

Henry P. Roybal
Commissioner, District 1
Miguel M. Chavez
Commissioner, District 2
Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4
Liz Stefanics
Commissioner, District 5
Katherine Miller
County Manager

DATE: May 30, 2015

TO: Board of County Commissioners

FROM: Jose E. Larrañaga, Development Review Team Leader

VIA: Katherine Miller, County Manager

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

FILE REF.: CDRC CASE # APP 13-5382 Elevation Multi-Family Community Appeal

ISSUE:

Vedura Residential Operating, LLC, Applicant, JenkinsGavin, Agents, received conditional approval from the County Development Review Committee (CDRC) for Preliminary and Final Development Plan for a Multi-Family Residential Community consisting of 200 residential units on 22 ± acres. The Applicant is aggrieved by a condition of approval, imposed by the CDRC, on the approval of the Preliminary and Final Development Plan. The sixth condition imposed by the CDRC states, "no construction of buildings may begin until actual construction of the Southeast Connector begins." The Applicant requests an appeal to the Board of County Commissioners of this condition imposed by the CDRC on the Preliminary and Final Development Plan. The site is located at 63 College Drive, within the Community College District, within Section 21, Township 16 North, Range 9 East, (Commission District 5).

Vicinity Map:



SUMMARY:

On September 9, 2014, the Board of County Commissioners (BCC) approved a Master Plan application submitted by Vedura Residential Operating, LLC for a multi-family residential community consisting of 214 residential units on 22 ± acres. The Final Order was approved by the BCC on January 13, 2015, and recorded on January 14, 2015, in the County Clerk’s Office (Exhibit 4).

On May 21, 2015, the County Development Review Committee (CDRC) approved a Preliminary and Final Development Plan for a multi-family residential community consisting of 200 residential units in conformance with the approved Master Plan, Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code (Code), and Santa Fe County Ordinance 2000-12, the Community College District Ordinance (CCDO). The CDRC also recommended approval, to the BCC, of a variance of Ordinance No. 2000-12, § 6.E.3.c to allow a no-outlet roadway to exceed 300 feet and a variance of Article V, § 8.1.4, of the Code, which states that dead end roads may not serve more than thirty (30) dwelling units.

The CDRC’s approval of the Preliminary and Final Development Plan and the variances, included staff conditions as amended with an additional condition imposed by the CDRC that, “no construction of buildings may begin until actual construction of the Southeast Connector begins” (Exhibit 5).

The Applicant is appealing the additional condition imposed by the CDRC on the Preliminary and Final Development Plan to the BCC. The Applicant states: “this condition is in direct conflict with the BCC’s decision to approve the Master Plan. The BCC’s decision was not based on construction of the Southeast Connector roadway. To the contrary, the Final Order contemplates the possibility that the project will move forward without construction of the Southeast Connector roadway. This basis for the decision is detailed in the following excerpt from the Final Order; The Applicant provided a traffic study which confirmed the need to evaluate the level of service at adjacent intersections prior to development plan approval in order to determine what road improvements would be necessary to attain adequate traffic flow. If the project develops without the benefit of an anticipated road project called the Southeast Connector, a traffic analysis will be required to evaluate necessary improvements on Richards Avenue, such as a slip lane, and how much development Richards Avenue, with or without improvements, can support. The Applicant confirmed that off-site road improvements provided by the Applicant could be required as part of the preliminary and final development plan approval process for the project.”

The Applicant also states, “the Traffic Impact Analysis that was submitted with the Development Plan application recommends improvements to Richards Avenue to “attain adequate traffic flow.” In response to this recommendation, the County approached the Applicant with the following requests: In lieu of improving Richards Avenue, the Applicant would construct College Drive from its current terminus at Burnt Water to the western boundary of the future Southeast Connector right-of-way. The Applicant agreed to this request; The Applicant would delay commencement of building construction. The Applicant and County staff agreed that building construction would not commence until June of 2016.”

Staff recommended approval of the Preliminary and Final Development Plan.

Staff also recommended that the CDRC impose a condition as to the start date of vertical construction of the project to minimize the time that any variances would be required. The Applicant requested a June 2016, start date; Public Works requested an August 2017, start date. The CDRC determined the start date should begin with the commencement of construction on the Southeast Connector because a definitive timeline for the Southeast Connector was not available to weigh whether June 2016 or August 2017 would be the most appropriate start date.

On June 16, 2015, the Public Works Department Director submitted a supplemental memo to correct any misunderstandings that may have occurred at the CDRC hearing in regards to Public Works comments. The memo addresses the Southeast Connector's timeline, cost, funding and impact on the proposed development (Exhibit 10).

Article II, § 2.3.4.c.i (Appeal of Development Review Committee Decisions to the Board) states, "any person aggrieved by a decision of a Development Review Committee may file an appeal in writing to the Code Administrator within thirty (30) calendar days of the date of the decision of the Development Review Committee. The Board shall hear the appeal within sixty (60) calendar days after the date the appeal is filed. The Board shall timely make and file its decision approving or disapproving the application or approving the application with conditions or modifications."

Article II, § 2.3.4.c. ii states, "the decision of the Board shall become final on the date when the decision is filed."

The owner of the property acquired the property by warranty deed recorded as Instrument # 1621125 in the Santa Fe County Clerk's records dated December 23, 2010. JenkinsGavin is authorized by the property owner and the developer to pursue an appeal to the Board of County Commissioners of the condition imposed by the CDRC on the Preliminary and Final Development Plan, as evidenced by a copy of the written authorization contained in the record (Exhibit 8).

Notice requirements were met as per Article II § 2.4.2, of the Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing, confirming that public notice posting regarding the Application was made for twenty one days on the property, beginning on June 23, 2015. Additionally, notice of hearing was published in the legal notice section of the Santa Fe New Mexican on June 23, 2015, as evidence by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing are also contained in the record for all adjacent property owners (Exhibit 9).

This Application was submitted on June 15, 2015.

STAFF RECOMMENDATION: It is at the BCC's discretion either to grant the appeal and remove or modify the CDRC's additional condition or deny the appeal and keep the CDRC's condition.

EXHIBITS:

- 1. Applicants Request
- 2. CDRC Staff Report
- 3. Article II, § 2.3.4 c.(Appeal)
- 4. BCC Final Order (Master Plan)
- 5. May 21, 2015, CDRC Minutes
- 6. Aerial Photo of Site
- 7. Elevation Construction Schedule
- 8. Warranty Deed and Letter of Authorization
- 9. Legal Notice
- 10. Public Works Supplemental Memo



jenkinsgavin
DESIGN & DEVELOPMENT INC

June 15, 2015

Jose Larrañaga, Commercial Development Case Manager
Santa Fe County Development Services
102 Grant Avenue
Santa Fe, NM 87501

RE: Elevation Multi-Family Community
Case #V/DP 15-5381
Appeal of CDRC Condition of Approval

Dear Jose:

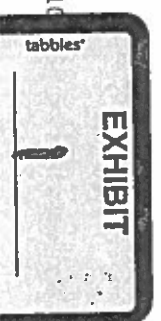
This letter is respectfully submitted on behalf of Vedura Residential Operating, LLC to appeal a Condition of Approval imposed by the CDRC for the Elevation Preliminary/Final Development Plan, for consideration by the BCC at their July 14, 2015 meeting. The subject property is located at 63 College Drive, east of Burnt Water Road, in a Village Zone of the Community College District.

Background

The Master Plan for the project was approved by the Board of County Commissioners on September 9, 2014. At the time of the Master Plan approval, the proposed alignment for the Southeast Connector roadway ran along the west boundary of the subject property. As part of the Location Study, the alignment was subsequently moved approximately ½ mile to the east, necessitating a further extension of College Drive. In addition, Santa Fe County removed College Drive from the Southeast Connector project and designated it as a developer funded roadway.

Appeal

An application for Preliminary/Final Development Plan and Variances was submitted on December 5, 2015 and was heard by the CDRC at their meeting of May 21, 2015. The CDRC recommended approval of the Variances and approved the Development Plan with the condition that building construction would not begin until construction commences on the Southeast Connector roadway. We are appealing this condition of approval for the following reasons:



- This condition is in direct conflict with the BCC’s decision to approve the Master Plan. The BCC’s decision was not based on construction of the Southeast Connector roadway. To the contrary, the Final Order contemplates the possibility that the project will move forward without construction of the Southeast Connector roadway. This basis for the decision is detailed in the following excerpt from the Final Order (attached hereto):

The Applicant provided a traffic study which confirmed the need to evaluate the level of service at adjacent intersections prior to development plan approval in order to determine what road improvements would be necessary to attain adequate traffic flow. If the project develops without the benefit of an anticipated road project called the Southeast Connector, a traffic analysis will be required to evaluate necessary improvements on Richards Avenue, such as a slip lane, and how much development Richards Avenue, with or without improvements, can support. The Applicant confirmed that off-site road improvements provided by the Applicant could be required as part of the preliminary and final development plan approval process for the project.

- The Traffic Impact Analysis that was submitted with the Development Plan application recommends improvements to Richards Avenue to “attain adequate traffic flow.” In response to this recommendation, the County approached the Applicant with the following requests:

1. In lieu of improving Richards Avenue, the Applicant would construct College Drive from its current terminus at Burnt Water to the western boundary of the future Southeast Connector right-of-way. The Applicant agreed to this request.
2. The Applicant would delay commencement of building construction. The Applicant and County staff agreed that building construction would not commence until June of 2016.

In summary, this condition of approval is in direct conflict with the BCC’s action approving the Master Plan. We respectfully request that the BCC overturn the condition and approve the Preliminary/Final Development Plan as submitted.

In support of this request, the following documentation is included herewith for your review:

- ☐ Development Permit Application
- ☐ Final Order
- ☐ Warranty Deed & Letters of Authorization
- ☐ Legal Lot of Record
- ☐ Proof of Property Taxes Paid
- ☐ Check in the amount of \$275.00

Please do not hesitate to contact us should you have any questions or need additional information.

Thank you for your consideration.

Sincerely,



Jennifer Jenkins
JenkinsGavin Design & Development, Inc.



Colleen C. Gavin, AIA



Henry P. Roybal
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3

Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: May 21, 2015

TO: County Development Review Committee

FROM: Jose E. Larrañaga, Development Review Team Leader

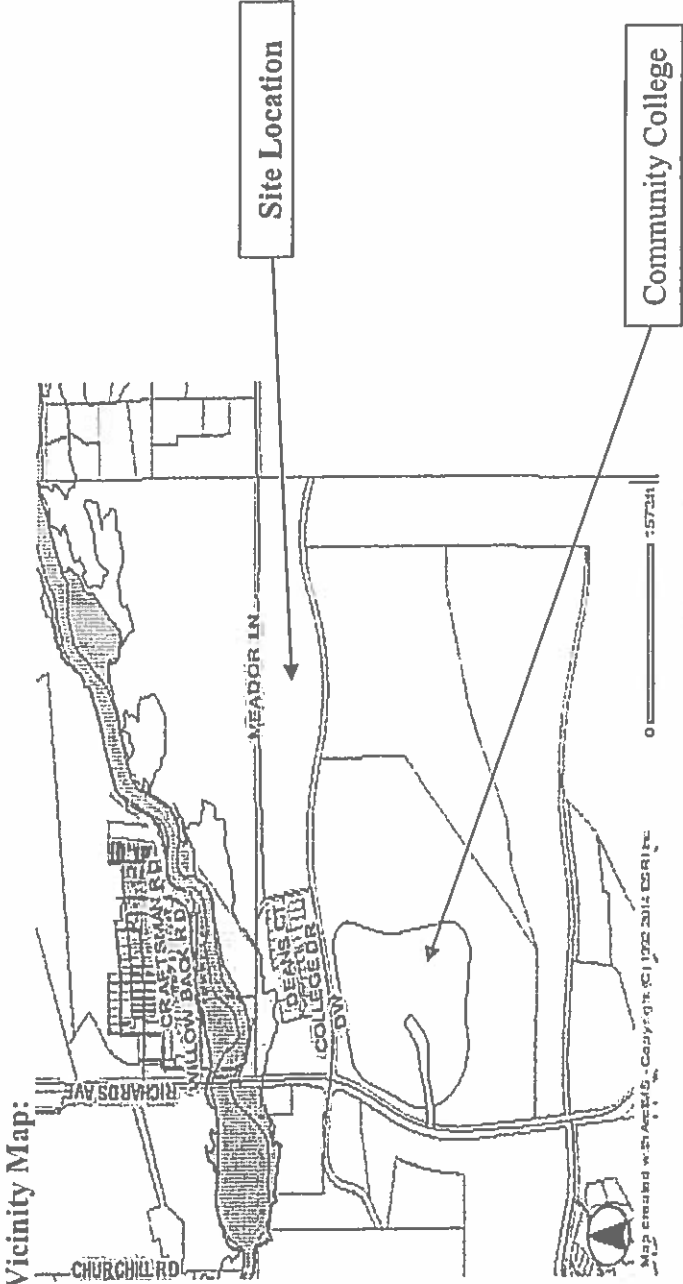
VIA: Penny Ellis-Green, Growth Management Director
Vicki Lucero, Building and Development Services Manager
Wayne Dalton, Building and Development Services Supervisor

FILE REF.: CDRC CASE # VDP 13-5381 Elevation Multi-Family Community

ISSUE:

Vedura Residential Operating, LLC, Applicant, JenkinsGavin, Agents, request Preliminary and Final Development Plan approval for a multi-family residential community consisting of 200 residential units on 22 + acres in conformance with Santa Fe County Ordinance 1996-10, the Land Development Code (the Code). The Applicant also requests a variance of Ordinance No. 2000-12, Section 6.E.3.c) to allow a no-outlet roadway to exceed 300 feet and a variance of the Code, Article V, Section 8.1.4, which states that dead end roads may not serve more than thirty (30) dwelling units. The site is located at 63 College Drive, within the Community College District, within Section 21, Township 16 North, Range 9 East, (Commission District 5).

Vicinity Map:



EXHIBIT

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NB-8

SUMMARY:

On September 9, 2014, the Board of County Commissioners (BCC) approved a Master Plan application made by Vedura Residential Operating, LLC for a multi-family residential community consisting of 214 residential units on 22 ± acres. The Final Order was approved by the BCC on January 13, 2015 and recorded on January 14, 2015 in the County Clerk's Office (Exhibit 7).

The Applicant is requesting Preliminary and Final Development Plan approval for a multi-family residential community consisting of 200 residential units in conformance with the approved Master Plan, the Code, including the Santa Fe County Ordinance 2000-12, the Community College District Ordinance (the CCDO). The CCDO Land Use Zoning Map designates this site as a Village Zone which allows for multifamily residential use. The approved Master Plan allows for a 200 unit multifamily residential apartment community on a 22 ± acre site, which is defined as an eligible use in the CCDO Land Use Table (Exhibit 10). 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.

The proposed 200 unit apartment community is 0.26 miles east of the College Heights Subdivision and northeast of the Santa Fe Community College. The one and two bedroom units are dispersed among 16 two story buildings and there are two single story garage buildings on the west side of the property. A community center serves as a gathering place, offering a fitness center, lounge areas, an activity room, and a business center with a conference room. Outdoor amenities include a pool, spa, barbecues, a fire pit, and covered patio areas.

The Project will access via an extension of College Drive from the current terminus of Burnt Water Road. The Applicant will extend College Drive approximately 3,140 feet to the west boundary of the future Southeast Connector right of way, terminating in a temporary emergency turnaround. The new roadway extension will be constructed in accordance with the CCDO standards as a Village Connector Highway. A revised Traffic Impact Analysis was submitted based on the timing and availability of the Southeast Connector. The Applicant proposes to delay commencement of building construction, of the Apartments, until June of 2016 in an effort to allow for time for future connectivity to the Southeast Connector. The Applicants construction schedule shows 40 units online (ready to be leased) by July 2017, with all 200 units available by January 2018 and lease stabilization June-August 2018.

The Project will be served by the County Water Utility with the construction of a 12" water line in College Drive connecting to the existing 16" main in Richards Avenue. A 10" public main will loop through the site to serve the project. Each building will be equipped with automatic fire suppression and six hydrants will be distributed throughout the site. On March 24, 2015 the BCC approved a new water delivery request in the amount needed for the development's water budget.

Ordinance No. 2000-12, § 4.C. Preliminary Development Plan:

3. Criteria for Approval: The criteria for approval of Preliminary Plan applications are as follows:

- a) The development has sufficient water availability to sustain the phase of the project for which the application is made;
- b) The necessary infrastructure including roads and utilities are designed for viability of the phase of the project for which application is made; and
- c) All standards set forth in the CCDO have been met.

Ordinance No. 2000-12, § 4.D. Final Development Plans:

3. Criteria for Approval:

- a) The criteria for approval of final plan applications are as follows:
 - i. All conditions of Preliminary approval have been met;
 - ii. Financial guarantees have been provided;
 - iii. All preliminary reports are made final and are in compliance with conditions of approval, staff recommendations and all applicable County Standards; and
 - iv. All other submittal requirements have been met and approved.

Article V, § 7.1.3.a (Preliminary Development Plans) states: “a preliminary development plan may be only a phase or portion of the area covered by an approved master plan, so long as the preliminary development plan substantially conforms to the approved master plan.”

Article V, § 7.2.2 (Final Development Plan) states: “the final development plan shall be submitted to the County Development Review Committee accompanied by a staff report. The County Development Review Committee shall review the plan and make a determination as to its compliance with the County General Plan and Code. The County Development Review Committee may recommend changes or additions to the plan as conditions of its approval. The final development plan as approved by the County Development Review Committee shall be filed with the County Clerk. The approved final development plan becomes the basis of development permits and for acceptance of public dedications. Any changes in the plan must be approved by the County Development Review Committee.”

The Applicant also requests a variance of Ordinance No. 2000-12, § 6.E.3.c to allow a no-outlet roadway to exceed 300 feet and a variance of Article V, § 8.1.4, of the Code, which states that dead end roads may not serve more than thirty (30) dwelling units.

The Applicant states: “the variances are necessitated by the fact that College Drive will temporarily be a dead end roadway until the completion of the Southeast Connector. This is a non-self-inflicted condition which is temporary until the construction of the Southeast Connector. Construction of the roadway will not result in conditions injurious to health or safety, as the road will be built to County standards with the requisite emergency turnaround. Once the connection to the Southeast Connector is constructed, College Drive will no longer operate as a dead end.”

Ordinance No. 2000-12, § 6.E.3.c) states: “Dead end roads shall be used only to preserve open space contiguity or in cases that terrain does not allow contiguity. No-outlet roadways shall not exceed three hundred feet (300’) in length and shall have a minimum fifty foot (50’) turn around.”

Article V, § 8.1.4 states: “Dead end roads may not serve more than thirty (30) dwelling units, except that the Code Administrator with the concurrence of the Fire Marshal may approve the development of more than thirty (30) lots on a dead end road. The Code Administrator may require a second access for any development with fewer than thirty (30) dwelling units where issues of public health, safety and welfare exists.”

Article II, § 3 (Variances) 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 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.”

Article II, § 3.2 (Variation or Modification) states: “in no case shall any variation or modification be more than a minimum easing of the requirements.”

This Application was submitted on December 5, 2014.

Building and Development Services staff have reviewed this project for compliance with pertinent Code requirements, including the CCDO requirements, and have found the following facts in regards to the request for Preliminary and Final Development Plan approval for a multi-family residential community: the Application has established the extent and scope of the project including, the use of the project, and its overall needs for services and infrastructure; the Application has established the viability of the proposed project to function as a complete development; the Application is generally in conformance with the CCDO in regards to roads (with the exception of Article V, § 8.1.4 Dead end roads...), trails, design and construction standards and open space standards; the development conforms to the eligible uses allowed under a New Community Center Village Zone; the Application generally satisfies the submittal requirements set forth in Ordinance No. 2000-12, § 4.C. (Preliminary Development Plan), § 4.D. (Final Development Plans) and the Code (with the exception of Article V, § 8.1.4 (Dead end roads)).

The review comments from State Agencies and County staff have established findings that the Application is in compliance with state requirements, the majority of CCDO requirements, Article V, § 7.1 Preliminary Development Plan and Article V, § 7.2 Final Development Plan of the Code. This Application is not in compliance with Ordinance No. 2000-12, Section 6.E.3.c) and Article V, § 8.1.4 of the Code.

Building and Development Services staff have reviewed the Applicant’s request for a variance of Ordinance No. 2000-12, § 6.E.3.c), (no-outlet roads) and Article V, § 8.1.4 (Dead end roads) for compliance with pertinent Code/Ordinance requirements and has found that the request is not in conformance with Code/Ordinance requirements and that the Code/Ordinance requires the following: roadway circulation within the Community College District shall provide a network of roads that will integrate automobile traffic, pedestrian and other modes of transportation in a safe and controlled manner; within each development, roadway circulation shall be interconnected as shown on the Circulation Map; the developer shall be required to construct any portion of the roadway necessary to maintain connectivity throughout the CCD; all road construction shall conform and comply with AASHTO standards. ITE guidelines, New Mexico State Highway and Transportation Department specifications and all applicable National Codes.

The variances requested are temporary in nature and will only exist until the Southeast Connector is constructed. The Applicant proposes to construct College Drive to CCDO road standards to connect Richards Avenue to the South East Connector. The Code does not address temporary variances.

APPROVAL SOUGHT: Preliminary and Final Development Plan approval for a multi-family residential community consisting of 200 residential units on 22 ± acres.

VARIANCE: Ordinance No. 2000-12, § 6.E.3.c to allow a no-outlet roadway to exceed 300 feet and a variance of Article V, § 8.1.4, of the Code, which states that dead end roads may not serve more than thirty (30) dwelling units...

GROWTH MANAGEMENT AREA: Community College District, Community District.

ZONE: Village Zone.

ARCHAEOLOGIC: There are no archaeological sites on the 22 acre site. An archaeological site was documented on an adjoining site in 1995. This site is eligible for listing in the National Register of Historic Places and the State Register of Cultural Properties. A cultural resources re-survey has been submitted for review. The Historic Preservation Division (HPD) reviewed the archaeological site assessment prepared by Ron Winters and states “as long as the non-disturbance easement remains in place for LA 110168, the proposed subdivision will not impact significant or cultural sites.”

ACCESS AND TRAFFIC: The Project will be accessed via a new extension of College Drive from the current terminus of Burnt Water Road. To ensure future connectivity, the Applicant will extend College

Drive approximately 3,140 feet to the west boundary of the future Southeast Connector right of way, terminating in a temporary emergency turnaround until the permanent connection to the South East Connector is made. The new roadway extension will be constructed in accordance with the standards for a Village Connector Highway, as follows: two 11 foot drive lanes, two 5 foot bike lanes, and a 5 foot trail on the north side of the road. The easternmost access drive serves as a gated exit for residents and visitors, but will also accommodate emergency ingress and egress. A main entrance to the project is being proposed and a gated emergency-only access drive is provided on the west side of the Project. All vehicular gates will be equipped with a Fire Marshal approved access system.

The Applicant states: "the NE/SE Connector Location Study is currently underway to determine the future location of the Southeast Connector. In conjunction with development of the apartment community, Rancho Viejo is open to donating the requisite right-of-way for the SE Connector. This is a significant cost and time savings for the County that will greatly benefit the overall success of the NE/SE Connector project".

The County Public Works Department has reviewed the Applicants submittal and states: "the applicant is proposing to access the proposed development from College Drive via Richards Avenue. At present Richards Avenue is a two lane, paved roadway 24 feet in width, with two driving lanes and shoulders. The posted speed limit is 35 MPH north of College Drive and 25 MPH south of College Drive. Richards Avenue was constructed in the early 1980's to collector road standards with an estimated Average Daily Traffic of 1000-1999 vehicles per day. Richards Avenues current Average Daily Traffic is 10,959 vehicles per day, which means it is operating as a major Arterial/Highway. Elevation is proposing three new driveways off College Drive, the most western access is proposed as an EMERGENCY ACCESS ONLY, a main entrance to the project is being proposed and a most eastern access is being proposed as an EXIT ONLY. The applicant provided Santa Fe County with a Traffic Impact Analysis prepared by Bohanan Huston, dated December 4, 2014. The purpose of this study is to assess the traffic impacts the proposed project may have on essential intersections within the area and identify any necessary street improvements to these intersections. The applicant also

provided Santa Fe County with a second supplemental traffic evaluation impact taking into account of the NE/SE Connector build-out, from Richards/Willowback, Richards/College Drive and Richards/Avenida del Sur. The original Analysis states that the intersections of Richards/Dinosaur Trail and Richards/Avenida del Sur will operate at acceptable levels of service. Richards/Willowback intersection currently operates at a Level of Service of D and experiences some A.M., queuing; however, a Level of Service of D is an acceptable Level of Service as per the Highway Capacity Manual. This intersection as stated in the second revised TIA is shown to improve to a Level of Service of C for the 2016 full build scenario.

The TIA states that the Richards/College Drive intersection is operating at a Level of Service E and currently has operating deficiencies for the AM peak hours on the northbound lane. The secondary TIA states this intersection is shown to improve to a Level of Service of C for the 2016 full build scenario.

These improved Levels of Service will not take place until the NE/SE Connector is full constructed. Richards Ave will continue to operate as an over burdened collector road until the full build out of the NE/SE Collector roads.

Public Works cannot support the above mentioned project as per **Article II, Section 3.2, Variation or Modification** which states *“In no case shall any variation or modification be more than a minimum easing of the requirement’s”* for Preliminary Development Plan and Plat approval and Final Development approval.

- Applicant is proposing to extend College Drive to an extent of 2,600 feet. Article XV, Section 6.E.3.c of the Community College District code states *No-outlet roadways shall exceed three hundred feet (300') in length.*
- The applicant is proposing a two hundred (200) unit multi-family community terminating withan emergency turnaround. Article V, Section 8.1.4, states *Deadend roads may not serve more than thirty (30) dwelling units, except that the Code Administrator with the concurrence of the Fire Marshal may approve the development of more than thirty (30) lots on a dead end road.*

- At present Richards Avenue is at full capacity with the existing traffic, the applicant shall delay commencement of building construction until the contract for construction of the SE Connector has been awarded, approximately August 2017.

If approved the applicant shall comply with the following;

- The applicant shall delay commencement of building construction until August 2017.
- Applicant shall construct College Drive from its current terminus at Burnt Water to the western boundary of the future Southeast Connector Right-Of-Way to a standard of *Village Connector Highway/Traffic Priority* as per the Community College District Ordinance.
- Applicant shall install a gate at the western access with a Knox Lock and signed as “Emergency Access Only”
- The applicant shall install a gate at the eastern access to ensure that it remains an EXIT ONLY”.

FIRE PROTECTION:

The Project will be served by the County Water Utility with the construction of a new 12” water line in College Drive connecting to the existing 16” main in Richards Avenue. In addition, a 10” public main will loop through the site to serve the Project. Each building will be equipped with automatic fire suppression and six hydrants will be distributed throughout the site.

La Cienega Fire District: Santa Fe County will provide the water source for fire protection; fire hydrants shall be located within the site; six fire hydrants are proposed to be located on the site; Cul-de-sacs shall be a minimum 50’ radius; automatic fire prevention sprinkler systems shall be required; shall comply with Article 1, § 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.

WATER SUPPLY:

The project will be served by the County Water Utility. A 12” water line will be constructed to serve the development which will connect to a master meter that is connected to a



16” main line on Richards Avenue. A water utilities service availability analysis was issued to the Applicants by the Santa Fe County Utilities Department.

On March 24, 2015, the BCC approved a new water delivery for Elevation in the amount of 38.4 acre feet by way of Resolution No. 2015-44 (Exhibit 5).

LIQUID WASTE:

The Project will be served by Ranchland Utility Company. On-site wastewater collection will be accomplished via a series of 4” gravity lines and low pressure lines with grinder pumps, flowing into the existing 3” force main in College Drive west of the Project.

The application was reviewed by NMED, Ground Water Quality Bureau who determined that the proposal will fit within the current conditions of Rancho Viejo’s Ground Water Discharge Permit and no further permitting is required.

SOLID WASTE:

The apartments will have a series of dumpsters that will be screened and gated. Weekly collection of waste will be contracted with a local waste collection company.

FLOODPLAIN & TERRAIN MANAGEMENT:

The site has 0-20% percent slopes with minor 15%-30% isolated occurrences. The property is not located within a designated FEMA 100 Year flood zone and is located in FIRM Panel 35049c0526E dated December 4, 2012 and located in Zone X.



The Applicant’s proposal illustrates existing topography, natural drainage, and proposed locations for ponds, as indicated on sheet C8 Ponding Plan. The application indicates 13 total pond locations. The total ponding required for the project is 79,907 cubic feet of ponding. The amount of ponding provided is 88,362 cubic feet of pond area. The proposed project is in conformance of Ordinance No. 2000-12 Community College District and Ordinance 2008-10 Flood Damage Prevention and Stormwater Management.

SIGNAGE AND LIGHTING:

The Applicant has submitted a Signage Plan illustrating a Monument Sign at the entrance of the Development. As per Article VIII, Section 7.13, one permanent Identification sign shall be permitted and sign area shall not exceed 20 square feet in size. The proposed sign is less than 20 square feet in size. The Applicant shall comply with all signage requirements within Article VIII, (Sign Regulations). Staff



has determined that the Signage element of this Application complies with Article VIII, Section 7.13 (Sign Regulations).

The Applicant has submitted a Lighting Plan illustrating 20 foot pole mounted lights along the driveways and in the parking areas, 8 foot post top lights along the pedestrian walkways, and building mounted scones. All pole mounted lighting shall not exceed 24 feet in height. All lighting shall be shielded. Staff has determined that the lighting element of the Application meets the requirement set forth in VIII, Section 4.4.4 h. of the Code.

EXISTING DEVELOPMENT:
The project site is currently vacant.

ADJACENT PROPERTY:
The site is bordered to the west by the College Heights Subdivision. The Community College and vacant property owned by the Community College borders College Drive to the south. The site is bordered to the north and east by vacant residential parcels.

OPEN SPACE:
The proposal meets the requirements set forth in the Land Development Code and Ordinance 2000-12 (Community College District), for Open Space and Trails, including minimum 50% open space and accommodation of planned district trails running E-W along College Drive and NW-SE along a utility easement on the eastern end of the property.

AGENCY REVIEW:	
<u>Agency</u>	<u>Recommendation</u>
County Fire	Approval with Conditions
County Utilities	Approval
NMDOT	Approval
Open Space	Approval
Public Works	Denial or Conditional Approval
OSE	No Formal Opinion
SHPO	Approval
NMED	Approval

STAFF RECOMMENDATION:

The variance requests could be considered by the CDRC to be a minimal easing of the Code requirements due to the fact that the variances are only required for a temporary period of time. Once the Southeast Connector is constructed the project will provide a road network that will integrate automobile, pedestrian, and other modes of transportation in a safe and controlled manner and interconnection will be provided as shown on the CCD Circulation map. Other than the proposed variance requests, the project complies with Code/Ordinance requirements for the Preliminary and Final Development Plan.

Staff recommends approval of the Preliminary and Final Development Plan.

If the decision of the CDRC is to recommend approval of the variances of the CCDO, Ordinance No. 2000-12 § 6.E.3.c, Article V, § 8.1.4, of the Code and Preliminary and Final Development Plan for a Multi-Family Residential Community consisting of 200 residential units on 22 ± acres, staff recommends the following conditions be imposed:

1. The Applicants shall comply with all review agency comments and conditions.
2. Final Development Plan with required signatures, shall be recorded with the County Clerk as per Article V, § 7.2.
3. The Applicant shall submit a financial guarantee, in sufficient amount to assure completion of all required improvements prior to Final Development Plan recordation, as per Article V, § 9.9.
4. Elevation shall provide water rights or the “cash equivalent” to support the delivery of a total of 33.6 acre feet to Elevation “plus 20%” or 6.7 acre feet, as per Resolution No. 2015-44.
5. Applicant shall construct College Drive from its current terminus at Burnt Water to the western boundary of the future Southeast Connector Right-Of-Way to a standard of Village Connector Highway/Traffic Priority as per the Community College District Ordinance. The full

construction of this road shall be completed or bonded for (20% contingency) prior to any unit being occupied.

Staff also recommends a condition to the start date of vertical construction of the project to minimize the time that the variances are required. The Applicant is requesting a June 2016, start date. Public Works is requesting an August 2017, start date.

EXHIBITS:

1. Applicant's Development Plan Report
2. Letter Amending Development Plan
3. Proposed Plans
4. Reviewing Agency Responses
5. Resolution No. 2015-44
6. Aerial Photo of Site
7. Final Order
8. CCD Land Use Table
9. CCD Land Use Zoning Map
10. Ordinance No. 2000-12, § 4.C. Preliminary Development Plan
11. Ordinance No. 2000-12, § 4.D. Final Development Plans
12. Article V, § 7.1.3.a Preliminary Development Plans
13. Article V, § 7.2.2 Final Development Plan
14. Ordinance No. 2000-12, § 6.E.3.c
15. Article V, § 8.1.4
16. Article II, § 3 (Variances)
17. Warranty Deed and Letter of Authorization
18. Legal Notice
19. Elevation Construction Schedule

~~Development Review Committee shall make and file its decision approving or disapproving the application or approving the application with conditions or modifications.~~

- ~~ii. A decision of the County Development Review Committee on an appeal shall become final thirty (30) calendar days after the decision is filed, unless within that month an appeal of the decision has been filed by an interested person including the Code Administrator, pursuant to Section 2.3.4c of this Article or the Board on its own initiative has decided to review the decision.~~

2.3.4.c Appeal of Development Review Committee Decisions to the Board

- i. Any person aggrieved by a decision of a Development Review Committee may file an appeal in writing to the Code Administrator within thirty (30) calendar days of the date of the decision of the Development Review Committee. The Board shall hear the appeal within sixty (60) calendar days after the date the appeal is filed. The Board shall timely make and file its decision approving or disapproving the application or approving the application with conditions or modifications.
- ii. The decision of the Board shall become final on the date when the decision is filed.

2.4 Notice and Conduct of Public Hearing

2.4.1 Notice by County

~~Notice of a public hearing to be held by a Development Review Committee or the Board, shall be given as provided by resolution of the Board and as otherwise required by law. Copies of the public notice policies shall be posted in the Code Administrator's office. Public hearings shall be conducted as provided by policies established by the body holding the hearing or as required by law. All interested persons shall be allowed a reasonable opportunity to be heard at a public hearing held under the Code.~~

2.4.2 Notice by Applicant

~~2.4.2a For all zoning cases, master plans, development plans, variances, preliminary and final subdivision plats, Type V subdivisions containing six (6) or more parcels and appeals of these matters, the following public notice requirements shall be completed by the applicant at least twenty one (21) calendar days prior to the public meeting:~~

- ~~i. A notice shall be published in the legal section of the daily newspaper which covers the area in which the project is located;~~
- ~~ii. Certified letters, prepared by the Code Administrator, shall be mailed return receipt requested to all property owners within one hundred (100) feet (excluding rights-of-way) of the subject property;~~
- ~~iii. The subject property shall be posted, in the manner outlined in Section 2.3.2c of this Article II.~~

~~2.4.2b For all summary review subdivisions containing five (5) or fewer parcels. Sections 2.4.2a.ii. and iii. Shall be completed by the applicant at least fifteen (15) calendar days prior to the administrative decision.~~

~~History: Section 2.4 was amended by Ordinance 1996-8 to include notice requirements for most projects.~~

Henry P. Rojbal
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

CDRC CASE # Z 13-5380 ELEVATION
VEDURA RESIDENTIAL OPERATING, LLC, APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (BCC) of Santa Fe County (sometimes, "County") for hearing on July 8, 2014, and September 9, 2014, on the Application of Vedura Residential Operating, LLC (Applicant) for Master Plan Zoning approval in accordance with Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code (Code), as amended by the Santa Fe County Ordinance 2000-12, the Community College District Ordinance (CCDO), to allow a multi-family residential apartment community consisting of 214 residential units on 22 ± acres. The BCC, having reviewed the Application, supplemental materials, staff reports, and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, subject to conditions, and makes the following findings of fact and conclusions of law:

I. Background

1. The Applicant requests Master Plan Zoning approval for a 214 unit multifamily residential apartment community, referred to as Elevation, on a 22± acre site (the Property).



2. The Property is located on the north side of College Drive and east of Burnt Water Road in the Community College District, within Section 21, Township 16 North, Range 9 East.

3. “All development within th[e] Community College District is required to submit a Master Plan . . .” Code, Article XV, Section 4.

4. Univest-Rancho Viejo, LLC acquired the Property by warranty deed, recorded on December 23, 2010, as instrument 1621125 in the Santa Fe County Clerk’s records. At the time of the hearing, the Applicant was in the process of purchasing the Property.

5. The property owner and Applicant authorized Jenkins/Gavin Design & Development, Inc. to act on their behalf in making application for the proposed development, as evidenced by the written authorization contained in the record.

6. The Applicant is proposing approximately 9.7 dwelling units per acre, a density which complies with the CCDO. The development will include one, two, and three bedroom units, for a total of 214 units. There will be approximately 480 parking spaces on site. College Drive will be the access road to the development. The development is proposed to receive water service from the Santa Fe County water utility, and will connect to and receive wastewater treatment services from Ranchland Utility Company, Inc. (Ranchland Utility). The development will have a series of dumpsters that will be screened and gated. Weekly collection of waste will be contracted with a local waste collection company. Amenities of the development are anticipated to include a community pool, and a community work-out facility.

II. History of Zoning and Master Planning of the Property

7. In 1989, the Rancho Viejo de Santa Fe Master Plan was adopted, a master plan which included 570 multi-family units on 55 acres, or approximately 10 dwelling units per acre. That Master Plan specifically identified an area in close proximity to the Property, at the corner of College Drive and Richards Avenue, for high-density multi-family development. The Property was within that portion of the Rancho Viejo de Santa Fe Master Plan that was never developed and expired.

8. The Property was next included in the 1997 College North Master Plan, which proposed single family dwelling units on the Property. Although portions of the College North Master Plan were developed and are now referred to as College Heights, the portion of the Master Plan applicable to the Property expired and has not been developed.

9. The CCDO was adopted on December 11, 2000. The CCDO establishes comprehensive zoning for and governs development in the Community College District, which is Santa Fe County's designated growth area and includes the Property. The Community College District is the only area within Santa Fe County that encourages high density through zoning, and is therefore the only area in the County where development of apartments is feasible without seeking a density variance.¹ The CCDO is intended to ensure a variety of housing types for County residents, including multifamily development.

¹ Article III, Section 10, of the Code, establishes permissible densities outside of the Community College District. As explained by the County Land Use Administrator at the public hearing, densities available outside of the Community College District Ordinance are too low to make multifamily apartment complexes feasible.

10. The CCDO Land Use Zoning Map, adopted in 2000, designated the Property as part of a Village Zone. The uses permitted in the Village Zone include multifamily residential developments such as that described in the Application. Density within a Village Zone is a *minimum of 3.5 dwelling units per acre*. Community Development Plan, adopted by Resolution No. 2000-136, § E(1)(c)(1).

III. The Public Hearing Process and Evidence of Compliance with the Code

11. The Applicant complied with the notice requirements of Article II, Section 2.4.2 of the Code. In advance of a hearing on the Application, the Applicant provided a certification of posting of notice of the hearing and confirmed that public notice posting regarding the Application was made for twenty one days on the property, beginning on June 17, 2014. Additionally, notice of the hearing was published in the legal notice section of the Santa Fe New Mexican on June 17, 2014, as evidenced by a copy of that legal notice contained in the record. Receipts for certified mailing of notices of the hearing were also contained in the record for all adjacent property owners and Home Owners Associations. Additionally, the Applicant held multiple community meetings to inform the community about the contemplated development and, after learning of the desire of the community to have the development moved east of its proposed location; the Applicant accommodated that request in the Application.

12. The Applicant undertook a market study to determine if multifamily housing was needed in the area. That study confirmed a significant demand for multifamily rental properties.

13. Elevation will be accessible from College Drive. The County Public Works Department supported the project subject to specific conditions.

14. The Applicant provided a traffic study which confirmed the need to evaluate the level of service at adjacent intersections prior to development plan approval in order to determine what road improvements would be necessary to attain adequate traffic flow. If the project develops without the benefit of an anticipated road project called the Southeast Connector, a traffic analysis will be required to evaluate necessary improvements on Richards Avenue, such as a slip lane, and how much development Richards Avenue, with or without improvements, can support. The Applicant confirmed that off-site road improvements provided by the Applicant could be required as part of the preliminary and final development plan approval process for the project.

15. In accordance with the Code, on May 15, 2014, the County Development Review Committee (CDRC) held a public hearing on the Application and recommended denial of the Application.

16. On July 8, 2014, the BCC held a public hearing on the Application. A staff report was presented to the BCC, the Applicant's agent made a presentation in support of the Application, and 22 members of the public provided testimony in opposition to the Application. The staff report recommending conditional approval of the Application included materials and plans submitted by the Applicant, Code requirements, reviewing agency comments and letters of concern from the public, among other material.

17. Following the extensive public hearing, the BCC went into closed executive session to deliberate on the application as allowed by NMSA 1978, § 10-15-1-H(3). Following executive session, the BCC tabled the case until the September 9, 2014 BCC meeting. The BCC identified three specific issues to be addressed at the September

9 meeting. Specifically, the BCC directed staff to obtain additional information regarding:

- a. The basis for the concerns of the New Mexico Environmental Department (NMED) regarding the proposed wastewater treatment provider, Ranchland Utility, as reflected in NMED's report of a compliance evaluation inspection conducted on or about February 25, 2014;
- b. The availability of water for the project; and
- c. The status of the design, survey, easements and construction timeline associated with the Southeast Connector.

18. On September 9, 2014, the BCC continued the public hearing with respect to the three items, and then acted to approve the Application for Master Plan zoning approval.

19. The following was established during the continued public hearing on September 9, 2014:

- a. As confirmed by NMED, a compliance evaluation inspection of the Ranchland Utility wastewater facility was conducted on February 25, 2014. The facility is regulated under the United States Environmental Protection Agency (USEPA), National Pollutant Discharge Elimination System (NPDES) permit program. NMED's Surface Water Quality Bureau conducts compliance evaluation inspections on behalf of the USEPA. The purpose of the inspections is to provide the USEPA with information to evaluate compliance with the NPDES permit. According to NMED, as of the time of hearing, all findings from the inspection report were addressed sufficiently by Ranchland Utility.

b. The Santa Fe County Utilities staff reviewed the Ranchland Utility NPDES inspection report dated March 6, 2014. Based on the information provided, the wastewater facility has capacity to serve the proposed multifamily development.

c. In response to the inquiry regarding availability of water for the project, it was noted that Santa Fe County Utilities had issued a "ready, willing, and able" letter to the Applicant, which provide that water right acquisition costs will be recovered from projects at time of meter installation. Santa Fe County Resolution 2006-57, Resolution Adopting A Santa Fe County Water Resources Dept. Line Extension And Water Service Policy; states that new water service applicants "may be required to deposit or dedicate water rights with the County to match against expected deliveries, pay the County to acquire water rights to match against deliveries that are sought, pay a significant initial service fee, or pay other fees to the County to assist the County to provide a permanent and perpetual water supply." Since water rights and water allocations have been dedicated to the County under the original Rancho Viejo Master Plan Applicants may be able to take credit for those contributions for this development. The Applicants may need to pay a water right acquisition fee at the time of meter installation. These water rights issues are to be resolved prior to preliminary and final development plan approval pursuant to Resolution 2006-57. To address concerns regarding the water budget and water availability for the development, the Utilities Department suggested and the Applicant agreed to certain conditions on master plan approval.

d. The Southeast Connector is currently at the stage of an alignment study. This study evaluates the best alignment for the proposed road. Once the alignment

study is complete, the County may need to acquire rights-of-way for the road project. The road will then need to be designed, and constructed. Based on the best information available at this time, the estimated schedule for this road project is: alignment study completed – February 2015; Right-of-Way acquired – November 2015; design completed – November 2016; and, construction completed – July 2017.

20. Affordable housing requirements set forth in County ordinances only apply to single family dwelling units on individual lots, and thus do not govern development of the proposed multi-family apartment development.

21. The archaeological review presented no obstacles to granting Master Plan Approval, and the Applicants will note a non-disturbance easement on the Development Plan submittal or survey.

22. The Property is not located within a FEMA designated 100 year flood zone. Floodplain and terrain management were adequately addressed by the Application.

23. The Application proposed two monument signs at the entrance to the development, which was not in conformance with the Code. The Preliminary Development Plan will have to reflect a single sign. Similarly, the 25 foot lighting proposal will have to be reduced to a maximum of 24 feet in height for the Preliminary Development Plan. Neither defect is sufficient to serve as a basis for denial of the Application, which is simply for approval of the Master Plan.

24. Fire protection was sufficient as proposed.

25. The Master Plan contained the mandatory 50% minimum open space and accommodates planned district trails.

26. No objection to the Application was identified by the Office of the State Engineer, New Mexico Environment Department, New Mexico Department of Transportation, and Santa Fe Public Schools.

27. Santa Fe Community College, one of the largest employers in New Mexico, is located adjacent to the proposed development, and across the street from the development is the College Park. Also in the area are: Amy Biehl School, the ATC Charter School, the Institute of American Indian Arts (IAIA), and La Entrada Commerce Park, which is currently home to Bicycle Technologies International (BTI). The proximity of these employers to the Property illustrates the potential customer base for the development. Not all residents seek home ownership, and the multi-family development will offer residents an alternative to home ownership. A housing needs assessment conducted by Santa Fe County confirmed that employers felt that access to housing was one of the most important needs to address in the community; a need which is partially addressed by development of multi-family housing.²

28. Elevation includes a community pool, which is permitted under the CCDO Land Use Table and Santa Fe County Ordinance No. 2007-1.

29. The water budget for the project is estimated as 30-34 acre feet per year, which will be equivalent to approximately .14 to .16 acre feet per dwelling unit. The Applicants confirmed that at the time of preliminary and final development plan approval they would either prove entitlement to utilize water rights already dedicated to the County, acquire sufficient water rights for transfer to the County, or pay the County for

² The conclusion of the Housing Needs Assessment was the subject of testimony at the public hearing. In addition, the BCC may properly take administrative notice of the County's own Housing Needs Assessment.

any water rights required for the development. The determination of how water rights will be provided by the developer to the County is governed by Resolution 2006-57 and is not required for master plan approval.

30. The Applicants' engineer testified in support of the Application in regards to the sewer line and waste water treatment facility proposed for the development. Her expert opinion was that the sewer line and waste water treatment facility, components of which are to be installed and components of which already exist, would be adequate to accommodate the demands of Elevation. She described a three inch low pressure sewer line that runs from College Hills Drive to Richards Avenue, down Richards Avenue to Avenida del Sur and into a manhole that flows to the Rancho Viejo treatment plant. The three inch line has capacity for more than 400 units. NMED also reviewed the Application and did not indicate any basis for rejecting the Application as a result of the Rancho Viejo wastewater treatment facility. NMED Ground Water Quality Bureau determined that the proposal fit within the current conditions of Rancho Viejo's Ground Water Discharge Permit and no further permitting would be required.

IV. Opposition to the Application

31. Twenty-two members of the public, including those representing homeowners associations and groups of area residents, testified against the Application.

32. The basis for opposition to the project presented from members of the public can generally be characterized as follows:

- a. Concern over the adequacy of the existing wastewater infrastructure which would serve the development;

b. Concern that renters living in Elevation would not be compatible with the home owners in the community and that Elevation may bring an increase in crime to the area;

c. Frustration that what was once master-planned as 73 single-family residences had been partially built out with 22 single-family residences and that the Property was now being master planned for multifamily development;

d. Concern about the increased traffic generated by the development;

e. Concern regarding the visual impact of a multifamily development;

f. The impact of multifamily development on property values;

g. Failure to include all property in the village zone owned by Univest-Rancho Viejo, LLC in the Application;

h. Failure to ensure a transitional buffer between the multifamily development proposed and the existing single-family development to the east;

i. Concerns that the Property had been de-annexed from the private covenants governing property within the Rancho Viejo development, which means the Property does not have to pay dues into the homeowners association or support the trails and open space in Rancho Viejo.

33. With regard to generalized concerns regarding compatibility between renters living in Elevation and home owners in the community, crime allegedly associated with apartment complexes, the impact of Elevation on property values, and concerns about the visual impact of Elevation, the BCC specifically finds that these

general concerns were unsupported by substantial evidence, in the form of testimony from individuals qualified to render an expert opinion or other competent evidence.³

34. The Southeast Connector is intended to provide an improved traffic network within the Community College District, thereby relieving traffic congestion on Richards Avenue. The Southeast Connector, if constructed, will be a Santa Fe County road. The road, if installed as described during the public hearing on this matter, would run between the existing single family residential area known as College Heights and the Property. Applicant has confirmed that the location of the apartment buildings on the subject property may be moved once the final alignment of the Southeast Connector is determined.

35. Reviewing agencies and County staff confirmed that the Application was in compliance with all relevant requirements contained in the Code and the CCDO.

36. The information provided at the September 9, 2014 public hearing confirmed, and the BCC hereby finds, as follows:

- a. The wastewater requirements for the proposed development can be adequately met by Ranchland Utilities and existing and proposed infrastructure;
- b. The Applicant has met the Master Plan requirements of the Code and the CCDO pertaining to water; and
- c. That traffic concerns are appropriately addressed at the time of preliminary and final development plan approval.

³ For example, some opponents to the Application, area residents not qualified as expert witnesses, speculated about the demographics of potential residents of Elevation apartments and made assumptions about the likely behavior of those residents based upon those assumed demographics.

V. Conclusions of Law

37. Any finding or conclusion set forth above that may be construed to constitute a conclusion of law is hereby incorporated as such to the same extent as if it was expressly denominated as a conclusion of law.

38. The Application is comprehensive in establishing the scope of the project.

39. The Master Plan conforms to the eligible use and density allowed under the CCDO and the Community College District Plan.

40. The Application satisfied the relevant submittal requirements.

41. The Application does not request a rezoning of the Property. Rather, the CCDO establishes comprehensive zoning for the entire Community College District, including the Property. Allowable uses for the Property include multifamily residential developments of over four units, since the Property is within a Village Zone. CCDO, Community College District Land Use Zoning Map and Exhibit 2. In other words, the Property is already zoned for multifamily residential developments of over four units (as well as other uses). *E.g.*, Code, Article XV, Section 4(B)(1)(b) ("All lands within the Community College District are zoned for the uses allowed in the Land Use Table."). Consequently, the change or mistake rule established by the New Mexico Supreme Court in such cases as *Miller v. City of Albuquerque*, 1976-NMSC-052, 89 N.M. 503 (N.M. 1976) does not apply to the Application.

42. There is no specific buffer requirement in the Code or CCDO between single family developments and multifamily developments. The Application complies with all applicable buffering and open space requirements.

43. With regard to general principles, the Sustainable Growth Management Plan (SGMP), adopted by Resolution Nos. 2010-210 and 2010-225, recognizes that “that when a use is authorized in a base or planned district zone, the use itself is deemed compatible with the adjoining area.” SGMP, § 2.2.4.5. As indicated above, the Property is zoned for multifamily residential development of over four units, meaning that the BCC has previously determined that multifamily residential development is compatible with the adjoining area. This general compatibility is demonstrated when College Heights and the Property are put in context: They are both in close proximity to large scale, mixed uses (e.g., the Community College, Santa Maria de la Paz Church, and BTI).

44. With regard to development specific compatibility issues, the SGMP establishes as a goal “the protection of residential areas through open space and buffering site design” and emphasizes that “[s]ite design plays the most significant role in assuring land use compatibility.” Here, the Application proposes to maintain 50% of the Property as open space, as required by the Code, Article XV, Section 6(H)(2)A). This includes open space between all property boundaries and buildings on the Property. In addition, the landscape plan for Elevation includes vegetation between the buildings and property boundaries. These conceptual site design elements are consistent with the general policy goal of the SGMP of using open space and site design to ensure land use compatibility.

45. The BCC does not have jurisdiction over the following matters: (i) the legality of the de-annexation of the Property from the First Amended and Restated Declaration Covenants, Conditions and Restrictions, including any alleged inequity arising from the multifamily development being exempt from homeowners association dues, and (ii) whether the Elevation development proposed in the Application should be

enjoined because it is inconsistent with the marketing material used to sell lots in College Heights. *E.g., Singleterry v. City of Albuquerque*, 1981 -NMSC- 037, ¶¶ 6-10, 96 N.M. 468 (N.M. 1981). These issues are for the courts to resolve in litigation brought by and between appropriate parties.

46. The Application does not violate Code, Article XV, Section 4(B)(2)(a), which provides that “[t]he 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 Application includes all of the land within the Village Zone that the Applicant is in the process of acquiring. There is no evidence in the record that the sale to the Applicant is a non-bona fide transaction or that Univest-Rancho Viejo, LLC is otherwise engaging in activity designed to avoid master planning all of the property within the village zone it owns, which evidence, if present, might justify an interpretation of Article XV, Section 4(B)(2)(a) that would require Univest-Rancho Viejo, LLC to master plan all of the property it owns in the applicable zone.

47. Master plan approval means that “that the development concept is acceptable and that further approvals are likely unless the detailed development plans cannot meet the requirements of applicable law and County ordinances in effect at that time.” Code, Article V, § 5.2.6(a).

48. Article III, Section 4.4.1.5(b) of the Code requires that when a “development will increase the burden on inadequate public roads, utilities or other services, the use may be denied, or the developer may be required to undertake the full cost of improvements to the public road or other services in order to meet the test of

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adequacy.” As the Applicant acknowledged at the public hearing, traffic impact from the proposed development and the adequacy of public roads must be addressed prior to preliminary or final development plan approval. Depending upon the then current level of service on Richards Avenue and College Drive as well as the status of the Southeast Connector, Applicant may be required to undertake the full cost of improvements necessary to provide adequate service and/or limit the size of the proposed development to a level that can be adequately served.

49. Subject to the conditions noted below, the application should be approved based upon the criteria established in Code, Article XV, Section 4(B)(3), as follows:

- a. The Application conforms to the Santa Fe County Growth Management Plan, as amended by the Community College District Plan, and SGMP. Without limiting the generality of the foregoing conclusion, the Community College District Plan and SGMP call for higher densities and growth in the Community College District, specifically establish the goal of encouraging multifamily, rental housing developments, and specifically recognize the desirability of diverse housing opportunities near work, transit infrastructure, commercial areas, and community services. *E.g.*, Community College District Plan, adopted by Resolution No. 2000-136, § D(9), § E(1)(c), and § (E)(8); SGMP, Policy 8.2, Policy 8.3, Critical Finding 13.2.1 and § 14-2.1.2 (recognizing community plans adopted by the BCC as amendments to the SGMP).
- b. The Application does not propose phasing.
- c. At the conceptual level required for master plan approval, the

Application conforms to the CCDO and other applicable law and ordinances in effect at the time of consideration.

d. There will be no impact to schools, as demonstrated by the January 21, 2014 letter from Shirley McDougall, Santa Fe Public Schools, Property & Asset Management, which states, in part, that “current capacities at assigned schools . . . will be adequate to serve the anticipated student population from this development.” Opponents to the Application failed to establish through substantial evidence that the Application would negatively impact their land to a degree sufficient to justify denial of the Application. With respect to impacts to Santa Fe County, Elevation will address an identified goal of providing multifamily residential development, as established above in the paragraph concerning conformity with the Community College District Plan and SGMF. In terms of potential impacts upon the adequacy of public roads, as previously indicated, traffic impacts will be evaluated and addressed at preliminary and final development plan approval.

50. The following conditions of approval shall be applicable and have been agreed to by Applicants:

a. The Applicants shall comply with all review agency comments and conditions, as per Code, Article V, § 7.1.3.c.

b. Conditions shall be noted on the recorded Master Plan. The Master Plan with appropriate signatures shall be recorded with the County Clerk, as per Code, Article V, § 5.2.5.

c. A revised traffic impact analysis, showing current road conditions, shall be submitted based on the Southeast Connector at the time of submission of the Application for Preliminary Development Plan. Code, Article III, § 4.4.1.5.c.

d. Prior to submittal for Preliminary Development Plan Approval, the Applicant is required to submit a proposed water budget that meets County code requirements and incorporates Santa Fe County conservation ordinances and resolutions.

Upon approval, Utilities will add 20% to the development's water budget for line losses per Resolution 2006-57 and submit the water budget to the BCC for a water allocation.

e. Prior to submittal for Preliminary Development Plan Approval, the Applicant must have a BCC-approved water allocation in the amount needed for the development's water budget.

f. Prior to Final Development Plan Approval, Elevation may provide the County Rio Grande surface water rights or Rancho Viejo water commitments. Otherwise, a water right acquisition fee will be added to the meter installation fee for each dwelling unit, which will be metered separately per Santa Fe County Resolution 2012-88, Customer Service Policy 15.

WHEREFORE, the BCC hereby approves the request for Master Plan Zoning approval to allow a multifamily residential apartment community consisting of 214 residential units on 22 ± acres, subject to the conditions set forth in Paragraph 50 above. The motion to approve the Application passed by a 3-2 vote, with Commissioners Anaya, Holian, and Chavez voting in favor of the motion. Commissioners Stefanics and Mayfield opposed the motion.

IT IS SO ORDERED.

This Order was approved by the Santa Fe County Board of County Commissioners on this 13th day of January, 2015.

SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS

By: Robert A. Anaya, Chair

Attest:

Geraldine Salazar
Geraldine Salazar, County Clerk

1-13-2015

Approved as to form:

Gregory S. Shaffer, County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss BCC ORDER
PAGES: 19

I Herby Certify That This Instrument Was Filed for
Record On The 14TH Day Of January, 2015 at 01:50:53 PM
And Was Duly Recorded as Instrument # 1754938
Of The Records Of Santa Fe County

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

Ms. Jenkins returned to the podium to state the most recent meeting that occurred on May 26th is when the developers agreed to move the main entrance and mitigate impact on the neighbors. She said the driveway may require additional adjustments and asked that the CDRC allow the developer to make that adjustment with staff.

Chair Katz thanked the applicant for working with the neighbors.

Member Anaya moved to recommend approval with staff-imposed conditions (1-5). Member Martin seconded.

Chair Katz noted that condition 5 as proposed by staff requires the applicant to return to the CDRC for approval of the driveway adjustment.

The motion failed by a [3-4] with the Chair breaking the tie vote. Members Gonzales, Anaya and Martin voting in the affirmative.

Member Gray moved to approve DP 15-5090 with staff conditions 1-4 with staff approving any driveway modifications. Member Booth seconded.

Member Anaya asked whether staff could approve the driveway modification without CDRC approval. Ms. Ellis-Green said the amended driveway plan was submitted to staff five hours ago which is not enough time for an adequate staff review. From a cursory examination it may require at least one variance and if that is the case, staff cannot approve it.

Chair Katz recommended a friendly amendment to the motion that staff can approve the driveway change. However, if there are aspects that cannot be approved by staff it shall be returned to the CDRC. Members Gray and Booth accepted the amendment and the motion passed by majority [5-1] voice vote with Member Anaya voting against.

- D. CDRC CASE # V/DP 13-5381 Elevation Multi-Family Community
Vedura Residential Operating, LLC, Applicant, JenkinsGavin,
Agents, request Preliminary and Final Development Plan approval
for a multi-family residential community consisting of 200 residential
units on 22 ± acres in conformance with Santa Fe County Ordinance
1996-10, the Land Development Code (the Code). The Applicant also
requests a variance of Ordinance No. 2000-12, Section 6.E.3.c) to
allow a no-outlet roadway to exceed 300 feet and a variance of the
Code, Article V, Section 8.1.4, which states that dead end roads may
not serve more than thirty (30) dwelling units. The site is
located at 63 College Drive, within the Community College District,
within Section 21, Township 16 North, Range 9 East, (Commission
District 5)

[Exhibit 6: JenkinsGavin Elevation slide show presentation; Exhibit 7: Bruce Krasnow email to Staff opposing the development; Exhibits 8 &



NB-40

9. *Pat Perrin supplied documents, portions of the County Code(s) and "Why the Vedura ... needs to be built somewhere else..."*

Mr. Larrañaga read the case caption and summarized the staff report as follows:

“On September 9, 2014, the Board of County Commissioners) approved a Master Plan application made by Vedura Residential Operating, LLC for a multi-family residential community consisting of 214 residential units on 22 acres. The Final Order was approved by the BCC on January 13, 2015 and recorded on January 14, 2015 in the County Clerk’s Office.

“The Applicant is requesting Preliminary and Final Development Plan approval for a multi-family residential community consisting of 200 residential units in conformance with the approved Master Plan, the Code, including the Santa Fe County Ordinance 2000-12, the Community College District Ordinance. The CCDO Land Use Zoning Map designates this site as a Village Zone which allows for multi-family residential use. The approved Master Plan allows for a 200-unit multi-family 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.

“The proposed 200-unit apartment community is 0.26 miles east of the College Heights Subdivision and northeast of the Santa Fe Community College. The one and two-bedroom units are dispersed among 16 two-story buildings and there are two single-story garage buildings on the west side of the property. A community center serves as a gathering place, offering a fitness center, lounge areas, an activity room, and a business center with a conference room. Outdoor amenities include a pool, spa, barbecues, a fire pit, and covered patio areas.

“The Project will access via an extension of College Drive from the current terminus of Burnt Water Road. The Applicant will extend College Drive approximately 3,140 feet to the west boundary of the future Southeast Connector right of way, terminating in a temporary emergency turnaround. The new roadway extension will be constructed in accordance with the CCDO standards as a Village Connector Highway.

“A revised Traffic Impact Analysis was submitted based on the timing and availability of the Southeast Connector. The Applicant proposes to delay commencement of building construction of the apartments until June of 2016 in an effort to allow for time for future connectivity to the Southeast Connector.

“The Applicants’ construction schedule shows 40 units online by July 2017, with all 200 units available by January 2018 and lease stabilization June-August 2018.

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“The Project will be served by the County Water Utility with the construction of a 12” waterline in College Drive connecting to the existing 16” main in Richards Avenue. A 10” public main will loop through the site to serve the project. Each building will be equipped with automatic fire suppression and six hydrants will be distributed throughout the site. On March 24, 2015 the BCC approved a new water delivery request in the amount needed for the development’s water budget.

“The Applicant also requests a variance of Ordinance No. 2000-12, § 6.E.3.c to allow a no-outlet roadway to exceed 300 feet and a variance of Article V, § 8.1.4, of the Code, which states that dead-end roads may not serve more than thirty (30) dwelling units. The Applicant states: “the variances are necessitated by the fact that College Drive will temporarily be a dead-end roadway until the completion of the Southeast Connector. This is a non-self-inflicted condition which is temporary until the construction of the Southeast Connector. Construction of the roadway will not result in conditions injurious to health or safety, as the road will be built to County standards with the requisite emergency turnaround. Once the connection to the Southeast Connector is constructed, College Drive will no longer operate as a dead- end.”

Mr. Larrañaga said staff has reviewed the project for compliance with pertinent Code requirements, including the CCDO requirements, and have found the following facts in regards to the request for Preliminary and Final Development Plan approval for a multi-family residential community:

- the Application has established the extent and scope of the project including, the use of the project, and its overall needs for services and infrastructure;
- the Application has established the viability of the proposed project to function as a complete development;
- the Application is generally in conformance with the CCDO in regards to roads – with the exception of Article V, § 8.1.4 Dead-end roads – trails design and construction standards and open space standards;
- the development conforms to the eligible uses allowed under a New Community Center Village Zone;
- the Application generally satisfies the submittal requirements set forth in Ordinance No. 2000-12, § 4.C. (Preliminary Development Plan), § 4.D. (Final Development Plans) and the Code (with the exception of Article V, § 8.1.4 (Dead end roads)

The review comments from State Agencies and County staff have established findings that the Application is in compliance with state requirements, the majority of CCDO requirements, Article V, § 7.1 Preliminary Development Plan and Article V, § 7.2 Final Development Plan of the Code. However, this Application is not in compliance with Ordinance No. 2000-12, Section 6.E.3.c and Article V, § 8.1.4 of the Code.

Mr. Larrañaga said the Building and Development Services staff have reviewed the Applicant’s request for a variance of Ordinance No. 2000-12, § 6.E.3.c, (no-outlet roads) and Article V, § 8.1.4 (Dead end roads) for compliance with pertinent Code and

Ordinance requirements and has found that the request is not in conformance with Code and Ordinance requirements and that the Code/Ordinance requires the following:

- that roadway circulation within the Community College District shall provide a network of roads that will integrate automobile traffic, pedestrian and other modes of transportation in a safe and controlled manner;
- that within each development, roadway circulation shall be interconnected as shown on the Circulation Map;
- that the developer shall be required to construct any portion of the roadway necessary to maintain connectivity throughout the CCD;
- that all road construction shall conform and comply with AASHTO standards ITE guidelines, New Mexico State Highway and Transportation Department specifications and all applicable National Codes.

Mr. Larrañaga said the variances requested are temporary in nature and will only exist until the Southeast Connector is constructed. The Applicant proposes to construct College Drive to CCDO road standards to connect Richards Avenue to the Southeast Connector. He noted that the Code does not address temporary variances.

Mr. Larrañaga said Staff recommends that the variance requests could be considered by the CDRC to be a minimal easing of the Code requirements due to the fact that the variances are only required for a temporary period of time. Once the Southeast Connector is constructed the project will provide a road network that will integrate automobile, pedestrian, and other modes of transportation in a safe and controlled manner and interconnection will be provided as shown on the CCD Circulation map. Other than the proposed variance requests, the project complies with Code/Ordinance requirements for the Preliminary and Final Development Plan.

Staff recommends approval of the Preliminary and Final Development Plan. If the decision of the CDRC is to recommend approval of the variances to the CCDO, Ordinance No. 2000-12 § 6.E.3.c, Article V, § 8.1.4, of the Code and Preliminary and Final Development Plan for a Multi-Family Residential Community consisting of 200 residential units on 22 acres, staff recommends the following conditions be imposed:

1. The Applicants shall comply with all review agency comments and conditions.
2. Final Development Plan with required signatures, shall be recorded with the County Clerk as per Article V, § 7.12.
3. The Applicant shall submit a financial guarantee in sufficient amount to assure completion of all required improvements prior to Final Development Plan recordation, as per Article V, § 9.9.
4. Elevation shall provide water rights or the “cash equivalent” to support the delivery of a total of 33.6 acre feet to Elevation “plus 20 percent or 6.7 acre-feet, as per Resolution No. 2015-44.
5. Applicant shall construct College Drive from its current terminus at Burnt Water to the western boundary of the future Southeast Connector right-of-way to a standard of Village Connector Highway/Traffic Priority as per the Community College District Ordinance. The full construction of this road shall be completed

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or bonded for (20% contingency) prior to any unit being occupied. [Amended see page 16]

Mr. Larrañaga noted that on page NBD-10 regarding the lighting review, it should cite Article III, Section 4.4 H of the Code.

Member Booth asked staff when the Southeast Connector was planned to be built. Ms. Ellis-Green indicated there was no set date. If the time schedule goes as planned, Public Works anticipates awarding a contract August 2017. Jennifer Jenkins, agent for the applicant, presented Ms. Ellis-Green with a construction schedule that designated August 2018 as the planned build-out date. Member Booth asked about the funding and Ms. Ellis-Green said the funding is available for what it is believed the project will cost now. Design has not begun and will start March 2016 and construction is set for August 2017 and completion August 2018.

Ms. Ellis-Green said the dates are estimates only.

Previously sworn, Jennifer Jenkins with JenkinsGavin Design and Development and Colleen Gavin were present on behalf of their client Verura Residential. She introduced their traffic consultant and Oralynn Guerretortiz, project civil engineer.

Ms. Jenkins said the project is in accordance and compliance with the project master plan. the Rancho Viejo master plan as well as the Sustainable Growth Management Plan and the CCDO. The request is in accordance with the letter of those documents, stated Ms. Jenkins. Using a slide presentation the 22-acre site was located within Rancho Viejo, northeast of the Community College campus and ¼ mile east of the College Heights Subdivision. The primary access was identified off the new extension off College Drive and there is a gated resident exit on the east as well as an emergency gated access on the west side.

Ms. Jenkins said the project will have over 50 percent open space with significant landscaped areas and amenities for the residents.

Ms. Jenkins reviewed the County's preferred alignment for the Southeast Connector from the north which is the Northeast connector which will function as the new frontage road. There is a new Eastwest extension off Avenida del Sur. Staff informed the applicant of the preferred alignment and the applicant has amended its alignment to meet the County's preferred location which is significantly east. College Drive was removed from the County project which now includes the Southeast Connector and the extension of Avenida del Sur to where it terminates on Richards Avenue. College Drive is considered a developer-driven improvement.

Ms. Jenkins said the developer updated their traffic impact analysis to address the County's preferred alignment and identified failure moments in the a.m. peak hour at the Willowback roundabout and the College Drive roundabout. She said when they proposed the improvements to Richards to address the failure moments the County asked that instead they improve the entire extension of College Drive to the Southeast Connector. They found the County's request logical and have agreed to build "the entire extension of College Drive to the tune of \$1.4 million." In addition to building College Drive the developer has offered to delay starting any building until June 2016. She spoke about the

developer's transparency that there may be a gap from the time the project is leased up to the time the Southeast Connector is complete. The goal is to narrow the gap.

With the aid of the slides, Ms. Jenkins described how the project would be built out in sequential phases that will take approximately 18 months and the marketing effort will not start until the summer of 2017. It is anticipated it will take a year to lease-up the project.

Ms. Jenkins said the project traffic engineer drove the corridor during the peak which appears to be a 15-minute period (7:45 -8:00 a.m.), the remainder of the time the roundabouts do function. In addition to three traffic impact analyses they have also done a traffic simulation as requested by Public Works. Based on that data there is no traffic failure on Richards Avenue. She pointed out that the data includes full occupancy of Elevation's 200 units.

Concluding the presentation, Ms. Jenkins said the design was refined further and mirrors the newer construction at the Community College with extensive landscaping.

Member Anaya asked about the start date from the construction on College Drive and Ms. Jenkins said it all works parallel and has to be complete prior to leasing any units. Grading College Drive will be one of the first things the developer does. She clarified that College Drive and College Avenue are the same. She said all the utilities are underground.

Member Booth asked that in the future staff include minutes of meetings relevant to the subject case. She noted that the CDRC denied this request for master plan and apparently the BCC approved it and those minutes would have been helpful.

Member Booth said the traffic on Richards Avenue concerns her. She understood from talking to another developer that a 400-unit complex could be filled in three months and the discrepancy that it will take Elevations so much longer caused unease.

Knowing that things don't happen within government promised timeframes, Member Booth said there is a lot of conjecture based on whether or not the Southeast Connector is constructed.

Ms. Jenkins said the BCC earmarked a \$5 million bond for this project and then within the past few months an additional \$1.2 million was set aside for the project.

Ms. Jenkins clarified that the numbers derived from the simulation program are without the Southeast Connector and include 100 percent of the Elevation traffic. Recognizing that the perception is that traffic is great on Richards, Ms. Jenkins said that a 15-minute period makes up 1 percent of the entire day – she asked if 1 percent of the day for a definitive period of time up to one year worth a \$1.4 million road. Rephrasing the question, she asked whether it was “worth having the community grin and bear it for maybe a year for a delay for 1 percent of the day and in exchange Santa Fe County gets a \$1.4 million road and makes the Southeast Connector project viable and functional.”

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NR-45

Observing that the prohibition that a dead-end road may not serve more than 30 dwelling units is a safety issue, Member Booth said that during that time there are going to be more than 30 families that are stuck if the road is blocked. That may be a liability for the County costing more than a \$1.4 million road. Basically, the tradeoff is a variance for the developer to build the road, stated Ms. Booth. Ms. Jenkins said that's another way of putting it. She said the variance is similar to the one granted to the Soleil Project with a temporary situation. This was also a temporary dead-end and based on the code staff determined a variance was required.

Duly sworn, Oralynn Guerrerortiz, project engineer, said she has had plenty of conversations with the County Fire Marshal in the past on the issue of dead-end roads and they have repeatedly approved projects with more than 30 units on a dead-end road. The only requirement is a turnaround. She agreed it was wise to have two access points and initiated that requirement when she was a County employee.

The turnaround was shown on the slide show within the development plan.

Ms. Lucero said based on the applicant's proposal for construction of College Drive, staff requests modification to condition five to read:

5. Applicant shall construct College Drive from its current terminus at Burnt Water to the western boundary of the future Southeast Connector right-of-way to a standard of Village Connector Highway/Traffic Priority as per the Community College District Ordinance. The full construction of this road shall be completed prior to any unit being occupied or ~~bonded for~~ ~~(20%-contingency)~~

Member Anaya asked staff whether College Avenue should be added to the condition.

Duly sworn, Lance Tunick, 14B Dean's Court – a dead-end across the street from the proposed project – said he speaks on his own behalf and that of his neighbors in opposition to the variance request for the dead-end. Mr. Tunick said it appeared to him that the County planning staff and the applicant were trying to keep the two issues of Southeast Connector and this project separate. There was no guarantee the Southeast Connector would be built; no assurance the rights-of-way or the funding has been secured. The emergency evacuation roads have not been addressed and that is a separate issue from regular traffic. The County's Public Works Department recommends against this development. The County has loudly and often said the funding for the connector is not yet a done deal. The developer presents this as if it were a fait accompli.

Mr. Tunick said it appears the applicant and staff are being disingenuous. He reminded the CDRC that the applicant was adamant at master plan approval that the application was neither contingent nor dependent upon the Southeast Connector. He emphasized that the point was public safety and emergency evacuation. Mr. Tunick said timetables cannot be assumed and approvals cannot be granted without that information. What of the emergency situations of flooding or wildfires before the Southeast Connector is completed? There will be a "deadly bottleneck." He discussed the existing residential

dead end streets as well as the college itself that all funnel into College Drive. “Every bottleneck during every temporary variance is still deadly.”

Mr. Tunick said this is not a minimal easing that allows for the granting of a variance. The purpose of the code is violated by granting this variance that puts people in danger. He urged the CDRC to recommend denial of the variance. “Let the developer wait. Let the infrastructure arrive then the development can occur.”

Duly sworn, Pat Perrin, 10 Deans Court, thanked the CDRC for their original vote against the project, however, the BCC approved it. Ms. Perrin said she has professional experience in land development planning and what was before the CDRC was incomplete staff work. She mentioned meeting with Carlos Vigil, a Southeast Connector project manager, who said the connector will not be built for at least five years and the funding was not available. She suggested a report from Mr. Vigil be obtained prior to taking any action on this project.

Ms. Perrin believed that staff was closely allied with the contractors working on this project and identified Ms. Guerretortiz as former County staff. She cautioned that the CDRC needs protection from this relationship.

Ms. Perrin said she has “inside” information that there is a damaging report on the project in regards to the roads and driveway requirements and for some reason it is not within the packet.

Aside from trapping the 30 homeowners, approving this variance would also trap the school kids at El Niño because they all funnel into College Heights Circle. Contrary to what County Fire Marshal Patty has said, Ms. Perrin said fire trucks won’t be able to get in. The neighbors sent a letter to the State Fire Marshal who said Bernalillo has experienced the same situation(s) in lacking the appropriate infrastructure and developments coming in. Ms. Perrin said staff must deal with these issues before the proposal is approved.

Ms. Perrin said she has over 300 signatures of opponents to this project. “It’s a nice project in the wrong place.”

Under oath, Joshua Ellison, 18A Deans Court, a recent resident to the area, noted that the map provided by the developer does not accurately reflect where the loop around the college ties into College Drive. The red flag in this development is clear and he opposes it.

Randy Crutcher, under oath, 12A Deans Court, said his neighbors’ statements of fact are important. The developer has one schedule; the County another and the two do not intersect. The safety issues concern him. He pointed out that he drives the area in question and knows the traffic – he does not need to conduct a traffic study or simulation – and the traffic is difficult at best. “It looks like a horse trade: we’ll give you \$1.4 million if you’ll give us a 500 percent change in the variance of the land code.”

Jerry Wells, under oath, Deans Court, supports his neighbors and said this is a real safety issue.

Glenn Smerage, 187 East Chili Line Road, Rancho Viejo, under oath, asked the CDRC to review a letter within their packet (NBD 79, 80) from County engineering

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associate Paul Kavanaugh which states “...and finds they cannot support the above mentioned project for preliminary development plan, plat approval and final development approval.” The engineer cites Richards Avenue traffic as a concern and recommends not constructing until the Southeast Connector is finished.

Mr. Smerage said it would imprudent and irresponsible for the CDRC to approve this project because there is too much unknown.

There were no other speakers and Chair Katz closed the public hearing and invited Ms. Jenkins to respond to the area residents’ comments.

Regarding emergency access, Ms. Jenkins acknowledged it is a temporary situation. She said the Santa Fe County Fire Department has approved the plan. All of the buildings are equipped with automatic fire suppression/fire sprinklers. She said if there was an evacuation situation there are other access points in the vicinity and she mentioned the new north entrance from the Community College and Meadows Lane which she said hooked up to Old Galisteo Way.

At that point Ms. Jenkins was loudly interrupted by a couple audience members for inaccurately characterizing Meadows Lane. She apologized and said she had been misinformed. However, there is a potential evacuation route through the Community College, she said.

Ms. Jenkins said the project is not contingent on the Southeast Connector. The master plan approval contained no conditions associated with the connector. However, the developer has an obligation to mitigate traffic impact. She said Santa Fe County staff elected to recommend approval with the build-out of College Drive. Santa Fe County also recommended delaying project development (stick and mortar) for 14 months.

Ms. Jenkins characterized the project as a really good collaboration between the private and public sectors. She also noted that staff has worked hard on the development and any issues there may be should not be with staff.

Member Anaya commented on the passion displayed regarding this case. He apologized to Santa Fe County staff for the accusations made by some of the public.

Stating he shared the concerns expressed about the extent of the variance, Chair Katz asked whether anyone in staff could address the Southeast Connector timeline.

Johnny Baca, County Traffic Manager, said the County has \$5 million earmarked for design, construction and land acquisition. The County is currently in Phase B which is a detailed study on alignment alternatives. Upon the completion of Phase C, the next phase will be procurement of design services and land acquisition. It is anticipated that will occur in March 2016. Possible start of construction is August 2017. All dates are approximate.

Chair Katz asked if there was a point in the process where staff could speak with confidence of a completion date for the Southeast Connector. Mr. Baca apologized that he couldn’t answer that question.

At this point, stated Mr. Baca, there is not a cost estimate on the connector.

Member Booth pointed out that Mr. Baca's staff recommendation was not to approve the project. Mr. Baca said based on the variance alone Public Works could not support the project. He offered that it was not a minimum easing of the code and temporary is not defined.

Chair Katz asked Fire Marshal Patty to address the problem of a major wildfire or flood in the area calling for an evacuation at the roundabout at Richards Avenue.

Marshal Patty said the wildland fire danger is rated low in that area because its lacks vegetation and what is there would burn slowly. There is an exception in the Fire Code that with sprinklering, up to 200 units can be located on a dead-end. The development is required to have three accesses onto College Drive. He said traffic will be a problem if there is an evacuation and he did not calculate the units in College Heights.

Having been asked for his opinion, Marshal Patty said the development would need to have a second ingress/egress besides College Heights when it was fully built out.

Member Anaya moved to support staff recommendation regarding CDRC Case #DP 13-5381 with staff-imposed conditions (1-5 as amended), correcting College Drive to College Avenue and including a condition that prior to any unit rental all road work and utilities will be in place with turnarounds as approved by the County. Member Gonzales seconded.

Member Booth said she would not support the motion unless a condition stated that construction would not start until there was an access to the Southeast Connector. She said it was clear from the Public Works report that this is a major easing of the code and the results could be injurious to health and safety. Member Booth said a bomb threat at the college would create a serious evacuation hazard.

Member Anaya said he was not willing to condition the approval of the development on the build-out of the County's arterial.

Member Katz said he agreed with many that the project should not be built without the Southeast Connector and there is a great deal of uncertainty about when that will happen. He offered the following friendly amendment: No construction of the building can begin until actual construction of the Southeast Connector begins. Member Anaya rejected the amendment.

The motion failed by majority [3-4] voice vote with members Anaya, Gonzales and Lopez voting for and members Booth, Gray, Martin and Katz voting against.

Member Martin said progress must include safety of the public and natural resources.

Member Martin introduced the following motion regarding DP 13-5381: Support staff recommendation and approve the preliminary and final development plan and the variances subject to staff-imposed conditions (1-5 as amended), and:

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113-44

6. No construction of buildings may begin until actual construction of the Southeast Connector begins.

Member Gray seconded and the motion passed by majority [4-3] voice vote with Members Martin, Booth, Gray and Katz voting in favor.

~~E. PETITIONS FROM THE FLOOR~~

~~None were presented~~

~~F. COMMUNICATIONS FROM THE COMMITTEE~~

~~None were presented.~~

~~G. COMMUNICATIONS FROM THE ATTORNEY~~

~~None were presented.~~

~~H. COMMUNICATIONS FROM STAFF~~

~~Per the CDRC's standing request Ms. Lucero distributed the actions regarding CDRC cases forwarded to the BCC during May.~~

~~I. NEXT CDRC REGULAR MEETING: June 18, 2015~~

~~J. ADJOURNMENT~~

~~Having completed the agenda and with no further business to come before this Committee, Chair Katz declared this meeting adjourned at approximately 6:40 p.m.~~

Approved by:


Frank Katz, CDRC Chair

ATTEST TO:

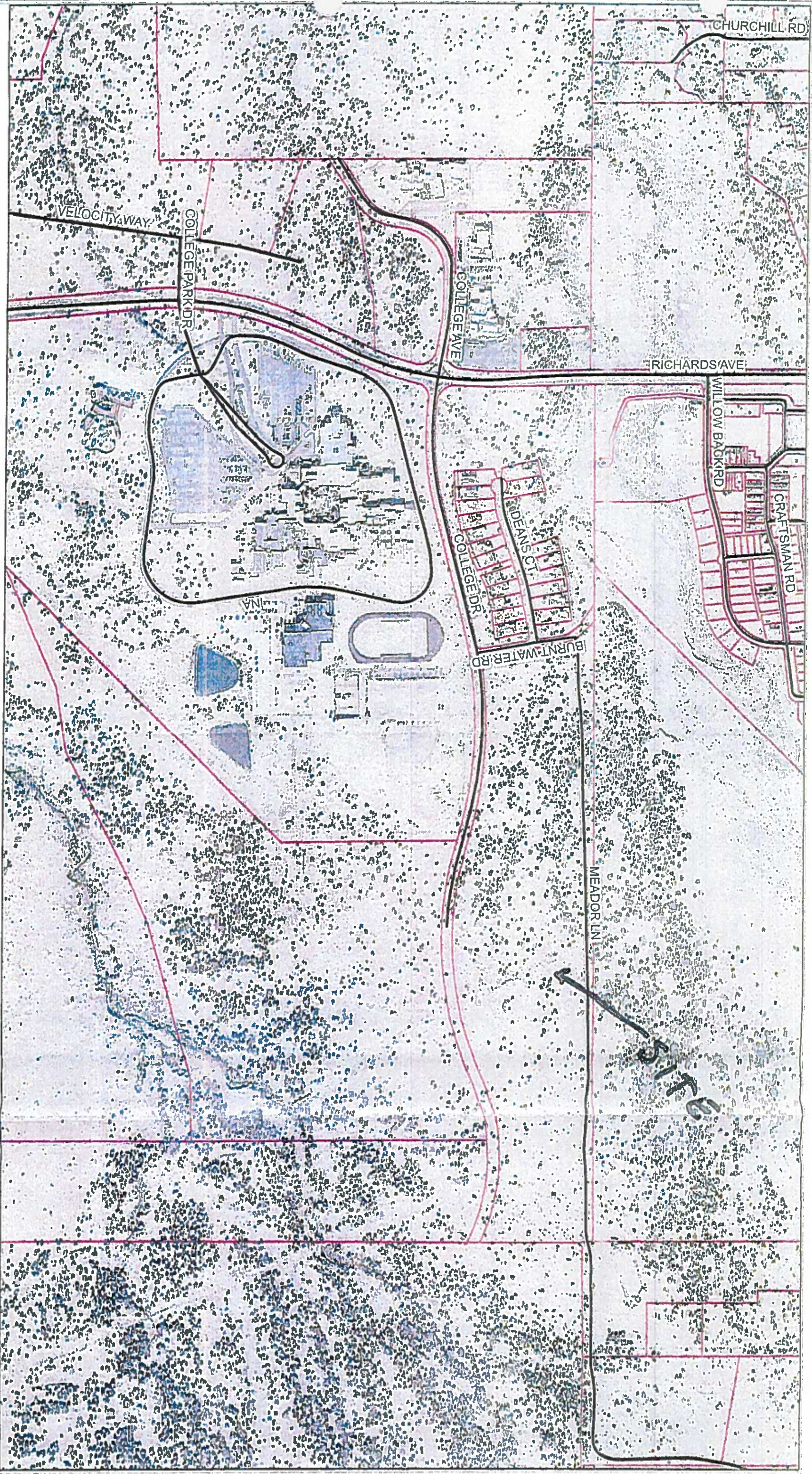

GERALDINE SALAZAR
COUNTY CLERK



Respectfully submitted by:

Karen Farrell


NB-50



CHURCHILL RD

RICHARDS AVE

WILLOW BACK RD

CRAFTSMAN RD

DEANS CT

COLLEGE DR

BURNT WATER RD

MEADOR LN

COLLEGE AVE

COLLEGE PARK DR

VELOCITY WAY

Legend

ROADS

Parcels

EXHIBIT

6

1 inch represents 550 feet

0 175 350 700 1,050 1,400 Feet



2008 Orthophotography
2 FOOT CONTOURS

This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
User are solely responsible for
confirming data accuracy.

N13-S1



March 4, 2014

elevation

DELIVERY SCHEDULE

Revised May 13, 2015



	<i>Number of Residences</i>	<i>Construction Start</i>	<i>Completion Date</i>
Phase 1	50	June 2016	May 2017
Phase 2	54	August 2016	July 2017
Leasing Begins			July 2017
Phase 3	46	October 2016	September 2017
Phase 4	50	December 2016	January 2018
Lease Stabilization			June-August 2018

NB-52

①
Quié... Co., LLC
File # 12-0922 G15

WHEN RECORDED, RETURN TO:
UNIVEST-RANCHO VIEJO, LLC
Attn: Warren Thompson
P.O. Box 236, Santa Fe, NM 87504



SPECIAL WARRANTY DEED

RANCHO VIEJO DE SANTA FE, INC., a New Mexico corporation ("Grantor"), does hereby grant and convey to UNIVEST-RANCHO VIEJO, LLC, a New Mexico limited liability company ("Grantee"), P.O. Box 236, Santa Fe, NM 87504, that certain real property situated in Santa Fe County, New Mexico, together with all rights and privileges appurtenant thereto, described as follows:

SEE EXHIBIT "A" ATTACHED HERETO AND INCORPORATED HEREIN BY THIS REFERENCE

The above-described property is conveyed subject only to those liens, encumbrances, and other matters set forth on Exhibit "B" attached hereto and incorporated herein by this reference.

The Grantor hereby binds itself and its successors to warrant and defend the title against all acts of Grantor herein and no other, subject to the matters above set forth.

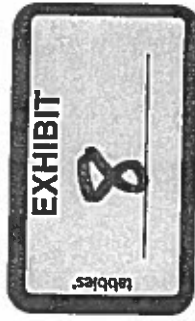
DATED this 22nd day of December, 2010.

GRANTOR:

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss
SPECIAL WARRANTY DEED
PAGES: 17
RANCHO VIEJO DE SANTA FE, INC., a
New Mexico corporation

I Hereby Certify That This Instrument Was Filed for
Record On The 23RD Day Of December, 2010 at 04:00:15 PM
and Was Duly Recorded as Instrument # 1621125
of The Records Of Santa Fe County

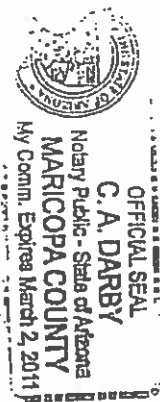
3y: Joseph F. Lapinsky
Witness My Hand And Seal Of Office
Name: Joseph F. Lapinsky
Deputy Valerie Espinoza County Clerk, Santa Fe, NM
President



STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this 22nd day of December 2010, by Joseph F. Lapinsky, the President of Rancho Viejo de Santa Fe, Inc., a New Mexico corporation, on behalf of the corporation.

[Signature]
Notary Public



My commission expires:

3/2/11

EXHIBIT "A"

LOT 86, of The Village at Rancho Viejo, Unit 1 Subdivision, as shown and delineated on plat of survey entitled "SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. CREATING THE VILLAGE AT RANCHO VIEJO, UNIT 1... WITHIN SECTIONS 20, 29 AND 30 OF T.16 N., R. 9 E. N.M.P.M. COUNTY OF SANTA FE, NEW MEXICO", recorded July 1, 1998 in Plat Books 389 and 390, Pages 049-008, #1031-147, records of Santa Fe County, New Mexico.

AND

LOTS 136 and 141, of Windmill Ridge, Unit 1 Subdivision, as shown and delineated on plat of survey entitled "FINAL SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. CREATING WINDMILL RIDGE, UNIT 1...WITHIN SECTIONS 19, 20, 21, 28, 29 AND 30, T16N, R9E, NMPM, SANTA FE COUNTY, NM..." , recorded November 17, 2000 in Plat Book 460, Pages 029-036, #1136,576, records of Santa Fe County, New Mexico.

AND

TRACT C and TRACT E, of Windmill Ridge, Unit 1 Subdivision, as shown and delineated on plat of survey entitled "FINAL SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. CREATING WINDMILL RIDGE, UNIT 1...WITHIN SECTIONS 19, 20, 21, 28, 29 AND 30, T16N, R9E, NMPM, SANTA FE COUNTY, NM..." , recorded November 17, 2000 in Plat Book 460, Pages 029-036, #1136,576, records of Santa Fe County, New Mexico.

AND

TRACT B (located on Sheet 2 of 7) of Windmill Ridge, Unit 1 Subdivision, as shown and delineated on plat of survey entitled "FINAL SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. CREATING WINDMILL RIDGE, UNIT 1... WITHIN SECTIONS 19, 20, 21, 28, 29 AND 30, T16N, R9E, NMPM, SANTA FE COUNTY, NM..." , recorded November 17, 2000 in Plat Book 460, Pages 029-036, #1136,576, records of Santa Fe County, New Mexico.

AND

PARCEL 1B, of Windmill Ridge, Unit 2 Subdivision, as shown and delineated on plat of survey entitled "FINAL SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. WINDMILL RIDGE, UNIT 2 A SUBDIVISION OF LOT 1...WITHIN SECTIONS 20, 21, 28 & 29, T16N, R9E, NMPM, SANTA FE COUNTY, NM." , recorded September 11, 2002 in Plat Book 511, Pages 031-038, #1223246, records of Santa Fe County, New Mexico.

AND

TRACT A, within Windmill Ridge, Unit 2, Subdivision, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. COVERING LOTS 239 THROUGH 259, 286 THROUGH 301, AND TRACTS A, H AND J, WINDMILL RIDGE, UNIT 2... WITHIN SECTION 28, T16N, R9E, NMPM, SANTA FE COUNTY, NEW MEXICO", recorded February 5, 2003 in Plat Book 523, Pages 003-004, #1247649, records of Santa Fe County, New Mexico.

AND

TRACT B, of Windmill Ridge, Unit 2 Subdivision, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT & LOT SPLIT PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. SHOWING A LOT LINE ADJUSTMENT BETWEEN REVISED TRACT A, AND REVISED TRACT B... WINDMILL RIDGE, UNIT 2 WITHIN SECTION 28, T.16N, R.9E., N.M.P.M. SANTA FE COUNTY, NEW MEXICO", recorded March 17, 2004 in Plat Book 554, Page 049, #1318841, records of Santa Fe County, New Mexico.

AND

PARCEL 2, of Windmill Ridge, Unit 3 Subdivision, as shown and delineated on plat of survey entitled "SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. WINDMILL RIDGE, UNIT 3... WITHIN SECTIONS 21, 28 & 29, T16N, R9E., NMPM SANTA FE COUNTY, NM", recorded February 25, 2004 in Plat Book 553, Pages 023-036, #1315322, records of Santa Fe County, New Mexico.

AND

LOTS 583, 586, 587, 597, 598, 599, 600, 601, 602, 603, 611, 615, 618, 619, 620, 622, 623, 624, 625, 626, 627, 666 and 667, of Windmill Ridge, Unit 4 Subdivision, as shown and delineated on plat of survey entitled "FINAL DEVELOPMENT PLAN FOR WINDMILL RIDGE UNIT 4 SANTA FE COUNTY, NEW MEXICO", recorded March 31, 2005, in Plat Book 584, Pages 011-020, #1373652, records of Santa Fe County, New Mexico.

AND

PARCEL A and PARCEL B, (located on Sheet 3 of 8) of Windmill Ridge, Unit 4 Subdivision, as shown and delineated on plat of survey entitled "FINAL DEVELOPMENT PLAN FOR WINDMILL RIDGE UNIT 4 SANTA FE COUNTY, NEW MEXICO", recorded March 31, 2005, in Plat Book 584, Pages 011-020, #1373652, records of Santa Fe County, New Mexico.

AND

LOTS 687-A, 688-A, 691-A, 692-A, 693-A and 694-A, of Windmill Ridge, Unit 4 Subdivision, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT/CONSOLIDATION PLAT FOR RANCHO VIEJO DE SANTA FE INC., SHOWING LOT LINE ADJUSTMENT BETWEEN LOTS 687 THRU LOTS 695 AND LOT CONSOLIDATION OF LOT 694 AND LOT 695 WINDMILL RIDGE, UNIT 4...", recorded March 27, 2007 in Plat Book 650, Page 016, #1476263, records of Santa Fe

County, New Mexico.

AND

LOT 708, of Windmill Ridge, Unit 4 Subdivision, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA, INC. SHOWING LOT LINE ADJUSTMENT BETWEEN LOTS 705, 706, 707, AND LOT 708 WINDMILL RIDGE, UNIT 4...", recorded January 9, 2007 in Plat Book 644, Page 024, #1466340, records of Santa Fe County, New Mexico.

AND

LOTS 709-A, 710-A, 711-A and 712-A, of Windmill Ridge, Unit 4 Subdivision, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT/CONSOLIDATION PLAT FOR RANCHO VIEJO DE SANTA FE INC., SHOWING LOT LINE ADJUSTMENT BETWEEN LOTS 709 THRU LOTS 717 AND LOT CONSOLIDATION OF LOTS 714-715 AND LOT 716-717 WINDMILL RIDGE, UNIT 4...", recorded March 27, 2007 in Plat 650, Page 017, #1476264, records of Santa Fe County, New Mexico.

AND

LOTS 4, 7, 8, 10, 11, 12, 13, 14, 51, 52, 53, 58, 61, 62, 63, 64, 66, 67, 68, 70, 71, 74, 75, 77, 78, 81, 82, 83, 84, 85, 86, 87, 89, 90, 91, 99, 102, 103, 106, 108, 110, 111, 112, 113, 116, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 179, 180, 182, 183, 184, 185, 186, 188, 189, 199, 200, 202, 207, 208, 211, 212, 213, 214, 215, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 286, 287, 288, 313, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, and 454, of La Entrada

Subdivision, Phase 1, as shown and delineated on plat of survey entitled "SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE INC. CREATING LA ENTRADA SUBDIVISION, PHASE 1... WITHIN SEC. 24 & 25, T16N, R8E & SEC 19, 20, 29 & 30 T16N, R9E, NMPM, SANTA FE COUNTY, NEW MEXICO.", recorded December 19, 2006 in Plat Book 643, Pages 009-024, #1463940, records of Santa Fe County, New Mexico.

AND

TRACTS TR LE-6, TR LE-10, TR LE-11, TR LE-12, TR LE-13, TR LE-14, TR LE-15, TR LE-16, TR LE-18, TR LE-19, TR LE-20, TR LE-21, TR LE-22, TR LE-23, TR LE-24, TR LE-25, TR LE-26, TR LE-27, TR LE-28, TR LE-29, TR LE-30, TR LE-31, TR LE-32, TR

LE-33, TR LE-34, TR LE-35, TR LE-36, TR LE-37, TR LE-38, TR LE-39, TR LE-40, TR LE-41, TR LE-42, TR LE-43, TR LE-44, TR LE-45, TR LE-46, TR LE-47, TR LE-48, TR LE-49, TR LE-50 and TR LE-51, all within La Entrada Subdivision, Phase 1, as shown and delineated on plat of survey entitled "SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE INC. CREATING LA ENTRADA SUBDIVISION, PHASE 1... WITHIN SEC. 24 & 25, T16N, R8E & SEC 19, 20, 29 & 30 T16N, R9E, NMPM, SANTA FE COUNTY, NEW MEXICO.", recorded December 19, 2006 in Plat Book 643, Pages 009-024, #1463940, records of Santa Fe County, New Mexico.

AND

TRACT TR LE-A (located on Sheet 3 of 15), of La Entrada Subdivision, Phase 1, as shown and delineated on plat of survey entitled "SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE INC. CREATING LA ENTRADA SUBDIVISION, PHASE 1... WITHIN SEC. 24 & 25, T16N, R8E & SEC 19, 20, 29 & 30 T16N, R9E, NMPM, SANTA FE COUNTY, NEW MEXICO.", recorded December 19, 2006 in Plat Book 643, Pages 009-024, #1463940, records of Santa Fe County, New Mexico.

AND

TRACTS TR LE-C1 and TR LE-B1, all within La Entrada Subdivision, Phase 1, as indicated by AFFIDAVIT, recorded February 16, 2007 as Instrument #1471283, shown and delineated on plat of survey entitled "SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE INC. CREATING LA ENTRADA SUBDIVISION, PHASE 1... WITHIN SEC. 24 & 25, T16N, R8E & SEC 19, 20, 29 & 30 T16N, R9E, NMPM, SANTA FE COUNTY, NEW MEXICO.", recorded December 19, 2006 in Plat Book 643, Pages 009-024, #1463940, records of Santa Fe County, New Mexico.

AND

LOTS 15A, 21A, 23A, 24A, 26A, 191A, 192A, 193A, 194A, 195A, 196A, 198A, and 283A, of La Entrada Subdivision, Phase 1, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT AND EASEMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA, INC. SHOWING LOT LINE ADJUSTMENT BETWEEN ASSORTED LOTS, AND TRACTS LA ENTRADA PHASE 1...", recorded February 11, 2008 in Plat Book 675, Pages 026-028, #1515133, records of Santa Fe County, New Mexico.

AND

TRACTS TR LE-3A, TR LE-4A, TR LE-5A, TR LE-7A, TR LE-8A, TR LE-9A, TR LE-17A and AMENDED TRACT LE-C, all within La Entrada Subdivision, Phase 1, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT AND EASEMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA, INC. SHOWING LOT LINE ADJUSTMENT BETWEEN ASSORTED LOTS, AND TRACTS LA ENTRADA PHASE 1...", recorded February 11, 2008 in Plat Book 675, Pages 026-028, #1515133, records of Santa Fe County, New Mexico.

AND

TRACT LE-D2, within La Entrada Subdivision, as shown and delineated on plat of survey

entitled "DIVISION PLAT" PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. OF TRACT LE-D WITHIN LA ENTRADA SUBDIVISION, PHASE 1...SECTION 20, T.16N., R9E., N.M.P.M. SANTA FE COUNTY, NEW MEXICO", recorded June 25, 2008 in Plat Book 685, Pages 030-031, records of Santa Fe County, New Mexico.

AND

REMAINDER TRACT LE-D1-A, within La Entrada Subdivision, Phase 1, as shown and delineated on plat of survey entitled "DIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. OF TRACT LE-D1 WITHIN LA ENTRADA SUBDIVISION, PHASE 1...SECTION 20, T.16N., R9E., N.M.P.M. SANTA FE COUNTY, NEW MEXICO", recorded August 5, 2008 in Plat Book 687, Pages 036-037, records of Santa Fe County, New Mexico.

AND

TRACT LE-B-A, within La Entrada Subdivision, Phase 1, as shown and delineated on plat of survey entitled "LOT DIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. OF TRACT LE-B, WITHIN SECTION 24, T.16N., R.8E., AND SECTION 19, T.16N., R.9E., N.M.P.M. SANTA FE COUNTY, NEW MEXICO, recorded February 25, 2009 in Plat Book 698, Page 039, #1553625, records of Santa Fe County, New Mexico.

AND

LOTS 5A and 6A-1, of La Entrada Subdivision, Phase 1, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA, INC. SHOWING LOT LINE ADJUSTMENT BETWEEN LOT 5 LA ENTRADA PHASE 1...LOT 6A AND TRACT LE-A1 LA ENTRADA PHASE 1... WITHIN SECTIONS 19 AND 20, T.16N., R.9E., N.M.P.M. SANTA FE COUNTY NEW MEXICO.", recorded May 21, 2009 in Plat Book 702, Page 048, #1563744, records of Santa Fe County, New Mexico.

AND

TRACT TR LE-A1-A, within La Entrada Subdivision, Phase 1, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA, INC. SHOWING LOT LINE ADJUSTMENT BETWEEN LOT 5 LA ENTRADA PHASE 1...LOT 6A AND TRACT LE-A1 LA ENTRADA PHASE 1... WITHIN SECTIONS 19 AND 20, T.16N., R.9E., N.M.P.M. SANTA FE COUNTY NEW MEXICO.", recorded May 21, 2009 in Plat Book 702, Page 048, #1563744, records of Santa Fe County, New Mexico.

AND

REMAINDER LOT 1, within College Heights, Phase 1 Subdivision, as shown and delineated on plat of survey entitled "COLLEGE HEIGHTS PHASE 1 PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC... WITHIN SECTION 21, T16N, R9E, NMPM SANTA FE COUNTY, N.M.", recorded August 13, 1999 in Plat Book 422, Pages 005-007, #1086128, records of Santa Fe County, New Mexico.

AND

LOT 4, LOT 5 and LOT 11, of Rancho Viejo, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. COVERING THOSE 14 PROPERTIES WITHIN SECTIONS 28, 29, AND 30, T16N, R9E, NMPM, AND SECTIONS 24 AND 25, T16N R8E, NMPM...COUNTY OF SANTA FE, NEW MEXICO", recorded June 24, 1998 in Plat Book 389, Pages 010-011, #1029907, records of Santa Fe County, New Mexico.

AND

LOT 3, LOT 11 and REMAINDER LOT 7A, of the Industrial Park at Rancho Viejo Subdivision, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT AND SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. CREATING THE INDUSTRIAL PARK AT RANCHO VIEJO BEING A LOTLINE ADJUSTMENT OF LOT 6 AND LOT 7... WITHIN SECTION 24, T.16N., R8E., N.M.P.M. SANTA FE COUNTY, NEW MEXICO", recorded September 8, 2005 in Plat Book 599, Pages 042-045, #1397.294, records of Santa Fe County, New Mexico.

AND

TRACT A1 and TRACT G4, of The Village at Rancho Viejo, Tract G, as shown and delineated on plat of survey entitled "SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. CREATING THE VILLAGE AT RANCHO VIEJO, TRACT G...WITHIN SECTION 20, T.16N., R9E., N.M.P.M. SANTA FE COUNTY, NM", recorded May 1, 2001 in Plat Book 472, Pages 024-027, #1154291, records of Santa Fe County, New Mexico.

AND

REMAINDER TRACT A2, of The Village Center at Rancho Viejo, as shown and delineated on plat of survey entitled "PRELIMINARY & FINAL DEVELOPMENT PLAN FOR THE VILLAGE CENTER AT RANCHO VIEJO, SANTA FE COUNTY, NEW MEXICO", recorded December 8, 2004 in Plat Book 575, Pages 017-020, #1357813, records of Santa Fe County, New Mexico.

AND

LOT 1 and LOT 2, of Tract B-1B, of The Village Center at Rancho Viejo, as shown and delineated on plat of survey entitled "LAND DIVISION FOR RANCHO VIEJO DE SANTA FE, INC. SHOWING DIVISION OF TRACT B-1B THE VILLAGE CENTER AT RANCHO VIEJO... WITHIN SECTION 20, T16N, R9E, N.M.P.M. SANTA FE COUNTY, NEW MEXICO", recorded August 16, 2007 in Plat Book 662, Page 039, #1496098, records of Santa Fe County, New Mexico.

COMMITMENT FOR TITLE INSURANCE

SCHEDULE B - SECTION II

EXCEPTIONS

Effective Date: December 14, 2010

Schedule B of the policy or policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the company:

1. Rights or claims of parties in possession not shown by the public records.
2. Easements, or claims of easements, not shown by the public records.
3. Encroachments, overlaps, conflicts in boundary lines, shortages in area, or other matters which would be disclosed by an accurate survey and inspection of the premises.
4. Any lien, claim or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
5. Community property, survivorship, or homestead rights, if any, of any spouse of the insured (or vestee in a leasehold or loan policy).
6. (Intentionally Omitted)
7. Water rights, claims or title to water.
8. (Intentionally Omitted)
9. Taxes for the year 2010 and thereafter.
10. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date of the proposed insured acquires for value of record the estate or interest or mortgage thereon covered by this Commitment.

AS TO THE VILLAGE AT RANCHO VIEJO, UNIT 1

11. Terms, conditions and stipulations contained in Agreement, recorded June 21, 1985 in Book 524, Page 191, records of Santa Fe County, New Mexico.
12. Terms and conditions contained in The Village at Rancho Viejo Unit 1 Disclosure Statement, recorded July 1, 1998 in Book 1511, Page 508; First Amendment recorded November 2, 1998, in Book 1560, Page 392; Second Amendment recorded May 18, 2000, in Book 1767, Page 441, records of Santa Fe County, New Mexico.
13. Terms and conditions contained in First Amended and Restated Declaration and Covenants, Conditions and Restrictions for The Village at Rancho Viejo, recorded November 2, 1998 in Book 1560, Page 354, records of Santa Fe County, New Mexico.
14. Terms and conditions contained in Tract Declaration and Declaration of Additional Covenants, Conditions and Restrictions for The Village at Rancho Viejo, Unit 1, Lots 11-29, 84-86, 95-98, recorded November 2, 1998 in Book 1560, Page 417, records of Santa Fe County, New Mexico.
15. Terms and conditions contained in Special Election Resolution No. 1999-46, recorded March 31, 1999 in Book 1621,

Page 064, records of Santa Fe County, New Mexico.

16. Terms and conditions contained in Amended and Restated Development Agreement Regarding Affordable Housing, recorded August 9, 2002 in Book 2184, Page 821, records of Santa Fe County, New Mexico.

17. Terms and conditions contained in Notification, recorded September 26, 2008 as Instrument #1539291, records of Santa Fe County, New Mexico.

18. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. CREATING THE VILLAGE AT RANCHO VIEJO, UNIT 1... WITHIN SECTIONS 20, 29 AND 30 OF T.16 N., R. 9 E. N.M.P.M. COUNTY OF SANTA FE, NEW MEXICO", recorded July 1, 1998 in Plat Books 389 and 390, Pages 049-008, #1031-147, records of Santa Fe County, New Mexico.

AS TO WINDMILL RIDGE, UNIT 1

19. Terms and conditions contained in Agreement, recorded June 21, 1985 in Book 524, Page 191, records of Santa Fe County, New Mexico.

20. Terms and conditions contained in First Amended and Restated Declaration and Covenants, Conditions and Restrictions for The Village at Rancho Viejo, recorded November 2, 1998 in Book 1560, Page 354, records of Santa Fe County, New Mexico.

21. Terms and conditions contained in Windmill Ridge at Rancho Viejo Unit 1 Disclosure Statement, recorded November 12, 2000 in Book 1828, Page 428, records of Santa Fe County, New Mexico.

22. Terms and conditions contained in Amended and Restated Development Agreement Regarding Affordable Housing, recorded August 9, 2002 in Book 2184, Page 821, records of Santa Fe County, New Mexico.

23. Terms and conditions contained in Subdivision Plat Amendment and Final Development Plan Amendment, recorded September 11, 2002 in Book 2207, Page 185, records of Santa Fe County, New Mexico.

24. Terms and conditions contained in Community Charter for Windmill Ridge at Rancho Viejo, recorded September 11, 2002 in Book 2207, Page 208, records of Santa Fe County, New Mexico.

25. Terms and conditions contained in Village Center at Rancho Viejo, recorded December 8, 2004 as Instrument #1357814, records of Santa Fe County, New Mexico.

26. Terms and conditions contained in Notification, recorded October 27, 2006 as Instrument #1456645, records of Santa Fe County, New Mexico.

27. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "FINAL SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. CREATING WINDMILL RIDGE, UNIT 1... WITHIN SECTIONS 19, 20, 21, 28, 29 AND 30, T16N, R9E, NMPM, SANTA FE COUNTY, NM...", recorded November 17, 2000 in Plat Book 460, Pages 029-036, #1136,576, records of Santa Fe County, New Mexico.

28. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown

Stewart Title Guaranty Company

Countersigned
Quiet Title Co., LLC

By _____
Authorized Signatory

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29.

and delineated on plat of survey entitled "WINDMILL RIDGE MASTER PLAN..." , recorded March 13, 2003 in Plat Book 526, Pages 023-032, #1255197, records of Santa Fe County, New Mexico.
30.

Terms and conditions contained in Tract Declaration and Declaration of Additional Covenants, Conditions and Restrictions for Windmill Ridge at Rancho Viejo, Unit 1 Lots 126-137, and Lots 142-161, recorded December 19, 2000 in Book 1838, Page 342, records of Santa Fe County, New Mexico. AS TO LOT 136
31.

Terms and conditions contained in Tract Declaration and Declaration of Additional Covenants, Conditions and Restrictions for Windmill Ridge at Rancho Viejo, Unit 1 Lots 1-32, 138-141, and 162-163, recorded November 13, 2001 in Book 2009, Page 696, records of Santa Fe County, New Mexico. AS TO LOT 141
32.

Terms and conditions contained in Grant of Public Utility Easement, from Rancho Viejo de Santa Fe, Inc. to Public Service Company of New Mexico Electric Services, New Mexico Gas Company, Qwest Communications and Comcast Cable, recorded March 12, 2009 as Instrument #1555303, records of Santa Fe County, New Mexico. AS TO LOT 141
33.

Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "EASEMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC...TRACT B....TRACT C WITHIN SECTION 28, T16N, R9E, NMPM, SANTA FE COUNTY, NEW MEXICO", recorded April 25, 2006 in Plat Book 621, Page 029, #1430137, records of Santa Fe County, New Mexico. AS TO TRACT C
34.

Terms and conditions contained in Public Service Company of New Mexico Joint Electrical and Gas Easement, by and between Rancho Viejo de Santa Fe Inc. and Public Service Company of New Mexico, recorded December 14, 2005 as Instrument #1411898, records of Santa Fe County, New Mexico. AS TO TRACT B
35.

Terms and conditions contained in Community Charter for Windmill Ridge at Rancho Viejo, recorded September 11, 2002 in Book 2207, Page 208, records of Santa Fe County, New Mexico.
36.

Terms and conditions contained in Notification, recorded May 24, 2010 as Instrument #1599408, records of Santa Fe County, New Mexico.
37.

Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "FINAL SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. WINDMILL RIDGE, UNIT 2 A SUBDIVISION OF LOT 1...WITHIN SECTIONS 20, 21, 28 & 29, T16N, R9E, NMPM, SANTA FE COUNTY, NM.", recorded September 11, 2002 in Plat Book 511, Pages 031-038, #1223246, records of Santa Fe County, New Mexico.
38.

Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. COVERING LOTS 239 THROUGH 259, 286 THROUGH 301, AND TRACTS A, H AND J, WINDMILL RIDGE, UNIT 2... WITHIN SECTION 28, T16N, R9E, NMPM, SANTA FE COUNTY, NEW MEXICO" , recorded February 5, 2003 in Plat Book 523, Pages 003-004, #1247649, records of Santa Fe County, New Mexico.
39.

Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "WINDMILL RIDGE MASTER PLAN..." , recorded March 13, 2003 in Plat Book 526, Pages 023-032, #1255197, records of Santa Fe County, New Mexico.

Stewart Title Guaranty Company

Countersigned
Quiet Title Co., LLC

By _____
Authorized Signatory

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Plat Book 526, Pages 023-032, #1255197, records of Santa Fe County, New Mexico.

39. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "EASEMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC., TRACT B,..., TRACT C WITHIN SECTION 28, T16N, R9E, NMPM, SANTA FE COUNTY, NEW MEXICO", recorded April 25, 2006 in Plat Book 621, Page 029, #1430137, records of Santa Fe County, New Mexico. AS TO TRACT B

AS TO WINDMILL RIDGE, UNIT 3

40. Terms and conditions contained in Community Charter for Windmill Ridge at Rancho Viejo, recorded September 11, 2002 in Book 2207, Page 208; First Amendment to Community Charter for Windmill Ridge at Rancho Viejo, recorded February 25, 2004 as Instrument #1315323 and Supplement to the Community Charter for Windmill Ridge at Rancho Viejo, Units 3 and 4, recorded November 9, 2005 as Instrument #1406889, records of Santa Fe County, New Mexico.

41. Terms and conditions contained in Windmill Ridge at Rancho Viejo Unit 3 Disclosure Statement, recorded February 25, 2004 as Instrument #1315324, records of Santa Fe County, New Mexico.

42. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "WINDMILL RIDGE MASTER PLAN...", recorded March 13, 2003 in Plat Book 526, Pages 023-032, #1255197, records of Santa Fe County, New Mexico.

43. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. CREATING WINDMILL RIDGE, UNIT 3... WITHIN SECTIONS 21, 28 & 29, T16N, R9E, NMPM, SANTA FE COUNTY, NM...", recorded February 25, 2004 in Plat Book 553, Pages 023-036, #1315322, records of Santa Fe County, New Mexico.

44. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. SHOWING LOT LINE ADJUSTMENT BETWEEN LOT 369 AND TRACT C, WINDMILL RIDGE AT RANCHO VIEJO, UNIT 3..., WITHIN SECTION 28, T.16N., R.9E., N.M.P.M. SANTA FE COUNTY, NEW MEXICO.", recorded July 21, 2004 in Plat Book 564, Page 029, #1338355, records of Santa Fe County, New Mexico.

AS TO WINDMILL RIDGE, UNIT 4

45. Terms, conditions, obligations and restrictions contained in Agreement, recorded June 21, 1985 in Book 524, Page 191, records of Santa Fe County, New Mexico.

46. Terms and conditions contained in First Amended and Restated Declaration and Covenants, Conditions and Restrictions for The Village at Rancho Viejo, recorded November 2, 1998 in Book 1560, Page 354, records of Santa Fe County, New Mexico.

47. Terms and conditions contained in Amended and Restated Development Agreement Regarding Affordable Housing, recorded August 9, 2002 in Book 2184, Page 821, records of Santa Fe County, New Mexico.

Stewart Title Guaranty Company

Countersigned
Quiet Title Co., LLC

By _____
Authorized Signatory

NBS-64

48. Terms and conditions contained in Community Charter for Windmill Ridge at Rancho Viejo, recorded September 11, 2002 in Book 2207, Page 208; First Amendment to Community Charter for Windmill Ridge at Rancho Viejo, recorded February 25, 2004 as Instrument #1315323 and Supplement to the Community Charter for Windmill Ridge at Rancho Viejo, Units 3 and 4, recorded November 9, 2005 as Instrument #1406889, records of Santa Fe County, New Mexico.
49. Terms and conditions contained in Windmill Ridge at Rancho Viejo Unit 4 Disclosure Statement, recorded March 31, 2005 as Instrument #1373651, records of Santa Fe County, New Mexico.
50. Terms and conditions contained in Notifications, recorded November 3, 2006 as Instrument #1457724 and recorded May 24, 2010 as Instrument #1599408, records of Santa Fe County, New Mexico.
51. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "WINDMILL RIDGE MASTER PLAN..." , recorded March 13, 2003 in Plat Book 526, Pages 023-032, #1255197, records of Santa Fe County, New Mexico.
52. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "FINAL DEVELOPMENT PLAN FOR WINDMILL RIDGE UNIT 4 SANTA FE COUNTY, NEW MEXICO", recorded March 31, 2005, in Plat Book 584, Pages 011-020, #1373652, records of Santa Fe County, New Mexico.
53. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. SHOWING LOT LINE ADJUSTMENTS OF LOTS 533.....AND TRACT Y WINDMILL RIDGE UNIT 4 WITHIN SECTION 20, T16N, R9E, N.M.P.M. SANTA FE COUNTY N.M...." , recorded September 6, 2005 in PLat Book 599, Page 037, #1397037, records of Santa Fe County, New Mexico.
54. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "EASEMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. WITHIN WINDMILL RIDGE, UNIT 4..." , recorded September 6, 2005 in Plat Book 599, Page 038, #1397038, records of Santa Fe County, New Mexico.
55. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA, INC. SHOWING LOT LINE ADJUSTMENT BETWEEN LOTS 705, 706, 707, AND LOT 708 WINDMILL RIDGE, UNIT 4..." , recorded January 9, 2007 in Plat Book 644, Page 024, #1466340, records of Santa Fe County, New Mexico.
56. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT/CONSOLIDATION PLAT FOR RANCHO VIEJO DE SANTA FE INC., SHOWING LOT LINE ADJUSTMENT BETWEEN LOTS 687 THRU LOTS 695 AND LOT CONSOLIDATION OF LOT 694 AND LOT 695 WINDMILL RIDGE, UNIT 4..." , recorded March 27, 2007 in Plat Book 650, Page 016, #1476263, records of Santa Fe County, New Mexico.
57. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT/CONSOLIDATION PLAT FOR RANCHO VIEJO DE SANTA FE INC., SHOWING LOT LINE ADJUSTMENT BETWEEN LOTS 709 THRU LOTS 717 AND LOT CONSOLIDATION OF LOTS 714-715 AND LOT 716-717 WINDMILL RIDGE, UNIT 4..." , recorded March

Stewart Title Guaranty Company

Countersigned
Quiet Title Co., LLC

By _____
Authorized Signatory

NRB-65

27, 2007 in Plat 650, Page 017, #1476264, records of Santa Fe County, New Mexico.

58. Terms and conditions contained in Grant of Easement, executed by Rancho Viejo de Santa Fe Inc., recorded November 30, 2007 as Instrument #1507904, records of Santa Fe County, New Mexico. AS TO LOT 603

AS TO LA ENTRADA, PHASE I

59. Terms and conditions contained in Easement by and between Bernice Jarrott and Public Service Company of New Mexico and Mountain States Telephone and Telegraph Company, recorded May 8, 1963, in Misc. Book 200, Page 562, records of Santa Fe County, New Mexico.

60. Terms and conditions contained in First Amended and Restated Declaration and Covenants, Conditions and Restrictions for The Village at Rancho Viejo, recorded November 2, 1998 in Book 1560, Page 354, records of Santa Fe County, New Mexico.

61. Terms and conditions contained in Grant of Easement, executed by Rancho Viejo de Santa Fe, Inc., recorded January 24, 2008 as Instrument #1513182, records of Santa Fe County, New Mexico.

62. Terms and conditions contained in Santa Fe County Affordable Housing Agreement La Entrada Phase I, by and between Rancho Viejo de Santa Fe and Santa Fe County, recorded December 11, 2006 as Instrument #1462697; Amendment recorded January 31, 2008 as Instrument #1514008; and Amendment recorded December 9, 2008 as Instrument #1546174 and Instrument #1546175, records of Santa Fe County, New Mexico.

63. Terms and conditions contained in La Entrada at Rancho Viejo Phase I Disclosure Statement, executed by Rancho Viejo de Santa Fe, Inc., recorded December 14, 2006 as Instrument #1463181, records of Santa Fe County, New Mexico.

64. Terms and conditions contained in Community Charter for La Entrada at Rancho Viejo, recorded December 15, 2006 as Instrument #1463341 and Notice of Correction to Community Charter for La Entrada at Rancho Viejo, recorded March 31, 2008 as Instrument #1520358, records of Santa Fe County, New Mexico.

65. Terms and conditions contained in By-Laws of La Entrada at Rancho Viejo Community Association, Inc., recorded December 21, 2006 as Instrument #1464268, records of Santa Fe County, New Mexico.

66. Terms and conditions contained in Grant of 25' X 25' Utility Easement, recorded March 31, 2008 as Instrument #1520357, records of Santa Fe County, New Mexico. AS TO TR LE-BI

67. Terms and conditions contained in Grant of Sanitary Sewer Easement Tract LE-D, La Entrada Phase I, recorded May 14, 2008 as Instrument #1525561, records of Santa Fe County, New Mexico. AS TO REMAINDER TRACT LE-D1-A

68. Terms and conditions contained in Ordinance No. 2008-13, recorded September 30, 2008 as Instrument #1539722 and Project Participation Agreement, recorded October 8, 2008 as Instrument #1540522, records of Santa Fe County, New Mexico. AS TO TRACT LE-D2

69. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "SUBDIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE INC. CREATING LA ENTRADA SUBDIVISION, PHASE 1...WITHIN SEC. 24 & 25, T16N, R8E & SEC 19, 20,

Stewart Title Guaranty Company

Countersigned
Quiet Title Co., LLC

By _____
Authorized Signatory

NB-66

29 & 30 T16N, R9E, NMPM, SANTA FE COUNTY, NEW MEXICO." , recorded December 19, 2006 in Plat Book 643, Pages 009-024, #1463940, records of Santa Fe County, New Mexico.

70. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT AND EASEMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA, INC. SHOWING LOT LINE ADJUSTMENT BETWEEN ASSORTED LOTS, AND TRACTS LA ENTRADA PHASE 1...", recorded February 11, 2008 in Plat Book 675, Pages 026-028, #1515133, records of Santa Fe County, New Mexico.

71. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "DIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. OF TRACT LE-D WITHIN LA ENTRADA SUBDIVISION, PHASE 1...SECTION 20, T.16N., R9E., N.M.P.M. SANTA FE COUNTY, NEW MEXICO", recorded June 25, 2008 in Plat Book 685, Pages 030-031, records of Santa Fe County, New Mexico.

72. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "DIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. OF TRACT LE-D1 WITHIN LA ENTRADA SUBDIVISION, PHASE 1...SECTION 20, T.16N., R9E., N.M.P.M. SANTA FE COUNTY, NEW MEXICO", recorded August 5, 2008 in Plat Book 687, Pages 036-037, records of Santa Fe County, New Mexico.

73. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "LOT DIVISION PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC. OF TRACT LE-B, WITHIN SECTION 24, T.16N., R.8E., AND SECTION 19, T.16N., R.9E., N.M.P.M. SANTA FE COUNTY, NEW MEXICO, recorded February 25, 2009 in Plat Book 698, Page 039, #1553625, records of Santa Fe County, New Mexico.

74. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "LOT LINE ADJUSTMENT PLAT PREPARED FOR RANCHO VIEJO DE SANTA, INC. SHOWING LOT LINE ADJUSTMENT BETWEEN LOT 5 LA ENTRADA PHASE 1...LOT 6A AND TRACT LE-A1 LA ENTRADA PHASE 1... WITHIN SECTIONS 19 AND 20, T.16N., R.9E., N.M.P.M. SANTA FE COUNTY NEW MEXICO." , recorded May 21, 2009 in Plat Book 702, Page 048, #1563744, records of Santa Fe County, New Mexico.

75. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "VILLAGE WEST MASTER PLAN" , recorded July 27, 2006 in Plat Book 630, Pages 016-023, #1443810, records of Santa Fe County, New Mexico.

AS TO COLLEGE HEIGHTS

76. Terms and conditions contained in College Heights Subdivision First Amended and Restated Disclosure Statement, recorded May 18, 2000 in Book 1767, Page 468, records of Santa Fe County, New Mexico.

77. Easements and rights incident thereto, notes, conditions and all other matters affecting subject property, as shown and delineated on plat of survey entitled "COLLEGE HEIGHTS PHASE 1 PLAT PREPARED FOR RANCHO VIEJO DE SANTA FE, INC...WITHIN SECTION 21, T16N, R9E, NMPM SANTA FE COUNTY, N.M." , recorded August 13, 1999 in Plat Book 422, Pages 005-007, #1086128, records of Santa Fe County, New Mexico.

Stewart Title Guaranty Company

Countersigned
Quiet Title Co., LLC

By _____
Authorized Signatory

NB-67

T16N, R9E, N.M.P.M. SANTA FE COUNTY, NEW MEXICO", recorded August 16, 2007 in Plat Book 662, Page 039, #1496098, records of Santa Fe County, New Mexico.

AS TO ALL PROPERTY

87. Tax assessments not of record.
88. Terms and conditions contained in Mortgage, dated December 18, 1996, in favor of Rancho Viejo Limited Liability Company, a New Mexico limited liability company, executed by Rancho Viejo de Santa Fe, Inc., a New Mexico corporation, recorded January 27, 1997, in Book 1341, Page 1, records of Santa Fe County, New Mexico.
89. Mechanic's and Materialmen's Lien dated August 14, 2009, in favor of Advantage Asphalt & Seal Coating LLC, filed against Sun Cor New Mexico, LLC - Rancho Viejo De Santa Fe, Inc., recorded August 14, 2009 as Instrument # 1573989, records of Santa Fe County, New Mexico.
90. Terms and conditions contained in Santa Fe County, New Mexico Ordinance No. 1999-7, recorded June 9, 1999 in Book 1651, Page 216, records of Santa Fe County, New Mexico.
91. Terms and conditions contained in Grant of Easement, by and between Rancho Viejo de Santa Fe, Inc. and Santa Fe County, recorded April 13, 2006 as Instrument #1428634, records of Santa Fe County, New Mexico.
92. The rights to oil, gas, and other minerals on, under or appurtenant to the property.

PATENTS AFFECTING PROPERTY

93. Reservations contained in Patents recorded in Patent Book A, Pages 166 and 361; Patent Book B, Page 579; Patent Book C, Pages 95, 96, 97 and 197; Deed Book Q-4, Pages 14 and 196; Misc. Book 74, Page 42 and Misc. Book 292, Pages 524 and 526, records of Santa Fe County, New Mexico.

General Exceptions 1, 2, 3, and/or 4 may be deleted from any policy upon compliance with all provisions of the applicable rules, upon payment of all additional premiums required by the applicable rules, upon receipt of the required documents and upon compliance with the Company's underwriting standards for each such deletion. General Exception 5 may be deleted from the policy if the named insured in the case of an Owner's Policy, or the vestee, in the case of a Leasehold or Loan Policy, is a corporation, a partnership, or other artificial entity, or a person holding title as trustee. Except for the issuance of a U.S. Policy form (NM7or NM34), any policy to be issued pursuant to this Commitment will be endorsed or modified in Schedule B by the Company to waive its right to demand arbitration pursuant to the conditions and stipulations of the policy at no cost or charge to the insured. The endorsement or the language added to Schedule B of the policy shall read: "In compliance with Subsection D of 13.14.18.10 NMAC, the Company hereby waives its right to demand arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association. Nothing herein prohibits the arbitration of all arbitrable matters when agreed to by both the Company and the insured."

Stewart Title Guaranty Company

Countersigned
Quiet Title Co., LLC

By _____
Authorized Signatory

N13-168

January 8, 2015

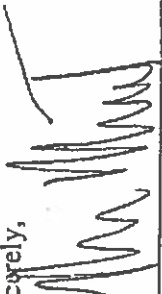
RE: Elevation
Preliminary & Final Development Plan

To Whom It May Concern:

This letter shall serve as authorization for JenkinsGavin Design & Development, Inc. to act on behalf of Vedura Residential Operating, LLC with respect to the referenced property and land use applications to be submitted to Santa Fe County.

Thank you.

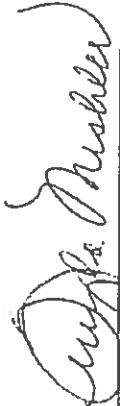
Sincerely,


for Vedura Residential Operating, LLC

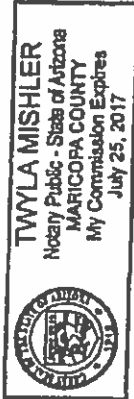
ACKNOWLEDGEMENT

STATE OF Arizona)
COUNTY OF Pima (ss.

On this 12th day of January, 2015, the foregoing instrument was acknowledged before me
by Bruce Hart


Notary Public

My commission expires: July 25, 2017



NB-69

January 8, 2015

RE: Elevation
Preliminary & Final Development Plan
To Whom It May Concern:

This letter shall serve as authorization for JenkinsGavin Design & Development, Inc. to act on behalf of Vedura Residential Operating, LLC with respect to the referenced property and land use applications to be submitted to Santa Fe County.

Thank you.

Sincerely,

WJL
Warren Thompson
for Univest-Rancho Viejo, LLC

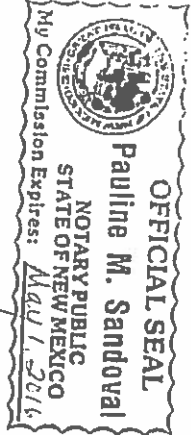
ACKNOWLEDGEMENT

STATE OF New Mexico)
(ss.
COUNTY OF Santa Fe (

On this 13th day of January, 2015, the foregoing instrument was acknowledged before me
by Warren Thompson.

Pauline M. Sandoval
Notary Public

My commission expires: May 1, 2016



NB-7D

LEGALS	LEGALS
LEGAL # 98633 CDRC CASE # APP 13-5382 Elevation Multi-Family Community	liminary and Final Development Plan. The site is located at 63 College Drive, within the Community College District, within Section 21, Township 16 North, Range 9 East, (Commission District 5).
NOTICE OF PUBLIC HEARING Notice is hereby giving that a public hearing will be held to consider a request made by Vedula Residential Operating LLC, Vedula Residential Operating LLC, received conditional approval from the County Development Review Committee (CDRC) for Preliminary and Final Development Plan for a Multi-Family Residential Community consisting of 200 residential units on 22 + acres Vedula Residential Operating LLC, is approved with a condition of approval imposed by the CDRC, on the approval of the Preliminary and Final Development Plan. The condition imposed by the CDRC states "No construction of buildings may begin until actual construction of the Southeast Connector begins". The Applicant requests an appeal to the Board of County Commissioners of the condition imposed by the CDRC on the Preliminary and Final Development Plan.	A public hearing will be held in the County Commission Chambers for the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico on the 14th day of July 2015, at 5 p.m. on a petition to the Board of County Commissioners.
Continued...	Please forward all comments and questions to the County Land Use Administration Office at 9866225.
	All interested parties will be heard at the public hearing prior to the Commission taking action.
	All comments, questions and objections to the proposal may be submitted to the County Land Use Administrator in writing to P.O. Box 276, Santa Fe, New Mexico 87504-0276, or presented in person at the hearing.
	Published in The Santa Fe New Mexican on June 23, 2015

CERTIFICATION OF POSTING

I herby certify that the public notice posting regarding Land Development

Case # APP 13-5382 was posted for 21 days on the property beginning

The 23rd day of June, 2015. **

[Signature]
Signature

*Photo of posting must be provided with certification

****PLEASE NOTE:** Public notice is to be posted on the most visible part of the property. Improper legal notice will result in re-posting for an additional 21 days. It is the Applicant's responsibility to ensure that the notice is on the property for the full 21 days.

STATE OF NEW MEXICO }
COUNTY OF SANTA FE }

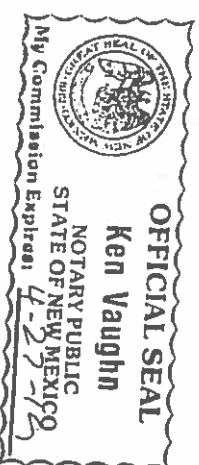
The foregoing instrument was acknowledged before me this 26 day of

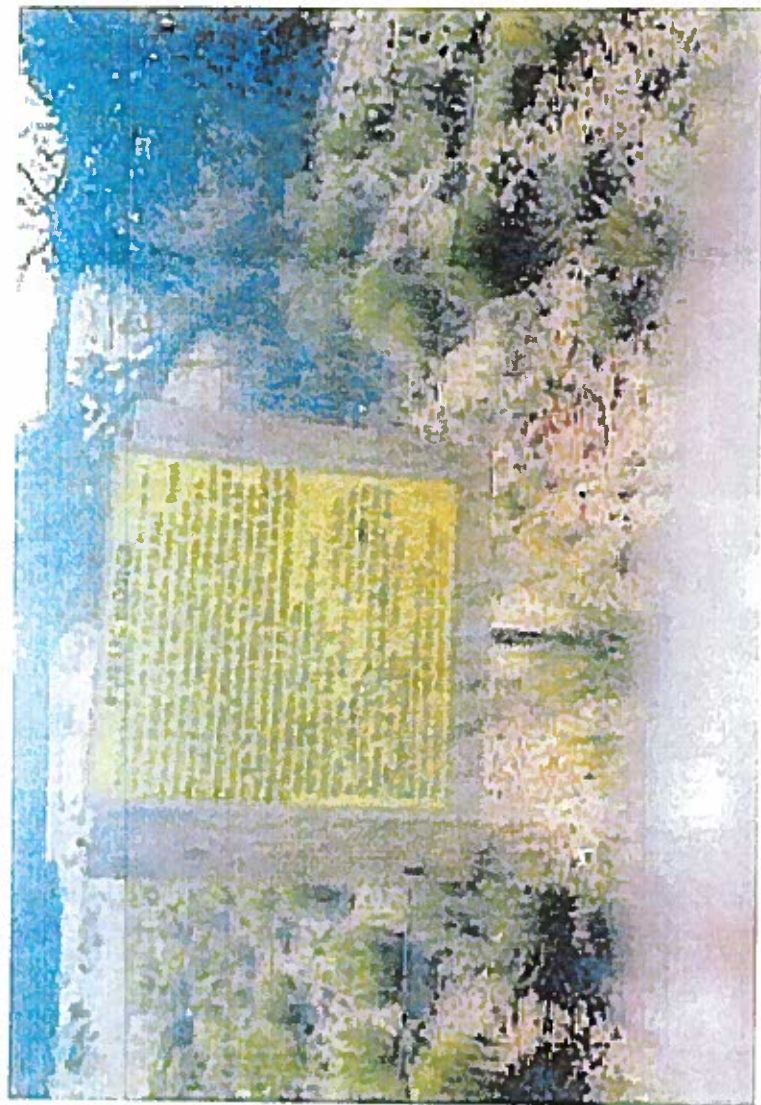
June, 2015, By Hillary Welles.

[Signature]
Notary Public

My Commission Expires:

April 27, 2019





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Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage	\$55.95	

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GE Richards Property LLC
123 W. San Francisco Street
Ste 200
Santa Fe, NM 87501

Street, Apt. No. or PO Box No.
City, State, ZIP+4

Postmark
JUN 23 2015
SANTA FE, NM 87501

Case #V/PDP/FDP 13 5381

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Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage	\$55.95	

Sent to
Bruno Keller, President
Rancho Viejo N. Community Assoc.
55 Canada del Rancho, Ste B
Santa Fe, NM 87508

Street, Apt. No. or PO Box No.
City, State, ZIP+4

Postmark
JUN 23 2015
SANTA FE, NM 87501

Case #V/PDP/FDP 13 5381

PS Form 3800, August 2006

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SANTA FE, NM 87501

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Certified Fee	\$2.50	
Return Receipt Fee (Endorsement Required)	\$0.00	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage	\$55.95	

Sent to
Univest-Rancho Viejo
Rancho Viejo Limited Partnership
c/o Warren Thompson
PO Box 236
Santa Fe, NM 87504

Street, Apt. No. or PO Box No.
City, State, ZIP+4

Postmark
JUN 23 2015
SANTA FE, NM 87501

Case #V/PDP/FDP 13 5381

PS Form 3800, August 2006

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SANTA FE, NM 87501

Postage	\$	53.45
Certified Fee	\$2.50	
Return Receipt Fee (Endorsement Required)	\$0.00	
Restricted Delivery Fee (Endorsement Required)	\$0.00	
Total Postage	\$55.95	

Sent to
Henry Mignardot
Santa Fe Community College
6401 Richards Ave
Santa Fe, NM 87508

Street, Apt. No. or PO Box No.
City, State, ZIP+4

Postmark
JUN 23 2015
SANTA FE, NM 87501

Case #V/PDP/FDP 13 5381

PS Form 3800, August 2006

NB-74

Henry P. Roybal
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

MEMORANDUM

DATE: June 16, 2015

TO: Jose Larranaga, Land Use Department

FROM: Adam Leigland, Public Works Department Director

RE: CDRC CASE# DP 13-5381 Elevations at Rancho Viejo Preliminary and Final Development Plan

Subject case was heard by the County Development Review Committee (CDRC) on May 21, 2015. The Public Works Department submitted an April 22, 2015, analysis of subject case concerning access and potential traffic impacts. It has come to my attention that at this May 21 meeting, certain information presented to the CDRC regarding the content of the April 22 memo may have been inadvertently incomplete or inaccurate. The purpose of this supplemental memo is to correct any possible misunderstanding.

The Southeast Connector is a County-funded road project that will parallel to the east and provide traffic relief to Richards Avenue. Subject project will ultimately lie between Richards Avenue and the Southeast Connector and as such will rely on the Southeast Connector to meet access requirements and avoid traffic impacts. .

The Southeast Connector is in the alignment study phase. The current cost estimate is \$9.0M for a road that will connect Rabbit Road in the north to Avenida del Sur in the south. This cost estimate includes the requisite eastward extension of Avenida del Sur to meet the Southeast Connector but does not include the similar extension of College Drive (which will be part of the subject case). The County Commission allocated \$5.0M to the project in July 2012, and the additional \$4.0M in March 2015. Therefore, the Southeast Connector project can be considered fully funded. This information may not have been presented to the CDRC.

The most current Southeast Connector schedule, dated May 11, 2015, indicates that construction of the Southeast Connector will start in August 2017 and be complete within one year, or August 2018.

Subject case involves the construction of a 200-unit multi-family dwelling community. The Applicant proposes to delay commencement of building construction until June 2016 to allow for time for future connectivity to the Southeast Connector. The Applicant's construction schedule



shows 40 units ready to be leased by July 2017, with all 200 units available by January 2018 and “lease stabilization,” or full occupancy, by June-August 2018. The CDRC, instead, required that construction be delayed until August 2017 to more fully align with construction of the Southeast Connector. Below is a discussion of traffic volume implications of these two schedules.

The traffic impact analysis demonstrates that the subject project, when fully built out, will have no traffic impacts when the Southeast Connector is complete. Without the Southeast Connector, the subject project will impact traffic by exacerbating an already-existing level of service failure (LOS F) in the morning peak hour at the Richards Avenue/College Drive intersection. The traffic movement of concern is traffic westbound on College turning northbound on Richards. The no-build base volume at this intersection, that is, the volume before the trips generated by subject project, is 68 trips.

If the Applicant’s request and construction schedule are followed, the traffic impact will begin to arise in July 2017 with the opening of the first 40 units and will fully materialize in the summer of 2018 when all 200 units are occupied. Total expected new trips at the Richards Avenue/College Drive intersection generated by the subject project is 87 trips, using the Institute of Transportation Engineers trip generation rate used in the traffic impact analysis of 0.4 trip/unit. Assuming that the first 40 units are immediately occupied, this means that between July 2017 and January 2018, there will be an extra 16 trips at the Richards Avenue/College Drive intersection, an increase of 19% to the no-build base volume of 68 trips. Starting in January 2018 and continuing until August 2018, the volumes will gradually increase from 84 trips to 171 trips. Once the Southeast Connector is finished, the volumes at the intersection are projected to decrease by 42%. To summarize, allowing the Applicant to start construction in June 2016 will exacerbate an existing LOS F at the Richards Avenue/College Drive intersection for a period of one year.

If the Applicant delays building construction until August 2017, the first 40 units will be available in September 2018 and the full build-out in February 2019. This schedule eliminates any increased traffic at the Richards Avenue/College Drive intersection caused by the project since all projected traffic volume increases will occur after the Southeast Connector is built. The Richards Avenue/College Drive intersection will still remain at LOS F until the Southeast Connector is built. To summarize, delaying construction until 2017 will avoid a year-long exacerbation of LOS F at the Richards Avenue/College Drive intersection but will not eliminate the LOS F until August 2018.

