MINUTES OF THE

SANTA FE COUNTY

DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

July 16, 2015

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

II. & III. Roll call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:
Frank Katz, Chair
Susan Martin, Vice Chair
Phil Anaya
Bette Booth
Louie Gonzales
Leroy Lopez

Member(s) Excused:
Renae Gray

Staff Present:
Wayne Dalton, Building & Services Supervisor
Vicki Lucero, Building & Services Manager
John Lovato, Development Review Specialist
Jose Larrañaga, Development Review Team Leader
Vicente Archuleta, Development Review Team Leader
Miguel "Mike" Romero, Development Review Specialist
Andrea Salazar, Assistant County Attorney
Buster Patty, Fire Marshal

IV. APPROVAL OF AGENDA

Ms. Lucero confirmed the agenda as published was accurate.

Upon motion by Member Martin and second by Member Booth, the agenda was unanimously approved as published.

V. APPROVAL OF MINUTES: June 18, 2015

Member Martin moved to approve the June minutes as submitted. Member Lopez seconded and the motion passed by unanimous voice vote.

VI. CONSENT AGENDA: Final Orders

A. **CDRC CASE # APP 13-5062 Robert and Bernadette Anaya Appeal: Robert and Bernadette Anaya, Applicants, Joseph Karnes (Sommer, Karnes & Associates, LLP), Agent, are appealing the Land Use Administrator's decision to reject a submittal for Master Plan, Preliminary and Final Development Plan as it was deemed untimely. The property is located at 2253 Ben Lane, within Sections 31, Township 17 North, Range 9 East, (Commission District 2) Denied 6-0, Jose Larrañaga, Case Manager**

B. **CDRC CASE # DP 15-5090 The Legacy at Santa Fe: PinPoint Equities, LLC, Applicant, JenkinsGavin, Agents, request Preliminary and Final Development Plan approval for an Assisted Living Facility on 6.78 ± acres within Phase I-A of Aldea de Santa Fe. The 66,476 square foot facility will contain 84 beds and will be constructed 33 feet 10 inches in height. The property is located at 34 Avenida Frijoles, North of 599, within Section 20, Township 17 North, Range 9 East, (Commission District 2) Approved 5-1, Jose Larrañaga, Case Manager**

VII. NEW BUSINESS

A. **CDRC CASE # V 15-5150 Jude Tercero Variance: Jude Tercero, Applicant, Maria Cerquera, Agent, request a variance of Ordinance No. 2007-2 (Village of Agua Fria Zoning District), Section 10.6 (Density and Dimension Standards), to allow three dwelling units on 0.962 acres. This request also includes a variance of Article V, Section 8.2.1c (Local Roads), of the Land Development Code, as Paseo de Tercero which services the property does not meet local road standards consisting of two ten-foot driving lanes, a minimum right-of-way of fifty feet and an all-weather driving surface. The property is located within the Traditional Community of Agua Fria, at 2293 Paseo de Tercero within Section 5, Township 16 North, Range 9 East, (Commission District 2)**

Mike Romero, Case Manager, presented the staff report as follows:

"The subject lot was created in 1991, by way of Family Transfer and is recognized as a legal lot of record. The Applicant has provided proof of ownership of the property by providing a warranty deed which was recorded in the County Clerk's Office on June 23, 1998, in Book 227, Page 048. There are

currently two dwelling units on the subject property. The main residence was constructed after 1992, which is approximately 2,500 square feet, and is served by City of Santa Fe sewer and a private well. The second dwelling unit was permitted in 2012, which is approximately 1,440 square feet and is served by City of Santa Fe Sewer and the Agua Fria Community Water System. The proposed dwelling unit would be served by City of Santa Fe sewer and Agua Fria Community Water System. Currently, the Applicant rents both dwelling units for additional income.

"The Applicant requests a variance of Ordinance No. 2007-2, Village of Agua Fria Traditional Community Zoning District, § 10.6, Density and Dimension Standards, to allow three dwelling units on 0.962 acres. Article III Section 2.4.1, state that the Applicant must provide submittals for new construction, and meet standards as applicable and as required in Article V, Section 8, Subdivision Design Standards. This request also includes a variance of Article V, Section 8.2.1c of the Land Development Code. Paseo de Tercero which services the property does not meet local road standards consisting of two ten-foot driving lanes, a minimum right-of-way of 50 feet an all-weather driving surface. Currently Paseo de Tercero is a 16-foot wide dirt road with a 20-foot entrance, exit and utility easement and is 817 feet from Rufina to the end of the Applicant's property line. Paseo de Tercero can be accessed through Rufina or by Agua Fria Road.

"The Applicant states a variance is needed in order to develop the remaining portion of the property. The Applicant intends to place an additional home on the property to provide them with additional income until such time their three children are of age. The Applicant intends to give each child a dwelling unit at such time. The property is lacking approximately 1.41 acres in order to meet Code requirements."

Mr. Romero stated that the Applicant has provided sufficient noticing by providing notice in *The New Mexican*, and provided certified mail receipts and certification of posting acknowledgement that the public notice has been posted for 21 days on the property.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request and recommends denial of a variance of Ordinance No. 2007-2 (Village of Agua Fria Zoning District), § 10.6 (Density and Dimension Standards) to allow three dwelling units on 0.962 acres and Article V, Section 8.2.1c (Local Roads).

If the decision of the CDRC is to recommend approval of the Applicant's request, staff recommends imposition of the following conditions:

1. The Applicant shall comply with all applicable water conservation measures. (As per Ordinance No. 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the additional dwelling unit. (As per Article II, Section 2).

3. The placement of additional dwelling units is prohibited on the property. (As per Ordinance No. 2007-2 Section 10.6).
4. The Applicant shall comply with all Fire Code Requirements and Fire Prevention Division requirements at the time of Development Permit Application. (As per 1997 Fire Code and NFPA Life Safety Code).
5. [Additional condition added – See motion.]

Duly sworn, Jude Tercero said he wants to place a mobile home on the property and was willing to hook up to community water.

Chair Katz remarked that if the main residence were on community water the necessary land would off by the size of desk. Mr. Tercero said if the water system offered the membership they would do that.

Member Anaya asked whether the homes on the property were manufactured and Mr. Tercero said they were as were most of the homes in the area.

Duly sworn, William Mee, 2073 Camino Samuel Montoya in Agua Fria Village, stated he was president of the Agua Fria Village Association and the Association is in support of the variance.

Mr. Mee said in the past the County had an Agua Fria Development Review Committee which served the community and County because of the committee's local knowledge. He discussed the history of the long narrow lots in the Village and the constant issue of driveways. Currently, the Association is working on a utility corridor plan and focused on the infrastructure for the lots.

Chair Katz thanked Mr. Mee and said his input on the Village was valued.

There were no other speakers on this case and the public hearing was closed.

Stating the application meets the requirements for the road variance, Member Gonzales moved to approve V 15-5150 with staff-imposed conditions. Member Anaya seconded.

Chair Katz' friendly amendment of an additional condition was accepted by the movant and second:

5. The original/main house is to be hooked up to the community water system when possible.

The motion as amended passed by unanimous voice vote.

B. **<u>CDRC CASE # V 15-5160 Susan Stokes Variance</u>. Susan Stokes, Applicant, requests a variance of Ordinance No. 2007-02, Section 10.6 (Village of Agua Fria Zoning District, Density and Dimensional Standards) to allow the creation of three (3) lots (Lot 1, 1.642 acres, Lot 2, 1.010 acres, and Lot 3, 1.174 acres) on 3.826 acres, more or less, utilizing an on-site well and septic system rather than Community Water or Sewer. The property lies within the Agua Fria Low-Density Urban Zone (AFLDUZ) where the minimum lot size is 2.5 acres per dwelling with .25 acre-feet water restrictions. The property lies within the Village of Agua Fria Zoning District, within Section 32, Township 17 North, Range 9 East (Commission District 2) at 4745 Rivers Edge Lane**

Vicente Archuleta, Case Manager, presented the staff report as follows:

"In February of 2004, the Applicant was issued a permit for a second dwelling unit on her 4.972-acre lot. The Applicant was allowed to connect to the City of Santa Fe trunk line via a 4 inch private sanitary sewer lateral subject to seven conditions, which included the condition, "[i]f the property is ever subdivided, an 8 inch diameter sanitary sewer mainline extension will be required."

"On March 3, 2010, the Applicant submitted an application for a 4-lot Summary Review Subdivision on 4.972 acres. The Application was reviewed and approved. Prior to recording the plat, the Applicant was required to provide an all-weather access road to all proposed lots, sign water restrictive covenants, provide a disclosure statement and submit a shared well agreement. The all-weather access road was constructed and inspected by County staff.

"The property lies within the Village of Agua Fria Zoning District in the Agua Fria Low-Density Urban Zone, AFLDUZ. The minimum lot size in the AFLDUZ is 2.5 acres. Lot size may be reduced with community water and sewer. With community water or sewer, the lot size may be reduced to 1 acre per dwelling unit and with both sewer and water the lot size may be reduced to 0.5 acres per dwelling.

"At the time the plat was approved in 2011, one of the conditions of approval for the lot sizes requested was, the Applicant must connect to community services, either community water or community sewer, to be allowed the lot size that they were proposing, less than 2.5 acres. The Applicant agreed to the condition that they would connect to City sewer. This condition was noted on the plat. The plat along with the water restrictive covenants, disclosure statement and shared well agreement were then recorded on August 12, 2011.

"The Applicant now requests a variance of Ordinance No. 2007-2, Section 10.6 to allow the creation of Lot 1, Lot 2 and Lot 3 without the requirement of connection

to community services. Lot 4 is not included in the variance request as it is already connected to City of Santa Fe Sewer.

"The Applicant is now trying to sell Lot 1, furthest lot away from the sewer trunk line, and made a request to the Agua Fria Community Water Systems for service. The AFCWS is unable to provide service to the property. The Applicant then pursued connection to the City sewer system. The distance from Lot 1 to the City sewer line is approximately 825 feet and will require cleanouts every 100 feet. The Applicant submitted a cost estimate that has determined the cost of construction, permitting and connection. The estimate is approximately $30,000 and could increase with unexpected excavation or soil testing.

"The Applicant states, that the substantial amount of additional work to connect to the City sewer due to this property's unique situation has made it impractical to develop the property."

Mr. Archuleta referred to Ordinance No. 2007-2, Section 10.6(1), Village of Agua Fria Zoning District, Density and Dimensional Standards, which states: "Where adequate water is available, minimum lot area may be reduced by employing water conservation measures and reducing water use. Further reductions may be achieved by submitting proof of adequate long-term water availability, connecting to community water, community sewer or both, all in accordance with Article III, Section 10, Lot Size Requirements of the Code or, such additional density bonus and lot size provisions of County Ordinance 2006-02, Affordable Housing."

Staff recommends denial of the variance of Ordinance No. 2007-02, Section 10.6, Village of Agua Fria Zoning District, Density and Dimensional Standards, to allow the creation of three lots on + 3.826 acres, without community services (water and sewer). If the decision of the CDRC is to recommend approval, staff recommends the following condition be imposed:

1. The Applicant must amend the Plat of Survey to remove the condition stating: "These lots are subject to using the City of Santa Fe Sewer System. No individual wastewater system shall be allowed" and the Applicant shall submit the plat with the new language for Staff review and record in the County Clerk's office

Duly sworn, the applicant, Susan Stokes, said at the time the 8-inch line requirement was placed on the property in 2004 the notion of subdividing never entered her mind. She met all conditions other than connecting to the City sewer. The access road cost $20,000. She signed water restrictive covenants giving up 3.0 acre-feet, agreed to .25 acre-feet, put a road and well agreement in place. She said her life recently changed and she needs to develop and/or sell a portion of the property.

Ms. Stokes said it is not possible to market the property with the utility requirement. The Agua Fria planning committee is proposing a change to the zoning in her area allowing for a minimum 1 acre density with a shared well. She has already met that requirement and would be able to accomplish this without a variance. A density bonus within the overlay map being proposed would also deem her request possible

without a variance. The SLDC has a provision that if the County is not providing sewer services within the next five years the landowner developing a property in that area can be held harmless from the mandate of having to hook up to a community sewer line within 200 feet.

Ms. Stokes said the proposed changes attest to the fact it is unfair to require hooking up to utilities if the area does not have the services available.

Ms. Stokes identified the two buildings on her lot and said the aerial photo is out of date. One of the buildings that appears was a shop and is no longer there.

Returning to the microphone, Mr. Mee confirmed Ms. Stokes' statement that Agua Fria is working to update the community plan. Mr. Mee said he has been working some 36 years planning for the area and mentioned a resident that began asking for sewer connection 56 years ago.

Mr. Mee said Ms. Stokes' property contains some rolling hills which further exacerbates the cost of utilities. For a private individual to install utility lines is a very difficult, complex and time consuming task. He said the Association supports this variance.

Mr. Mee said the timetable for the inclusion of the Agua Fria Village plan, which was approved by the BCC, within the County's Sustainable Growth Management Plan is at this point an unknown.

In response to Member Anaya's question, Mr. Archuleta said the variance stays with the property.

Member Anaya moved to approve CDRC V 15-5160 with the staff-imposed condition. Member Booth seconded and the motion passed by unanimous voice vote.

C. **CDRC CASE # V/FDP 15-5170 Jacona Transfer Station Santa Fe County, Applicant, requests Final Development Plan approval to allow a facility to be utilized as a County Collection Center on 19.63 acres +. The Applicant's request also includes a variance of Ordinance No. 2002-6, Article III, Section 4.4.4(c) (Maximum Height) to allow the structure to exceed 24 feet in height, a variance of Ordinance No. 2000-01, Section 2.3.6.d.2, to allow retaining walls to exceed 10 feet in height and a variance of Article VII, Section, 3.4.1.1.c.1 (No Build Areas) to allow 5 isolated disturbances of 30 percent slope for access roads totaling 1,313 square feet of disturbance. The property is located off of Highway 502, within the Jacona Land Grant, within Section 15, Township 19 North, Range 8 East, (Commission District 1)** [*Exhibit 1: Santa Fe County Fire Department –Prevention Division review*]

Jose Larrañaga, case manager, presented the staff report as follows:

"The Applicant is requesting Final Development Plan approval for the Jacona Collection Center as a Community Service Facility in conformance with Ordinance No. 2010-13 § 7, Community Service Facilities and Santa Fe County Ordinance No. 1996-10, the Santa Fe County Land Development Code. The Center will consist of a main building which will be utilized for waste unloading and recycling and a sheltered area for re-use items for a combined roofed area of 9,623 square feet, in addition to a flat pad for green waste and a flat pad for scrap metal and tires. The Jacona Collection Center will be a County-owned and operated facility.

"Ordinance No. 2010-13 § 7, Community Service Facilities, states, Community service facilities are facilities which provide service to a local community organization. These may include governmental services such as police and fire stations, elementary and secondary day care centers, schools and community centers, and churches. Ordinance No. 2010-13 § 7.1, Standards, states, Community service facilities are allowed anywhere in the County, provided all requirements of the Code are met.

"In order for the facility to function, the tunnel where trash collects in trailers must be at least 16 feet below the collection/tip floor in the main facility, and the public areas need to be at least 2'-8" above the tip floor. The tunnel needs 14 feet of clear space above the tip floor as well. Because of these functional considerations, the height of the facility requires an exception. The overall height from lowest grade to highest point is 41 feet 9 inches. However, the ridge of the main facility is only 23'-1" above finish grade. The ridge of the tunnel is 38' above grade.

"Other mitigating factors: The design incorporates several features to lessen the appearance of height. The tunnel floor is 10' below grade so that it is not seen from Highway 502. The slope of the roof is 2:12 so although the visible height above grade is 28' at the ridge it's only 22'-3" and 19'-3" at the eaves. The mass of the facility is broken up into four volumes; an open-air cover echoes the roof pitches and breaks up the mass of the tunnel.

"Staff Response: The height of the structure is necessary in order for the facility to function in a safe and efficient manner. The height is required to allow the headroom required for the equipment to be used in the daily operation of the facility. The Applicant has designed the facility, utilizing the natural topography, so that the height will be a minimal visual impact on the public traveling along Highway 502.

"Given the function requirements of the facility, some retaining walls are required to be built over ten feet to allow waste to be pushed into trailers from the green waste area and the main facility, 18'-8" high retaining wall, below the public level. Where possible the retaining walls will be designed with a series of walls set back from each other/face of wall to face of wall.

"Staff Response, The facility is designed to handle a large amount of waste and large trucks and trailers will be utilized to haul off the waste. The facility is designed for these trucks/trailers to be positioned below the main facility and still be able to circulate through the facility and not impede the traffic created by the public. The design creates an efficient and safe facility and utilizes the bulk of the structure and the natural topography to shield the mass of the retaining walls from any possible visual impact to Highway 502.

"The Applicant states that the project site is relatively flat, however, the topography of the areas surrounding the site is challenging with hills and arroyos, making access an issue. The main facility is located on slopes of less than 20 percent and is sited to preserve natural features such as trees and hills. Roads were designed to avoid arroyos and hills as much as possible, winding around the hill that screens the collection facility site from Highway 502. Some grading on 30 percent slopes is inevitable due to the topography of the site. The location of the entrance was dictated by the features of Highway 502, and it enters the site at a steep embankment. The road enters on a man-made area greater than 30 percent slopes, 1,874 square feet. An exception is required because there are more than three instances of disturbance of greater than 30 percent natural slopes. There are five instances, however, these are all small and represent only 1,313 square feet, less than half of the 3000 square feet allowed. The disturbance is only on areas for access roads and not for any buildings.

"Staff Response: The disturbance of the five separate occurrences of 30 percent slopes is minimal as the square footage of those combined disturbances totals 1,313 square feet. The disturbance of the 30 percent slopes is necessary to create an access that is safe not only for the general public utilizing the facility and the employees, but also creates a safe and adequate access for emergency vehicles. The disturbance of the 30 percent slopes will have a minimal visual impact from Highway 502."

Mr. Larrañaga said Building and Development Services staff have reviewed this project for compliance with pertinent Code requirements and have found that the facts presented support the request for Final Development Plan: the facility will provide a community service to the County; the use is compatible with development permitted under the Code; the Application, excluding the height of the structure and retaining walls and the disturbance of 30 percent slopes, satisfies the submittal requirements set forth in the Code.

The review comments from State Agencies and County staff have established findings that this Application, for Final Development Plan, excluding the height of the structure and retaining walls and the disturbance of 30 percent slopes, is in compliance with state requirements and the County Code.

Mr. Larrañaga said staff reviewed the requests for variances and finds the information provided supports the granting of the variances as a minimum easing of the Code and recommends granting Final Development Plan approval to allow a facility to be

utilized as a County Collection Center on 19.63 acres, subject to the following staff conditions:

1. The Applicant shall comply with all review agency comments and conditions, as per Article V, § 7.1.3.c. Conditions shall be noted on the recorded Final Development Plan.
2. Final Development Plan with appropriate signatures shall be recorded with the County Clerk, as per Article V, § 7.2.2.
3. Water restrictive covenants, restricting the water use to 0.25 acre-feet per year, shall be recorded along with the Final Development Plan. Meter readings shall be submitted to the County Hydrologist on an annual basis.
4. Construction crews shall stop work if archaeological artifacts (i.e. pottery shards, bone, flaked stone, etc.) are observed and Santa Fe County shall contact the State Historic Preservation Division.

Mr. Larrañaga said staff requests that the CDRC make a separate motion on the variance requests. The request for a variance of the height requirements may be considered a minimal easing due to: the height required for the structure is designed to provide safe and adequate service, as a collection center, for the general public and the employees; the height of the retaining walls is required for proper circulation of vehicles and for efficient use of the facility; the disturbance of 1,313 square feet of 30 percent slopes is well below what is allowed by the Code for three occurrences. The CDRC may recommend to the BCC to vary, modify or waive the requirements set forth in Ordinance No. 2002-6, Article III, Section 4.4.4(c), Maximum Height, to allow the structure to exceed 24 feet in height, a variance of Ordinance No. 2000-01, Section 2.3.6.d.2, to allow retaining walls to exceed 10 feet in height and a variance of Article VII, Section, 3.4.1.1.c.1 (No Build Areas) to allow 5 isolated disturbances of 30 percent slope for access roads totaling 1,313 square feet of disturbance.

Mr. Larrañaga said the property is owned by the Jacona Land Grant and the County has secured a lease for the 19 acres.

Member Gonzales asked whether there was a transfer station in the region now and Mr. Larrañaga suggested the applicant could better address those issues. This will be a transfer station so the waste will be hauled a permanent landfill.

Chair Katz requested the applicant address visibility of the facility from the highway.

Joseph Martinez, project manager for Santa Fe County, said the existing transfer station is east of the proposed site on leased pueblo land. While the existing facility is functional, the new facility which is just west of Pojoaque High School, will be indoors and reduce airborne garbage.

Duly sworn, Marcie Riskin, project architect, said several things have been done to integrate the facility into the landscape. The facility is barn-like with a 2 and 2 slope and dropped down. The facility is two levels with a public level and a large truck/trailer level. To mitigate the height the trailer level has been dropped 10 feet into the ground. The mass was broken up into different elevations and tends to lower in height and blends in with the landscape.

Duly sworn, David Dogruel, lifelong resident of Nambe said he recently served as the chair of the Pojoaque Valley Planning Committee and is a volunteer firefighter and EMT with Pojoaque Valley Fire District.

Mr. Dogruel said he fully supports the relocation of the Jacona transfer station from the pueblo land. The reasons he supports the relocation include that many community members are having facing difficulties accessing their properties due to tribal jurisdiction issues and the benefits of having a new state-of-the-art facility. The old transfer facility was not enclosed and trash polluted the area. The new facility will be functional and safe.

Mr. Dogruel noted the land grant is not within the traditional community boundary and thus not within the jurisdiction of the community plan. However, the land grant has been identified in the community plan as an appropriate location for community services. The 20-acre tract the transfer station is proposed to be located on is also appropriate for a community center, a fire substation, a sheriff's substation, a community recreation facility, a community garden and a multitude of other possibilities.

Deputy County Manager Tony Flores said the existing transfer station is dilapidated and it would not be possible to renovate to the state-of-the-art facility being proposed.

Member Anaya asked whether the 10,000-gallon holding tank was sufficient for the facility. Fire Marshal Buster Patty said it is because there are fire station within the area that would provide additional water.

Member Booth moved to approve CDRC Case V/FDP 15-5170, final development plan, with the imposition of the four staff conditions. Member Martin seconded. The motion passed by unanimous voice vote.

Regarding CDRC Case V/FDP 15-5170, Member Martin moved to approve the variances: allow the structure to exceed 24 feet in height, allow the retaining walls to exceed 10 feet in height and a variance of Article 7, Section 3.4.1.1.c.1 to allow five isolated disturbances of 30 percent slope of access roads totaling 1,313 square feet of disturbance. Member Booth seconded and the motion passed by unanimous voice vote.

D. **CDRC CASE #Z/PDP/FDP 15310 Ashwin Stables. Don Altshuler, Applicant, James W. Siebert & Associates, Agent, request Master Plan Zoning, Preliminary and Final Development Plan approval to allow an Equestrian Facility on 2.71 acres +. The property is located within Section 4, Township 17 North, Range 9 East, (Commission District 2) at 10 Heartstone Drive**
[Exhibit 2: List of supporters' names and addresses; Exhibit 3: Barry Shrager's statement; Exhibit 3: Tamara Rymer, opposition statement; Exhibit 4: Public Notice property posting, introduced by Tamara Rymer; Exhibit 5: Series of emails between neighbors and applicants]

Case manager, Mr. Larrañaga presented the staff report as follows:

"The Applicant requests Master Plan Zoning, Preliminary & Final Development Plan approval to allow an Equestrian Facility on 2.71 acres in conformance with Ordinance No. 1998-15, Other Development, and Santa Fe County Ordinance 1996-10, the Santa Fe County Land Development Code. The facility consists of a 706 square foot residence located above a 2,250 square foot four-horse barn, a 1,960 square foot/eight-horse stable, a 648 square foot/four horse stable, a 1,035 square foot hay barn, a 9,946 square foot covered arena and a maximum of 16 horses to be boarded on the site. The structures are existing and were permitted and utilized by the Applicant for personal use. The proposed facility is currently located within a 7.74 acre parcel. The Applicant proposes to sub-divide the 7.74-acre parcel to create three lots consisting of two 2.5-acre residential lots and a 2.71 acre parcel to be utilized for the Equestrian Facility.

"The Applicant's Report states: The equestrian use that is shown in this request for Master Plan and Development Plan approval will remain as it has existed for the last 15 years. Until recently Mr. Altshuler kept four of his family horses at this site. Mr. Altshuler is no longer able to ride and the horses have been sold. Some of the residents who used to board horses no longer do so. If boarding of horses from outside the subdivision is not possible, the equestrian use is not financially feasible. The use list for the property is limited to an equestrian facility including boarding of horses and its ancillary structures and activities, such as the small residence for the stall keeper and training and instruction of riders.

"Building and Development Services staff have reviewed this project for compliance with pertinent Code requirements and have found that the facts presented support this request: the application is comprehensive in establishing the scope of the project; the proposed Preliminary Development Plan substantially conforms to the proposed Master Plan; the Final Development Plan conforms to the Code requirements for this type of use; and the Application satisfies the submittal requirements set forth in the Code."

Mr. Larrañaga stated that staff recommends approval of Master Plan Zoning, Preliminary and Final Development Plan to allow an Equestrian Facility on 2.71 acres subject to the following staff conditions:

1. The Applicant shall comply with all review agency comments and conditions as per Article V, § 7.1.3.c.
2. Master Plan, Preliminary and Final Development Plan with appropriate signatures, shall be recorded with the County Clerk as per Article V, § 5.2.5.
3. Horse manure shall be removed on a weekly basis and taken to the regional landfill for burial. This shall be noted on the Master Plan/Development Plan.
4. Maximum amount of horses to be stabled at facility shall not exceed 16. This shall be noted on the Master Plan/Development Plan.
5. Water restrictive covenants, restricting the water use to 0.25 acre-feet per year, shall be recorded along with the Final Development Plan. Meter readings shall be submitted to the County Hydrologist on a quarterly basis. If the water use exceeds 0.25 acre-feet per year the number of horses allowed to be stabled on the facility shall be reduced. This shall be noted on the Master Plan/Development Plan.
6. [Additional condition added at motion]

Chair Katz asked what the application proposed to change in this already existing facility. Mr. Larrañaga said in order to board/train over six horses the facility has to come under "other development" for this use. It could only qualify for home occupation if the number of horses were limited to six. The change will allow up to 16 horses and use the facility as a business. There is no limit to the number of personal horses.

Member Booth asked about the current zoning and Mr. Larrañaga said it is residential, one unit per 2.5 acres. He clarified the application was not for commercial zoning, rather "other development" which allows for a horsing boarding facility anywhere in the County.

Duly sworn, Jim Siebert, agent/planner for the applicant, stated that three issues were relevant to the project: development process and how "other development" is interpreted; the open space; and the uses on the property.

In terms of what is being requested, Mr. Siebert said the County process of an approved development plan is for a specific use, specific building, specific location and size of building as well as specific intensity of use. Any change in that requires application before the CDRC and BCC with public hearings. The area residents have expressed concern that this approval will be a stepping stone to a Wal-Mart and that is not true.

Mr. Siebert defined the open space relative to the project using a site map and identified the two vacant lots that, if the application is successful, will be purchased by the individual seeking to operate the horse facility, Joanie Bolton. The applicant is in the process of administratively dividing 7.74 acres into three lots. Each lot will receive .25 acre-feet of water rights. He located the horse arena, cisterns, horse stalls, receiving and storage area for hay and two outdoor arenas. He isolated an additional outdoor arena that is within the designated equestrian easement.

Ms. Bolton has operated the equestrian use for the past four years and she is not asking to expand the operation but rather to continue what she has been doing.

Mr. Siebert said Gary Dellapa supports the project and will be representing the proponents.

Member Anaya asked how many horses were owned by surrounding neighbors and Mr. Siebert said he understood there were none within the Heartstone Subdivision. In the past the Altshulers, the developer of the 160 acres, had their horses there.

Mr. Siebert said the facility has been in operation for 15 years. Member Booth asked about Ms. Bolton's operation. Mr. Siebert said the request will allow for the boarding of 16 horses and Ms. Bolton will conduct classes there as well. Ms. Bolton has been there for 4.5 years and has been neither permitted nor legal.

Chair Katz asked to hear from the proponents of the request first.

Duly sworn Gary Dellapa, 206A Tano Road, said there were 20 to 22 folks in support of this request. He asked those in support to stand and approximately 20 stood. County staff conducted a thorough review of the application in regards to the impact on the community and there is none. He said the application does not represent a change of what has historically and currently going on. Ashwin Stables has 16 stalls now and if approved it will still have 16 stalls.

Mr. Dellapa said the supporters believe that Ashwin Stables under the Altshulers' ownership and Joanie Bolton's management is a well-run and well-maintained facility and is in character with the area. He noted his wife uses the facility.

Chair Katz asked whether the people Mr. Dellapa represented lived within the subdivision and Mr. Dellapa responded some do but he does not.

Zev Guber, duly sworn, identified himself as one of the earliest members of Heartstone and supported the proposal. When the notice of the application came forward there was a lot of fear in the area, stated Mr. Guber, and he added that fear spreads like a virus. He and his wife visited the stable yesterday and talked with Ms. Bolton. Now that they understand the application he fully supports it. He said the facility is attractive and pleasant to walk by. However, in the original uncertainty of what was being proposed he and his wife and Stan and Jean Cohen, whose proxy he holds, did not support the development.

Mr. Guber said they originally supported the association motion to oppose any development and now having visited the sites they would rescind their vote. The vote had been 12-8 vote with 12 opposing the development and with the three changed votes it would now be 9-11.

Duly sworn, Carl Diamond, a resident of the Heartstone community for over 10 years said he has a direct view of Ashwin stable from his lot. The stable has been a

positive for everyone in the community. In fact, even those who opposed the application have enjoyed having the stable but are concerned about possible negative development.

Mr. Diamond said he supports the application and thought a lot of the animosity against this project is not based on the merits of the project but other incidents from the past.

Under oath, Lee Nash, nine-year resident of the Heartstone community and past board member, read his statement that he originally opposed the application because he feared it would open the subdivision to further non-residential development in the area. However, with additional information his fears have been allayed and he was comfortable with approval of the request. If the vote came before the community today, Mr. Nash said Heartstone would clearly vote to support this application.

President of the Heartstone Homeowners Association, Douglas Dickerson, duly sworn, said has lived in the area for 4.5 years and is one of the few who has carefully reviewed the application: he approves of it in its entirety.

Barry Schrager, duly sworn, 21 Via Diamante, Heartstone, a newly elected member of the homeowners association, said he was not informed at the time he purchased his home that Ashwin Stables was being operated illegally. He said had he known there was an illegal commercial stable being operated adjacent to his property he would not have purchased his home.

Mr. Schrager asserted that property owners of Heartstone may be liable for any accident that might occur at the stables. The area is zoned residential and not commercial. He said the Altshulers should not be allowed "to profit…by a zoning change from residential to any other category that does not benefit the community and also lowers our property values."

Don Miller, a resident of the County 17 years and a resident of Heartstone for eight years, under oath, said he was a lover of horses and a co-founder of the New Mexico Center for Therapeutic Horses. He said there was no need for commercial use in a residential area. The only benefit of the change is to the developer and his bank account. The resulting loss in home property value could be extreme. The barn was built for residential use of the neighborhood.

The fact that it has been used illegally as a commercial property should influence the County's position because it demonstrates the applicant has no problem going outside of County regulations, stated Mr. Miller.

Mr. Miller said Ms. Bolton runs a good facility/business, however, the commercial zoning is what is in question. The water usage is based on 12 horses and there are incorrect assumptions if the number of horses increases. He said there were more structures on the property than noted by the applicant and water is an issue. The outdoor arena is owned by the homeowners association not Mr. Altshuler. Mr. Miller said the water use projection is incomplete and a misrepresentation.

Mr. Miller said the property split will further increase the water use. He asked how the County will monitor the well use. The taxpayers deserve the County's protection. In closing, Mr. Miller stated that the owner/development has shown a

propensity to operate outside of the zoning laws and this is indicative of future behavior and that fact should influence the County's decision.

Duly sworn, Tamara Rymer, 36 Heartstone Drive, said she and her husband looked for a home in the Santa Fe area for over seven years and have been there since 2014. Ms. Rymer said she and her husband were adamant about being in an exclusively residential neighborhood. She understood the barns were for residents' use and it was part of the development. No commercial use was disclosed. Ms. Rymer said they did contact the barn to house their animals but never received a call-back. The barn had become a business for the trainer Joanie Bolton. She said that was a major disappointment.

Ms. Rymer said she and her husband would like to see the barn remain a residentially zoned lot as originally intended. She said they oppose the application. The zoning change would be spot-zoning. Ms. Rymer cited caselaw, *Bennett vs. City of Las Cruces*, 1999, to support the spot-zoning allegation, and the Land Development Code in regard to negotiations/transfer of property that has not been subdivided. Further, she directed the CDRC's attention to the posted public notice which according to Ms. Rymer denied due process in that the information regarding the zoning changes was insufficient and cited *Nesbitt vs. City of Albuquerque*, 1991.

Ms. Rymer urged the CDRC to uphold the law and deny the application.

Dick Kennis, under oath, stated he purchased land in Heartstone 4.5 years ago and one of their requirements in property was assurance that it was all residential. The stables were for the residents and he thought it was a great marketing tool. The stable was basically empty after the Altshulers removed their horses. The changes the Altshulers undertook violated law or code due to lack of permits. Mr. Kennis said he has worked for a large corporation and he would have been fired from his position if he proposed an illegal activity. Mr. Kennis said this is an illegal business and however well it is run and however much we wish Ms. Bolton the best – the fact is it is an illegal business in the wrong zoned area.

Mr. Kennis said this spot zoning and as described by the previous speaker is an illegal procedure and it will be challenged. He recommended that the CDRC stop the process and deny the application.

The applicant was invited to respond to the comments of the public.

Mr. Siebert denied said Mr. Schrager's assertion that the outdoor arena creates a liability for the Heartstone residents. He located the arena and the circle that serve as fire protection measures. The equestrian easement is owned by a corporation of the Altshulers and is not part of Heartstone; there is no liability that runs to the residents of Heartstone.

Mr. Siebert said the County permits equestrian facilities of this size anywhere in Santa Fe County and it is not a spot zoning issue. Santa Fe County is a rural area and part of being rural is having equestrian facilities and uses. The property was originally a ranch that ran cattle with horses. It is not spot zoning.

The lot in question has not been subdivided and there is one well. The well will serve whatever subdivision is accomplished. Each lot will receive .25 acre-feet from the well and the well is metered. Each of the lots will require separate metering and quarterly meter readings will be submitted to the County for review.

The stalls in the arena are included in the 16 stalls mentioned in the application. The opponents' statement that the facility will be expanded to 21 stalls is incorrect. He asked that Ms. Joan Bolton respond to the arena and boarding issues.

Duly sworn, Joan Bolton, stable operator, said the biggest misconception is that the outdoor ring is being watered. She said nature does that. However, it was recently sprayed with water and an additive to hold water longer. The indoor ring is watered to keep the dust down, although the additive has been added thus reducing water by half. Two 5,000 gallon tanks have been installed to collect water and that is the water that is used for arena watering. She said when she and her partner purchase the property they will be harvesting all the roof water

Ms. Bolton said, space permitting, the facility will be open to community horses if they want to be within a program. She said every horse in the barn is in a riding program. The barn is an educational facility.

Chair Katz asked a series of questions and Ms. Bolton offered the following information: They do not have horse shows, there are no trail rides, occasionally boarded horses may ride the trails, and infrequently clinics are held at the property with one or two trailers on the property.

Duly sworn, Don Altshuler, applicant, said he appears to be the criminal and wanted to speak in his defense. He provided a history of the property stating they built the stables prior to any subdivision. Originally there were eight stalls for his personal use and they leased out four of them. When Heartstone was being developed the Ashwin stable facility was created.

Mr. Altshuler acknowledged they were in violation. One of the opponents of the project, with whom the Altshulers had personal problems, counted the horses on the property, found an ad Ms. Bolton had placed in the paper and called County Code Enforcement. He went to the County and this was the solution. Ms. Bolton was Mr. Altshuler's trainer and having her take over the facility was not done for profit.

Mr. Altshuler said people that live in Heartstone generally think it is good; however, there are a few that don't. He said some of the neighbors resent him because he makes a lot of money. He said the application was presented to support the community and his former trainer Joanie Bolton.

That concluded the public hearing.

Member Martin asked whether the application would be permitted under the Sustainable Land Development Code. Mr. Larrañaga said, yes, horse facilities are a permitted use anywhere in the County with a site development plan. The facility could be approved administratively as a permitted use.

Ms. Booth asked about the distinction of a horse facility and a business. To run a business, Mr. Larrañaga said would require CDRC approval and going through this process.

Chair Katz asked whether an approval changes the zoning. Mr. Larrañaga said yes, it changes it to "other development" from residential. The other development is for the "specific use of an equestrian center." Ms. Lucero said equestrian center is not listed under the commercial section of the code and instead falls under "other development" and only zoned for this use.

Mr. Larrañaga said the lot subdivision meets the code density requirements and will be handled administratively.

Mr. Larrañaga said the County does not have a meter reading on the current well. The 7.74-acre lot is subject to .75 acre-foot and a water budget has been submitted and reviewed by the County hydrologist. Chair Katz asked the applicant to inform the CDRC what the water meter readings were.

Mr. Altshuler said the meter readings were delivered to the County annually and he didn't know the number. He offered to check the meter for a current reading. Mr. Altshuler said that well is currently servicing the general road landscaping of subdivision. Once the property is subdivided, Mr. Altshuler said the well will no longer provide irrigation for the community landscaping.

Member Anaya asked if the well was a shared private or shared public well. Mr. Siebert responded it was a shared private well. He said under the 72-12-1 provisions, the OSE allows for sharing of the well and it is private in the sense it is shared only by adjacent lot owners. Mr. Siebert noted that each of the new lots will have to be metered with meter readings submitted quarterly to the County and the OSE.

Mr. Larrañaga referred to condition 5 for meter reading requirements.

Member Lopez asked about the County Fire Department's conditional approval and Fire Marshal Patty said the applicant is required to provide additional fire flow. The applicant has agreed to extend the hydrant system.

Member Booth made a motion to deny the application. That motion failed for lack of a second.

Member Anaya moved to approve Z/PDP/FDP 15-5130 with the staff-imposed conditions and an additional condition:

6. Applicant shall meet fire flow requirements – moving the hydrant.

Member Martin seconded.

Member Booth said she was not supporting the motion because 1) this is a commercial business in a residential area and 2) the applicant has been acting illegally for 4.5 years and should not be rewarded.

The motion passed by majority [3-1] voice vote. Voting for were Members Anaya, Martin and Lopez, voting against was Member Booth. Member Gonzales was not present for this action.

Chair Katz thanked the audience for their comments.

E. PETITIONS FROM THE FLOOR

None were offered.

F. COMMUNICATIONS FROM THE COMMITTEE

None were presented.

G. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

H. MATTERS FROM LAND USE STAFF

An update on the disposition of CDRC cases by the BCC was distributed. Ms. Lucero pointed out that Elevations appealed the CDRC's condition that the no construction of buildings may begin until actual construction of the SE Connector begins. The BCC modified the condition prohibiting occupancy of any building until the SE Connector is completed.

I. NEXT MEETING

The next meeting was scheduled for August 20, 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 6:35 p.m.

Approved by:

Frank Katz, CDRC Chair

ATTEST TO:

COUNTY CLERK

Before me, this 21 day of August, 2015.

My Commission Expires: 8 Jan 19

Notary Public

Submitted by:

Karen Farrell, Wordswork

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

CDRC MINUTES
PAGES: 35

I Hereby Certify That This Instrument Was Filed for Record On The 25TH Day Of August, 2015 at 01:21:05 PM And Was Duly Recorded as Instrument # 1772878 Of The Records Of Santa Fe County

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

Deputy Estrella Martinez

SFC CLERK RECORDED 08/25/2015

Santa Fe County Fire Department

Fire Prevention Division

EXHIBIT 1

Official Submittal Review

Date	7/7/15		
Project Name	Jacona Transfer Station		
Project Location	NM Highway 502 (across from County Road 84D)		
Description	Waste Collection Center	Case Manager	J. Larranaga
Applicant Nam	Santa Fe County – Joseph Martinez	County Case #	15-5170
Applicant Address	102 Grant Ave.	Fire District	Pojoaque
	Santa Fe, NM 87501		
Applicant Phone	505-983-0722 (Architect)		

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 Divison/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated ***(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.*

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

- Roadways/Driveways

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

Roads meet the minimum County standards for fire apparatus access roads within this type of proposed development. Driveway, turnouts and turnarounds shall be County approved all-weather driving surface of minimum 6" compacted base course or equivalent. Minimum gate and driveway width shall be 14' and an unobstructed vertical clearance of 13'6".

The fire department pull-out at the hydrant, submitted to this office on 7/8/15, has been reviewed and approved.

- Street Signs and Addresses

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.

Buildings within a commercial complex shall be assigned, post and maintain a proper and legible numbering and/or lettering systems to facilitate rapid identification for emergency responding personnel as approved by the Santa Fe County Fire Marshal.

- Slope/Road Grade

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

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

- **Restricted Access/Gates/Security Systems**

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

Commercial buildings may be required to install a Knox Cabinet or applicable Knox device as determined by this office for Fire Department access, Haz-Mat/MSDS data, and pre-fire planning information and for access to fire protection control rooms (automatic fire sprinklers, fire alarm panels, etc...).

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

Fire Pro tion Syste

ei Storage/Delivery Sy

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.*

The 10,000-gallon cistern and draft hydrant shall be in place, tested, approved and operable prior to the start of any building construction.

The location of the cistern and draft hydrant has been approved.

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

If filled by a well, 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.

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

The Developer, or Property Owner 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.

Fire hydrant locations shall be no further than 10 feet from the edge of the approved access roadways with the steamer connections facing towards the driving surface. Landscape vegetation, utility pedestals, walls, fences, poles and the like shall not be located within a three foot radius of the hydrant per Article 10, Sections 1001.7.1 and 1001.7.2 of the 1997 UFC.

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

4. Fire Extinguishers

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

Life Safety

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

General Requirements/Comments

- **Inspections/Acceptance Tests**

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

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

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

- **Permits**

As required

Recommendation

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

Victoria L. Vargas, Inspector

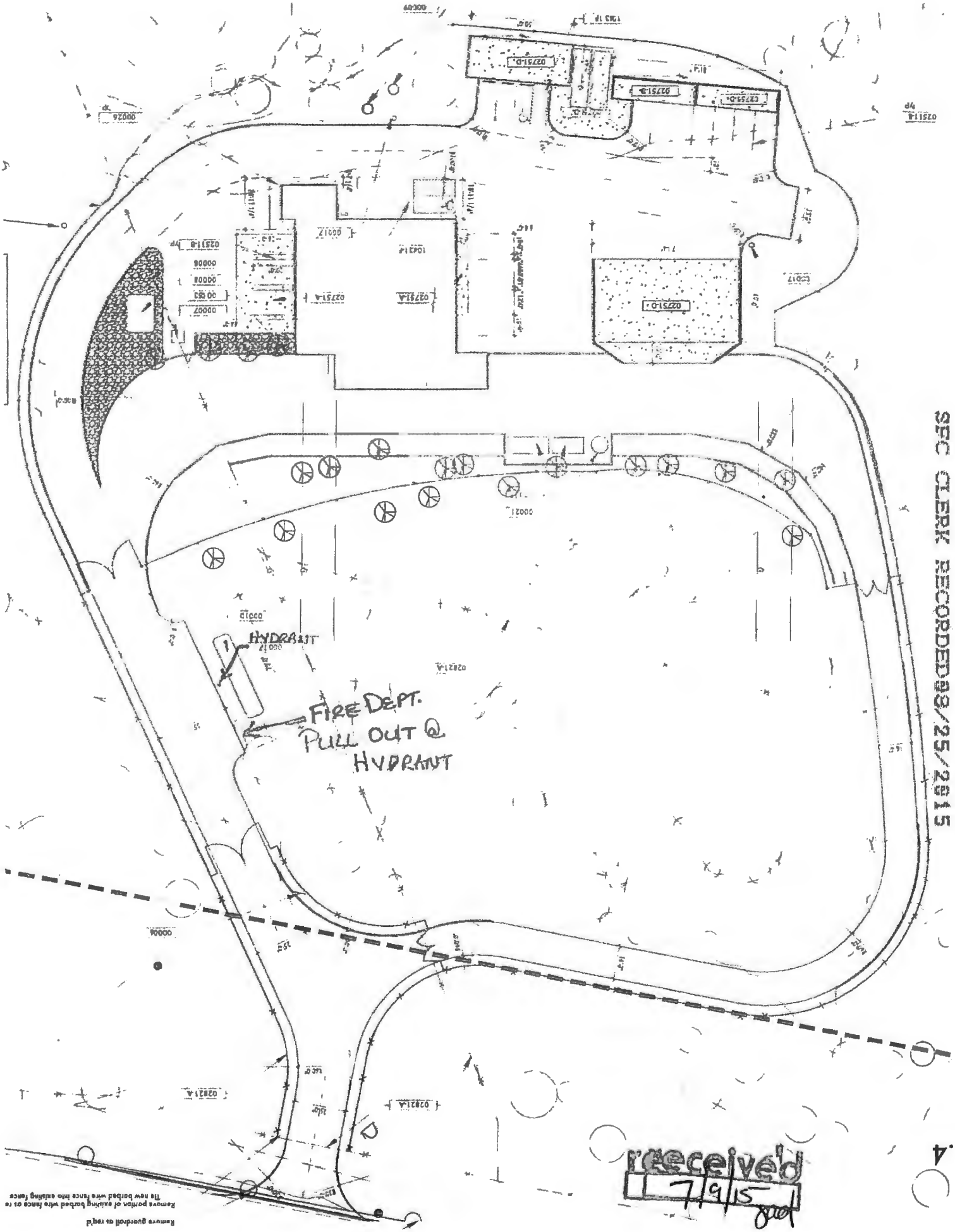
Victoria L. DeVargas
Code Enforcement Official

7/14/15
Date

Through: David Sperling, Chief
Buster Patty, Battalion Chief Fire Marshal

File: NorthReg/DevRev/Poj 2015 JaconaTransferStation.doc

cc: J. Larra[illegible]ga, Land Use
Battalion Chiefs
Regional Lieutenants
District Chief
Applicant
File



SCC CLERK RECORDED 08/25/2015

received
7/9/15

Santa Fe County Development Review Committee Meeting
July 16, 2015
CDRC Case#Z/PDP/FDP 15-5130 Ashwin Stables

EXHIBIT 2

The below listed citizens appeared before the CDRC in support of the Ashwin Stables application:

1. Greg Gawlowski
7 Heartstone Rd
Santa Fe

2. Joan Bolton
7 Heartstone Rd
Santa Fe

3. Sandy Witbeck
1655 Sentiero della Villa
Santa Fe

4. Linda Love
851 Paseo de don Carlos
Santa Fe

5. Barbara Steinberg
8 Thundercloud Rd
Santa Fe

6. Nedret Gurler
1516 Paseo de la Conquistadora
Santa Fe

7. Robin Beachner
219 Galisteo St
Santa Fe

8. Donald Altschuler
22 Plano Arbolito
Santa Fe, N.M.

9. Juliana M. Walsh
206A Tano Rd
Santa Fe

10. Gary Dellapa
206A Tano Rd
Santa Fe

11. Nancy Drake & Brent Faulkner
12. 45 Tano Alto
Santa Fe.

13. Judy and Dennis McCarthy
14. 149 Tano Rd.
Santa Fe

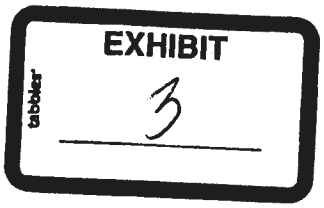
15. Megan E. Drake
45 Tano Alto
Santa Fe

16. Jean Altschuler
22 Plano Arbolito
SF 87506

17. Freya Drummond +
18. Carl Drummond
17 Via Diamante
SF 87506

19. Erin Scully
10 B Heartstone Dr.
Santa Fe, NM 87506

SFC CLERK RECORDED 09/25/2015



BARRY SCHRAGER 21 Via Diamante Santa FE NM 87560 214-402-3683

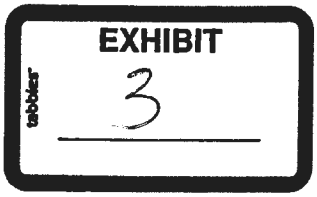
My name is Barry Schrager and I reside at 21 Via Diamante, 87506 in the Heartstone community which adjoins Ashwin Stables. I am a newly elected member of the Board of Directors of the HOA.
We purchased our house over 2 years ago and we were not informed by the seller, a business associate of the Altshulers, and we were not informed by the homeowners association that the property was next to the Ashwin stables that was operating illegally. If I had known that there was a commercial enterprise adjacent to my property I would not have purchased my home. I also know now that part of Ashwin Stables is actually on Heartstone owned land and that my wife and I may be liable for accidents that might occur due to stable use. When the Altshulers notified the community on June 26 2 days before legal notifications were posted in the area, they stated that they didn't ask for a zoning change but just for a permit. Concerned property owners began to email each other to clarify what the permit was for. I organized a meeting for July 1 2015 for any interested property owners to express their opinions and the Altshulers didn't attend even though my email stated that any interested party could attend even if they did not receive my email. The Altshulers knew about the invitation but didn't show up. As a member of the board of directors of Heartstone we later had an official HOA meeting on July 12th 22015 to address the permit application and to take a vote for approval or denial of the permit for the requested zoning changes the Altshulers again did not bother to attend . The following motion was made by Tony Buffington, a home owner and seconded: and PASSED THE MOTION STATED

The Heartstone Homeowners Association strongly feels that Santa Fe County should not grant the permit request for the Ashwin Stables (File 15-5130) if this request allows the reclassification of the property in question from "residential" to

"commercial" or "other development", or in any way modifies permissible usage from "residential" status. Heartstone property is adjacent and in some cases surrounds Ashwin Stables and the HOA feels that there should no "commercial" or "other development" zoning in this area, or nowhere in the Tano Road vicinity for that matter.

MOTION WAS PASSED

Therefore the MAJORITY OF THE homeowners do did not want any change in zoning from the current residential to any form of commercial zoning. It appears to most members of the HOA that the Altshulers are strictly doing it for their financial benefit and not for the adjacent homeowners who do not and never did used the stables. None of the Heartstone community members ever owned horses except for the Altshulers. This would be an example of spot zoning for the Altshulers who grew their stable business in our community without our permission and the proper zoning in an area zoned for residential use only not commercial of other development. They expanded the number of stables to grow the business and make it profitable despite the community never using his stables The Atschulers should not be rewarded for an illegal deed to profit by a zoning change from residential to any other category that does not benefit the community and lowers our property values.



Statement of Opposition

My Name is Tamara Rymer. I am speaking on behalf of my husband Steve Rymer and myself. We live at 36 Heartstone Dr., which is the first home past the Ashwin property going into the developments of Canterbury and Heartstone.

My husband and I looked in the Santa Fe area for 7 years for a location for our future home. We just finished building it and moved in Oct. 2014. One of the reasons it took us so long to find what we wanted was because we were adamant about being in an exclusively residential neighborhood. We have known Don and Jean Altshuler coming in contact with them off and on over the course of the seven years, as we kept coming back to the development area comparing it to other areas in the county, for our future home site. We were told that development had a barn with facilities that could be used by residents who had horses. That we could board our horses there, or on a lot, and it was part of the development, no commercial use was disclosed. So we eventually bought a lot, and proceeded to build our home and a barn for our animals.

At the beginning of our building process we were offered the possibility of boarding at the barn while ours was under construction, and didn't have a need as our animals were staying in Nambe. But towards the end of our project we decided to check on the boarding at Ashwin to save on the commute to our animals, and despite a visit, and a message for the trainer/manager to call us, we never heard from anyone. This had definitely become something other than the barn for members of the development. We started asking questions and over the course of the last year we discovered that things weren't as they had been sold to us, and that the barn had become a business for the trainer Joanie Bolton. It wasn't what it used to be when we first became familiar with it, and it was a major disappointment to realize that after we moved into our home.

We would like to see the Ashwin barn remain as a residentially zoned lot as it was initially intended. We feel for it to be anything else disrupts the original plan of the neighborhood. We therefore oppose the development approval and zoning change in file #15-5130. We also feel

*Z/PDP/FDP 15-5130

there are additional reasons why this zoning change should not go through.

1. We believe the proposed zoning change is effectively a spot zoning, and there is no showing that the current zoning was the product of an initial mistake, or that there has been a change in the neighborhood that spot zoning should be approved. In Bennet v. City Council for the city of Las Cruces, (1999-nmca.015 ¶¶17-20 126 N.M. 619, 973 P. 2d 871 Ct. App 12/21/1998) it explains illegal spot zoning to be:
   "Spot Zoning is an attempt to wrench a single lot from its environment and give it a new rating that disturbs the tenor of the neighborhood, and which affects only the use of a particular piece of property or a small group of adjoining properties and is not related to the general plan for the community as a whole, but is primarily for the private interest of the owner of the property so zoned."
   The entire county is currently the subject of a comprehensive rezoning process. What is being proposed is spot zoning which under the circumstance is not permitted. Opening the door to spot zoning while only accommodating a barn today, could invite more spot zoning to the area, an area that is residential.

2. We would like you to also examine that the Altshuler's are asking for the 7.746 acre parcel to be subdivided into 3 parcels, one of which is the parcel known as the Ashwin barn. Based on the Land Development code Article 14-3.7 sec. A, 1.b Subdivisions of Land:

   "Until the planning commission has approved a subdivision, the owner of the land within the subdivision or his agent shall not transfer or sell or agree to transfer or sell or negotiate to transfer or sell the land or any part of it by reference to the exhibition of or any other use of a plat or subdivision of land." Based on emails made by Jean Altshuler, a transfer of the property is in the works. I have copies of the emails with the language highlighted.

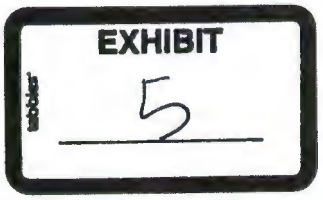
3. And lastly, we would like you to examine the wordage on the yellow notice sign. It reads, "Master Plan Zoning, Preliminary and Final Development Plan Approval". This means that you are

changing the zoning, but the notice does not provide notice of what zoning is being requested, only that an allowance be made for an equestrian facility on 2.71 ± acres. So neither the applicant nor the County Staff provided adequate notice to the public of the nature of the zoning changes that were proposed, this is a denial of due process. All notices must fairly apprise the average citizen reading them, of the general purpose and nature of what is contemplated. If a notice is, "insufficient, ambiguous, misleading or unintelligible to the average citizen," it is inadequate. Siting Nesbit v. City of Albuquerque, 91 N.M. 455. By not describing the full nature and import of the zoning change requested, the notice as to everyone, including the general public, is deficient.

In closing, we would again add, this has been a residential development and disrupting the plan by approving the change requested is granting legality to Spot Zoning, which is not permitted.
I beg you to consider the law, and rules we all have to abide by in this civil society, and please uphold the law and allow me back to my art studio.

Thank you for your time.

EXHIBIT 4



From: **Jean Altshuler** jeanaltshuler@me.com
Subject: Re: Question on Special Permit
Date: June 30, 2015 at 7:08 PM
To: Don Miller keyman@qwestoffice.net
Cc: Steve & Tamara Rymer tamararymer@yahoo.com, Kurt & Anita Hausafus kurthausafus@gmail.com, Chris & Doug Dickerson chris.doug.dickerson@gmail.com, Barry Schrager Barry8226@sbcglobal.net

Don,
We don't want to have anything more to do with Ashwin Stables at this point in our lives. We intend to sell it to Joanie. The reason it needs a commercial license because we do not have Heartstone and Canterbury people filling the stalls the facilities, nor have they ever. It is same situation that happened at Las Campanas. They got the permits initially to service the local residences of LC without a commercial license. When they did not fill the barn, LC had to get a commercial license to have more than 6 outside boarders to fill the stalls. We are in exactly the same situation.
If you want the barn to close and have the buildings deteriorate, that will affect all of our property values. IN order to continue to operate as we have been, we now need a special permit, a very limited commercial zone. We are putting many limits on that commercial special permit so that it will not change from the way it has been operating. Otherwise, it's likely to close and deteriorate which seems like what you want to happen.
I hope this answers your question.
Jean

On Jun 30, 2015, at 2:32 PM, Don Miller <keyman@qwestoffice.net> wrote:

> Jean - Just saw your email forwarded by Kurt. What does a transfer mean?? What are you transferring? One either sells or gives the title to a property. The application (s) on the fences are in Don's name. We have not received any emails from Vincent. The whole thing doesn't make sense since there is no commercial license on the property to board horses. It is currently a residential property. This all becomes more convoluted as it goes on..... Don M.
>
> On 6/30/2015 9:09 AM, Kurt Hausafus wrote:
> > FYI.
> >
> > Don and Marilyn Miller: Are horses registered somewhere where one can check how many horses are owned by an individual????
> >
> > -------- Forwarded message --------
> > From: **Jean Altshuler** <jeanaltshuler@mac.com>
> > Date: Mon, Jun 29, 2015 at 6:32 PM
> > Subject: Re:
> > To: Kurt & Anita Hausafus <kurthausafus@gmail.com>
> >
> > Hi Kurt,
> > The County doesn't limit the number of owned horses, but it does limit the number of stalls to outside (boarded) horses. As of right now, that outside boarder limit is 6. As of Jan. 1, 2016, it will be 12. In practicality, the number is limited based upon water rights. This limit is by projection since there are no individual meters on the Ashwin well. There will be meters on each individual parcel as a condition of this approval. There is no home on the stable parcel, so almost the entire parcel will be allocated to the horses.
> > Hope this answers your questions. Please call if it needs further clarification.
> > FYI - we have received an email from an former employee, Vincent Constantino, who has blasted the area with a protest. Have you received it? Just curious.
> > Best,
> > Jean
>
> Just so you know, we are having to transfer the stable to Joan Bolton and her partner, because between them they own 9 horses.
>
> On Jun 29, 2015, at 5:31 PM, Kurt Hausafus <kurthausafus@gmail.com> wrote:
>
> > Hi Jean,
> >
> > Please tell me how many horses are allowed under current zoning at Ashwin. And could you please tell me what jurisdiction regulates the number of horses at Ashwin.
> >
> > Thanks in advance for help. Hi to Don.
> >
> > Kurt

From: **Jean Altshuler** jeanaltshuler@me.com
Subject: Ashwin Invitation - Wednesday
Date: July 14, 2015 at 6:42 PM
To: Tamara Rymer tamararymer@yahoo.com

Tuesday, July 14, 2015

Dear Neighbor,

Joanie Bolton and I would like to invite you tomorrow afternoon, Wednesday, at 5:00 - 6:30, to Ashwin Stables so you have the opportunity to meet her, see the facility, and ask questions. This invitation is open to Heartstone and Canterbury homeowners. So much has been discussed and processed through abstract terms and we all know things become clearer through having one's own experience.

My apologies that this is a last minute invitation. If you are able to stop by for the open house, please take advantage of this opportunity. If you plan to attend the Public Meeting on Thursday, this will afford you the opportunity to envision the place and the people better during the presentation and discussion so that you can be better informed.

If you cannot come, we are planning to host another such gathering with Joanie and Sandy Witbeck, the potential purchaser, at a date in the near future. This second meeting can include a meeting at the HS Community House that will allow out of town folks to call in and ask questions at a specific time. The time and date of this second meeting will be announced soon.

Sincerely,

Jean Altshuler