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MINUTES OF THE

SANTA FE COUNTY

DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

September 19, 2013

This meeting of the Santa Fe County Development Review Committee (CDRC) was called to order by J.J. Gonzales, on the above-cited date at approximately 4:08 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
Phil Anaya
Maria DeAnda
Dan Drobnis
Frank Katz
Manuel Roybal

Member(s) Excused:

Susan Martin

Staff Present:

Wayne Dalton, Planning Division Director
Vicki Lucero, Planning & Development Services Manager
Jose Larrañaga, Development Review Specialist
Tim Vigil, Assistant County Attorney
Vicente Archuleta, Development Review Specialist
Buster Patty, Fire Marshal
Karen Torres, County Hydrologist

IV. APPROVAL OF AGENDA

Upon motion by Member Katz and second by Member DeAnda the agenda was approved [6-0] as published.



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V. APPROVAL OF MINUTES: August 15, 2013

Member Katz moved to approve the August minutes as submitted. Chair Gonzales seconded and the motion passed by unanimous[6-0]voice vote.

VI. CONSENT CALENDAR: Final Order

- A. CDRC CASE # Z/S 12-5450 Cielo Colorado Subdivision. Cielo Colorado, LLC. Applicant, Jim Siebert, Agent, Requested a Recommendation for Approval of Master Plan Zoning for a 24-Lot Residential Subdivision on 246.30 Acres + within Tract 15A-2 of the Eldorado at Santa Fe Subdivision. The Applicant also Requested CDRC Approval to Allow Two Cul-de-Sacs (Dead End Roads) to Exceed 500 Feet in Length. The Property is Located on the East Side of US 285, Off Camino Acote, within Sections 21 & 22, Township 15 North, Range 10 East (Commission District 4) Jose E. Larrañaga, Case Manager (Approved 7-0)**

Member Katz moved approval and Member Anaya seconded. The motion carried unanimously [6-0].

VII. NEW BUSINESS

- A. CDRC CASE # MIS 13-5200 Oshara Village Master Plan Amendment. Homewise, Inc. and Century Bank, Applicants, Design Enginuity, Agent, Request a Master Plan Amendment to Re-zone 26 Live/Work Lots Into 26 Residential Townhome Lots (Lots 76-85 and 92-107), to Rezone 10 Live/Work Lots to 7 Residential Patio Lots (145-154) and to Re-zone 17 Commercial Lots to 9 Residential Patio Lots (Lots 7-15 and 20-27). The Applicants Also Request to Create 5 Residential Patio Home Lots on Tract C which was Designated Reserved, Open Space. The Property is Located in Oshara Village, East of Richards Avenue, within the Community College District, within Section 16, Township 16 North, Range 9 East (Commission District 5)**

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

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

“On October 28, 2004, the EZA granted a Master Plan Amendment to the previously approved Oshara Ranch in order to change the phasing of the project. On January 11, 2005, the Board of County Commissioners granted Preliminary Development Plan and Plat approval for Phase I of the Oshara development.

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“On June 14, 2005, the BCC granted Final Plat and Development Plan approval for Phase I of the Oshara Village development which consisted of 175 residential lots and 136,000 square feet of commercial space on 74 lots on a total of 37.78 acres in accordance with the previously approved Master Plan.

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

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

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

“The primary reason for the request is to address changing market conditions, as they see little market for live-work units or small commercial lots in Oshara Village. Currently there are 42 live-work lots within Phase I, and under the proposal, 36 of those lots would be developed as 26 residential townhome lots and seven residential patio home lots. The other six would remain live-work lots. There currently are 23 commercial lots, The Applicants state that 17 of the commercial lots which are located at the far eastern side of the Oshara development site are not suitable for commercial projects as they are not visible from the main traffic thoroughfares and are small lots ranging in size from 2,345 to 4,250 square feet. However, patio homebuyers have shown interest in them, given their location adjacent to Oshara’s open space. Therefore, the Applicants are proposing to rezone those 17 commercial lots to nine residential patio home lots.

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

“If the requested Master Plan Amendment is granted, the development of the 26 townhomes will proceed promptly, as no lot line or infrastructure modifications would be necessary. The lots for the patio homes are larger than the existing live-work and commercial lots requiring modifications to lot lines and utilities that

would require the Applicant to return to the County with a development plan and lot line adjustment plat for this portion of the project as well as a request for Preliminary and Final Plat and Development Plan approval for the 5 lots being created on Tract C. Overall the net result of the proposed changes would be a 6-lot decrease in density with respect to the original plan.”

Mr. Archuleta stated staff was recommending approval of a Master Plan Amendment to rezone 26 live/work lots to 26 residential townhome lots, rezone 10 live/work lots to 7 residential patio home lots, rezone 17 commercial lots to nine residential patio home lots and create five residential patio home lots on Tract C which was designated reserved, open space. Subject to the following conditions:

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

Chair Gonzales asked for the definition of a master plan amendment and when the last master plan was approved. Mr. Archuleta stated they were requesting to change their live-work and commercial units to residential units. There has been no need to extend this master plan since its original approval in 2004. Chair Gonzales asked about the status of the other phases. Mr. Archuleta said the applicants are still working on Phase 1 and there are other owners of different parts of the property. The requested changes apply only to this phase. Ms. Lucero pointed out only this phase has preliminary and final plat approval; all others are pending. The original master plan is still valid.

Referring to a letter from Design Enginuity, Member DeAnda asked if they were requesting that the wastewater system be absorbed by the County. Mr. Archuleta said that has nothing to do with this application and will have to go through the Utilities Department. Ms. Lucero added BCC action may be required, but she doubted it would come before the CDRC.

Member Drobnis asked for an explanation of the Department of Transportation’s negative recommendation due to concerns about lack of a recent traffic analysis. Mr. Archuleta stated the negative opinion came from the fact the north-south connector is not complete. Richards Avenue lacks the capacity for all the traffic. Ms. Lucero indicated opinions from state agencies are recommendations only. County Public Works has okayed the project. A trip generation report determined the traffic would be less since they are increasing the amount of residential over commercial, and there are fewer lots.

Duly sworn, Oralynn Guerrerortiz from Design Enginuity stated she was representing Homewise and Century Bank. She said the original development failed and went bankrupt, thus Oshara was divided up among various entities. There are currently six homes under construction; 14 total are planned in the near future. Due to the unusual initial master plan there are some products that no one wants including very narrow commercial lots and affordable live-work units. However, there is a market for patio homes, townhomes and single-family homes. Changing uses would make for a more vibrant community, said Ms. Guerrerortiz.

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She indicated the changes applied only to lots owned by Homewise and Century Bank, which she demonstrated on maps. She pointed out the “reserved” open space that was set aside for some use in the future. Conversion of this will not bring the overall ratio to under 50 percent as required by the Community College District Ordinance. Due to modifications of the estate lots more open space was gained from the arroyo. She noted that their decisions on lots were made with an eye to not increasing traffic. She said all the infrastructure is in, and they agree to all conditions.

Chair Gonzales asked for amplification of the plans for the wastewater treatment plant. Ms. Guerrerortiz said the County’s Sustainable Growth Plan calls interceptors and wastewater treatment plans in SD-1 areas, which includes the Community College District. The Oshara plant has a capacity of 45,000 gallons per day and is only using 5,000 gallons. Nearby developments could hook up to a centralized plant. The concept is this plant would be an asset to the community and would pay for itself; it produces effluent that can be used for landscaping.

Noting the letter said there would be no cost to the public, Member DeAnda asked if it would be covered by the homeowners association fees? Ms. Guerrerortiz said it would be covered by the user fees. It originally cost around \$1.2 million and could be donated to the County.

Chair Gonzales asked for a definition of reserved open space and if the homeowners association owns it. Ms. Guerrerortiz said the homeowners association owns all the dedicated open space – the plaza and parks. Century Bank owns other lots which had originally been held in reserve for a museum or other potential use. She said the other phases have dedicated trails. The current homeowners do have to maintain the dedicated open space.

Chair Gonzales asked about the affordable housing requirements. Ms. Guerrerortiz said there were 25 affordable homes required in Phase 1 and all but eight have been built and are occupied. She demonstrated where they would be located.

Member Anaya asked if recent flooding had damaged the arroyo. Ms. Guerrerortiz said to her knowledge no damage occurred and there were no problems with culverts. Mr. Archuleta said he visited the site the day before and there was no damage. Ms. Guerrerortiz said in addition to the 100-year floodplain there is a 50-foot setback to protect the lots.

Responding to questions by Member Anaya, Ms. Guerrerortiz said the homeowners association currently owns and maintains the plaza, parks and some strips of open space. She speculated that after its lots are sold the bank’s open space will be dedicated to the HOA.

Member Katz said he was confused about the open space issue. Ms. Guerrerortiz said the Community College District Ordinance requires a minimum of 50 percent open

space. She said the open space lost to planned development in the large parcel was made up for by the increased areas by the arroyo.

Bob Bidol from Century Bank, under oath, stated the bank is trying to recover their investment after the bankruptcy. It was determined commercial lots are not viable in the area while affordable housing is needed. This plan will also reduce traffic and is a win-win for all.

Duly sworn, Mike Loftin from Homewise indicated they have acquired 40 lots. He explained that the mission of Homewise was to increase their financial security through homeownership and good mortgages. They believe Oshara is a good place for people to buy their first homes. He spoke of Homewise's objectives which include eradicating mortgage insurance, having savings and buying a home as a long-term asset. They build to green standards which lowers utility bills by up to 40 percent.

Member Anaya asked about the price range and Mr. Loftin replied the cross-subsidized homes could be around \$110,000 and the market rate \$180,000 to \$220,000.

Glenn Smerage, resident of Rancho Viejo, was placed under oath and said he looked favorably on the project. He noted it was unusual to downgrading land from commercial to residential. He urged the County to complete the work on the north-south connector. He asked if there was any "funny" open space, meaning undisclosed construction setbacks on private lots, which constituted a taking. Ms. Guerrerortiz said that is called private open space and the estate lots in Oshara do have private open space along the arroyo. They list the lots' total acreage and its developable acreage.

The president of the Oshara HOA, Beth Dettweiler, duly sworn, read a letter from the homeowners association which is comprised of both commercial and residential components. [Exhibit 1] She said the requested changes are in the best interests of Oshara, present and future. The northeast and southeast connector roads are critical to increased desirability of Oshara lots, along with solving the question of ownership of the wastewater treatment plan.

George Brown, under oath, stated he was an Oshara resident and was in favor of the proposals. He said there had been no problems with drainage and traffic concerns aren't really relevant.

Under oath, Robert Larragoite with Westgate Properties, said he managed the homeowners association. He mentioned that converting commercial to residential will decrease the collected dues to the homeowners association and these dues are responsible for taking care of the common areas and management. The loss amounts to \$13,982.16 annually, which is an undue hardship on the existing homeowners. He has had a verbal commitment from Homewise and Century Bank to make up that loss for two years and he asked that written commitments be made conditions of approval at the BCC meeting. He

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said the activity of the new owners was exciting. He explained that currently, whoever owns the lot pays the dues whether the lot is developed or not.

Member Drobnis asked if the homeowners association owns the wastewater plant. Mr. Larragoite said it is owned by a private corporation that was set up by the developer and regulated by the PRC as a public utility. The homeowners association is funding the shortfall and making decisions on it. Member Drobnis asked if there was a shrinking fund. Mr. Larragoite said the homeowners association and the corporation are two completely different entities and the homeowners association has no obligation to fund the plant. There is no one reserving for eventual replacement; the situation is in limbo. The PRC will not allow the homeowners association to take over the plant without going through an onerous process. They have considered forming a water and sanitation district or a co-op, but both require PRC approval. Member Drobnis said it is a public health issue and he could put Mr. Larragoite in touch with people who could help.

In response to questions from Member DeAnda Mr. Larragoite said it is not Westgate's intent to manage the operations. Ms. Guerrerortiz stated Century Bank and Homewise feel it would be in the best interests of all if water and sewer were in the hands of the County. This would ensure that it was professionally done and safe. The Oshara HOA is looking for more flexibility than the PRC can give them and are considering various options. Previous County Utility Director, Doug Sayre, expressed to her that it could be done given sufficient data.

Ms. Dettweiler said they are looking at different resolutions because the current situation is not sustainable. The easiest solution would be if the County took over the plant, but they are continuing to look at other options. Ms. Guerrerortiz understood with 30 more connections the County would be in the black, so with the increased pace of development it could happen soon. She reiterated excess capacity could be sold. Ms. Dettweiler said the request to the County has been prepared and they are waiting to hear about the amendment changes.

Mr. Larragoite showed the location of the treatment plant for the benefit of Member Anaya. Ms. Guerrerortiz said there are no existing County sewer lines in the area but there are waterlines nearby.

Mr. Smerage said he understood the County take over would be a condition of approval. Chair Gonzales said it is not a condition on the application.

Chair Gonzales asked about the dues. Mr. Larragoite said dues are collected quarterly and depend on lot type and usage. Commercial is generally three times the residential. The dues go to roads, open space, signage, parks, etc.

Stating the change from commercial to residential made a lot of sense and additional affordable housing was provided, Member DeAnda moved to approve CDRC Case #MIS 13-5200 with staff conditions. Member Katz seconded and proposed a

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friendly amendment that the homeowners association be held harmless for two years vis-à-vis the dues.

CDRC Counsel Tim Vigil said he didn't believe the County had the authority to mandate that, however, a recommendation could be made. Ms. Guerrerortiz said the parties were agreeable to the hold-harmless proviso if this could be effective for two years after recordation.

Given the applicant's voluntary acceptance of a condition, Member DeAnda accepted the friendly amendment.

The motion carried by unanimous [6-0] voice vote.

VIII. Petitions from the Floor - None were presented.

IX. Communications From the Committee - None were presented.

X. Communications From the Attorney - Mr. Vigil introduced himself.

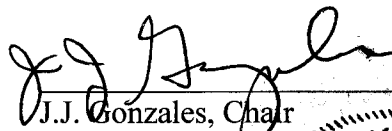
XI. Matters From the Land Use Staff - None were offered.

XII. Next CDRC Regular Meeting: October 17, 2013

XIII. ADJOURNMENT

Having completed the agenda and with no further business to come before this Committee, Chair Gonzales declared this meeting adjourned at approximately 5:35 p.m.

Approved by:



J.J. Gonzales, Chair
CDRC

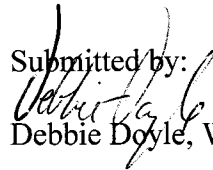
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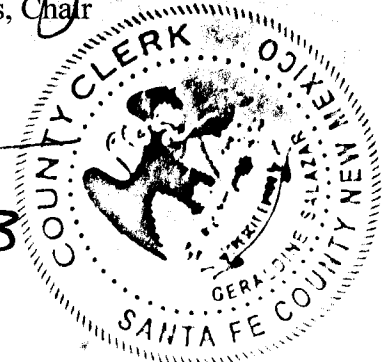
COUNTY CLERK

10/17/2013

Submitted by:



Debbie Doyle, Wordswork



September 18, 2013

Santa Fe County Board of Commissioners and CDRC

Santa Fe, New Mexico

RE: CDRC CASE # MIS 13-5200

Board of County Commissioners and County Development Review Committee:

Oshara Village was originally planned as a sustainable, walk-able community with a strong commercial presence and 50% open space. With these goals in mind, ^{we} ask that the County Development Review Committee and the Commissioners consider the following comments concerning the Master Plan Amendment # MIS 13-5200 that is before them.

1. We want to state that we are in favor of the Master Plan Amendment. We feel that this change would be in the best interests of Oshara residents, present and future.
2. We understand that the proposed amendment is presented by Homewise Inc. and Century Bank to increase the desirability of properties they own in Oshara Village. However, We bring to the Commissioners' attention that NOTHING will increase the desirability of Oshara properties as much as:

**** Completing the N.E. and S.E. connector roads to reduce traffic and safety problems in Oshara and**

**** Solving the problem of ownership of the Waste Water Treatment Plant to ensure future viability of the plant and encourage confident investment in Oshara.**

3. Oshara needs to increase both commercial and residential construction as soon as responsibly and reasonably possible. More residential building would hopefully encourage commercial development. However, several existing businesses on Oshara Blvd. may become an isolated island of commercial use within the residential area proposed for Oshara Blvd. All attempts should be made to further the goal of balance between residential and commercial use, both proposed and future. Such conversion should be as limited as is reasonable considering current economic demands in the Community College District.

Thank you for your consideration of this complex issue,

Beth Detwiler, Oshara Village resident and President, Oshara Village Home Owners Association Board