

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

Santa Fe, New Mexico

March 21, 2013

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

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

Members Present:

Juan José Gonzales, Chair
Susan Martin, Vice Chair
Phil Anaya [4:10 arrival]
Maria DeAnda
Dan Drobnis
Frank Katz
Manuel Roybal

Member(s) Excused:

None

Staff Present:

Penny Ellis-Green, Land Use Administrator
Rachel Brown, Deputy County Attorney
Steve Brugger, Affordable Housing Director
Vicki Lucero, Building & Development Services Manager
Wayne Dalton, Building & Development Services Supervisor
Jose Larrañaga, Development Review Specialist
John Lovato, Development Review Specialist
Buster Patty, Fire Marshal
Karen Torres, County Hydrologist

New Member Roybal was welcomed to the Committee.

IV. APPROVAL OF THE AGENDA

Vicki Lucero said there were no changes from the recently published amended agenda: Old Business case A, CDRC Case #Z/S 12-5450, Cielo Colorado Subdivision is tabled.

She noted that Old Business item B, Tierra Bello Subdivision, was presented for deliberation and vote only and requires the presence of all seven members. She recommended postponing action until Member Anaya arrives.

Member Martin moved to approve the agenda as amended. Her motion was seconded by Member Katz and passed by unanimous [6-0] voice vote. [Member Anaya was not present for this action.]

V. APPROVAL OF THE MINUTES: February 21, 2013

Although he was not present for CDRC Case #V 12-5111, William Frederick Wagner Variance, Member Katz said he would have recused himself because of a conflict with his nephew serving as representative.

Chairman Gonzales noted a gender error on page two.

Member Martin moved to approve the minutes as corrected. Her motion was seconded by Member Drobnis and passed by unanimous [6-0]. [Member Anaya was not present for this action.]

VII. NEW BUSINESS

- A. **CDRC CASE # V 13-5030 Wladimir Senutovitch Variance Wladimir & Diane Senutovitch, Applicants, request a variance of Article VII, Section 3.4.1.c.c.i (No Build Areas) to allow four (4) separate areas of 30 percent slope disturbance for a proposed driveway on two parcels totaling 7.33 acres. The property is located at 214 and 216 State Road 76 in the vicinity of Santa Cruz, within Section 6, Township 20 North, Range 9 East, (Commission District 1)**

John Lovato, Case Manager, presented the staff report as follows:

“The Applicants request a variance to allow the reconstruction of a driveway to access an existing residence on two parcels totaling 7.33 acres. A permit was issued on June 19, 1998, under permit # 98-823 for a residence and a driveway. The existing access contains grades greater than 15 percent which exceed access requirements for Fire and Emergency vehicles. The proposed grade would be within fire requirements of 11 percent

The request would require a variance of Article VII, § 3.41.c.c.i , No Build areas, to allow four separate areas of 30 percent slope disturbance. The first isolated occurrence is 388 square feet, the second occurrence is 2,801 square feet, the third is 308 square feet, and the fourth is 2,806 square feet. The total combined disturbance is 6,303 square feet.

The Applicants state it is their intent to make their house accessible with a driveway that can be used by emergency vehicles such as ambulance and fire apparatus. This Application was submitted on February 5, 2013.”

Mr. Lovato said that Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request. Acknowledging that, staff feels this should be considered an easing of code requirements due to the proposed driveway being more accessible for emergency vehicles and life safety concerns. Therefore, Staff recommends approval of the Applicants’ request.

If the decision of the CDRC is to recommend approval of the Applicants’ request for a variance, staff recommends imposition of the following conditions:

1. The Applicants must obtain a development permit from the Building and Development Services Department for construction of the driveway. (As per Article II, § 2).
2. The Applicants shall comply with all Fire Prevention Division requirements at time of development application (As per 1997 Fire Code and 1997 Life Safety Code).

[Member Anaya arrived]

Mr. Lovato confirmed that a driveway to the residence exists and to improve the driveway for accessibility slopes of 30 percent will be disturbed.

Duly sworn, Wladimir Senutovitch, Santa Cruz, New Mexico, said the existing driveway is very steep and was created for the construction of the residence. The proposed driveway will be accessible to emergency vehicles. It currently contains a hairpin corner and steep slopes. He confirmed that he met with the County Fire Marshal.

In response to Member DeAnda’s question regarding stabilization of the slope, Mr. Senutovitch said he would have grasses.

Member Roybal noted the engineering plans call for erosion protection matting on the steeper slopes. Mr. Senutovitch said he will be following the engineering plan.

There was no in the public wishing to speak on this issue.

Member Katz recognized the applicant was improving the access and safety of the property and moved approval with staff conditions. Member Martin seconded. The motion passed by unanimous [7-0] voice vote.

VII. OLD BUSINESS

- A. CDRC CASE # Z/S 08-5440 Tierra Bello Subdivision. Joseph Miller, Applicant, Danny Martinez, Agent, Requests Master Plan Zoning Approval for a 73-Lot Residential Subdivision on 263.769 Acres + and Preliminary and Final Plat and Development Plan Approval for Phase 1, Which Will Consist of Nine Lots. The Property is Located at the Northeast Intersection of Avenida de Compadres and Spur Ranch Road, South of Avenida Eldorado in Eldorado, within Sections 24 And 25, Township 15 North, Range 9 East (Commission District 5)**

Vicki Lucero read the caption and gave the staff report as follows:

“On February 21, 2013, the CDRC heard this case and a motion was made to recommend approval of the request; however, with only six committee members present the motion ended in a tie vote. Under Commission rules of order, the application is automatically tabled until the next meeting at which time a great number of members are present. This case is now coming before the CDRC for deliberation and vote only.”

Ms. Lucero stated that Staff recommends approval of the request for Master Plan Zoning for a 73-lot residential subdivision and Preliminary and Final Plat and Development Plan Approval for Phase 1, which will consist of 9 lots subject to the following staff conditions:

1. The Applicant shall comply with all review agency comments and conditions, Article V, Section 7.1.3.c.
2. Conditions as stated in the memo from the Public Works Department shall be addressed prior to this case being heard by the BCC.
3. Master Plan and Final Plat and Development Plan, with appropriate signatures, and subdivision covenants and final disclosure statement shall be recorded with the County Clerk, as per Article V, Section 5.2.5 and Section 5.4.5.
4. The Applicant shall submit a financial guarantee, in a sufficient amount to assure completion of all required improvements. The financial guarantee shall be based on a county approved engineering cost estimate for the completion of required improvements as approved by staff prior to Final Plat recordation. All improvements shall be installed and ready for acceptance within eighteen months

Staff distributed a report from Jim Garland, President, Spur Ranch Road Association [*Exhibit 1*] outlining the meetings that occurred with Mr. Miller and Mr. VanAmberg. An additional exhibit of emails providing additional clarification via emails between Mr. Van Amberg and Mr. Garland was provided [*Exhibit 2*].

Deputy Attorney Brown advised the Committee that a new motion is required.

The Committee reviewed the distributed information.

Member Anaya moved to approve CDRC CASE # Z/S 08-5440, Tierra Bello Subdivision, with staff recommendations. Member DeAnda seconded.

Member Katz said he appreciated the discussions that took place and with the covenants having been clarified he no longer had those concerns.

Member Drobni asked whether there was any legal basis for the County to enact the Association's request for a temporary ban on development in the proposed area. Ms. Brown responded that this proposal meets Code requirements.

Member DeAnda said this case has been on the Committee's agenda many times and she was pleased the developer has met with the community. With the assurance of staff that there is sufficient water for the development and the immediate area she was prepared to move this application forward.

Member Martin lauded Mr. Miller in his efforts to accommodate and meet with the neighbors. However, water availability and drought continue to concern her and she was not able to support the application.

Chair Gonzales thanked the area residents and Mr. Miller for working together. He pointed out that the CDRC's recommendation will be forwarded to the BCC for their action.

The motion passed by majority [6-1] voice vote with Member Martin voting against.

B. CDRC CASE # V 13-5040 Roddy & Sherry Leeder Variance: Roddy & Sherry Leeder, Applicants, Ralph Jaramillo, Agent, request a variance of Article III, Section 2.4.1a.2.b (Access) of the Land Development Code and a variance of Article IV, Section 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow the placement of a manufactured home on 7.68 acres. The property is located at 25 Bar D Four Road, in the vicinity of Arroyo Seco, within Section 18, Township 20 North, Range 9 East, (Commission District 1)

Mr. Lovato provided the staff report as follows:

“The Applicant requests a variance to allow the placement of a manufactured home on 7.68 acres. Access to the subject property would be off Bar D Four Road which is a dirt road/private roadway crossing a FEMA designated Special Flood Hazard Area, via an existing low water concrete dip section which may be frequently impassible during inclement weather, and thereby is not all weather accessible.

“There is currently a residence and the proposed manufactured home on the property. The residence was permitted in July of 2010, under permit (# 10-343). The proposed manufactured home was allowed to be temporarily placed on the property for a period of 90 days while the Applicant proceed through the variance process. The Applicants state they have seven children and it is expensive to live in the market at the current moment and they want to help their children with housing. This Application was submitted on February 7, 2013.”

Mr. Lovato stated that Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request. Staff recommends that the variance from Article III, § 2.4.1a.2.b (Access) of the Land Development Code and denial of a variance of Article IV, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) be denied.

If the decision of the CDRC is to recommend approval of the Applicants’ request for variances, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 1.00 acre-feet per year per home. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the placement of the proposed home (As per Article II, § 2).
3. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).
4. A restriction must be placed on the Warranty Deed regarding the lack of all-weather access to the subject lot. This restriction shall include language as follows: the access to this property does not meet minimum standards set forth by County Ordinances and Code. Site access including access by emergency vehicles, may not be possible at all times (As per Ordinance #2008-10).

Member Katz asked about the number of residences served by the road and Mr. Lovato said he lacked the exact number but there were a lot of homes there. Member Katz asked whether there were any FEMA issues with this property and Mr. Lovato responded in the negative.

Mr. Lovato confirmed that the road was not maintained by the County. Member Roybal said there are a lot of low-water crossing throughout Pojoaque and flooding occurs perhaps twice a year and will last for less than an hour. He said these low-crossings are throughout the County and he saw it as an equity issue in preventing this individual from building.

Member Katz moved to approve the application with staff-imposed conditions. Member Martin seconded.

Member DeAnda said unless the County is willing to support ordinances that have been established to improve situations throughout the County things will not change. She said the flood situation concerned her and other neighboring residents may want to provide housing for their children making the situation direr. She said the property was purchased a few years ago and is not a long standing circumstance for the Leaders. She said she would be voting against this variance. Member Drobnis agreed with Member De Anda.

The motion passed by majority [4-3] voice vote with Members Martin, DeAnda and Drobnis voting again.

- C. **CDRC CASE # V 13-5050 Patrick Christopher & Marga Friberg**
Variance: Patrick Christopher & Marga Friberg, Applicants, request a variance of Article III, § 2.4.1a.2.b (Access) of the Land Development Code and a variance of Article 4, § 4.2 of Ordinance No. 2008-10 (Flood Damage and Stormwater Management) to allow the construction of a residence on 15.3 acres. The property is located at 250C Kalitaya Way off Old Buckman Road, within Section 29, Township 19 North, Range 8 East, (Commission District 1).
[Exhibit 3: Santa Fe County Fire Department – Official Development Review]

Mr. Dalton read the case caption and staff memo as follows:

“The Applicants request a variance to allow the construction of a residence on property consisting of five lots which total 15.3 acres. The lots consist of 3.84 acres, 3.87-acres and three 2.5-acre lots. The subject properties are part of a subdivision created in the 1940’s with the US Government’s “Small Parcel Act” which assisted veterans in acquiring their own property. The properties all have Land Patents from the US Government dating from 1962, and are recognized as legal lots of record.

“As part of the permitting process, the Applicants have agreed to consolidate all five lots in order to have the proposed residence on one lot consisting of 15.3 acres. The Applicants intend to sell the property contingent upon the outcome of the variance process and the buyer of the property will be constructing the residence.

The property is accessed by Old Buckman Road which is a County maintained road on BLM land, and Kalitaya Way which is a public road on BLM land. Old Buckman Road is a dirt/sand driving surface and is located in, and crosses two FEMA designated Special Flood Hazard Areas, numerous contributing arroyos

and drainage ways. The portion of Old Buckman Road that services the property is approximately nine miles in length. Kalitaya Way is a dirt driving surface and crosses one FEMA designated flood area, contributing arroyos and several drainage ways. The portion of Kalitaya Way that services the property is approximately 2.5 miles in length. Both Old Buckman Road and Kalitaya Way do not have an all-weather driving surface and may be frequently impassible during and after inclement weather, and thereby are not all-weather accessible.

“The Applicants state they are not in a position to upgrade 9 miles of Old Buckman Road to County standards, nor the 2.5 miles of Kalitaya Way. However they are interested in doing all they can to build responsibly. The Applicants also state that after consulting with County staff and the Fire Prevention Division, they understand that there are certain items that can be incorporated into the building plans to substantially enhance the protection against fire danger. These improvements may include a turnaround on the property, a water storage tank, sprinkler system, a vegetation management plan, and compliance with the Urban Wild Land Interface Code for building materials for any proposed structures on the property.”

Mr. Dalton said staff recommends denial of a variance from Article III, § 2.4.1a.2.b, Access, and denial of a variance of Article IV § 4.2 of Ordinance No. 2008-10. Flood Damage and Stormwater Management. However, if the decision of the CDRC is to recommend approval of the Applicants’ request for variances, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre-foot per year. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk’s Office (As per Article III, § 10.2.2 and Ordinance 2002-13).
2. The Applicant shall comply with all Fire Prevention Division requirements at time of Plat review and Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).
3. A Plat of Survey meeting all County Code requirements shall be submitted to the Building and Development Services Department for review and approval for the lot consolidation (As per Article III, § 2.4.2).
4. A note must be placed on the Plat regarding the lack of all-weather access to the subject lot. This restriction shall include language as follows: The access to this property does not meet minimum standards set forth by County Ordinance and Code. Site Access, including access by Emergency vehicles, may not be possible at all times. (As per Ordinance 2008-10).

In response to questions of Member De Anda, Mr. Dalton said there were no legal structures in the area and the surrounding area is BLM, Forest and tribal lands.

Member Drobni asked Marshal Patty if there were difficulties in getting emergency medical services to the site. Marshal Patty said EMS has the same

requirements as Fire and in the County approximately 85 percent of emergency calls are EMS.

The Agua Fria Fire Station would respond to a call for this area but technically it is within the Pojoaque Fire District, stated Marshal Patty. Pojoaque has no access to it. The nearest station is Las Campanas which is a two-man fire station for equipment only. EMS equipment would come from Agua Fria approximately 14 miles away. With good weather and a good road, he estimated it would take 30 minutes to reach the site.

Marshal Patty said the sprinkler requirement would add more time before the structure is lost.

Chair Gonzales identified this application as the most extreme the CDRC has seen in years. He asked whether there was an agreement the applicant could enter into with the County acknowledging that the owner assumes all responsibility in terms of emergency response. Marshal Patty said the Fire Department is bound to respond to any 911 call.

Marshal Patty said this application, to his recollection, is the furthest out with the worst roads. He said there have been calls out on Buckman Road, usually car fires, and there have been times when the department's engines cannot navigate the road. Brush trucks can be used but that road would be difficult.

Duly sworn, Patrick Christopher, 518 Alto Street, Santa Fe, said he and his business partner are both architects and they propose to build a home on the site. He said he has experience working/designing off the grid and they were prepared to consolidate the five lots into one thereby constricting the level of development. The property was created for veterans and the federal government created land patents and then sold the lots. He surmised that the federal administration never inspected this area. Over 80 percent of the development failed and the land was reacquired by the BLM except for approximately 40 lots that are in private hands. He said he and his partner are the first to attempt a development although there are a few illegal dwellings.

Mr. Christopher said they spent over a year getting rights-of-way with BLM. Obtaining a building permit is the next step. He lauded the assistance and professionalism of Mr. Dalton.

Mr. Christopher said they were willing to relieve the County of any emergency response liability; however, it may not be possible. Improvements have been made to Kalitaya but the nine miles on Buckman is over difficult terrain. If San Ildefonso granted access off of 502 the site would be 1.5 miles from a paved road. He said they wanted to move forward and create an off the grid, architecturally responsible solution.

Member DeAnda said she understood the desires of applicants to build in that area but she questioned whether it was appropriate public policy for the applicant to waive all emergency services. Mr. Christopher suggested a disclaimer in the deed.

Mr. Christopher said there were no wells in the immediate area and their plan was to drill. He said cell phone service was excellent and he has been visiting the

property often for the past few years. In that period he has experienced one flood and he thought the road was maintained a few times a year.

There was no one in the public wishing to speak to this case.

Member Katz said it was obviously a remote area and the question is whether people are allowed to live away from civilization/off the grid. The applicants purchased the property with the knowledge it was remote and emergency service risk was evident. He opined that people should be allowed to live out there if they want to.

Member Drobnis said he couldn't support the application because emergency medical service would not be available.

Member Roybal mentioned that he has relatives 30 to 40 minutes outside of Tierra Amarilla and when it rains, they're stuck. He appreciated the Fire Department's vow to help everyone but you can't bring the city to the country and some people don't want that safety component. He said it was the applicants' choice to live out there.

Member Anaya said without the expertise and response of the EMS he wouldn't be here today and he could not support the application.

Member Katz moved to approve the variance with staff-imposed conditions. Member Roybal seconded and the motion failed by [2-5] majority voice vote with Member Katz and Roybal casting the yea votes.

Member DeAnda moved to deny the variance for case #13-5050. Her motion was seconded by Member Anaya and passed by majority [5-2] voice vote with Members Katz and Roybal voting against.

VIII. PETITIONS FROM THE FLOOR

None were offered.

IX. COMMUNICATIONS FROM THE COMMITTEE

None were offered.

X. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

XI. COMMUNICATIONS FROM STAFF

Member Drobnis said he would miss the April meeting.



16 March, 2013

Dear Neighbor,

Here is a final report on my discussions with Mr. Joe Miller and his attorney, Mr. Ron VanAmberg, re their goals for the Tierra Bello subdivision. My negotiations were based primarily on comments and suggestions supplied by many of you, for which I am most grateful. Our community does not speak with one voice, but there were identical concerns expressed about this subdivision from nearly everybody who contacted me, so I felt that I mostly had the weight of the community in my corner during the discussions.

There are two majors issues regarding Tierra Bello. First is the substance of the restricted covenants, and whether they are sufficiently constraining to ensure a development that reflects the values and standards of our community. Keep in mind, however, that restrictive covenants do not define the scope of the development, but only establish rules for the future residents who live there.

Thus the second, and larger, issue pertains to the development itself, and whether the community can endorse a large, high-density housing project that places additional demands on public services— particularly with respect to water consumption and availability, but also with respect to roads and traffic, police and fire protection, etc. First, let me turn to the covenants.

I found Mr. Miller and Mr. VanAmberg very willing to consider community comments on Tierra Bello's covenants. We were in frequent contact, and I felt like they both made a genuine effort to solicit community views. That doesn't mean we were in agreement on every topic, but I believe there is no misunderstanding about where the two sides stand. More to the point, I felt Mr. Miller tried to be as accommodating as he could on many – but not all – issues of community concern. Here is a list of the areas of negotiated agreement and clarification, followed by a list of areas where there is no agreement.

I. Areas of Agreement/Clarification:

1. Structure and Language of Covenants: The covenant document has been thoroughly revised, edited, and reorganized. After several back-and-forth revisions, the vague language and disorganization have been eliminated. The covenants are now much tighter, more understandable, and generally professional. The second document attached to the accompanying email is the latest revision of the covenants.

2. Mobile Homes: Ambiguity in the definition of “mobile home” has been eliminated. Mobile homes will be absolutely prohibited in the development. “Modular homes” (manufactured off site) will be allowed, but only if they conform architecturally to the prevailing Pueblo, Territorial, and Northern New Mexico styles and colors.

CLERK RECORDED 04/19/2013

3. Homeowners' Association: Originally, formation of an HOA was not a requirement of Tierra Bello. Now it is mandatory, after the sixth lot has been sold. The HOA will assume gradual responsibility for maintaining the infrastructure (interior roads, common areas), as additional lots are sold, as well as for appointing the community's architectural committee. (Mr. Miller will appoint the initial committee, as is typical.)

4. Linkage to Tierra Colinas Interior Roads: Following the unanimous recommendation of the Tierra Colinas (TC) HOA, Mr. Miller will permanently close any connectors between the Tierra Bello (TB) roads and the TC roads. His covenants do not specify how he will close the connectors already shown on his plat, but he has stated that he plans to form a loop between two interior TB roads, making the connectors unnecessary.

5. Square Footage Requirements: Initially, the TB covenants mandated a 1200 square foot minimum. We argued for a 1600 square foot minimum, and finally Mr. Miller compromised at 1400 square foot. The definition was tightened to apply to "heated living space" so that garages, portals, etc. could not be counted in the minimum space requirements.

6. Rental Units: The covenants allow for owners to sublet or lease their property (this is common in subdivision covenants), but, combined with the low square footage requirements, raised concerns that Tierra Bello could become a rental project. Mr. Miller assured us in writing that his intention is to create an owner-occupied community and not a rental community.

7. Paving of Avenida des Compadres: Mr. Miller has promised the county that he would pave the northernmost 0.9 miles of Avenida des Compadres in Phase 4 (or when Lot 25 is sold). However, he separately has said he will not necessarily develop the phases in sequence, meaning that technically he could put off his paving responsibility until the very end of the project. He has clarified this point by assuring us that his intention is to pave Compadres when the 25th lot is sold, regardless of what phase the 25th lot is in or what lot official lot number is shown on the plat.

8. Affordable Homes: Mr. Miller has agreed to limit the number of "affordable homes" (e.g., small, inexpensive) in Tierra Bello to a maximum of 4. The County's "Affordable Housing Ordinance" requires 11 homes in this category to be constructed, but Mr. Miller has agreed to construct the additional ones elsewhere.

9. Poultry: Given the passions in Eldorado on both sides of the Great Chicken Debate, Mr. Miller agrees with my proposal to sidestep the issue and allow the Tierra Bello HOA to decide the issue. (Full disclosure: I'm a pro-chicken guy.)

10. Plat Changes: Mr. Miller has given written assurances that he is bound by the existing plat, both with respect to number of lots, boundaries of lots, open and common spaces, and interior roads.

II. Areas of Disagreement:

1. Exterior Road Support: Mr. Miller declines to provide any financial assistance to maintain or improve either Spur Ranch Road, or Avenida des Compadres (other than the northern-most 0.9 mile.) His view is that (i) TB residents will not use those roads, and (ii) he has already committed to a major expenditure in paving part of Compadres. Our view is that he underestimates the traffic on these roads from TB residents and service vehicles, and that TB residents should pay a fair share for their upkeep. (Note: lacking financial assistance from Mr. Miller, the Spur Ranch Road Association will likely decline access to Spur Ranch Road from all TB construction traffic.)

With respect to incorporating a covenant provision for HOA support of local road associations, Mr. Miller's attorney writes: "Joe believes that few if any [residents] will use unpaved roads when paved roads can get them to wherever they want to go. But if Joe is wrong, he sees no reason why the HOA would not want to participate in the future. It would be in the HOA's interest to do so if in fact the residents are using the unpaved roads." Our view is that this position, although seemingly reasonable, does not adequately obligate any future HOA to participate in any neighborhood road associations.

2. Subdivision Name: Many people have commented that Tierra Bello is grammatically incorrect, and that the proper Spanish name would be Tierra Bella. Mr. Miller is aware of the problem, but declines to change the name at this point, less he give the County grounds for requiring a complete reapplication of the project. (Editorial note: If and when the Tierra Bello subdivision is approved, let us hope that the County would agree to allow the name change, given that the current name would be an embarrassment to the community and to future TB residents.)

The Larger Issue:

Probably the single biggest community concern I have heard is over the additional burden Tierro Bello would place on the Eldorado water system. Basically, the argument is that (a) the community is in a severe drought that is likely to continue for years; (b) the prediction of future water reserves is significantly less certain than has often been presumed (especially lacking a signed agreement between EAWSD and the County to obtain additional water); and (c) that despite assurances to the contrary there are growing concerns in the science community that EAWSD may lack the capacity to handle the peak summer demand for water if the current drought worsens.

Mr. Miller's position is that he has a "will serve" commitment from EAWSD, that this is a binding contract, and that from a legal perspective the issue is closed. Further, at a recent CDRC meeting in which the question came up, the CDRC was informed by its staff attorney that it is legally required to accept a "will serve" permit, regardless of whether the permit was prudently issued.

What all this means is that water availability is a public policy matter that falls outside the domain of any particular developer. Basically, the question is whether the

County should approve *any* development until the water situation clarifies? Further, assuming that some development can take place, should there be more stringent limitations on the density of allowed lots?

Final Editorial Comment

I'll hope you'll forgive my editorializing a bit at this point. First, it is important to realize that developers and landowners have made large financial investments in their properties and plans. Their livelihoods may be at stake, not to mention those of the construction and real estate people who back up their efforts. Keep in mind that the economic downturn has been particularly hard on these folks. So while it may be tempting for those of us who are not affected by such considerations (such as myself) to come down on the "no development" side of the issue, we should remember that banning development carries a huge penalty for some members of our community.

Second, banning development has adverse unintended consequences. For example, EAWSD is required to service a debt that it assumed when the community acquired the water system. The cash flow from water sales is the primary source of its revenue, so if EAWSD is constrained from selling water to new customers, there is a negative impact on its balance sheet. Ultimately, that means water rates, already high, would likely go higher for existing customers. My point is that none of us should be too quick to jump to any conclusion on the development question. This is a complex matter with no easy answer.

That said, there are times when communities have to make decisions based on the lesser of evils, and I believe this is one of those times. Despite the hardships a development ban would create on many people, I believe a temporary limited development ban is in the larger public good. The key words here are "temporary" and "limited." In my view, a very modest amount of development should still be allowed, mostly to protect the small developers and builders in our community. High density developments should not be allowed at the present time. During the ban, the water situation should be monitored closely. In my opinion, further research on water reserves is called for, and the EAWSD should do everything possible to negotiate an agreement with the county for additional water. Once that happens, the temporary restrictions on development should be removed. Of course, all this means that more money will be required, and ultimately those dollars will come from the community taxpayers. Unfortunately, I don't see any workable alternative.

As far as Tierra Bello is concerned, I believe the covenants in their current form should now be acceptable to the surrounding neighborhoods. Mr. Miller was asked to consult with the community, and I believe he has done so in good faith. However, I worry greatly about the wisdom of approving any large, high-density subdivision at this time. To me, the wisest course of action is for the County to postpone any action on Tierra Bello until the water situation becomes more certain, even while acknowledging how disappointing such an action would be for Mr. Miller and his associates.

Sincerely,

Jim Garland
President, Spur Ranch Road Association
102 Spur Ranch Road

SFC CLERK RECORDED 04/19/2013

Ronald VanAmberg

From: Jim Garland <4cx250b@miamioh.edu>
Sent: Friday, March 15, 2013 5:32 PM
To: 'Ronald VanAmberg'
Subject: RE: Tierra Bello

Ron,

Many thanks for your note and additional clarification. I appreciate Joe's willingness to meet in person on Saturday, but I believe we've pretty well clarified our respective positions, so I don't think there's much to be gained by meeting in person. Please tell Joe to enjoy his weekend. Please also convey to him that I appreciate his flexibility on many of the issues of community concern. I don't know how the County will rule on his application, but at least we can all say that there's no misunderstanding about Joe's plans for Tierra Bello. I also think you should take considerable satisfaction in your role in clarifying, tightening, and improving the CC&Rs.

Best wishes,

Jim

> -----Original Message-----

> From: Ronald VanAmberg [mailto:rvanamberg@nmlawgroup.com]

> Sent: Friday, March 15, 2013 12:01 PM

> To: 4cx250b@miamioh.edu

> Subject: Tierra Bello

>

> Jim - Thanks for your letter of March 13, 2013.

> First, your areas of agreement are accurate.

> Relating to your areas of unresolved issues:

> 1, Internal Roads. As you note, the internal roads issue should not
 > impact the neighbors. The way Joe sees this working is that when 6

> lots

are

> sold, there will not be much road maintenance, as these owners can

> decide what they want to do. The burden will primarily fall on Joe. As

> more lots are sold, the more the owners can afford maintenance. If

> their level of maintenance is not to Joe's liking for marketing

> purposes, then he will likely increase the level of maintenance. So he

> sees this as a gradual transitioning.

> 2. External Roads. Joe is having to pave .9 mile of road. Paving was

> something that he should not be required to do, base course was all

that

> was required, but he agreed to pave. The County then required 4 inches

> of asphalt when the code only calls for 3 inches. One inch does not

> seem like much, but it will likely require two lifts which will add

> considerably to the cost of the road. We do disagree about the

> subdivision residents using unpaved area roads. Joe believes that few

> if any will use unpaved roads

when

> paved roads can get them to wherever they want to go. But if Joe is

> wrong, he sees no reason why the HOA would not want to participate in the future.

> It would be in the HOA's interest to do so if in fact the residents

> are using the unpaved roads.

> 3. Sequence of Phases. Joe has always intended that when the 25th

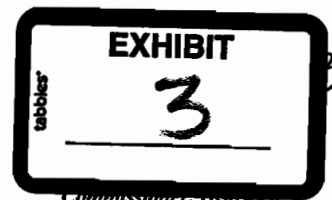
> lot is sold, no matter the numbers of the lots, he has to pave, and I

> am sure that is the County's intent. So your request about paving at
> the sale of the 25th lot is accepted.
> 4. Water. This has been discussed to death. The OSE acknowledges that
> there are more than sufficient water rights. EAWSD and others also
> contend that there is enough wet water with the addition of new wells
> and plans to add more wells as needed.
>
> I am not sure what else Joe is prepared to do. He can meet with you
> on Saturday. I am preparing for a week long trial which starts Monday,
> but
I
> can be available by phone. 690-4818. Joe will go to your home unless
> at
the
> suggested time. If that scheduling changes, please let me know. Thanks
>
> Thanks. Ron VanAmberg

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Commissioner, District 3

Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Development Review

Date	3/19/2013		
Project Name	Patrick Christopher & Marga Friberg		
Project Location	250-C Kalitaya Way Santa Fe, NM 87594		
Description	Variance for non compliant access	Case Manager	Wayne Dalton
Applicant Name	Patrick Christopher & Marga Friberg	County Case #	13-5050
Applicant Address	P.O. Box 33261 Santa Fe, NM 87594	Fire District	Pojoaque
Applicant Phone	505-794-9416		

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

Project Status: Approved Approved with Conditions Denial

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

Fire Department Access

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

- **Fire Access Lanes**

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

REC'D - CIVIL RECORDS 04/15/2013

▪ **Roadways/Driveways**

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

This property is accessed by Old Buckman Road (this is a County Maintained Road) and then to Kalitaya Way (Public Road on BLM Land) and does not meet minimum county standards for Fire Department access as per 1997 UFC. Both Old Buckmand Road and Kalitaya Way do not have an all-weather driving surface and may be frequently impassible during and after inclement weather, and thereby is not all weather accessible for Emergency response vehicles.

Should approval of this variance be granted the applicant shall comply with Article 9 (Fire Department Access and water Supply) Sec 902 (Fire Department Access) paragraph 902.2.1 Exception #2 at the time of Plat review and Development Permit Application.

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

▪ **Street Signs/Rural Address**

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

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

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

▪ **Slope/Road Grade**

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

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

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

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

Fire Protection Systems

▪ **Water Storage/Delivery Systems**

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

Section 903.2 Required Water Supply for Fire Protection. *An approved water supply capable of supplying the required fire flow for fire protection shall be provided to all premises upon which facilities, buildings or portions of buildings are hereafter constructed or moved into or within the jurisdiction. When any portion of the facility or building protect is in excess of 150 feet from a water supply on a public street, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains capable of supplying the required fire flow shall be provided when required by the chief.*

Section 903.3 Type of Water Supply (1997 UFC) *Water supply is allowed to consist of reservoirs, pressure tanks, elevated tanks, water mains or other fixed systems capable of providing the required fire flow. In setting the requirements for fire flow, the chief may be guided by Appendix III-A.*

Due to the lack of adequate resources for fire flow a minimum 10,000-gallon cistern and draft hydrant shall be installed, tested, approved and operable prior to the start of any building construction. Plans and location for said system shall be submitted prior to installation for approval by this office and shall meet all minimum requirements of the Santa Fe County Fire Department. Details and information are available through the Fire Prevention office.

The water level shall be maintained by an external water source (well), or by a water shuttle system (trucked).

The water storage system shall incorporate the use of a tank water level monitoring system which maintains the minimum required water for fire protection needs at all times. When the tank water level exceeds the required limits, power to the domestic water pump shall be automatically disconnected.

The water system and hydrants shall be in place, operable and tested prior to the start of any and all building construction. It shall be the responsibility of the developer to notify the Fire Prevention Division when the system and hydrants are ready to be tested.

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

The requirement for water storage and residential fire protection sprinkler systems shall be recorded on the plat and in the covenants at the time of filing or as otherwise directed by the County Fire or Land Use Department.

Automatic Fire Protection/Suppression

Due to the location of this proposed residence and the lack of a pressurized hydrant system within 1,000' in this area, an Automatic Fire Suppression System meeting NFPA 13D requirements shall be installed.

All Automatic Fire Protection systems shall be developed by a firm certified to perform and design such systems. Copies of sprinkler system design shall be submitted to the Fire Prevention Division for review and acceptance prior to construction. Systems will not be approved unless final inspection test is witnessed by the Santa Fe County Fire Department. Fire sprinkler systems shall meet all requirements of NFPA 13/13-D Standard for the Installation of Sprinkler Systems.

All sprinkler and alarm systems as required shall have a test witnessed and approved by the Santa Fe County Fire Department, prior to allowing any occupancy to take place. It shall be the responsibility of the installer and/or developer to notify the Fire Prevention Division when the system is ready for testing.

The requirement for residential fire protection sprinkler systems shall be recorded on the plat and in the covenants at the time of filing or as otherwise directed by the County Fire or Land Use Department.

Fire Alarm/Notification Systems

Automatic Fire Protection Alarm systems may be required as per 1997 Uniform Fire Code, Article 10 Section 1007.2.1.1 and the Building Code as adopted by the State of New Mexico and/or the County of Santa Fe. Required Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code, for given type of structure and/or occupancy use. Said requirements will be applied as necessary as more project information becomes available to this office during the following approval process.

▪ **Fire Extinguishers**

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

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

General Requirements/Comments

▪ **Inspections/Acceptance Tests**

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

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

▪ **Permits**

As required

Final Status

Recommendation for Final Development Plan is a Denied.

Buster Patty, Fire Marshal


Code Enforcement Official

3-19-13
Date

Through: David Sperling, Chief

File: Landuse/Distr Pojoaque. /Patrick Christopher
3-19-2013

Cy: Case Manager, Wayne Dalton
Applicant/ Patrick Christopher & Marga Friberg
District Chief/Nick Martinez
File