

readings shall be sent to the County Hydrologist. The County shall have the right to verify the readings. The applicant shall connect to the County Water System when it is within 200 feet of the property provided that the development plan is in accordance with the County line extension and allocation policies.

12. The well shall be registered as a Public Water Supply, documentation shall be submitted with the Development Plan.
13. The applicant shall submit a food preparation permit, septic permit, discharge permit and design of the wastewater treatment facility with the development plan for Phase 1.
14. The master plan shall be recorded with the County Clerks Office.
15. The applicant shall submit a driveway permit from the State Highway Department prior to Final Development Plan approval of Phase 1.
16. All existing and new lighting shall be shielded, details shall be submitted with the Development Plan. A lighting analysis for permanent fixtures shall be required for each phase. Details of portable and stage lighting shall be submitted with the Preliminary Development Plan. A lighting analysis shall be submitted for all outdoor events. Measures shall be taken to minimize the impact from lighting on adjoining properties.
17. The applicant shall identify fire access lanes, Knox lock and submit an emergency access plan.
18. The water storage system shall incorporate the use of a tank water level monitoring system, minimum water required for fire protection must be maintained at all times. Final placement of all fire hydrants shall be coordinated with the County Fire Marshal prior to installation. All hydrants shall flow at 1000 gallons per minute with a 20-psi residual pressure.
19. The existing structure must meet current code requirements and may require a sprinkler system,

- building designs shall be submitted to the Fire Marshall with the Development Plan for Phase 1.
20. The applicant shall dedicate one lane of the main access road for emergency access and shall identify a basecoursed emergency access road from CR 54, plans shall be submitted with the Development Plan for Phase 1.
 21. Compliance with the applicable review comments from the following:
 - A. State Engineer's Office
 - B. State Environment Department
 - C. State Highway Department
 - D. County Fire Marshal
 - E. County Public Works
 - F. Development Review Division Director
 22. The applicant shall employ security during all major events to ensure that event goers do not trespass or park on adjacent residential properties or adjacent roads.
 23. The applicant shall grant an access easement to the effluent water line to the Ditch Association.
 24. All outside activities shall cease by midnight.
 25. All signage shall meet Code requirements.
 26. The applicant shall install a monitoring well to monitor effects from the manure pile, a plan for the location and installation of the well shall be submitted to and approved by the County Hydrologist prior to installation. The well shall be installed within ninety (90) days of master plan approval. The well shall be monitored on a quarterly basis for nitrate as nitrogen total

kjeldahl nitrogen, chloride and total dissolved solids. Monitoring results shall be submitted to the County Hydrologist by March 1, June 1, September 1 and December 1 of each year. The County Hydrologist shall be notified five (5) days prior to each ground water sampling event so as the County can participate in the sampling if they choose. In the events that monitoring shows that ground water is contaminated above State standards the County will contact the Environment Department for enforcement. Ground water monitoring shall continue for two (2) years after removal of all manure from the site.

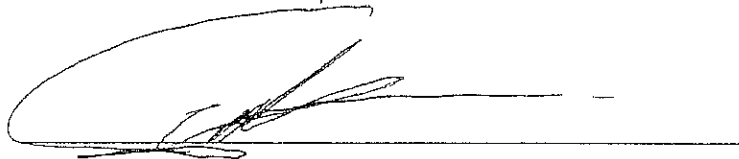
27. The Development Plan shall be heard by the LCDRC and the BCC.

28. The County shall work with the applicant to investigate the options available for disposal of manure.

IT IS SO ORDERED

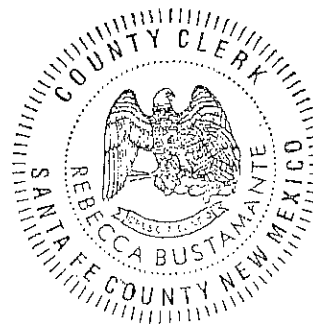
I certify that the above order was adopted by the Board of County Commissioners on this

17 day of September, 2001.

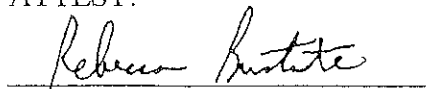


Paul Duran

Chairperson, Board of County Commissioners



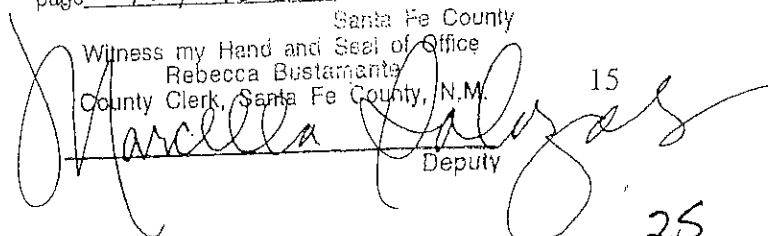
ATTEST:



Rebecca Bustamante, County Clerk.

1173 129
COUNTY OF SANTA FE } SS
STATE OF NEW MEXICO
I hereby certify that the instrument was filed
for record on the 20 day of Sept, A.D.
20 01 at 4:09 o'clock A.m
and was duly recorded in book 1977
page 784-798 of the records of
Santa Fe County

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


Deputy

July 14, 2004

Pojoaque Pueblo Development Corporation
c/o Jana Werner, General Counsel
58 Cities of Gold Road
Santa Fe, NM 87506

Re: LCDRC CASE # MIS 01-5013 The Downs at Santa Fe Variance and
Reconsideration

Dear Ms. Werner:

The Board of County Commissioners at its regularly scheduled meeting of July 14, 2004, met and acted upon the above referenced case.

The decision of the BCC was to amend the conditions as per your request for reconsideration and clarification of previously approved conditions as follows:

3. The applicant shall submit a detailed landscaping plan to include buffering from adjoining residential uses. The applicant shall meet with adjacent property owners to come up with an acceptable landscaping, berming and fencing plan to be submitted with the development plan. Additional landscaping and berming may be required. The applicant shall install a temporary 6 ft. security fence around the areas of the manure piles and effluent pond within a 30 day period as a safety precaution to keep people out of these areas.
4. All manure and unpermitted trash on the site, including the area adjacent to Por Su Gracia Subdivision, must be removed within the two year time extension granted by the BCC. The applicant shall submit a cost estimate and financial guarantee, to be approved by the County Land Use Department, for removal of all manure and unpermitted trash prior to issuance of building permits.
6. The applicant may request special use permits for events at the Downs prior to final approval of this project provided that a complete development plan for Phase 1 is submitted within 6 months of the master plan approval. The County may issue special use permits for 6 major outdoor events prior to submittal of Final Development Plan. A noise study will be conducted at the first event to



determine noise levels and mitigation measures. If noise levels are excessive at the first event, no similar type events will be held until mitigation measures are in place.

The decision of the BCC was that conditions # 7, # 8, and, # 24 remain as they were approved with the original master plan on August 14, 2001.

If you have any questions regarding this matter, please do not hesitate to contact me at 986-6222.

Sincerely,

Vicki Lucero
Development Review Supervisor

- XIV. B. 10. LCDRC CASE # V/MIS 01-5013 - The Downs at Santa Fe. Pojoaque Pueblo Development Corporation, Applicant, Requests Reconsideration of Conditions That Were Imposed on the Previously Approved Master Plan. The Request Includes Modifications to Conditions which Require a 6-Foot Chain Link Fence with Barbed Wire Along the property line, Disallow Special Use Permits Unless a Development Plan is Submitted, Prohibit a Golf Driving Range if Netting Above 24 Feet is Required, Require that all Manure and Un-Permitted Trash be Removed Prior to Phase II Development Plan Submittal, Limit the Number of Flea Market Uses to No More Than One Weekend per Month, and Require all Outside Activities to Cease by Midnight. The Property is Located Southwest of the Intersection of I-25 and SR 599, (Downs at Santa Fe), within Sections 26 & 27, Township 16 North, Range 8 East. Vicki Lucero (Commission District 5)

VICKI LUCERO (Review Specialist): Thank you, Mr. Chair. My name is Vicki Lucero and I'm the development review supervisor with the County Land Use Department. Pojoaque Pueblo Development Corporation, applicant, requests reconsideration of conditions that were imposed on the previously approved master plan. The request includes modifications to conditions which require a 6-foot chain-link fence with barbed wire along the property line, disallow special use permits unless a development plan is submitted, prohibit a golf driving range if netting above 24 feet is required, require that all manure and un-permitted trash be removed prior to phase ii development plan submittal, limit the number of flea market uses to no more than one weekend per month, and require all outside activities to cease by midnight. The property is located southwest of the intersection of I-25 and SR 599, within Sections 26 & 27, Township 16 North, Range 8 East, Commission District 3.

On June 10, 2004, the LCDRC met and acted on this request. On August 14, 2001 the BCC granted master plan zoning approval to allow for recreational non-residential uses at the Downs at Santa Fe on 321 acres subject to conditions as stated in the follow-up letter in Exhibit D. On December 9, 2003 the BCC granted approval of a request by the applicant for reconsideration and amendment to conditions of the master plan having to do with a two-year time extension of manure approval and drilling of a new monitoring well.

The applicant is requesting reconsideration and clarification of six additional conditions of approval as imposed on the master plan. The first is condition # 3, which states *The applicant shall install a 6-foot chain-link fence with three strands of barbed wire on all property lines*" The applicant is requesting that this part of the condition be deleted because this type of fence around the entire 320-acre property would present a prison-like

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- XIV. B. 10. **LCDRC CASE # V/MIS 01-5013 - The Downs at Santa Fe.** Pojoaque Pueblo Development Corporation, Applicant, Requests Reconsideration of Conditions That Were Imposed on the Previously Approved Master Plan. The Request Includes Modifications to Conditions which Require a 6-Foot Chain Link Fence with Barbed Wire Along the property line, Disallow Special Use Permits Unless a Development Plan is Submitted, Prohibit a Golf Driving Range if Netting Above 24 Feet is Required, Require that all Manure and Un-Permitted Trash be Removed Prior to Phase II Development Plan Submittal, Limit the Number of Flea Market Uses to No More Than One Weekend per Month, and Require all Outside Activities to Cease by Midnight. The Property is Located Southwest of the Intersection of I-25 and SR 599, (Downs at Santa Fe), within Sections 26 & 27, Township 16 North, Range 8 East. Vicki Lucero (Commission District 5)

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On June 10, 2004, the LCDRC met and acted on this request. On August 14, 2001 the BCC granted master plan zoning approval to allow for recreational non-residential uses at the Downs at Santa Fe on 321 acres subject to conditions as stated in the follow-up letter in Exhibit D. On December 9, 2003 the BCC granted approval of a request by the applicant for reconsideration and amendment to conditions of the master plan having to do with a two-year time extension of manure approval and drilling of a new monitoring well.

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appearance and would confuse this site with the state penitentiary. They also state that there is no need for the fence because there is an existing 4-foot fence between the property where the stable waste is located, which prevents neighbors from coming onto the site where the waste is located.

The second is condition # 4, which states, *All manure and unpermitted trash on the site, including the area adjacent to Por Su Gracia Subdivision, must be removed within two years of the BCC's approval of the manure removal plan and subject to extension for one two-year period and prior to Phase 2 development plan submittal*" They are requesting that the following language be added to the end of the condition '*Or prior to the reopening of the Downs, whichever occurs earlier.*'

The third request is in regards to condition # 6, which states *The applicant may request special use permits for events at the Downs prior to final approval of this project provided that a complete development plan for Phase 1 is submitted within 6 months of the master plan approval.* A development plan has not been submitted, however, the applicant is requesting to use the property now to generate revenue from special use permits to remove stable waste. The applicant would also request that no limit be set as to the number of special use permits.

The fourth request is to condition # 7, which states, *The golf driving range will not be allowed if netting above 24 feet is required.* The applicant would like to add language to this condition that states, *Netting is required only if the driving range tee boxes are within 600 yards of any residence.*

The fifth request is to condition # 8, which states, *The flea market use will be limited to no more than one weekend per month. Permanent structures will not be allowed.* The applicant would like to use the facility for open markets throughout the summer and requests that the BCC remove all limitations on the number of flea markets that can occur.

The last request for reconsideration/clarification of a condition is to condition # 24 which states, *All outside activities shall cease by midnight.* The Downs intends on having some indoor activities that will continue past midnight and would like clarification that the intent of the condition was only to restrict outdoor activity.

Pueblo of Pojoaque Pueblo Development Corporation believes there is reasonable cause to amend the conditions and grant the variance as stated above and request that the BCC approve their request.

Recommendation: The decision of the LCDRC was to recommend that the requested conditions be amended as follows. Mr. Chair, would you like me to enter the conditions into the record, or would you like me to go through the changes?

CHAIRMAN CAMPOS: Let's enter them into the record.

MS. LUCERO: Thank you, Mr. Chair. I just also wanted to add that the LCDRC recommended that conditions 7, 8 and 24 remain as they were originally approved.

CHAIRMAN CAMPOS: Okay. Any questions of Ms. Lucero?

COMMISSIONER SULLIVAN: Mr. Chair.

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CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: Vicki, what happened to condition 20? They didn't discuss that.

MS. LUCERO: Mr. Chair, condition #20 had to do with the dedication of one lane of the main access road for emergency access. The applicants were originally requesting a variance to this condition because it was a requirement of the fire code and they actually withdrew that request at the LCDRC meeting so they are no longer requesting an amendment or a variance of that condition.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN CAMPOS: Any other questions? Okay, is the applicant here, or a representative of the applicant?

[Duly sworn, Alan Mosely testified as follows:]

ALAN MOSELY: My name is Alan Mosely, 4713 Sioux Drive.

CHAIRMAN CAMPOS: How much time do you need for your presentation, Mr. Mosely?

MR. MOSELY: My presentation is very short, Mr. Chair.

CHAIRMAN CAMPOS: How short?

MR. MOSELY: Two minutes.

CHAIRMAN CAMPOS: Good.

MR. MOSELY: We have agreed with all of the recommendations of the LCDRC and the conditions set with the request that the County, this Commission reconsider the one condition set by the LCDRC of a number of open air, farmers' art-type markets that we would like to hold, to lift that restriction to one a month. That it's been placed and reconsider that. Other than that, we've agreed to all the conditions set by the LCDRC and County staff.

CHAIRMAN CAMPOS: Okay. This is a public hearing. Anybody here that would like to speak for or against? Okay, no one having come forward the public hearing is closed. Discussion.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: So Alan, then you are agreeing to do a financial guarantee on the manure, correct? On the removal of the manure.

MR. MOSELY: Mr. Chair, Commissioner Anaya, yes. The LCDRC conditions were set on there and we've agreed to that.

COMMISSIONER ANAYA: Tell me about the fencing.

MR. MOSELY: Mr. Chair, Commissioner Anaya, we did meet with the neighbors as requested by the LCDRC on the 29th of June. The fencing, the neighborhood association that met there, the neighbors that met there, the final determination was that there would be a berm built between the adjacent property with landscaping, that they did not want the fence put up around there. We have agreed to put up a temporary fencing around the manure pile and the effluent pond until that is removed which we're hoping that

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will all be gone by spring of next year.

COMMISSIONER ANAYA: Okay. Tell me what you want to do on the special use permits.

MR. MOSELY: We've agreed on special use permits and I think the conditions stated are that once we do one event in there, if we do a special use permit before the development plan is approved and put in place a special use permit would be granted and then after the first event there would be studies done, a noise study to determine if any future would be issued and that is acceptable to us.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Thank you, Alan.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I don't see in condition 4 of the LCDRC which is on the bottom of page 3 of our packet, it says that the manure and unpermitted trash on the site, including the area adjacent to the Por Su Gracia Subdivision must be removed within the two-year time extension granted by the BCC. And when did that time extension begin?

MR. MOSELY: Mr. Chair, Commissioner Sullivan, I believe it was granted by this Commission in August of last year, I believe.

MS. LUCERO: Mr. Chair, Commissioner Sullivan, the BCC granted the time extension on December 9, 2003.

COMMISSIONER SULLIVAN: Okay, so that's six months ago. And they indicated, it's rather confusing, on page NB2-6, it says that they were going to remove it prior to the extension or prior to reopening of the Downs whichever occurs earlier. Now does this 4 mean that if they reopen the Downs within the next 18 months they can still not have the manure pile completely removed?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, that would mean they are subject to the two-year time frame. The manure will need to be December of 2005. However, if they choose to open the Downs before that time frame is up they can submit a financial guarantee for the removal of the solid waste and assurance that that will get done within the two years.

COMMISSIONER SULLIVAN: Okay, where does it say that? In 4 I just see it says within the two-year time extension granted by the BCC...the applicant shall submit a cost estimate. Is there something in the dot dot dot?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, if you turn to Exhibit C, the entire condition is written under number 4.

COMMISSIONER SULLIVAN: I have A and E, B. So what's been taken out here?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, actually the language that's underlined in condition #4, the staff report is the language that was added by the LCDRC which requires them to comply with the two-year time extension of the manure

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removal plan and also that the applicant shall submit a cost estimate and financial guarantee to be approved by the County Land Use Department for removal of all manure and unpermitted trash prior to issuance of building permit. So they still have to comply with the two-year time frame. However, if they choose to open or to do remodeling renovations to the facility prior to that they would be required to submit a cost estimate and financial guarantee for the removal of the manure.

COMMISSIONER SULLIVAN: Does the part of the original paragraph 4, "prior to phase 2 development plan submittal", does that still apply? I'm not understanding where this language comes in to fore. It comes in after the word "must be removed" and it now says it must be removed within two years of master plan approval and prior to phase 2 development plan submittal. Half the manure shall be removed the first year, etc., etc. Are all those conditions still a part of the conditions?

MS. LUCERO: Mr. Chair, the portion that says must be removed within two years of master plan approval and prior to phase 2 development plan submittal, that does not apply any more because they have submitted for a time extension. The master plan was approved back in 2001, so that time frame has expired. But the BCC did grant a two-year time extension in 2003. So that language, that no longer applies. Must be removed within two years of the master plan approval. So therefore we changed the language to say within the two-year time extension granted by the BCC.

COMMISSIONER SULLIVAN: Okay, so this current new language, this is it. There's no other language. If I go back to the original paragraph 4, none of that's applicable anymore.

MS. LUCERO: Mr. Chair, that's correct. It would just be that last sentence requiring them to submit a cost estimate and financial guarantee.

COMMISSIONER SULLIVAN: That's where I'm confused that this is not saying, when you mentioned that they didn't meet it by opening time then they would need the financial guarantee. I don't see where that is in 4 except it's in part of the old 4. So you think some of the old 4 is still in the new 4. Tell me which sentences are.

COMMISSIONER DURAN: Why don't you just tell her what you want?

COMMISSIONER SULLIVAN: I don't know what I want because I don't understand what this says. We've got an old paragraph 4 which has about five or six sentences and I'm not understanding how this works with this 4 and if we don't unravel this the condition will be unclear as to what they have to meet.

MS. LUCERO: Mr. Chair, Commissioner Sullivan, at this point it's basically the last sentence that we kept from that original condition. The rest of the condition was modified.

COMMISSIONER SULLIVAN: Okay, so what you're saying is that condition 4, as proposed by the LCDRC should also have at the end of it the following sentence: "The applicant shall submit a cost estimate and a financial guarantee to be approved by the County Land Use Department for removal of all manure and unpermitted trash prior to this facility reopening."

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MS. LUCERO: Mr. Chair, Commissioner Sullivan, the language that says prior to this facility reopening, that was changed on condition #4 as recommended by the LCDRC to prior to issuance of building permit. So they can proceed with the development plan. They cannot reopen or they will not be issued building permits unless a cost estimate is in place for removal of the manure or unless the manure has already been removed.

COMMISSIONER SULLIVAN: Okay. So then that last sentence that I just read is not a part of the new paragraph 4?

MS. LUCERO: There were some changes to it, but basically, it's just prior to issuance of building permits.

COMMISSIONER SULLIVAN: Okay, so let me get back to my original question. So the new paragraph 4, this is it. What we see is it.

MS. LUCERO: That's correct.

COMMISSIONER SULLIVAN: Okay. So the dot dot dot between the BCC and the word the, that doesn't mean that there's anything in there. It's just a period there?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, yes, that's correct. The information, the condition, the portion of it that was within that doesn't apply any more because of the time extension granted by the Board.

COMMISSIONER SULLIVAN: Okay. I think the LCDRC did a good job trying to modify this. I don't think there should be any change, personally to the flea market conditions, but I would, and I guess we have to have a public hearing too, but I would want some consideration - I think that this plan is complex enough, and we talked about that earlier this evening, that the preliminary and final development plan should be submitted separately to the BCC. We don't have anything yet on the Downs except a lot of conditions and paperwork. We haven't seen really anything and I think this is a prime contender, particularly with the great amount of public interest in what's going to go on out there that these preliminary and final plans be submitted separately. That would just be, Mr. Chair, my opinion.

CHAIRMAN CAMPOS: Okay, this is a public hearing. Anybody else want to talk? I think we closed the public hearing.

COMMISSIONER SULLIVAN: We already did? Excuse me.

CHAIRMAN CAMPOS: Discussions or motions?

COMMISSIONER SULLIVAN: Mr. Chair, I'd move for approval of the LCDRC conditions, of the conditions as proposed by the LCDRC with the additional condition that preliminary and final development plan shall be submitted separately.

CHAIRMAN CAMPOS: I'll second that. Discussion?

The motion to approve LCDRC V/MIS #01-5013 passed by unanimous [5-0] voice vote.

SFC CLERK RECORDED 09/14/2004

- XI. A. 8. **LCDRC Case #DP 01-5014 – Santa Fe Downs.** Pojoaque Pueblo Development Corporation, Applicant, Request Preliminary and Final Development Plan Approval for Phase I of the Santa Fe Downs, which Will Consist of Horse Racing, Slot Machine Casino, Concerts and Event Performances, Restaurants, Meeting and Conference Facilities, Flea Market and Parking Areas on 372.39 Acres. The Request also Includes Four Variances of the Land Development Code as Follows: A Variance to Allow a Pond Instead of a Cistern for Water Harvesting; a Variance to Allow a Monument Sign to Exceed 150 Sq. Ft.; A Variance to the Amount of Landscaping Required Along the Frontage Road; and a Variance to Limit the Type and Amount of Landscaping Required within the Parking Lots. The Property is Located Southwest of the Intersection of I-25 and SR 599, within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3).

MS. LUCERO: Thank you, Mr. Chair. Pojoaque Pueblo Development Corporation, applicant, request preliminary and final development plan approval for Phase I of the Santa Fe Downs, which will consist of horse racing, slot machine casino, concerts and event performances, restaurants, meeting and conference facilities, flea market and parking areas on 372.39 acres. The request also includes four variances of the land development code as follows: a variance to allow a pond instead of a cistern for water harvesting; a variance to allow a monument sign to exceed 150 square feet; a variance to the amount of landscaping required along the frontage road; and a variance to limit the type and amount of landscaping required within the parking lots. The property is located southwest of the intersection of I-25 and SR 599, within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3).

On October 20, 2004, the LCDRC met and acted on this case. The decision of the LCDRC was to recommend approval.

On October 7, 2004, the applicant conducted a community meeting with the La Cienega/La Cieneguilla community to present their proposal in accordance with the La Cienega ordinance.

On August 14, 2001, the BCC granted master plan zoning approval to allow for recreational/non-residential uses at the Downs at Santa Fe on 321 acres to be developed in two phases. The applicant is now requesting preliminary and final development plan approval for phase I, which will consist of the following:

- Horse racing to begin in mid-2006, in which up to 1500 horses may be present during the racing season. Associated simulcast race betting and casino slot gaming would begin in mid-2005.
- Concert & event performances such as circuses, carnivals, and rodeos in which

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temporary stages would be set up for each performance and festival seating would be used to accommodate the public. Portable concession stands would be used and portable toilets would be provided.

-Open Air Markets

- A total of four restaurants, two full-service restaurants one of which will seat 150 patrons and will operate throughout the day and another which will be a high quality restaurant open only in the evening and will seat 75 patrons. Two fast food restaurants will operate in the grandstand areas during racing season.

-Meetings and conferences will be held in the stadium building. There will be approximately 7,100 square feet of meeting room space.

-Existing paved parking areas will be repaired. There will be a total of 2,662 paved parking spaces.

Variances: The applicant is requesting four variances of the Land Development Code as follows:

1. A variance to allow collection of roof drainage in a lined pond rather than in a cistern. The applicant states that the amount of water collected in the pond is a mere 20 percent of the water used per day for irrigation purposes, therefore, the water would be used up before any evaporation could occur.
2. A variance to allow a monument sign to exceed 150 square feet. The Downs is proposing to utilize the existing rock ground sign located off the I-25 Frontage Road. The applicant states that the sign is a historic symbol of the Downs, and is unobtrusive but serves to identify the activity behind it.
3. A variance to the internal landscaping required in the parking area. The applicant has agreed to put in the necessary landscaping for the parking areas. However, their proposal is to install landscaping only in the primary parking lot at this time. In the interest of water conservation, they are requesting that landscaping in the secondary lot not be required until two years after the Certificate of Occupancy has been issued. They state that the secondary lot will not be utilized until the site is open for racing or special events.
4. The applicant was also requesting a variance to the amount of landscaping required along the frontage road, however, after re-examining the existing landscaping it appears that the requirement has already been met. Therefore, a variance is not required.

Recommendation. The applicant is requesting three variances of the Land Development Code. In regards to the variance to allow a collection pond for rainwater harvesting rather than a cistern staff feels that it can support this variance due to the fact that there would be very little if any evaporation from the pond given how quickly the water will be used.

In regards to the variance to allow them to utilize the existing sign with some renovations, which exceeds the 150 square feet allowed by code, staff feels that since the sign is already there and has been in existence for the past 30 years, more or less, this

SFC CLERK RECORDED 02/03/2005

request can be also be supported.

As far as the variance for parking lot landscaping, staff can support this request with the understanding that if the secondary parking area is used at any time prior to the landscaping being installed the County will require a financial guarantee.

It is staff's position that this application is in accordance with all other regulations of Article III, Section 4.4. of the Land Development Code and conforms to the La Cienega/La Cieneguilla Plan and Ordinance.

Staff's recommendation and the decision of the LCDRC was to recommend preliminary development plan approval with final development plan approval handled administratively subject to the following conditions. Mr. Chair, may I enter those conditions into the record?

CHAIRMAN CAMPOS: They are so entered.

[The conditions are as follows:]

1. All redline comments will be addressed; original redlines will be returned.
2. Final development plan with appropriate signatures shall be recorded with County Clerk.
3. The applicant shall submit a cost estimate and financial guarantee, to be approved by the County Land Use Department, for removal of all manure and unpermitted trash prior to issuance of building permits. All manure and unpermitted trash shall be removed by December 9, 2005.
4. A noise study shall be conducted at the first concert event to determine noise levels and mitigation measures, if required. If noise levels exceed code regulations and cannot be mitigated to conform, certain uses may not be allowed.
5. The applicant shall notify the Fire Marshal's office, the Sheriff's Office, the State Highway Department and the State Police one month prior to all events.
6. The applicant shall be responsible for all costs related to traffic control during all events.
7. The existing well shall be metered. Annual meter readings shall be submitted to the County Hydrologist by September 30th of each year. The County shall have the right to verify the readings. The applicant shall connect to the County Water System when it is available within 200 feet of the property.
8. The well shall be registered by as a Public Water Supply. Documentation shall be submitted prior to building permit issuance.
9. The applicant shall submit a discharge permit and design of the wastewater treatment facility prior to building permit issuance. A food preparation permit will required prior to occupancy.
10. The applicant shall submit access permits from the NMDOT (I-25 Frontage) and County Public Works (CR 54) prior to building permit issuance.
11. All existing and new lighting shall be shielded. A lighting analysis will be required with the final development plan. Details and cut sheet of all light fixtures including staging areas and portable lighting shall be submitted with the final development

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- plan.
12. The applicant shall identify fire access lanes, and knox lock and submit an emergency access plan.
 13. Final placement of hydrants shall be coordinated with the County Fire Marshal prior to installation. All hydrants shall flow at 1000 gallons per minute with a 20-psi residual pressure.
 14. The existing structure must meet current code requirements and may require a sprinkler system. Building designs shall be submitted to the Fire Marshal for review and approval.
 15. The applicant shall dedicate one lane of the main access road for emergency access and shall identify a base coursed emergency access road from CR 54.
 16. The applicant shall employ security during all major events to ensure that event goers do not trespass or park on adjacent residential properties or adjacent roads.
 17. The applicant shall agree to provide an easement to the Ditch Association upon presentation of an agreement between City of Santa Fe and the Association for acquisition and use of effluent.
 18. All outdoor activity shall cease by midnight.
 19. All signage shall meet Code requirements.
 20. A permit to reinstate the waste water treatment facility shall be submitted prior to building permit issuance.
 21. Locations of dumpsters shall be designated on the final development plan. A contract from a solid waste disposal service shall be submitted prior to occupancy.
 22. An archaeological survey will be required prior to the disturbance of any new areas.
 23. Lot coverage shall not exceed 60 percent of the total lot area.
 24. Business registration will be required prior to occupancy.
 25. The applicant will be required to submit a financial guarantee, in an amount approved by the County, for all improvements including fire protection, roads, retention ponding and landscaping prior recordation of the Final Development. The financial guarantee for landscaping and revegetation will be kept until the plantings have taken, for a minimum of one year after installation.
 26. Compliance with the minimum standards for parking lot landscaping.
 27. Drip irrigation systems will be required for all proposed landscaping.
 28. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Department
 - d) State Department of Transportation
 - e) County Hydrologist
 - f) Development Review Director
 - g) County Fire Marshal
 - h) County Public Works
 - i) Technical Review Division

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29. Financial surety for parking lot landscaping.
30. Advertising of off-site business is prohibited.
31. All necessary approvals associated with each specific use must be obtained by the applicant.
32. A 50/50 mix of evergreen and deciduous trees is required along the proposed berm.
33. The applicant must submit a development agreement for participation in the cost of future traffic improvements including traffic signals at the intersection of County Road 54 (Los Pinos Road) and the I-25 frontage road.
34. The applicant must provide traffic control to Los Pinos Road, Entrada La Cienega, and Las Estrellas during special events.
35. The applicant shall submit a back-up plan for water use for irrigation purposes.

CHAIRMAN CAMPOS: Questions?

COMMISSIONER DURAN: I have a question.

CHAIRMAN CAMPOS: Statement? Speech?

COMMISSIONER DURAN: No, no. These are real questions. Looking at the recommendations, Vicki, number 3 states that the applicant shall submit a cost estimate or financial guarantee to be approved by the County Land Use Administrator for removal of all manure and unpermitted trash prior to the issuance of building permit. And when you go to number 25, it states the applicant will be required to submit a financial guarantee in an amount approved by the County for all improvements including fire protection, roads, retention ponds and landscaping prior to recordation of the final development.

I'm wondering if there would be a problem - because often times from the recordation to the actual issuance of the building permit there is a lapse of time there. They may not even apply for a building permit for some months after final development, and that means that the final guarantee, which has to be paid for, is in place with - it's not necessary to have it in place at that point. But I do think it's necessary to have it in place when they start turning up dirt or they start doing something based on the building permit. So I was wondering, would you agree that that would be an acceptable change to paragraph 25?

MS. LUCERO: Mr. Chair, Commissioner Duran, number 25 is actually a standard condition that we impose on all projects to require them to submit a financial guarantee before they record.

COMMISSIONER DURAN: Before they record.

MS. LUCERO: Before they record.

COMMISSIONER DURAN: Okay.

COMMISSIONER MONTROYA: For the building permit?

COMMISSIONER DURAN: No. Okay, I have a problem with that. And then the only other one I have is if you go to number 30, you have advertising of off-site business is prohibited. I consider that to be a restriction of trade and a violation of the first

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amendment. And would be opposed to that as a condition. I don't understand why was that placed on that.

MS. LUCERO: Mr. Chair, Commissioner Duran, the County Code prohibits off-site advertising. So it wouldn't necessarily be advertising for the Downs, but if they wanted to advertise for some other business at another location it's prohibited by ordinance.

COMMISSIONER DURAN: Oh, that's in the ordinance?

MS. LUCERO: It's the in County Code. Yes, sir.

COMMISSIONER DURAN: Okay. Well, we can discuss that later. Thank you. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Vicki, back I recall a couple years ago when we went through the first master plan on this there were restrictions put on the hours of operation for the special events. I think it was midnight or something of that sort. Are those still in the conditions or in the approvals or what was the outcome of that?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, there is a condition. It's condition number 18 that states that all outdoor activities shall cease by midnight. That was the condition that was part of the master plan.

COMMISSIONER SULLIVAN: Okay. I see it now. Thank you. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, just regarding number 30. So that means, because the Pueblo has other businesses, they wouldn't be able to advertise the Cities of Gold Casino, or Pojoaque Supermarket, or anything that's related to their business enterprise?

MS. LUCERO: Mr. Chair, Commissioner Montoya, that's correct. They wouldn't be allowed to advertise that's not there on the site, on the specific site.

CHAIRMAN CAMPOS: Outdoor advertising, right?

MS. LUCERO: Outdoor advertising. Yes, that's specific to the ordinance.

COMMISSIONER MONTOYA: So they would have to come for a variance request in order to get that so they could advertise for off-site businesses then?

MS. LUCERO: Mr. Chair, Commissioner Montoya, that's correct. Yes.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay, applicant or agent? Governor, please state your name, address, and we're going to swear you in.

[Duly sworn, Governor George Rivera testified as follows:]

GOVERNOR RIVERA: My name is George Rivera, Governor of Pueblo of Pojoaque, Route 11, Box 71-2, Santa Fe, New Mexico, 87506.

CHAIRMAN CAMPOS: Governor, do you accept all the conditions set forth by staff?

GOVERNOR RIVERA: Mr. Chair and Commissioners, thank you for

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staying up late and dealing with us. I appreciate your time. We do have a couple of issues. Number 25 on the financial guarantee for improvements prior to recordation of final development plan, our concern is that in developing this complex, large project, such as trying to put together compacting with the state, licensing with the state on horse racing, building a casino and then opening the racetrack a year later, we are asking if we can have language that reads "prior to issuance of a building permit" which would be closer to us actually building the facility. We are not opposed to putting up the financial guarantees. It's just that we feel that we may have it hanging out there for some time prematurely.

CHAIRMAN CAMPOS: Have you discussed this with our staff and raised this concern before tonight? Mr. Catanach?

MR. CATANACH: Chairman Campos, Commissioners, we had discussions certainly about language, about when certain things would be required and I don't recall if we specifically talked about this condition 25 and the question was asked, or the response was that that is a standard condition but I want to explain that it's more standard when a bond is being required for a subdivision plat. The subdivision plat is what allows a developer to start selling lots and this is not a subdivision plat. So I want to clarify that in fact it's standard procedure to require the bond before you allow a subdivision plat to be recorded in order that a developer can start selling lots. This is not the same thing.

This is just making a development plan public record when you record it. So in fact, allowing the bonding prior to issuing the building permit is acceptable.

CHAIRMAN CAMPOS: So why didn't you guys have that language in here before tonight?

MR. CATANACH: Mr. Chair, we discussed a number of things and when certain things would be required and I don't recall if we discussed this particular condition.

CHAIRMAN CAMPOS: Okay. Governor, what else?

GOVERNOR RIVERA: Mr. Chair, advertising off-site business is prohibited. Once again, the sign has been there for 30 years. We have advertised our other businesses on that sign. We've also loaned it to different non-profits to advertise their issues. We're currently working with New Mexico State Highway Department and building them a billboard on our property. The need for signage there for our businesses and for getting the message out to people is necessary. At a minimum I would ask if we could get a variance on that. That we would be able to use the sign for advertising other things until the facility is permanently developed at which point we would not want to advertise off-site business. But in the meantime it would sit there with two blank sides to it and I don't think that would look very well. But I do think that there's some good that could come out of it and if we could use it temporarily until our development is done and then at that point it will become a permanent sign for that development.

CHAIRMAN CAMPOS: Ms. Lucero, do you have any comments to that, reference condition 30?

MS. LUCERO: Mr. Chair, as I mentioned before, the Code is specific to say that off-site advertising is not allowed. So in order for them to come forward for a

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