

DRAFT

subject to approval

MINUTES OF THE
SANTA FE COUNTY
DEVELOPMENT REVIEW COMMITTEE

Santa Fe, New Mexico

May 21, 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 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, Chairman
Susan Martin, Vice Chair
Phil Anaya
Bette Booth
Louie Gonzales
Renaë Gray
Leroy Lopez

Member(s) Excused:

None

Staff Present:

Rachel Brown, Deputy County Attorney
Wayne Dalton, Building and Development Services Supervisor
Vicki Lucero, Building and Development Services Manager
Penny Ellis-Green, Land Use Administrator
Buster Patty, Fire Marshal
Jose Larrañaga, Development Review Team Leader
Andrea Salazar, Assistant County Attorney

IV. APPROVAL OF AGENDA

Vicki Lucero, Building and Development Services Manager, stated Case #DP 09-5471, Aces Towing Development Plan Amendment, was tabled as indicated in the amended agenda.

Upon motion by Member Martin and second by Member Gray the agenda was unanimously approved 6-0 as published.

V. APPROVAL OF MINUTES: April 16, 2015

Member Martin moved to approve the minutes as published. Her motion was seconded by Member Gray and passed without opposition.

VI NEW BUSINESS

A. CDRC CASE # DP 09-5471 Aces Towing – TABLED

B. 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)

Jose Larrañaga, Development Review Team Leader, read the case caption and staff report as follows:

“The following is an outline in chronological order of past events leading up to the Applicants’ request: On November 13, 2012, the Board of County Commissioners granted a request made by the Applicants for a variance to allow a towing business as a Special Use under Ordinance No. 2007-2, Section 10.5, Village of Agua Fria Zoning District Use Table. A Special Use is an allowed use which is subject to Master Plan and Development Plan approval by the Board of County Commissioners. The approval of the variance was conditioned on the Applicants presenting a Master Plan to the BCC, within eight months of the November 13, 2012 hearing. The Applicants submitted an Application for Master Plan, Preliminary and Final Development Plan on February 8, 2013.

“On April 18, 2013, the County Development Review Committee met and acted on the request by the Applicants for Master Plan Zoning and Preliminary Development Plan approval. Staff recommended Master Plan approval as the request for Preliminary Development Plan approval was incomplete due to non-compliance with Article V, § 7.1.2.e & § 7.1.2.j and Article III, § 4.4. The decision of the CDRC was to recommend approval of the Applicants’ request for Master Plan approval and denial of the Applicants’ request for Preliminary Development Plan.

“On June 11, 2013, the BCC granted a request made by the Applicants for Master Plan Zoning to allow a towing business on 0.33 acres. The request was granted subject to the following conditions:

1. The Master Plan with appropriate signatures, shall be recorded with the County Clerk, per Article V, § 5.2.5;
2. A Preliminary and Final Development Plan shall be submitted within ninety days of issuance of this Order, meeting all criteria set forth in Article V, § 7, to be reviewed and presented to the CDRC for consideration;
3. The Applicants shall comply with Ordinance No. 2007-2, § 10. Storage of towed vehicles shall not be permitted on this site as per the 1989 decision of the Extraterritorial Zoning Authority. A note stating that the storage of towed vehicles on the site shall not be allowed shall be placed on the Master Plan;
4. No more than three small tow trucks and two large tow trucks may be stored on the site at any given time;

“On September 26, 2013, the Applicants submitted a request for an extension of time to submit the Preliminary and Final Development Plan, an amendment to the approved Master Plan and for reconsideration of the BCC’s August 20, 2013 Final Order. The Applicants submitted a letter of request, a copy of the Master Plan Report, Master Plan drawings, fees, deed and recorded plat;

“On March 11, 2014, the BCC held a public hearing on the request by the Applicants to reconsider the conditions imposed on the Master Plan Zoning approved on June 11, 2013. The BCC then deliberated over the matter in closed executive session on March 25, 2014 and again on May 13, 2014. The conditions that the Applicants requested the BCC to reconsider are:

1. The Applicants shall submit Preliminary and Final Development Plan to the County Development Review Committee for consideration within 90 days of approval of the Final Order.
2. No more than three small tow trucks and two large tow trucks may be stored on the site at any given time.
3. The implementation of a landscape buffer on the east side of the site alongside the platted easement.
4. The listing of personal vehicles that will be stored on the site;

“On June 11, 2014, the BCC approved a Final Order which denied the request to reconsider the conditions and which allowed an extension of the deadline for submitting a Preliminary and Final Development Plan to the County Development Review Committee, to 30 days after recording the order denying the request for reconsideration. All other requests were denied;

“The approval of the extension of the previously imposed deadline was subject to submitting the Preliminary and Final Development Plan to the County Development Review Committee within 30 days of the recordation of the Final Order. The Final Order was recorded on June 13, 2014. The Preliminary and Final Development Plan was not submitted within the 30 days of the recording date. An appeal of the Order was not filed within 30 days of the recording date;

“A copy of the recorded Final Order was mailed to the Applicants on June 16, 2014, via certified mail along with a letter stating the following: This letter is to inform you that the Board of County Commissioners met and acted on your request for reconsideration of conditions which were imposed by the BCC for Master Plan Zoning approval to allow a towing business on .33 acres. The decision of the BCC was to deny your Application, except that the deadline for submitting a Preliminary and Final Development Plan to the County Development Review Committee shall be extended 30 days after recording of the Final Order. The Final Order was recorded on June 13, 2014. The enclosed order is a final order of the Board of County Commissioners, which, pursuant to Section 39-3-1.1 of the New Mexico Statutes Annotated 1978, you may appeal by filing a timely Notice of Appeal in the appropriate district court. Any such district court appeal must be filed within 30 days of the recording of this Order. The Order was recorded today, which is a matter of public record.

“On June 17, 2014, the United States Postal Service left notice of the certified letter at the Applicants’ mailing address. The Applicants did not contact staff nor did they file an appeal with the District Court during the 30-day period. The Applicants did contact staff after the 30-day deadline and inquired on how to proceed with their Application. Staff advised the Applicants that the deadline for submitting the Preliminary and Final Development Plan and for filing an appeal to District Court had lapsed;

“On August 13, 2014, approximately 29 days after the deadline for their submission, or approximately 59 days after the Final Order was recorded, Joseph Karnes on behalf of the Applicants submitted an Application for Master Plan Zoning, Preliminary and Final Development Plan. The plan set that was submitted was identical to the original submittal, submitted on February 7, 2013, which ultimately did not meet the Code requirements or conditions imposed by the Board of County Commissioners. The submittal was deficient in the following:

- a. The proposed Master Plan, Preliminary and Final Development Plan drawings do not demonstrate the easement required to create the 28-foot inside radius at the intersection of Agua Fria and Ben Lane, which is required by the County Fire Marshal.
- b. The proposed plan set illustrates 8 parking spaces for trucks, where the condition of approval, by the BCC, was to limit the tow trucks to five, three small tow trucks and two large tow trucks.
- c. A Master Plan Report and Development Plan Report was not submitted as per Article V, Section 5.2.2 Master Plan Submittals and Article V, Section 7.2.1 Final Development Plan Submittals.
- d. A survey to create a .33-acre parcel to be zoned as a Special Use, under the Village of Agua Fria Zoning District Ordinance Use Table, was not submitted;

“On November 13, 2014, the Land Use Administrator issued a letter to Mr. Karnes stating the following: The submission of the Robert & Bernadette Anaya

Master Plan, Preliminary and Final Development Plan is rejected as untimely and not constituting a complete Application.”

“The Applicants claim that they did not receive notice of the Final Order adopted by the BCC until after the 30 days had passed. They also claim that the Final Order did not address ramifications of failure to submit the Application within the identified timeframe.

“Staff Response: The Applicants failed to appeal in a timely manner, the BCC order imposing a deadline for submission of the Preliminary and Final Development Plan as a condition precedent to Master Plan approval. A certified letter along with the Final Order was mailed to the Applicants, a letter the Applicants did not timely retrieve. The failure of the Applicants to retrieve the order sent to them does not serve to extend the deadline for submission of the Preliminary and Final Development Plan, which deadline was triggered by the recording of the Order in the Office of the County Clerk. In light of the untimely filing of the Master Plan, Preliminary and Final Development Plan, no Master Plan Zoning is in place which would form the basis for the submission of a Preliminary and Final Development Plan. Having failed to meet a condition precedent to approval of the Master Plan, staff has no authority to accept the Master Plan, Preliminary and Final Development Plan for processing. Additionally, the documents presented were not compliant with submittal requirements of the Code.”

Mr. Larrañaga said staff recommends denial of the Applicants’ request to appeal the Land Use Administrator’s decision to reject a submittal for Master Plan, Preliminary and Final Development Plan as the Master Plan, Preliminary and Final Development Plan submittal was deemed untimely and did not constitute a complete Application. Staff solicits the support of the County Development Review Committee to support the Land Use Administrator’s decision which was based on the Final Order and conditions imposed by the BCC.

Member Gonzales asked whether the eight-month period to file a master plan was typical and who authorized that amount of time. Mr. Larrañaga responded the BCC and confirmed that the applicant requested amendments to the conditions and while that was not granted they were given additional time.

Karl Sommer, PO Box 2476, Santa Fe, NM, appeared as counsel for the applicants and mentioned that the applicants’ home was in a recent fire and lacking insurance all of their resources are focused on their living dwelling. The fire has contributed to the tabling of this appeal before the CDRC.

Mr. Sommer said the request before the CDRC is whether or not the Land Use Administrator had the authority to accept the submission out of time and whether or not the master plan zoning, by its own accord, disappeared that legislative action when the 30-days passed.

Mr. Sommer said the history of the Anaya's case is long and has been a struggle for them and while they received final approval they did not receive the final request. Their plans were finalized by engineer Morey Walker. However, the Anayas were unaware of the associated time period within the final order. The Anayas retained Mr. Sommer's law firm subsequent to the lapse in the time period and the plans were immediately submitted.

Mr. Sommer repeated the issue before the CDRC: Did the zoning disappear when the Anaya's failed to file within the time period? What is the effect of the failure to meet the time period? He mentioned that his clients lacked sophistication in regards to property ownership and that explains some of the confusion regarding time frames.

Member Booth asked whether the applicants received the certified letter and Mr. Sommer said it was received after the 30-day time period. He was unaware of whether they received notice of the certified letter.

In response to a question regarding post office notification, Mr. Larrañaga directed the CDRC to USPC tracking document an exhibit within their packet.

Chair Katz said he understood the applicant was given a time in which to file the master plan and failed to do so. As a result, the Land Use Administrator said it's late and did not accept it. He asked whether the denial of the master plan removed the zoning. Mr. Sommer said he understood that the final act of the BCC was to grant approval of a zoning application for a master plan which constitutes zoning for the property. The question is does the zoning go away since they failed to meet the time imposed by the BCC order? Staff declares that the consequence of not meeting the deadline is the zoning is gone and the property is now zoned residential.

Under oath, Georgia and Henry Roybal identified themselves as the original complainants against the Anayas who knocked down their wall in January 2012. Ms. Roybal said she and her husband have been dealing with the Anayas' development plan since that time.

Ms. Roybal said she was puzzled that the Anayas did not receive their certified mail because as a listed PRC business they are required to man the 24/7 towing company office. In fact, she sent herself certified mail to test the post office and found the delivery to be timely and was advised twice of the mail from the post office.

Ms. Roybal said she represents the 10 families affected by the Anayas' business. She said businesses can move more easily than the 10 families it affects. The residents on Ben's Lane are limited in activities because of the tow truck business. She offered to share photographs of the situation.

There were no other speakers and Chair Katz closed the public hearing.

Mr. Larrañaga clarified that the request before the CDRC is to support the Land Use Administrator's decision to deny the applicants' request to appeal the Land Use

Administrator's decision to reject a submittal for Master Plan, Preliminary and Final Development Plan as per the BCC conditions and the untimely manner of the submittal.

With respect to CDRC Case #A 13-5062, Member Martin moved to deny the applicants' request to appeal the Land Use Administrator's decision to reject a submittal for Master Plan, Preliminary and Final Development Plan as it was deemed untimely and did not constitute a complete application. Member Gray seconded and the motion passed by unanimous [6-0] voice vote.

- C. **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)**
[Exhibit 1: Revised Applicant Proposal; Exhibit 2: Jason Gonzales email concerning access road; James & Barbara Talley letter concerning access road; Exhibit 4: Emails to JenkinsGavin supporting the development; Exhibit 5: Applicant slide show, site photos and drawings]

Ms. Lucero advised the CDRC that staff received a revised proposal [*Exhibit 1*] this morning that relocates and realigns the onsite access road to the project. Staff has not had the opportunity to conduct an analysis and the applicant would need to submit additional information – plans, profiles on the roadways, road sections, scaled drawings, slope disturbances, etc. – and following Land Use review, the plans would be forwarded to County Public Works and the Fire Marshal.

Ms. Lucero said the revised proposal creates an incomplete submittal that lacks a staff recommendation. She recommended the case be tabled if the applicant wants to use the revised plan.

Agent Jennifer Jenkins said they were prepared to go forward with the original proposal.

Mr. Larrañaga read the case caption and reviewed staff's report as follows:

“The Applicant is requesting Preliminary and Final Development Plan approval for an assisted living facility in conformance with the Aldea de Santa Fe Amended Master Plan and Santa Fe County Ordinance No. 1996-10, the Land Development Code. The Amended Master Plan was approved on February 2005, by the Extraterritorial Zoning Authority. The 6.78-acre site is recognized as an Institutional Use in the Amended Master Plan. The uses allowed, as per the Amended Master Plan, for an Institutional Use are: Educational Institutions; Civic and Religious Organizations. This includes: Museums, School Buildings, School

Campuses, Churches, Retirement Homes, Botanical Gardens, and Accessory Uses and Structures.

“The assisted living facility will be a two-story building, 33 feet and 10 inches in height. The 66,476 square-foot facility will contain 84 beds. The structure is designed in a simplified Territorial style with two interior open courtyards. The development will utilize water from the Santa Fe County Utility. The development will utilize the Santa Fe County Utility liquid waste system. The primary access to the site will be Avenida Frijoles, with secondary access off Avenida Aldea at the northeast portion of the site.

“Building and Development Services staff has reviewed this project for compliance with pertinent Code requirements and have found that the facts presented support this request: Institutional Use conforms with approved uses under the Amended Master Plan; the proposed use conforms with the Large-Scale Residential Institutional Uses under the Code; the height of the structure meets the Code requirements for a Large Scale Residential Use; the Preliminary Development Plan conforms to the approved Amended Master Plan; the Final Development Plan conforms to the Code requirements for this type of use; the Application satisfies the submittal requirements of the Code.

“The review comments from State agencies and County staff establish findings that the Application is in compliance with state requirements, Article III, § 6 Large-Scale Residential Uses, Article V, § 7.1 Preliminary Development Plan, and Article V, § 7.2 Final Development Plan of the Code.”

Mr. Larrañaga said staff recommends approval of Preliminary and Final Development Plan to allow an assisted living facility on 6.78 ± acres subject to the following staff conditions:

1. The Applicant shall comply with all review agency comments and conditions.
2. Final Development Plan with required signatures, shall be recorded with the County Clerk as per Article V, § 7.2.
3. The Applicant shall submit a financial guarantee, in sufficient amount to assure completion of all required improvements prior to Final Development Plan recordation, as per Article V, § 9.9.
4. Automatic Fire Protection Sprinkler system shall be required as per Uniform Fire Code, Article 10 Section 1003.2.
5. Any driveway location change shall be reviewed for approval by the CDRC. [Added by staff following the applicant’s presentation. Further modified at motion.]

Jennifer Jenkins, JenkinsGavin Design and Development, agent for PinPoint Equities was placed under oath. She introduced Ms. Gavin, a representative of PinPoint, the civil engineer, and the traffic engineer present this evening. PinPoint develops senior living facilities all over the country and Ms. Jenkins said Santa Fe is a community quite fortunate to have a state-of-the-art facility like this. Using a slide show, Ms. Jenkins

identified the site location within Aldea, noting it included a memory care component, and private-pay facility. This is one of the two designated institutions within Aldea. She identified the roadways and how the building is sited to minimize visibility,

Ms. Jenkins said they have been working with the westerly neighbors to relocate the driveway and have designated Avenida Aldea the main entrance as well as the service entrance and it will be signed as such. She demonstrated how the building was tucked down into the lot and provided excellent emergency access. The site is 6.78 acres with 4.8 acres or 72 percent of dedicated open space. The building will be of a territorial style with significant landscaping and planted and screened retaining walls. Slides demonstrated how the building would sit on the property and mitigate view obstruction.

Ms. Jenkins said three meetings were held with the community and she felt confident that they have responded to the residents' concerns.

Mr. Larrañaga corrected staff's report page NBC-5 stating the applicant has proposed 8.06 acre-feet not 10.0 acre-feet of water use.

Duly sworn, Arthur Fields, 18 Camino de Vecinos, Santa Fe, an Aldea resident and managing partner of Aldea LLC, stated approximately 10 years ago when they obtained a master plan amendment to include retirement housing, Mr. Fields said he hoped for a day like today with a project of this caliber. He lauded the integrity and credibility of the developers of the Legacy project and said this is the kind of project that supports the northwest side community. He urged the CDRC to support the application.

Duly sworn, Barry Fields, Arthur's brother and a resident of Aldea, said PinPoint gave an excellent presentation to the community and received an overwhelming positive response. He pointed out that this seven-acre site was zoned for institutional use.

Under oath, the onsite manager for Aldea de Santa Fe, Tony Brown said the Board of Directors have discussed the project and have no issues. The facilities' lift stations have the capability of handling the flow the Legacy facility, the roadways can handle the traffic increase and the majority of the homeowners are in agreement with the project. He said the few issues that remain are being handled by PinPoint and JenkinsGavin.

Duly sworn, Laura Clark present with her husband Sandy, residents of Aldea said they are very happy living in the community of Aldea. She said she was delighted a senior living facility would be located in Aldea.

James Talley, duly sworn, 35 Avenida Frijoles, Aldea, said there were eight homes impacted by this development on his street. The eight homeowners are pleased the facility is going in and appreciate their relationship with JenkinsGavin and PinPoint. The developer is willing to work with the neighbors to implement the best solutions as the construction and operation go into effect. He asked the CDRC to approve the request.

The public hearing was closed.

Ms. Jenkins returned to the podium to state the most recent meeting that occurred on May 20th is when the developers agreed to move the main entrance and mitigate impact on the neighbors. She said the driveway may require additional adjustments and asked that the CDRC allow the developer to make that adjustment with staff.

Chair Katz thanked the applicant for working with the neighbors.

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

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

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

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

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

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

- D. CDRC CASE # V/DP 13-5381 Elevation Multi-Family Community Vedula Residential Operating, LLC, Applicant, JenkinsGavin, Agents, request Preliminary and Final Development Plan approval for a multi-family residential community consisting of 200 residential units on 22 ± acres in conformance with Santa Fe County Ordinance 1996-10, the Land Development Code (the Code). The Applicant also requests a variance of Ordinance No. 2000-12, Section 6.E.3.c) to allow a no-outlet roadway to exceed 300 feet and a variance of the Code, Article V, Section 8.1.4, which states that dead end roads may not serve more than thirty (30) dwelling units. The site is located at 63 College Drive, within the Community College District, within Section 21, Township 16 North, Range 9 East, (Commission District 5)**
[Exhibit 6: JenkinsGavin Elevation slide show presentation; Exhibit 7: Bruce Krasnow email to Staff opposing the development; Exhibits 8 &

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

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

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

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

“Density allowed in this area is a minimum of 3.5 dwelling units per acre. The Applicant is proposing approximately 9.7 dwelling units per acre.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Chair Katz asked Fire Marshal Patty to address the problem of a major wildfire or flood in the area calling for an evacuation at the roundabout at Richards Avenue. Marshal Patty said the wildland fire danger is rated low in that area because it lacks vegetation and what is there would burn slowly. There is an exception in the Fire Code that with sprinkling, up to 200 units can be located on a dead-end. The development is required to have three accesses onto College Drive. He said traffic will be a problem if there is an evacuation and he did not calculate the units in College Heights.

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

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

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

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

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

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

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

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

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

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

E. PETITIONS FROM THE FLOOR

None were presented

F. COMMUNICATIONS FROM THE COMMITTEE

None were presented.

G. COMMUNICATIONS FROM THE ATTORNEY

None were presented.

H. COMMUNICATIONS FROM STAFF

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

- I. NEXT CDRC REGULAR MEETING: June 18, 2015**

J. ADJOURNMENT

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

Approved by:

Frank Katz, CDRC Chair

ATTEST TO:

GERALDINE SALAZAR
COUNTY CLERK

Respectfully submitted by:
Karen Farrell Wordsworth



Jose Larranaga



From: Jennifer Jenkins <Jennifer@jenkinsgavin.com>
Sent: Thursday, May 21, 2015 9:53 AM
To: Jose Larranaga
Cc: Vicki Lucero
Subject: Legacy at Santa Fe
Attachments: AveFrijolesDriveway-Grading Revised 05.20.15.pdf

Hi Jose,

We met with the residents along Avenida Frijoles on Monday afternoon and, in response to their concerns about our driveway location, we have shifted the driveway north approximately 70 feet to align with the open space corridor across the street. Therefore, the driveway will no longer be directly in front of someone's home. The revised plan is attached. In my presentation, I will address this change and the fact that we have designated the Avenida Aldea driveway as the main entrance, per the neighbors' request. So, you don't need to cover it in your presentation.

Let me know if you have any questions.

Thank you.

Jennifer Jenkins

JenkinsGavin Design & Development, Inc.
130 Grant Avenue, Suite 101
Santa Fe, New Mexico 87501
Ph. (505) 820-7444
jennifer@jenkinsgavin.com
www.jenkinsgavin.com



AVENIDA FRIJOLES
 (63' R.O.W. & P.U.E.)
 CURB & GUTTER

BOTTOM OF POND = 6788.0
 0.47 AC. FL.

LOT 182

OPEN SPACE

181

C1

37° 36" E
 31.39

AVENIDA TAPALCO
 No. 4 Pb.





Jose Larranaga

From: Jason Gonzales <jtzales@msn.com>
Sent: Wednesday, May 20, 2015 3:48 PM
To: Jose Larranaga
Subject: Letter for Thursday meeting

Dear council members,

I was unable to attend tonight's meeting due to work obligations. I wanted, however, to express my concerns regarding the planned nursing home/"memory center" in Aldea.

They stem not so much from the type of planned institution, but the size. At 84 beds, the center will be a relatively large size. Working in healthcare at Presbyterian in Albuquerque, our census generally runs in the 300's. Given this, I am very aware that with greater than 80 beds, the nursing home will require a high level of support in various forms-including laundry, medical, waste, and food services. They will place a large burden on such a small community. The center will not even have access to the main road, but plans to use the Aldea road system.

Thank you for hearing my concerns,
Jason Gonzales

Sent from my iPhone

James A. Talley and Barbara L. Talley

35 Avenida Frijoles · Santa Fe, NM 87507 · Home: 505-438-6164 · Mobile 505-501-9600 · E-mail jatalley@msn.com



May 14, 2015

**County Land Use Administrator
P.O. Box 276
Santa Fe, NM 87504-0276**

Attention: County Development Review Committee

**Subject: CDRC CASE # PDP/FDP 15-5090 The Legacy at Santa Fe
PinPoint, LLC's request for Preliminary and Final Development Plan approval**

Dear County Development Committee:

We are property owners within 100 feet of the Subject project; therefore, we are responding with comments, questions and objections as requested in your Certified Mail Letter of April 30, 2015.

We have **one and only one** issue with the project. We desire the main entrance to be changed from Avenida Frijoles between Camino de Vecinos and Camino Botanica to Avenida Aldea.

Since no residential properties presently exist, or are planned on or around Avenida Aldea, if the main entrance is configured there, there will be **no** environmental impact to Avenida Frijoles home owners, and **no** environmental impact to homeowners in the entire Aldea complex.

With your kind indulgence, we would like to amplify our thinking to enhance your understanding of our position during your consideration/evaluation process. Our thoughts are offered in four parts.

- Background
- Q & A Correspondence Exchanged with Aldea's HOA Board/Management
- Important Issue for the County Development Committee's Consideration
- Recommendations

Each is discussed separately.

1. Background

The map and information contained in your Certified Mail Letter of April 30, 2015 is completely silent/void regarding the main entrance planned for the Legacy at Santa Fe project. Following are the key issues facing impacted homeowners relative to the planned main entrance on Frijoles. The majority of impacted home owners (those within 100 feet) express the following.

- Impacted home owners **Are Not** against the addition of the assisted living complex. Most of us knew the lot was designated commercial when we moved here. There is no hint of the NIMBY syndrome. In fact we all hope that the addition will enhance the Aldea environment.
- Impacted home owners **Oppose** having the main entrance on Avenida Frijoles between Camino de Vecinos and Camino Botanica (as PinPoint has planned) to avoid the headlight and vehicle noise environmental impacts to the adjacent homes.

2. Q & A Correspondence Exchanged with Aldea's HOA Board/Management

Our property manager and the HOA Board have provided thoughtful input to us in response to our in-depth probing. They strongly support us on our entrance location concerns. Following are key portions of our correspondence that may be helpful to the County Development Review Committee's decision process; thus, they are provided below.

HOA Board/Management Input

As you know from attending the last meeting about the facility the HOA has no say in this development and Arthur Fields (the Aldea developer) made sure of that by classifying that lot as Special Use in the documents which excludes it from the HOA Declaration and Design Codes. We are still waiting to see the recorded Declaration for that lot from Arthur so we know what percentages the development (The Legacy at Santa Fe) will pay to the Association (Aldea HOA) for road and sewer use.

Talley's Response

We would like to address your two points separately.

1. In all the sessions to date with PinPoint representatives, a theme has evolved strongly suggesting that the HOA has no ability to impact the design of the project. Yet isn't there an ability for the HOA to impact the project based merely on the principle of sound integration of the facility into the existing Aldea residential environment? Isn't that the primary reason PinPoint has held meetings with Aldea residents? I submit that there is an ability to impact the project, particularly through the single strong Aldea voice – the Board. PinPoint surely wants to be a good neighbor.
2. We are not clear what the basis for road and sewer remuneration to the HOA is. Based on your statement, the HOA does not have a clear understanding either. Is it

May 14, 2015

James A. and Barbara L. Talley – County Development Review Committee, Correspondence

CDRC CASE # PDP/FDP 15-5090 The Legacy at Santa Fe
PinPoint, LLC's request for Preliminary and Final Development Plan approval

possible that the HOA may hold some leverage here that may be brought to bear on the main entrance location issue? The roads are owned by the HOA!

The thrust of our plan in the initial email to you was that the HOA would work to have the entrance on Frijoles moved closer to the West Frontage Road. For the following reasons we have **abandoned** this scenario. You have concluded that there is **no possibility** for the main entrance to be situated on Frijoles between the West Frontage Road and Camino de Vecinos since HOA open or common space cannot be sold.

Could a road on such space be legally assigned in any way other than through a sale?

In the initial meeting with PinPoint, we believe discussions were in fact entertained, wherein it **would be possible** to have an entrance road utilize HOA open or common space. However, it was stated that a two-thirds majority of homeowners would have to approve.

Clearly, it has been shown that such a two-thirds majority is impractical to garner in our community. Most importantly though, if such an approach were practical, there is insufficient time to undertake it.

HOA Board/Management Input

The Board and I agree that it would be better for Aldea residents if the **main entry were off Avenida Aldea and not on Avenida Frijoles.**

...The main entry cannot be moved farther down Avenida Frijoles because their lot (Pinpoints) ends just before the intersection of Frijoles and Camino de Vecinos. We can still suggest that they move the main entry to Avenida Aldea, which we have twice, once at the meeting you attended, and again via email with Jennifer Gavins, but they seem to think an entry on Avenida Aldea would be dangerous because of the slope and the blind curve.

... As for the Declaration for that lot (the Legacy at Santa Fe's lot); the HOA does not make the determination as to what percentage the Assisted Living Facility would pay to the HOA for roads and sewer left station use, Arthur Fields (the original developer of Aldea) does again because it is a special use lot.

Ideally the location for that entry should be aligned with the existing three-way intersection that is already there (this intersection is at Avenida Frijoles and Camino de Vecinos). *But we still need to see the plat so we know exactly where their property starts and the HOA's ends to determine if that is possible.* (This point is offered as an alternative in the Recommendations section).

3. Important Issue for the County Development Committee's Consideration

PinPoint suggests that the main entrance off Avenida Aldea may cause unnecessary hazards because of the current configuration of the road, i.e., grade and curves. This may be true, but upon examination it appears there is a larger issue.

May 14, 2015

James A. and Barbara L. Talley – County Development Review Committee, Correspondence

CDRC CASE # PDP/FDP 15-5090 The Legacy at Santa Fe
PinPoint, LLC's request for Preliminary and Final Development Plan approval

The HOA has no say as to the level of remuneration that the assisted living facility will pay for use and maintenance of the roads, particularly Avenidas Aldea and Frijoles – these are the roads that will be most commonly used by the residents and employees of The Legacy at Santa Fe. That means that the initial owner of the assisted living lot (the original developer of Aldea) has determined by fiat what the rates of remuneration will be, perhaps ad infinitum.

What's key here is that it appears to be an erroneous assumption that the roads to be utilized by the assisted living residents, and the employees are sized for commercial use as-is. Is that true? These roads are the same size as the roads throughout Aldea. The answer seems logically apparent – No. It's clear the original Aldea developer would not sink capital into roads for the future needs of commercial development. It's just good capitalistic business sense. Besides there were just too many unknowns in the early development phases of Aldea to make good commercial road investment decisions even if capital were available.

It's reasonable (based on HOA Board/Management information shown earlier in this letter) to assume that the Aldea HOA is currently responsible and will continue to be responsible for all issues concerning the roads once the assisted living facility is built, including any and all liability.

Yet the HOA has no say in the apparent assumption of future liability, i.e., the rate likely does not take into account improvements and large scale changes that may be necessary to support commercial utilization such as The Legacy. Should accidents occur, and the roads are found to be inadequate for the commercial level of usage, it will be an Aldea HOA responsibility to withstand any and all monetary judgements that might be leveled based on the apparent structure of the current agreements. Where would capital investment come from if the roads need to be expanded/upgraded to meet higher levels of traffic demand and associated maintenance? The agreement seems to be disproportionate and not make good sense for all parties. This may be a problem.

Should the County Development Review Committee consider this issue in granting project approval?

4. Recommendations

We kindly urge that the County Development Review Committee consider:

Insisting that main entrance should be situated off Avenida Aldea. Direct PinPoint to mitigate the slope and blind curve safety issues they have identified in a manner acceptable to your committee.

We suggest as an alternative the County Development Review Committee consider:

Adopting the HOA Board/Management recommendation discussed earlier in this letter.

May 14, 2015

James A. and Barbara L. Talley – County Development Review Committee, Correspondence

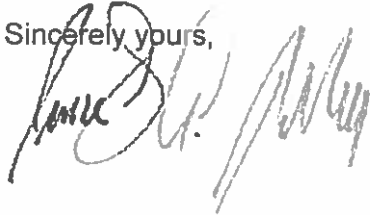
CDRC CASE # PDP/FDP 15-5090 The Legacy at Santa Fe
PinPoint, LLC's request for Preliminary and Final Development Plan approval

Install an entrance aligned with the three-way intersection that currently exists at Camino de Vecinos and Avenida Frijoles.

We hope this information is valuable and helpful in your decision/approval process. Please advise if you require clarification to our position in any way.

Thank you for your consideration of our concerns on this important issue.

Sincerely yours,





Jennifer Jenkins

From: Kay Eccleston <kayquilt@comcast.net>
Sent: Wednesday, May 20, 2015 8:20 PM
To: Jennifer Jenkins
Cc: George Eccleston
Subject: Re: Legacy Assisted Living Project - Aldea

Follow Up Flag: Flag for follow up
Flag Status: Flagged

We support the Legacy of Santa Fe and think it is the best use of the institutional lot.
We appreciate the effort you have made to inform the community and to sight the building so that it maintains the views and fits into the landscape.

George and Kay Eccleston
47 Avenida Frijoles

Kay Eccleston
47 Avenida Frijoles
Santa Fe, NM 87507

Sent from my iPad

Jennifer Jenkins

From: c4ewolf@aol.com
Sent: Monday, May 18, 2015 11:40 AM
To: Jennifer Jenkins
Subject: Re: Legacy at Santa Fe

Jennifer,

Thank you for sharing the renderings. They have proved to be very useful and help alleviate any concerns over the site design, facility design and impact on view from Camino Botanica. As I shared, our house is directly behind the proposed site at 25 Camino Botanica. Your plan to take advantage of the slope of the hill to minimize impact on our view is much appreciated. Your concern for the landscape, our community's interests and also meeting your clients needs is refreshing. Thank you again for your responsiveness to addressing our questions and concerns.

Respectfully, k

Kathryn Pendergast Wolf and Victoria Pendergast
25 Camino Botanica



Jose Larranaga

From: Bruce Krasnow <brucekrasnow@gmail.com>
Sent: Sunday, May 17, 2015 5:51 PM
To: Jose Larranaga; vlucero@county.santa-fe.nm.us; wdalton@county.santa-fe.nm.us; Penny Ellis-Green
Subject: CDRC Case DP 13-5381 Elevation

Follow Up Flag: Follow up
Flag Status: Completed

Jose,

Please add this to the CDRC materials - thank you

Members of the CDRC,

I am unable to attend the May 21, 2015 meeting. Please consider these comments with regards to Item D under New Business: **Case DP 13-5381, Elevation Multi-Family Community.**

When we came before you previously to challenge the master plan change for this property, many of you agreed with our assessment that this project is not suitable for a single-family neighborhood and should not move forward at least until the transportation and infrastructure deficiencies in and around Richards Avenue are resolved.

In a 5 to 1 vote, the CDRC voted against the master plan change for The Elevation. I thank you for that support. In comments before the vote, one of your members even commented, "You don't have a traffic problem out there you have a traffic crisis."

Unfortunately, the Board of County Commissions did not agree and granted approval to change the master plan, acknowledging the problems but hoping they might be mitigated at the time of final development approval.

Bruce E. Krasnow

3B Dean's Ct.

Santa Fe, NM 87508

brucekrasnow@gmail.com

SANTA FE COUNTY
LAND DEVELOPMENT CODE
Santa Fe County Ordinance 1996 - 10



...

Section 3 - Variances

3.1 Proposed Development

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency



requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

...

8.1.4 Dead end roads may not serve more than thirty (30) dwelling units, except that the Code Administrator with the concurrence of the Fire Marshal may approve the development of

more than thirty (30) lots on a dead end road. The Code Administrator may require a second access for any development with fewer than thirty (30) dwelling units where issues of public health, safety and welfare exists.

...

SANTA FE COUNTY
SUSTAINABLE LAND DEVELOPMENT CODE

Adopted by Ordinance 2013-6

...

7.11.7. Cul-de-sacs (dead end roads).

7.11.7.1. Cul-de-sacs (dead end roads) shall not serve more than thirty (30) dwelling units.

7.11.7.2. At the closed end there shall be a turn-around having a minimum driving surface radius of at least forty-two (42) feet for roads under 250 feet long and at least fifty (50) feet for roads 250 feet and longer. The Administrator, in consultation with the Fire Marshal, may approve a suitable alternative such as a hammerhead or turnaround.

7.11.7.3. All turn around areas shall be designed to protect existing vegetation and steep terrain.

...

14.9.7. Variances.

14.9.7.1. Purpose. The purpose of this section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district. *

14.9.7.2. Process. All applications for variances will be processed in accordance with this chapter of the Code.

14.9.7.3. Applicability. When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC except that the planning commission shall not grant a variance that authorizes a use of land that is otherwise prohibited in the relevant zoning district.

14.9.7.4. Review criteria. A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) where authorized by NMSA 1978, Section 3-21-8(C):

1. where the request is not contrary to the public interest;
2. where, owing to special conditions, a literal enforcement of the SLDC will result in unnecessary hardship to the applicant; and
3. so that the spirit of the SLDC is observed and substantial justice is done.

14.9.7.5. Conditions of approval.

1. The Planning Commission may impose conditions on a variance request necessary to accomplish the purposes and intent of the SLDC and the SGMP and to prevent or minimize adverse impacts on the general health, safety and welfare

of property owners and area residents.

2. All approved variances run with the land, unless conditions of approval imposed by the Planning Commission specify otherwise.

3. All approved variances automatically expire within one year of the date of approval, unless the applicant takes affirmative action consistent with the approval.

14.9.7.6. Administrative variance/minor deviations. The Administrator is authorized to approve administrative variances from the dimensional requirements of Chapter 7 the SLDC not to exceed ten percent of the required dimension, but only upon a finding that the result is consistent with the intent and purpose of this code and not detrimental to adjacent or surrounding properties.



Why the Vedula Elevation Apartment Complex needs to be built somewhere else--and there are plenty of good options!

The CDRC denied this project 5 to 1 at its last review, citing traffic problems and deploring the tactics used by Univest and Vedula developers.

We thank you profoundly for this vote.

Initially Rancho Viejo was designed to have three Village Centers: The Village, Windmill Heights and College Heights. College Heights was planned for 73 homes but only 20 were built on Dean's Court. An unpaved street linked to Deans Court, called Meador Lane, has an additional 5 residences.

Rancho Viejo developer Univest, without notice to all Rancho Viejo residents, did not renew the College Heights Master Plan, attempted to get out of the covenants, and subdivided the undeveloped land into two parcels. It did this, even though it had promised home buyers, in writing in sales documents, that the College Heights Community would always be part of a planned development and that the covenants would run with the land.

Univest then sold or promised to sell one parcel to Vedula Residential (of Scottsdale, Arizona--a build and dump firm) which initially wanted to put 400 apartments on the land. When the Southeast Connector was pushed farther East, the planned 400 units were reduced to 200 due to the lack of fire access.

At this time College Heights and Meador Lane properties compose a dead-end at College Drive. Adding 200 apartments at this dead end would exceed the Santa Fe County Land Development Ordinance 1996-10 by 500% and in the event of the need to evacuate, trap the existing 25 residents, not to mention the apartment dwellers. **Further complicating the issue is the fact that the Santa Fe Community College (SFCC) back exit empties into College Drive.**

What could cause an evacuation? There could be a ground fire, a tornado, a plane crash or a violent event at the SFCC. Weather problems cause most of the SFCC evacuations.

So, with Elevation, possibly 1,000 cars would be trying to exit in an emergency. At the circle of Richards and College Drive, the addition of the Catholic School, Community College and other facility evacuations could trap most of the 1,000 cars trying to evacuate and keep emergency vehicles from entering College Drive.

The infrastructure to support safety for those using College Drive is completely

inadequate even without the Elevation Apartments.

In addition:

–Traffic on Richards, when Community College classes let out, is literally bumper to bumper all the way to Rodeo Road. The flow through Oshara Village to Rabbit Road and ultimately Saint Francis has become a nightmare for that Community. Two-hundred apartment units would burden us all in terms of traffic which has already reached crisis proportions.

–College Drive is **two lanes** with utilities running down one side and a ditch on the other. It is not built to specifications that would sustain heavy vehicles nor traffic.

–Univest (which owns huge amounts of land in this area) and Vedula are perfectly capable of putting this complex elsewhere, where it would be acceptable to the residents of Rancho Viejo, which almost totally object to this location and the loss of their Village Center. And it could still be walking distance to the Community College if that is desirable. In addition, the apartment residents would have improved safety and access in and out of the area.

–Apartment dwellers will use Rancho Viejo streets, facilities and trails without paying the maintenance fees required by the covenants. For this reason, the Rancho Viejo North Board has written a letter protesting this development.

–The County Board of Commissioners (BCC) approved this project in a confused vote of 3 to 2 after meeting in secret, allegedly to consult with the County Attorney. At least one person voting yes later inferred that they wished they had not done so. They gave no reasons for their vote and it took us a long time to even find out who voted yes and who voted no. We are appalled that our BCC is so unresponsive to this community. **We think the CDRC should stand its ground with the BCC.**

–One BCC member said that the Board should support staff, which recommended for Elevation. By means of the State Inspection of Public Records Act, we read the emails between staff and Vedula contractors. We learned that staff has close association with contractors that go beyond a business relationship. Some of these contractors are former County employees and these businesses are a potential source of jobs for County employees.

–The BCC Final Report attempted to discredit the testimony of Rancho Viejo residents, saying that they were not experts. **We beg to differ.** On Dean's Court alone, we have an Attorney, a famous Hispanic family that works in the arts, an Editor from the New Mexican, international trainers, a retired State Department diplomat, a contractor who

works on streets and roads, an expert in non-profits, families active in the real estate industry, business owners, retirees, and others who give their all to Santa Fe.