But if they want to make wholesale changes to that and reduce our property values it's basically a confiscation of property rights. It wasn't what was sold and it wasn't what we purchased.

And I would have to agree with the gentleman right before me, there is a huge pile of dirt being dumped out there and I haven't been able to find any permit and I maybe just haven't looked in the right spot. But I think a one-year extension would be sufficient to finish their completion of that project. That's all I have.

CHAIR STEFANICS: Thank you very much. Anybody else that wishes to speak on this case, pro or con? We haven't asked you any questions yet, so thank you very much. So, Commissioners, questions comments? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Actually I do have questions for Mr. Siebert. On the issue of affordable homes, can you tell me whether they are all intended to be affordable homes?

MR. SIEBERT: Madam Chair, Commissioner Holian, I have with me tonight Rob Gibbs who is the real estate development manager from Homewise and I'd like him to speak to that. And let me say I can understand the concern on the part of those homeowners and lot owners and I understand, Homewise understands there has to be a considerable amount of dialogue that goes on that will have to begin in serious here shortly. But with that let me have Mr. Gibbs discuss that.

COMMISSIONER HOLIAN: Thank you.

[Duly sworn, Robb Gibbs testified as follows:]

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**ROB GIBBS:** Rob Gibbs, real estate manager for Homewise, 1301 Siler Road. Madam Chair and Commission, just to respond to some of the questions and comments that were brought up. We just purchased this property and closed on it in late September. We're in the process right now of just reviewing what the current market is and what our goals are going to be. We have met with Mr. Hahn, the president of the homeowners association. We have met with a couple neighboring associations to talk to them to find out what their thoughts and concerns might be and have been able to take notes on that.

Right now we have not made any formal plans of what our timeframe is and what we are proceeding to do. I can tell you this though. In phase 1, of the 88 lots there's 74 lots that we currently own and that we will be continuing to build those out as single family homes. Yes, there are eight affordable homes that are part of the master plan approval of the plat. Those will be affordable. We will be building market-rate homes throughout the development along with we probably will be selling off some lots to other custom home builders, because there's certain parts of the market that we don't serve that we want to make sure is served in the neighborhood because we do have a common interest to maintain values and neighborhoods in the community.

For this extension it's really for the second phase of the development which the infrastructure of that has not been completely designed at all, and so that's what we need a two-year extension for. In phase 1, there's a current letter of credit of around \$317,000 with the County. We are already in place with Los Alamos National Bank as a lender to come in and make the change on that as it matures here this month. So we will be replacing that, and the final lift of pavement is in our schedule to put in once the weather improves this next spring. I just received today an estimate from my contractor for the curb and gutter that needs repairs out there. There's some damaged curb and gutter, about 1,700 linear feet. I just received that. And then again, weather permitting, we'll get started on the removal and replacement of that curb and gutter.

So our plan is to go ahead and get that work all completed this next spring so it's all in good shape for the existing three homes that are built there and then for any of the lot owners that currently live out there that will be able to build in the future. In reference to do we have any wholesale changes or things we want to do to design guidelines or the covenants and restrictions, we're just in the process of reviewing all those and what our plan was is we don't plan to come in with wholesale changes in there. We will probably want to do some modifications to give us a bit more flexibility on some architectural design.

**COMMISSIONER HOLIAN:** Okay. Thank you, Mr. Gibbs. And do you have any comments about that fill dirt that was dumped out there?

**MR. GIBBS:** Sorry. On the fill dirt, there is an existing stockpile site on the development that was there for the first phase and so we placed some dirt there. We had some excess dirt from a site that was adjacent to it, because we're going to be needing some fill dirt, so that's why that was put in there.

**COMMISSIONER HOLIAN:** Okay. Thank you. Any other questions?

**COMMISSIONER ANAYA:** Madam Chair.

**COMMISSIONER HOLIAN:** Commissioner Anaya.

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COMMISSIONER ANAYA: Madam Chair, this request, and this goes back to Vicki first I guess. This request is a request for time extension. It does not have any material changes to the existing plat whatsoever, correct?

MS. LUCERO: Madam Chair, Commissioner Anaya, that's correct. He's not making any changes to the originally approved master plan.

COMMISSIONER ANAYA: Any material changes as Commissioner Vigil brought up earlier would have to come back to the CDRC and the Commission, depending on the level of the change, correct?

MS. LUCERO: That's correct. Yes.

COMMISSIONER ANAYA: Madam Chair, I don't have any other comments. I would add that affordable housing houses firefighters, teachers, County employees, retail workers, construction workers. I would applaud the efforts if there's an ability to provide more than eight units to provide housing for those folks. I think the intent of the master plan is intact and I would defer if there's any other comments. I'd like to hear the rest of the Commission.

COMMISSIONER HOLIAN: Any other questions? Commissioner Vigil.

COMMISSIONER VIGIL: I guess I'm having a little difficulty with this because the original plan for this was in 2001. That precedes anyone on this Commission and I'm the most tenured Commission and it even precedes me. And that I guess is for the original master plan development. And then it was – at what year did Homewise purchase this? Was that in 2010?

MS. LUCERO: Madam Chair, Commissioner Vigil, I believe that was this year that they purchased it.

COMMISSIONER VIGIL: And I have a concern about roads and utility easements being substantially complete subdivision. It seems that a substantially complete subdivision might need to be revisited. So Vicki, how did you make the determination that that limited amount of investment was a substantially complete subdivision?

MS. LUCERO: Madam Chair, Commissioner Vigil, are you referring to the financial guaranty that they would need to submit?

COMMISSIONER VIGIL: I'm referring to the improvements in phase I of the Tessera Subdivision is substantially complete statement, and that is on the top of page 3, and that's a summary provided by staff.

MS. LUCERO: Madam Chair, Commissioner Vigil, that was based on the previous letter of credit that was submitted for the phase 1 development when they were approved for the final plat. They've requested several draw-downs as the improvements have been completed. So they were down to, I think, as Mr. Gibbs mentioned, \$317,000 from what started as I think it was close to \$3 million of a financial guarantee. So that's all that's left to do. It's probably a little under \$317,000 worth of improvements.

COMMISSIONER VIGIL: So I guess what you're saying you base your analysis of substantially complete on what has been drawn down from the letter of credit.

MS. LUCERO: On what was originally required and what has been accomplished.

COMMISSIONER VIGIL: Okay. Thank you, Madam Chair. That explains that.

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CHAIR STEFANICS: Thank you. I'm sorry I had to step out. Anything else? Okay is there an action item?

COMMISSIONER ANAYA: Madam Chair.

CHAIR STEFANICS: Yes.

COMMISSIONER ANAYA: I believe this is just an extension of time and I move for approval.

CHAIR STEFANICS: Is there a second? I will second. And I should actually indicate before I take the vote is that this is about treating this application equitably with the other applications that have received the two years in my opinion.

The motion passed by majority 2-1 voice vote with Commissioner Vigil opposing and Commssioners Holian and Mayfield not present.

COMMISSIONER VIGIL: I'm going to oppose, Madam Chair, only because I do agree on the equitable assessment but I don't believe Concierto at Las Campanas had an approval of 2001. And so the extension for them doesn't have as much timeframe. But I think you've got the vote, Madam Chair.

**XVI. A. 4. CDRC Case # V 12-5290 William Keller Variance. William Keller, Applicant, Requests a Variance of Section 9.8 (Mountain Special Review District Standards) to Allow an Addition to an Existing Residence to Exceed 14 Feet in Height. The Property is Located at 20 La Barbaria Road, within the Vicinity of Old Pecos Trail, within Section 17, Township 16 North, Range 10 East (Commission District 4)**

JOHN LOVATO (Case Manager): Thank you, Madam Chair. William Keller, applicant, requests a variance of Section 9.8 (Mountain Special Review District Standards) to allow an addition to an existing residence to exceed 14 feet in height on 13 acres. The property is located at 20 La Barbaria Road, within the vicinity of Old Pecos Trail, within Section 17, Township 16 North, Range 10 East, Commission District 4.

There is currently one dwelling unit on the property and an accessory structure. The existing residence is 2,700 square feet and the addition is approximately 500 square feet. The residence on the property is recognized as a legal non-conforming structure which was constructed in 1974. The proposed addition to the existing residence would exceed height requirements but would match the existing height of the residence of 20'9". The proposed addition would consist of an office, a laundry room and a walk-in master closet.

Currently the existing structure consists of a master bedroom, a master bath, a kitchen, a bedroom, a bathroom, a weight room and a study area. The existing structure is a flat roof and the proposed addition would match the existing residence. The proposed addition will be located on the eastern portion of the residence and will not be visible from any major arterial but will be visible from La Barbaria Road.



MINT CIR

W WILDFLOWER DR

CAMINO LATERRA

ARRIBACIR

SUNFLOWER DR

DAISY CIR

BLUE CANYON TRL

VIA NOVA

VIA OPTIMA

MABELLA MATESSERA

VIA SUMMA

ARROYO PRIVADO

CENTAURUS RANCH RD

BLUE CANYON WAY

NM 599 EXIT

BUCKMAN RD

VISTA PRECIOSO

CAMINO DEL CENTRO

EVAPLAZANUEVA

SHRUB RD

NM 599 FRONTAGE RD

AVENIDA FRIOLES

ALLEY

AVENIDA ALDEA

CAMINO ESPERANZA

CALLE VECINOS

CAMINO BOTANICA

VETERANS MEMORIAL HWY

CAMINO TRES ARROYOS

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