

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)
July 10, 2001 - 4:00 p.m.

(Due to the number of items on the Agenda, it will not be possible for all matters to be heard on July 10, 2001. The Board Meeting will commence at 4:00 p.m. on July 10, 2001, and those designated items are scheduled to be heard. The Board Meeting will recess and reconvene on July 24, 2001, at 4:00 p.m. Items to be heard for July 24 are so designated.)

Amended Agenda

July 10, 2001 - 4:00 p.m.

- I. Call to Order
II. Roll Call
III. Pledge of Allegiance
IV. Invocation
V. Approval of Agenda

- A. Amendments
B. Tabled or Withdrawn Items
C. Items Moved to July 24, 2001

VI. Approval of Minutes

VII. Consent Calendar

A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:

- 1. CDRC Case #A/V 01-5120 - Mike Ferran Appeal Variance (Approved)

VIII. Administrative Items:

A. Committee Appointments:

- 1. Santa Fe Community College District Local Development Review Committee
2. Regional CIP Advisory Committee

IX. Staff and Elected Officials Items:

A. Community, Health and Economic Development Department

- 1. Resolution No. 2001-91 A Resolution Assigning the Santa Fe County Manager Signature Authority for the Santa Fe County Housing Services Division Home Sales Program

B. Finance Department

- 1. Presentation by Rick Johnson & Company Regarding the Marketing and Advertising Plan for Santa Fe County for Fiscal Year 2000-2002

Handwritten notes: Approved - June 26, 2001 - Jonnie Abstained for record page 19 - change less to none - approved w/ conditions

Handwritten note: approved

Handwritten note: approved

Handwritten notes: Wm Kiesel; Mr. Dennis; Mr. Reader; Mr. Songer

- 2. Request Authorization to Enter into Amendment Number Five to the Professional Services Agreement, #20-0052FI, with Rick Johnson and Company for Lodgers' Tax Advertising and Marketing Services

C. Land Use Department

- 1. Resolution No. 2001-⁹² A Resolution Replacing Resolution No. 1991-52 "Establishing Development Permit Fees"
- 2. Resolution No. 2001- A Resolution Supporting Continuing, Cooperative Efforts Between the City of Santa Fe, Santa Fe County and the New Mexico State Land Office to Protect, Preserve and Rehabilitate the Santa Fe River as a Valued, Local Natural Resource and to Promote Public Educational and Recreational Opportunities Along the River Corridor
- 3. Request Authorization to Enter into a Memorandum of Agreement (MOA) with the City of Santa Fe for a Santa Fe Southern Rail Corridor Appraisal and Valuation Study
- 4. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 1996-10, Article II, Sections 1.2 and 1.3 to Restructure the County Development Review Committee and Local Development Review Committee and Local Development Review Committee Structures and to Create Local Planning Boards in Communities that have Adopted Community Plans
- 5. Request Authorization to Enter into a Customer Contract with Phillip and Deluvina Sena for Commitment of Water and Sewer Utility Service for a Project Utilizing the Transfer of Development Rights Program
- 6. Request Authorization to Acquire the Following Real Property for the Wildlife, Mountains, Trails and Historic Places Program:
 - a. South Meadows Tract - Located South Meadows Blocks 3 and 4, Section 1, Township 16 North, Range 8 East, Section 6, Township 16 North, Range 9 East
 - b. Madrid Lot - Located in Madrid, Improvement No. 208G, 209G, 210, 211, 212 and 213 as Shown on the Residential Area on the Townsite of Madrid

D. Matters from the County Manager, Samuel O. Montoya

E. Matters of Public Concern - NON-ACTION ITEMS

F. Matters from the Commission

- 1. Resolution No. 2001- A Resolution Authorizing Expansion of the Santa Fe County's Water and Sewer Utilities Service Areas
- 2. Resolution No. 2001- A Resolution Directing County Staff to Take all Reasonable and Necessary Action to Commence Planning and Development of a Regional Surface Water Diversion System at Buckman

G. Matters from the County Attorney, Steven Kopelman

1. Executive Session

- a. Discussion of Pending or Threatened Litigation
- b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

c. **Discussion of Competitive Sealed Proposals Solicited Pursuant to the Procurement Code Relative to Contract Negotiations - Adult and Juvenile Detention Facilities and Electronic Monitoring Program**

X. Public Hearings

- A. **Request Authorization to Proceed with Negotiations for the County Open Lands and Trails Planning Advisory Committee (COLTPAC) Recommended Vista Grande Ranch Trail Corridor Project - Located at the Ortiz Mine Grant, Township 13 North, Range 8 East**
- B. **Ordinance No. 2001-~~4~~⁹ An Ordinance Amending Ordinance No. 2001-4, Declaring a Moratorium on New Subdivisions, Land Divisions and Master Plans for Projects Served by El Dorado Utilities, Inc. and Encouraging Conservation Measures within the El Dorado Utilities, Inc. Service Area to Establish Provisions under which Development can Proceed (First Public Hearing)**
- C. **Ordinance No. 2001-¹⁰ An Ordinance Amending the Santa Fe County Land Development Code, Ordinance 1996-10, to Add Section 13 to Article I Entitled "Procedures for Ordinance Amendments" (Second Public Hearing)**

D. Land Use Department Items:

- 1. **CDRC CASE #M 00-5630.** J.R. Hale Mine Contracting, applicant, Sam Bregman, agent, request approval for creation of a mine zone to allow sand and gravel extraction on 134.32 acres. The request includes a variance of Article VII, Section 3.4.1c1.a of the Land Development Code to allow for disturbance of rock outcroppings and a variance of Article VII, Section 3.4.1c1.c to allow for disturbance of slopes of 30% or greater. The property is located north of County Road 57, near Waldo, within Sections 12 and 13, Township 14 North, Range 7 East (Commission District 3). Frank White (TABLED)
- 2. **CDRC CASE #V 01-5200.** Copar Pumice Company Variance. Copar Pumic Company (Kelly Armstrong, President) requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow a Summary Review Subdivision of 2.01 acres into two lots; 1 acre and 1.01 acres in size. The property is located east of US 285, 2 miles south of Cuyamungue, within Sections 27 and 28, Township 19 North, Range 9 East (Commission District 1). Penny Ellis-Green
- 3. **LCDRC CASE #Z 01-5010.** Santa Fe Downs Master Plan. Pojoaque Pueblo Development Corporation applicant, Jim Siebert, agent, requests master plan zoning approval to allow for recreational/non-residential uses at the Downs of Santa Fe on 321 acres in 2 phases. The property is located southwest of the Intersection I-25 and State Road 599, within Sections 26 and 27, Township 16 North, Range 8 East (Commission District 3). Penny Ellis-Green (TABLED)
- 4. **LCDRC CASE #MIS 01-5011.** Downs Liquor License. Pojoaque Pueblo Development Corporation, applicant, Jim Siebert, agent, request approval to allow for a transfer of ownership of Liquor License No. 366 from PTE Inc. to the Pojoaque Pueblo Development Corporation, the liquor license is to remain at the present location at the Downs at Santa Fe, 27475 I-25 West Frontage Road. The property is located southwest of the Intersection of I-25 and State

Road 599, within Sections 26 and 27, Township 16 North, Range 8 East (Commission District 3). Penny Ellis-Green (TABLED)

5. *Approved* **CDRC CASE #Z 01-5130.** The Village at Eldorado. Allan and Stacy Crossingham, applicants, requests a Master Plan Amendment to include 30,000 square foot of retail shops (including take out food establishments, an open air market and a pub with the sale of liquor), a 21,000 square feet 6 screen movie theater, 5,000 square feet of office space and 14,000 square feet of Community Service space on 9.59 acres. The request includes the property to be served by an on-site well instead of by Eldorado Utilities. The property is the Village at Eldorado (formerly Sierra Plaza) located at the southeast corner of Avenida Grande and Caliente Road, within projected Sections 9 and 16, Township 15 North, Range 10 East (Commission District 5). Frank White
6. **CDRC CASE #MIS 01-5280.** Agora Plat Vacation. Agora I and Agora II LLC, applicant, request approval to vacate a previous plat for the purpose of consolidating two lots and to remove a note on the previous plat which prohibits development on the lots until the Eldorado moratorium is lifted, in accordance with Article V, Section 5.7 of the Land Development Code. The property is located northwest of the Intersection US 285 and Avenida Vista Grande, within projected Section 9, Township 16 North, Range 10 East (Commission District 5). Penny Ellis-Green
7. **CDRC CASE #MIS 96-5131.** Mountain View Business Park Master Plan Extension. Coyote Moon Development, applicant, requests approval to allow for a 24 month extension to the expiration date of a master plan and master plat for a commercial subdivision on 10 acres (Mountain View Business Park), which was approved on July 9, 1996. The property is located 5 miles north of Edgewood, north of the intersection of State Road 344 and State Road 472, within Section 27, Township 11 North, Range 7 East (Commission District 5). Penny Ellis-Green
8. **EZ CASE #S 01-4220.** Sena Vista Heights. Phillip & Deluvina Sena, applicants, Jim Siebert, agent, request Master Plan, Preliminary and Final Development Plan & Plat approval for a 70 lot residential subdivision on 15 acres through a Transfer of Development Rights as set forth in the Santa Fe Metro Area Highway Corridor Plan. The property is located off of the I-25 Frontage Road across from the La Cienega Interchange, within Section 26, Township 16 North, Range 8 East (2-Mile EZ District). Vicki Lucero
9. **EZ CASE #M 01-4260.** Tesuque Knolls. Ralph Brutsche, applicant, Oralynn Guerrerortiz, agent, request authorization to proceed with a Master Plat procedure for a 15 lot residential subdivision on 65.92 acres. The property is located along State Road 475 (Hyde Park Road), within Sections 4, 5, 8 & 9, Township 17 North, Range 10 East (2-Mile EZ District). Vickie Lucero

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SFC CLERK RECORDING 08/16/2004

SANTA FE
BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

July 10, 2001

Paul Duran, Chairman
Paul Campos
Javier Gonzales
Jack Sullivan
Marcos Trujillo

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

July 10, 2001

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:14 p.m. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Commissioner Paul Duran, Chairman
 Commissioner Marcos Trujillo
 Commissioner Javier Gonzales
 Commissioner Paul Campos
 Commissioner Jack Sullivan

Members Absent:

None

IV. INVOCATION

An invocation was given by Commissioner Marcos Trujillo.

V. APPROVAL OF THE AGENDA

- A. Amendments
- B. Tabled or withdrawn items

CHAIRMAN DURAN: Sam, I have one request. I don't know which one it is so help me find it. We're going to be discussing the water diversion project, a resolution that's coming forward. Do you know which one that is?

SAMUEL MONTOYA (County Manager): Yes, Mr. Chairman, good afternoon. It's item IX. F. 2, second page in yellow print.

CHAIRMAN DURAN: Okay, good. The Mayor of Santa Fe is coming to the

meeting and would like to participate or maybe not participate but actually, he'd like to say a few words after we've had some discussion and prior to us deciding what we're going to do on this issue. So I was wondering if we could bring that up right after Approval of the Minutes. So actually, how about right after the Consent Calendar?

MR. MONTOYA: Mr. Chairman, there are various amendments to the agenda and if I could go through those and then we'll keep in mind your request.

CHAIRMAN DURAN: We want to do that one first so the Mayor can go continue with his City business.

MR. MONTOYA: That's fine, Mr. Chairman. Mr. Chairman, if I could go through the amendments on today's agenda. They are in yellow print on the Commission copy.

The first amendment, Mr. Chairman is under item VIII. A. 2, which includes the Regional CIP Advisory Committee. That is an amendment for today's agenda. The next is item IX. F. 2, which is the item the chairman referred to just now. The tablings, Mr. Chairman, are items X. D. 1 and those are land use cases M 5630. The second tabling on the land use cases is item X. D. 3, which is case Z 5010. And the last tabling under the Land Use Department issues is D. 4, which is case MIS 5011. Those are the tablings for today, Mr. Chairman.

The items in red are moved to the July 24 meeting, which is a continuation of today's meeting, simply because there was too many items on the agenda, Mr. Chairman. We, under your consultation broke this meeting up into two separate meetings and we will be moving the items in red, which are VII. A. 1 under the Consent Calendar to adopt the findings of fact. Also item IX. C. 2, which is a resolution supporting continuing cooperative efforts between the City and County of Santa Fe to protect and preserve and rehabilitate the Santa Fe River. That has been moved to the 24th. And item IX. C. 4, which is a request to publish title and general summary of Ordinance 96-10 to restructure the County Development Review Committee. And the last, Mr. Chairman, is X. D. 9, which is the Tesuque Knolls case, which is EZ case M 01-4260. That has been moved to the 24th.

CHAIRMAN DURAN: Okay. I was wondering if the Commission wouldn't mind tabling the committee appointments, which is item VIII. A, Santa Fe Community College District Local Development Review Committee. My understanding is that there will be five appointments to this committee and we've only received six which doesn't give us too many options. And I was wondering if we could table that to the next land use meeting so other people could have opportunities to submit their resumes.

COMMISSIONER GONZALES: So moved.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: How do you intend to deal with that item? Do you intend to publish asking people to apply? How would you want to do that?

CHAIRMAN DURAN: I hadn't given that much thought. I was leaving that up to the Land Use Department. Sam, do you have any ideas on that?

MR. MONTOYA: Mr. Chairman, I think we could place the item in the local newspaper asking people that are interested in serving to please submit their resumes to the Land Use office and if we could run that in the next two to three days and seek some other interest, Mr. Chairman.

CHAIRMAN DURAN: Or run it next week, all next week, something like that.

MR. MONTOYA: Right.

CHAIRMAN DURAN: Does that work for you, Roman?

ROMAN ABEYTA (Deputy Land Use Administrator): Mr. Chairman, Commissioners, yes. We can do that. We've run one so far and we can run another one. That's fine.

CHAIRMAN DURAN: Okay. Any questions?

COMMISSIONER SULLIVAN: Yes. Are there others that you know of that are wanting to submit because it was run.

CHAIRMAN DURAN: I've had several calls asking that we table it for another month so we have more options to select or more people to select from.

COMMISSIONER SULLIVAN: That's fine.

CHAIRMAN DURAN: Okay, so the chair will entertain a motion to approve the agenda as amended.

COMMISSIONER GONZALES: So moved.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion? Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

VI. APPROVAL OF THE MINUTES:
Special Meeting, June 12, 2001

CHAIRMAN DURAN: Any changes to those minutes?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Oh, pardon me. Mine are on the June 26th meeting. No, I don't have any changes.

CHAIRMAN DURAN: Okay, if there's no changes to the June 12, 2001 meeting, is there a motion to approve?

COMMISSIONER TRUJILLO: Mr. Chairman, are these the regular meeting? There's some minutes in here of the Intergovernmental Summit.

CHAIRMAN DURAN: Right. That's the June 12th.

COMMISSIONER TRUJILLO: That's the one? Okay. Do we have a motion to approve?

CHAIRMAN DURAN: If you'd like to make one.

COMMISSIONER TRUJILLO: I'd like to make one, yes.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales abstained.]

Regular Meeting, June 26, 2001

CHAIRMAN DURAN: Commissioner Sullivan, you have some changes?

COMMISSIONER SULLIVAN: Just one, Mr. Chairman, one page 19. Right in the middle, under my comments, the fourth line, which starts with the City's impact fees are—and that word should be "more" than the County's and the County needs to increase its impact fees. It currently reads less. That's the only change.

CHAIRMAN DURAN: Okay. Did you get that? Any other changes? So is there a motion to approve as amended?

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second. Those in favor, signify by saying "aye." [Unanimous] Opposed? Motion carries.

VII. ADMINISTRATIVE ITEMS

A. Committee appointments

2. Regional CIP Advisory Committee

CHAIRMAN DURAN: Diane Quarles from the City is here and if you recall at the last meeting we had talked about this committee and it was I thought tabled to this meeting, and the reason it was brought forward as an amendment to the agenda was that the City Council is voting on this tomorrow night and they asked if we could consider these appointments at tonight's meeting so that if we decide to move forward on it the City would do the same.

DIANE QUARLES: Correct, Commissioner.

CHAIRMAN DURAN: Does anybody have any questions of Diane?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: We discussed this at length at the prior meeting but I was only informed of these nominations, and I believe they come from the City although I understand that Cyrus Samii also discussed them with you. I was only informed of these on Friday and I have some additional names that I would like to propose for the Commission's consideration. Not that any of those who are suggested here are incapable of serving, I just feel that these individuals are on quite a few committees, two of them on the CDRC, and one of the reasons in the staff recommendations for going to seven was they were having trouble getting the quorums that they need for the committee.

So I principally think in so far as we can, we should try to open up as many of these land use committees as we can. This one of course is dealing with the capital improvements advisory issues of determining a plan so that we can look at impact fees and are they compatible with our plans and is it compatible with the City's plans for each entity. And I think there's others who can contribute to that committee. So I have four. I'll pass these down for your consideration, in addition to those who are listed here.

One is Mr. John Reeder. I'm just going to pass down the resumes and you can give

them to the Clerk there. Mr. Reeder is the president of the Eldorado Community Improvements Association, ECIA, and you see from his resume very active in a number of land use issues in that area. I think he would make an excellent member. All of these individuals I have talked to and they have agreed to serve.

The second one is Mr. Steven Dennis. Mr. Dennis is in the construction field, and my understanding is that 40 percent of these members, which would be three, need to come from the construction or development or real estate industry. Is that correct.

MS. QUARLES: That's correct.

COMMISSIONER SULLIVAN: So he makes a good addition there, if the Commission would like to consider him. He is the owner of Mesa Steel. Mesa Steel is located out on Route 14 in Commissioner Gonzales' district. He's also very successful and employees a number of individuals. He himself is a Native American.

The third one is Esther Dianda. She is an attorney and has considerable experience in the Secretary of State's office and has indicated her interest in serving on the committee. And the last one is Michael Ossorgin, and Mr. Ossorgin is a contractor in Santa Fe dealing with a variety of home construction, certainly very interested in how impact fees apply to him, apply to his work and I have copies of his resume. These are individuals that I think could serve quite well.

In terms of just going through the balance of them, I would certainly endorse Mr. Bob Taunton, who is the representative for Rancho Viejo and would bring that perspective. I would certainly endorse Mr. Gilbert Martinez who is known from the Chamber of Commerce. I think this is his second term on the Chamber of Commerce and I also know Mr. Steve Flance, who is a planner, who is quite well known and been involved in City planning and County planning for many years. I'm certainly comfortable with those. And I'm not uncomfortable with any of the others. I just feel that that would make a very balanced slate and just offer that for your consideration, for the Commission's consideration.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like to get some clarification on how these seven names, how you came to list these seven names. I understand that the Mayor and you had something to do with it.

CHAIRMAN DURAN: I had nothing to do with it. Diane?

MS. QUARLES: Actually what we had done is create a short list and then circulated it among a group of people including the Mayor. This list basically, we brought it to the Mayor on Friday, we asked are you comfortable with these appointees? Would you like to include additional names? Are you comfortable in taking this forward based on the input that we've received and he actually expressed that he thought it was a very good group and was willing to bring it forward.

CHAIRMAN DURAN: And I concurred with you on it.

MS. QUARLES: That's correct. And we had also been speaking with Commissioner Duran so that basically there was concurrence with both bodies.

COMMISSIONER CAMPOS: So the only input was from the chairman in concurring to the list?

MS. QUARLES: Yes.

COMMISSIONER CAMPOS: Well, my feeling is I think it's a little imbalanced. I think it favors developers almost 70, 80 percent. I think we do need to see some new faces. It seems like a lot of these faces circulate from committee to committee and I would like to nominate William Kissell. He lives here in town. He's been involved with the 599 Memorial Highway Neighborhood Coalition. He's a representative of Tierra del Oro Homeowners Association. He's a retired business man and he's worked for some major corporations in the country, and I think he would be an excellent member on this committee. I think he'd add a little bit of diversity, a little bit of balance, which I don't see on this list and I see the same names coming up over and over on a lot of these committees. So I would nominate Mr. Kissell, William Kissell.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: What's the duration of these appointments, the ones you're recommending? What's the duration of the appointments? How long?

MS. QUARLES: As you see in the Mayor's memo, they have set it for a two-year term, to expire I believe in July 2003.

COMMISSIONER TRUJILLO: I'm comfortable with the recommendations that are being made on the list here and all the other names that have come before us can be considered at a later time if there's interest from other people to serve on this committee. I think for now that the list that we have in front of us is appropriate and in the next three years we can change the representation to reflect diversity and other issues that the Commission feels needs to be addressed. But for now I think there has been meticulous scrutiny on these people and I would support the list that has been provided and recommended to us.

CHAIRMAN DURAN: Diane, let me ask you a couple questions.

MS. QUARLES: Sure.

CHAIRMAN DURAN: The purpose of this committee is to develop an impact fee schedule that the City and the County can work together on so that development ultimately contributes to the cost of providing services and the extension of infrastructure.

MS. QUARLES: That is correct. This board is strictly in an advisory capacity and in particular, its charge is to make recommendations regarding the land use assumptions, which is the first step in the study, and then subsequent to that, to review the capital improvements plan. There's also some role in a longer term about monitoring the capital improvements plan and implementation of it as we go through the impact fees, once it's adopted.

CHAIRMAN DURAN: With that goal in mind, it seems to me that those people that we want to be in charge of this or to participate in this committee to make proper recommendations to us should be, number one, involved in the community, aware of the problems that the community is faced with and be able to build consensus amongst one another in the recommendations, so that they can bring to us some recommendations that will work, taking into consideration our community's varied interests.

And I look at this list as being able to do that and I would definitely move to recommend this committee as it's been proposed. So if there's no further discussion, hat's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Move for approval as has been recommended to the County Capital Improvements Advisory Committee.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: There is a motion and a second. Any further discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Going through the list, just for the record, Karen Walker, realtor, Bob Taunton, Rancho Viejo, Rosanna Vazquez, attorney for Rancho Viejo, Steve Flance, developer. I mean this is skewed. I mean if we want some balance, let's get some at the start, not at the end or in the next phase. I think it would be an error to start on the wrong foot. I mean all these people are pretty good people, but the committee calls for balance and not just one perspective and that's what we're going to be getting here. And then the doubts and the criticism will arise later in the process when we haven't gotten a report that is reflective of other members of the community, other interests in the community.

COMMISSIONER TRUJILLO: Mr. Chairman, if you go deeper and look at Steve Flance, he was a City planner. Rosanna Vazquez used to work for Santa Fe County. It gives them a pretty solid perspective on the needs that are required to make recommendations in this advisory committee. It's beyond where they're at now. They bring expertise historically.

CHAIRMAN DURAN: Commissioner Campos, I understand your concern of not wanting to be associated with development. You obviously don't know anything about who Karen Walker is. She may be a real estate broker but she has been involved in City politics, involved in the very beginning of a committee that I was on at the beginning. I forget what it's called, but she's been involved in so many City committees and has dedicated a lot of her time and energy to make sure that this community develops in such a way that the historic qualities that we're all so in love with here are protected.

I understand what you're saying; you feel that it's unbalanced. I totally disagree with you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that there is an imbalance here and I think, I recognize the contributions that these people have made, one of which, Ms. Walker, was involved and chaired the committee that as I recall created Santa Fe as a home rule city. She was involved in that, a very controversial undertaking and handled it very professionally and very successfully. What I think we need to consider here is getting more new faces, more ideas, more participation.

I think one of the issues that certainly came up when I was campaigning was understanding what the County and the City did and getting that word out and having more participation among the community and elected officials. So I think all of these individuals are currently serving well on a number of committees and we appreciate that service. I'd like to take the opportunity to put as many as possible, get as many new faces, with a cadre of experienced personnel as well to help guide them. I just think that makes for a better democracy.

COMMISSIONER GONZALES: Mr. Chairman, is there something that limits increasing participation, being able to take into account Commissioner Campos' and Commissioner Sullivan's issues that they brought forward about more balance and more fresh ideas?

MS. QUARLES: Well, state statute only requires that there be a minimum of five appointees. So if you expand that list beyond five you're well within the statute. There is also some language about—I'll actually read it. They cannot be employees of a municipality or county or other governmental entity. So without having seen the resumes, there might be, that may need to be examined as far as the list if you choose to expand it. But again, it only limits it to five. You must have a minimum of five members.

COMMISSIONER GONZALES: So from a staff perspective though, do you have concerns about expanding it to nine members, or ten members and asking the Mayor to consider the City supporting that?

MS. QUARLES: I think it would probably be easier procedurally if it were an odd number because of the voting issue. But I think it could be expanded if that is the wish of the Commission. I'm not sure how that would work on the City side, if it would need to be postponed and those appointments would need to come back or if there can be a motion on the floor. Again, we would have to check on that.

COMMISSIONER GONZALES: Mr. Chairman, I think that one of the things that this Commission has always tried to do is find some balance or find some compromise and take into account some of the wishes all the way across the board. So it seems to me if we're not causing harm that we could put forward the name of Mr. William Kissell and I actually like the recommendation provided by Commissioner Sullivan of Mr. Mesa. What's his last name? Steven Dennis?

COMMISSIONER SULLIVAN: Steve Dennis who is from your district.

COMMISSIONER GONZALES: Well, I agree with you in many respects about him being a wonderful—I agree to that, but if there's someone else, Commissioner Sullivan. I think what I'd like to do, Mr. Chairman, in order to move this discussion along, I think that both arguments that Commissioner Campos and Commissioner Sullivan have brought forward have merit. Let's accommodate the issues and let's get more people involved and try and strike more of a balance and still be able to respect the search process that the City and Mayor has gone through in bringing these names forward without completely blowing it up.

So I'd like to ask for an amendment to allow for Mr. William Kissell to be added for consideration by the City to the list, and Commissioner Sullivan, I'll provide, I'll ask you for some input as to who you think would be appropriate, but I like Mr. Dennis.

COMMISSIONER SULLIVAN: Mr. Chairman, Commissioner Gonzales, if you wanted to make an odd number, if we added all of my recommendations plus Commissioner Campos' we'd have 12 and that would be an even number. If we wanted to pare it down, I would certainly suggest Mr. Reeder who is not a contractor and who is retired, and Mr. Dennis, who is in the construction field, and Mr. Ossorgin, who is in the construction field. The recommendation of Ms. Dianda was as an attorney and one interested in land use issues. If we don't make any changes to the list as is then we have already another attorney on there, Ms. Vazquez. So I would focus on those three if we wanted an odd number.

CHAIRMAN DURAN: There's seven.

COMMISSIONER SULLIVAN: There's already seven now, so if we added my three plus Commissioner Campos's that would be adding four then that would bring it up to 11.

COMMISSIONER GONZALES: Can you manage an 11-member committee?

MS. QUARLES: Yes. I don't think it would be a problem because we get about 80 percent attendance anyway. Commissioner Sullivan, can I ask you a question about one of the resumes. You'd mentioned, is one of them a state employee?

COMMISSIONER SULLIVAN: No. A former state employee. She is now working on her own, but she is the one that I said if we didn't need two attorneys on the committee—

MS. QUARLES: We like attorneys.

COMMISSIONER GONZALES: I would make that amendment subject to making sure that they fit the state requirements. So if you find through some discussion that because of their employment that they can't, then obviously, you would have to come back for another appointment. I'd like to offer that amendment, Mr. Chairman, the three names submitted by Commissioner Sullivan and Commissioner Campos.

CHAIRMAN DURAN: Okay. So that would be—is that a motion?

COMMISSIONER GONZALES: It's a motion. It was an amendment.

CHAIRMAN DURAN: So there's a motion to approve the appointments with the four additional members suggested by Commissioners Sullivan and Campos. Is there a second?

COMMISSIONER SULLIVAN: Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

MS. QUARLES: Thank you. And if I could perhaps get a copy of those resumes then we'll get them to the Mayor as soon as possible and we'll see what we can do.

COMMISSIONER SULLIVAN: There should be some at the end—I think the Clerk needs one.

CHAIRMAN DURAN: Thank you, Diane.

COMMISSIONER CAMPOS: Diane, here's one that hasn't been collected.

COMMISSIONER SULLIVAN: Diane, when will that committee meet and will it be reporting back to the City and the County, or what's your structure for that?

MS. QUARLES: Actually, that's one of the requirements is they report back regularly. The impact fee study kick-off is scheduled for August 9th on Thursday. We'll be having a night meeting for them specifically with the consultants to get them oriented, but what we'd like to do is hold one initiation meeting before that, just so everybody can meet and kind of give them an upcoming schedule. But we plan to get started as soon as possible.

CHAIRMAN DURAN: Thank you. And thank Commissioner Gonzales for helping us find a solution to the issue there.

Next on the agenda is one we brought forward. I'd like to recognize Mayor Delgado. Thank you for joining us, Mayor.

VIII. STAFF AND ELECTED OFFICIALS ITEMS

F. Matters from the Commission

2. Resolution No. 2001-90 A Resolution Directing County Staff to Take all Reasonable and Necessary Action to Commence Planning and Development of a Regional Surface Water Diversion System at Buckman

ESTEVAN LOPEZ (Land Use Administrator): Mr. Chairman, Commissioners, the resolution that's being considered today is actually three different resolutions, options, that are being considered. I believe all of you have copies of all three that are available for your consideration. The first is the most lengthy, and it, I think recognizes specifically the specific invitations by Las Campanas to join in with them on some of the work that they've already begun. It outlines some of the reasons that Las Campanas feels like it has to move forward on a diversion system and some of the reasons that the County also has to move forward.

It goes further and specifically recognizes the importance of the City in terms of providing a viable water resource to this region and extends an ongoing invitation for the City's participation whenever the City determines that they're ready to do so. The action that his resolution would call for would be directing the County staff to make application to all necessary and appropriate jurisdictional entities to begin the work that's necessary for developing a surface water diversion system at the Rio Grande in the Buckman area and to work with Las Campanas in doing so. Secondly, it again recognizes the City's unique role and extends an ongoing invitation. It directs staff to begin conceptual work in NEPA compliance and in this regard, we could basically build on the work that Las Campanas has already begun. And finally it would direct staff to take all reasonable and necessary action regarding such a system and to make periodic progress reports, at least every month to the Commission.

The second option in this regard is more general. It doesn't acknowledge Las Campanas' prior invitations as directly. It simply says—

CHAIRMAN DURAN: Which draft is that?

MR. LOPEZ: This would be draft number two. It simply says that the County recognizes that we need to move forward and begin working on a regional surface water diversion but we want to work cooperatively with the City and any other entity that's interested in importing water in the region. This one directs staff to make application just like the previous one did but doesn't really focus in on participation with Las Campanas, and also requires staff to report periodically on our progress. So this is similar to the previous one but much more general and simply says work with the City or any other entity.

The third alternative is also more general but goes a bit further than the previous two and it not only talks about a regional surface water diversion system at Buckman, but development of a regional water system. Again, the recitals are pretty much like the previous one, recognizing the vulnerability of the region's water resources and so forth and wanting to move forward on developing regional surface water diversion project, and

recognizing that we would have to work with the City, Las Campanas, Eldorado and any other entities that might be in the area and have similar interests.

So this again is distinct from the previous two in that it calls for developing a regional water system, as opposed to only a surface water diversion system. But I'd be happy to try to address any questions that you might have. Also, Steve Kopelman who worked on some of these is available to try and respond.

CHAIRMAN DURAN: I would just like to say that I actually met with Steve and Estevan last week because I felt that it was time that this Commission had some dialogue in a public forum relative to what we are going to do about developing a point of diversion. It's common knowledge that Las Campanas has asked us to join them in their NEPA process and it's my belief that this Commission is understanding of the opportunity that's out there for this community to take advantage of the \$11 million or so that Las Campanas is going to spend on developing a point of diversion and that's \$11 million less that the community is going to have to spend.

I think that ultimately, the City, the County and Las Campanas are going to end up at the same point at the Rio Grande developing this diversion project, and I believe that once the City has completed their due diligence, that they will probably arrive at the same solution or the same decision, that the three of us need to go together to the Rio Grande and work with one another to develop a diversion project that will not only benefit the City and the County but also the private sector.

So I wanted to bring this resolution forward for some discussion, to bring everything out into the open and for this Commission to make a decision, hopefully, on what we're going to do. We also received a letter from the Forest Service and they basically said that we needed to get together and work on developing one point of diversion. Is that pretty much what that letter said?

MR. LOPEZ: Mr. Chairman, the gist of the letter as I recollect, I don't have it in front of me, was basically recognizing that Las Campanas has invited us to participate with them in terms of exploring the options of a surface water diversion in the Buckman area, and that the City is also looking at surface water diversion options. But the gist is encouraging the Commission to decide if it does want to proceed in terms of trying to develop something in the Buckman area and make that decision as quickly as possible so that we don't lose any additional time before the ultimate construction windows that are available, which are primarily during the low flow and in the winter time frame.

So I think they wanted to make sure that if that's a decision that this Commission wants to make, that that decision is made timely so that we don't lose another year.

CHAIRMAN DURAN: The letter from Las Campanas also, for the community's sake, asked us to—asked the County to join them in developing a point of diversion. This point of diversion would pretty much fulfill the contractual obligations that we have with the City through our wheeling agreement, and the contractual obligations that we have with Las Campanas. The other thing is that I really believe that after the City has completed their due diligence that they will arrive at the same decision. And Las Campanas has invited us to join them in this project with the understanding that if, somewhere down the road, this decision was not the correct decision, that we can withdraw from it and join the City in whatever they decided was an appropriate process.

Again, I think listening to the State Engineer and everyone else that is going to be involved in this process relative to giving us approvals, that the three of us need to get together and I think that we should make the decision to move forward on this and once the City has completed their due diligence, they would join us.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: I agree. I think that the issue that's facing the City and the County now is to provide a sustainable source of water to the community from a regional perspective. That means partnering with another entity, Las Campanas, Eldorado, whoever it is, we need to partner to make sure that we identify a diversion point in the Rio Grande, and again, the \$11 million that is being brought to the table by Las Campanas will help a lot towards that effort. Again, the major issue that is facing the City of Santa Fe and the County of Santa Fe is to provide a sustainable source of water from a region-wide perspective, and it is imperative that we partner in doing that. And I look forward to working with the City of Santa Fe and Las Campanas in this regard. That's an issue that needs to be addressed.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I agree with what Commissioner Trujillo has said and I think that all three of these resolutions direct the staff to do that and to expand the staff's scope of contacts and to add some impetus and some urgency to this issue. I think the only difference in draft three, which was one that I asked Mr. Kopelman to modify a little, is just to place, I think the emphasis that we need on not only a diversion point but also on a regional water system. I sensed it when we were in discussions with the City that the City is very focussed on some real problems that it has, the problems of the drought of last year, the problems of fiscal issues in the water system, the problems of state three water restrictions, and at this point in time, I don't think that they have a regional water system on their immediate horizon. However, they are at least informally discussing it and I'm real encouraged to hear that and see that.

I think in thinking about it, we as a County are right there in the middle of what's going on and I think we have a role to energize this regional water system and get it moving, and as it says in the resolution, recognizing the independent and specific problems each water system has, and this is not something that's going to happen over night. The first component of the first draft, it directs the staff to do to focus in on, as they have been doing, on the surface diversion.

That's really I think the main difference is putting a regional focus to the effort so that we're looking not only at the diversion but while we're doing that, we're saying how does this affect us totally. I think that when we do that, I agree with the chairman that the City will be coming on board in a regional consideration and that may be a funding consideration that pushes everyone to that point. I'm not quite sure. I don't get the feeling that the City's quite ready yet to embrace this concept, only because of some realities that they're having to deal with.

So I just think that we have the opportunity here as the County, to drive the bus, to move forward, to put the emphasis on a regional water system. But regardless of which

CHAIRMAN DURAN: This is a beginning, Commissioner Campos, and I think that it's important that from the beginning, everybody knows what we're going to do, why we're doing it and what we expect to get out of it. And that's why I suggest that we adopt draft one.

COMMISSIONER GONZALES: Mr. Chairman, just a quick comment. I think we're here because, and I know we all have said that we want to work with the City and I think that we have shown some good faith effort in wanting to but I think we're here tonight because up to this point, and I'm not saying anything new that the Mayor hasn't heard me say before, but up until this point we just haven't seen in my mind a real commitment by the City to really create a regional water system or even to have the County be an equal partner in going to the river.

In my mind, the problem has been that we are under some very serious time constraints. In 2004, we have to have either a negotiated wheeling agreement or we need to have our own diversion project and Las Campanas has that contractual obligation with the County. So I think it's important to lay out a history. I think it's important to pass a resolution that provides direction to the staff so that we can go forward. I hope and will remain optimistic that, Mayor, under your leadership and some of the others that we will be able to hopefully find a common ground and work together, but we just haven't found that yet.

And minus it, the County is having to make the decision, do we just wait until the City decides that we can be a player in this, or until the City decides which role they want the County to play, or do we become active in trying to be a part in solving a very serious problem in our community, and that's long term water, to be able to provide good quality development. So I think it's important that we do lay this forward and we do have a resolution that calls for direction, and I hope again, and this is where I've appreciated the chairman's and Commissioner Sullivan's and Commissioner Campos' leadership in that they have done enormous work with the City and have brought the City a lot farther than what they were before they got involved in this project and I want to thank you guys and commend you for it. But I still think there's a lot of work that needs to be done and until that happens we need to set some direction to the staff.

We need to let the community know what's on our plate and what options are available for us to pursue in solving some of these long term water needs that we have. And I hope that one day that we will actually be sitting at the table and solving this problem with the City as opposed to waiting for an invitation to at least even show up to the restaurant. And I think that's the problem and the frustration that I've had is that I just, outside of the Mayor and a couple of the Councilors, there really hasn't been a full commitment by the City to really invite the County in. At least it hasn't been put in writing and I think that minus that we need to go forward.

So I'm in support of resolution one that clearly lays out the history and one provides some definitive direction to the staff as to what steps need to be taken from here forward.

MAYOR LARRY DELGADO: Thank you, Chairman Duran and members of the Board for allowing me just a couple of minutes. First of all, I just want to lead off with, and I know I'm talking for myself and I think I'm talking for a couple of City

Councilors that it's always been my feeling that we need to go to the Rio Grande, to the river, with the County and regionally. And one of the reasons, not too long ago, Chairman Duran, you and I were sitting in the offices of our senators, US senators and representatives in Washington, and I think they were pleased at seeing us, the City and the County, in the same room. And it's my feeling that I get from them or their chiefs of staff or their staff, that that's what they want to see.

And we all know that eventually we're going to have to go to the federal government and our senators and representatives for funding in these areas if we're going to build a project on the Rio Grande because the numbers I'm hearing is something like \$40 to \$50 million when we get it done and to do it right, with a treatment plant and everything, and all the delivery system that it's going to require.

Just last City Council meeting on June 27th, Commissioner Campos was there, Commissioner Sullivan was there, Estevan was there at our meeting. We did pass a resolution unanimously saying that we too want to work with the County. And I can tell you now, and I've said this to members of the City Council, that in order for us to move forward in this, we're going to have to do this together. Tomorrow night, we have a resolution coming forward to open discussions with Las Campanas at our City Council meeting, which I'm hoping and I'm going to encourage, hoping that the Council will see fit to pass this. Because as Estevan did say, the US Forest Service who owns the land that we're looking at to build on, did send us a letter where they encourage us to come to the river together. It works so much better for everybody involved.

I know we're a little slow over at the City and I can understand what Commissioner Gonzales is saying. It is moving a lot slower than I would like to see it, because there's nothing worse than to have to declare these different stages that we had to not this summer but last summer to the people of Santa Fe. That is a very—it puts people in a very difficult position, not only the private individuals, the residents, but also the business community. You talk to members of the green industry and see how they suffered when we put those restrictions on, and the longer it takes for us to get there, it's not to say that this coming winter we're going to have a good winter like the last one. We could have another bad winter again and we're back in this situation again next summer.

So it's important to me to assure you, members of the Commission, that the City wants to work with you in these areas. I appreciate your patience and I think you're running out of it, and I don't blame you, because we need to move much faster than we are moving. Again, I want to be here as Mayor of the City of Santa Fe to tell you that I'm going to do everything I can do to see that we go to the river together.

Commissioner Duran, also, I want to thank you for the time that you allowed me to come before you. We have a long way to go but I know that you guys are looking at the clock. The Forest Service is saying if we keep waiting we've got to wait, as Estevan said, we've got to wait until the winter before we can actually do any work when we have low flow. So the longer we wait, the longer it takes us to get there, and I'll say that again tomorrow night at City Council, the longer it's going to take us, the chance is that we're going to have to go through another summer or maybe two like we had last summer.

So again, on my behalf as Mayor of the City of Santa Fe, we want to go to the river with you. We want to do something regionally, because I can tell you, if we're

going to sell this package to the people in Washington, that's the word they're looking for is regional cooperation. So again, thank you very much and I guarantee you that we will continue to work with the County. I want to see our staffs come together and work, and I'm going to recommend that to the Council tomorrow, that we have a meeting such as this, what you're having. You're bringing it out and you're putting it in front of the public of what you need to do and what your concerns are, and I think the City Council has to do the same thing. Again, thank you very much for your time and let's work together. Thank you.

CHAIRMAN DURAN: Thank you, Mayor. I'd just like you to know that this Commission is still dedicated to the idea of working with the City on developing a point of diversion. And I'm sure that once you have gone through all your due diligence that you will ultimately make that same decision, that the City and the County will work together on this project. And hopefully it will come sooner than later, so hopefully you can finish all your deliberations and due diligence soon and we can work together.

MAYOR DELGADO: I appreciate it, Mr. Chairman. As you know, the City just came up with something like almost \$900,000 to study the location for this and at the last meeting, Commissioner Campos was there and Commissioner Sullivan, we invite you to be part of this plan, to study it with us. They're going to be reporting to us soon. In the contract they're supposed to come in front of the Council in 60 days and invite County staff to come down and help us review where they're going with this because the people of not only the City of Santa Fe but the County of Santa Fe, which the City is part of. Some people don't remember that. Are very concerned about us solving this, and the way we're going to do it is by working together.

CHAIRMAN DURAN: Mayor, I think we look at it as a joint venture with the City, the County, and the private sector, but there has already been a lot of work already done in determining where this—there's only one or several places where we can develop this project, and the private sector has expended considerable funds doing studies and I think a duplication of that—and I understand the reasons for going through it because of the due diligence that the community expects for you to go through, but we have made our own analysis of the data and believe that this information that has been brought forward to us by Las Campanas is appropriate enough for us to make a decision and move ahead.

MAYOR DELGADO: Well, it will be very interesting as we move through what we're doing, and you may be very right, Mr. Chairman, is that when we compare what Las Campanas has done and the study we're initiating, they could be mirrored, very possibly, but I think it was the feeling of the Council that we needed to get a full plan on this, a good study on it, so that when we do come forward to make these very important votes, that we're able to say to the people of Santa Fe, we looked at it from every angle and this is what we decided.

CHAIRMAN DURAN: Great.

MAYOR DELGADO: Thank you all very much.

COMMISSIONER GONZALES: Thank you, Mayor.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: If the majority of the Commission likes draft number one, which goes into more detail reciting some of the history of the agreement, would there be any objection to adding at the end of it, where it says "and development of a regional surface water diversion system at Buckman" add "and a regional water system." Because I think that's ultimately what we're focused on. What are we going to do with a water diversion system at Buckman? We don't need it to supply our existing clients on the County water system because they're already committed under the current agreements with the City. So why are we going to the river with the City hopefully, and others, to ultimately provide for the water needs in the growth areas outside the city, so we prevent sprawl. So that, no matter how you categorize it, dictates the development of a regional water system.

For the most part, we already have that. Las Campanas is hooked into Santa Fe. Santa Fe is hooked into Santa Fe County. So would that be a problem adding that to the title of the resolution?

CHAIRMAN DURAN: Not at all as far as I can see.

COMMISSIONER GONZALES: I agree.

CHAIRMAN DURAN: I think that's great. The other thing is in your resolution you mention Eldorado, and I believe that what has been proposed to us and what we have considered allows us to consider providing water to the Eldorado community, so that they won't be subject to drought conditions and that they always have a sustainable water source available to them. So I think that's a great amendment to the resolution. It would be number five on resolution number one, or would it be a "whereas?"

COMMISSIONER SULLIVAN: I was just talking about adding the regional water system into the caption, but if you wanted to—

CHAIRMAN DURAN: Oh no. That's fine. Okay.

COMMISSIONER SULLIVAN: And if you wanted to add the "whereas" regarding working cooperatively with the City, Las Campanas, Eldorado and other interested parties, I think that's important. We've already made a commitment to purchase the Valle Vista water system. That water system is coming into the County system. Ultimately, we may have a connection to Eldorado. So we're in the process, whatever we call it, of developing a regional water system. We might as well call it what it is.

CHAIRMAN DURAN: Well, I guess adding it to the caption, if that's adequate we can just do that. Whatever you want to do to amend it.

COMMISSIONER SULLIVAN: I suggested the caption. If you want to add that fourth whereas in draft three, I think that would say what we're saying here.

COMMISSIONER GONZALES: I would agree with that, Mr. Chairman.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: Does that duplicate anything, Estevan?

COMMISSIONER GONZALES: Maybe we could provide the direction where the duplication exists that after it's passed the staff can clean it up. Because I think you're right.

MR. LOPEZ: I'm sorry, Mr. Chairman. If I understood Commissioner Sullivan correctly, you were recommending adding your last whereas—

COMMISSIONER SULLIVAN: To draft one.

MR. LOPEZ: To draft one.

COMMISSIONER SULLIVAN: And changing the title to read, "A resolution directing County staff to take all reasonable and necessary action to commence planning and development of a regional surface water diversion system at Buckman and a regional water system."

CHAIRMAN DURAN: And Estevan, if there's some duplication in the fourth whereas, you would clean it up and make those changes.

COMMISSIONER GONZALES: It seems like you could probably, Mr. Chairman, on your resolution, the last whereas, the County is desirous of working cooperatively with the City and Las Campanas to resolve the metropolitan area's water supply problems. Maybe replace that with Commissioner Sullivan's fourth whereas, working cooperatively with the City, Las Campanas, Eldorado and other parties to develop a regional water system may be the amendment that we're looking forward.

CHAIRMAN DURAN: That sounds good.

MR. LOPEZ: Mr. Chairman, I think that would clean it up and I would recommend also on the very last directive, Now, therefore be it resolved, under number four, you could also add on the third line right after developing such a regional surface water diversion system at Buckman and a regional water system, to give periodic progress reports. We'll clean it up.

COMMISSIONER GONZALES: Move for approval, Mr. Chairman, of Resolution 2001-90, draft number one, with the amendments as proposed by the staff and Commissioner Sullivan.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Okay, there's a motion and a second. Any further discussion? I'd just like to say to the City that we are looking forward to continue working with you on this issue and I know there's a lot of differences of opinion, a lot of issues that still need to be resolved. I'm confident from a regional point of view that we'll be able to do that.

Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

IX. A. Community Health & Economic Development Department

1. Resolution No. 2001-91. A resolution assigning the Santa Fe County Manager signature authority for the Santa Fe County Housing Services Division Home Sales program

DODI SALAZAR (Housing Specialist Supervisor): Mr. Chairman, County Commission, good evening. On June 28, the Board of County Commissioners approved the loan documents and the purchase agreement for the home sales program. We are here tonight to ask you to approve this resolution delegating signature authority to the County Manager to sign these documents, but to also ask you that in the absence of the County Manager that the acting County Manager also have the authority. I stand for any questions.

CHAIRMAN DURAN: Any questions of Ms. Salazar? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

IX. B. Finance Department

- 1. Presentation by Rick Johnson & Company regarding the marketing and advertising plan for Santa Fe County for fiscal year 2000-2002**
- 2. Request authorization to enter into amendment number five to the professional services agreement, #20-005FI, with Rick Johnson and Company for Lodgers' Tax advertising and marketing services**

KATHERINE MILLER (Finance Director): Mr. Chairman, Commissioners, at the last BCC on June 28, the Finance Department and the Lodgers' Tax Advisory Board brought forward a request to amend Rick Johnson's contract for another year for advertising services with the Lodgers' Tax revenue. At that time, the chairman and a couple of the Commissioners requested a presentation by Rick Johnson as to what they would be doing under that contract, what the advertising plan for the next fiscal year would be. So we've requested that they come and speak to you about that.

I'd also like to introduce the chairman of the Lodgers' Tax Advisory Board, Ben Serber, to let you know what the Advisory Board is interested in and how they feel about Rick Johnson and to introduce the people from Rick Johnson.

BEN SERBER: Chairman Duran and Commissioners, my name is Ben Serber. I have been chair of the Santa Fe County Lodgers' Tax Advisory Board for 17 years. The reason for that is I've been highly pressured by Commissioners such as Commissioner Gonzales and some various County Managers who promised me they would double my salary every year. Obviously, it's not happened.

However, I must state I'm very proud of our advertising agency and our committee for the things they've accomplished in the past years. We're looking at a County Fair building, expansion of the La Bajada welcome center and various other grants to charitable organizations, all funded by Lodgers' Tax, which as you know, is paid by the visitors and not by the citizens of Santa Fe County. I'm also very happy to have the support of an army of one, like Teresa Sanchez, who's been invaluable to us through the past years.

Now I'd like to introduce the vice president of Rick Johnson & Company, Pamela Loman, who is our personal account executive.

CHAIRMAN DURAN: Pamela, I just want to let you know, the last time, the last meeting we had we tabled it only because we had no idea of all the hard work, hard good work you've been doing for our community. So we appreciate your coming here tonight.

PAMELA LOMAN: We always appreciate the opportunity to be before the BCC and present the upcoming opportunities. We thought we'd take the opportunity today, Mr. Chairman and Commissioners, to not only highlight the program recommendations for the upcoming fiscal year but to give you a little bit of history as to where we've been since fiscal year '96. As you're probably aware, the County's fiscal year runs July 1 through June 30.

The original advertising contract which Rick Johnson & Company did pitch your request for proposal and did win at that time was implemented in July of 1996. That is technically, fiscal year '97. We just wanted to clarify that for the report that you're looking at.

The duties of an advertising agency, and before I continue let me introduce Christy Wenty who is our senior account executive and works hand in hand with the Lodgers' Tax Advisory Board on our staff at Rick Johnson & Company. The duties of an advertising agency are to develop an annual strategic plan. This particular plan is always based on secondary and primary research. That research is proprietary and at our agency we do conduct extensive tourism research. We are tourism specialists in addition to being an advertising agency. We have a full service tourism advertising division.

We look at national trends, we look at regional trends, we look at local trends. We look at consumer buying habits. We look at branding initiatives and so on and so forth. We come back based on the product that we're representing, in this case Santa Fe County, what the community can absorb and the infrastructure can support and who is shopping here and who potentially could become a visitor here. So again, we produce an annual strategic plan which you are looking at for fiscal year 2002, which started July 1 of this year.

We also put together projected media plan recommendations. This is how to expend your dollars efficiently to maximize your exposure nationally, regionally and statewide, to the largest audience and to get you the highest return on investment. We also implement and oversee that plan with the approval of the Lodgers' Tax Advisory Board. We meet on a monthly basis with this board on the fourth Thursday of each month. We bring to the table at that point in time any new creative and campaign development, logo development, new brochures, website development and so forth.

We also work within the County's annual budget, that advertising budget has fluctuated anywhere between \$240,000 per year to \$292,000 on a fiscal year and that is dependent on Lodgers' Tax collections, which have risen every year over the five years that we have been employed by the County, and it is also contingent upon special projects that are allocated from the Lodgers' Tax Advisory Board, to groups that are requesting funds. These are special events groups, so the Lodgers' Tax Advisory Board does set aside funds for those groups to apply for advertising dollars supported by the County outside of the advertising contract.

We also on behalf of Santa Fe County apply on an annual basis to the New Mexico Department of Tourism State Co-op Advertising Fund. Each non-profit entity within the state of New Mexico can apply for an application. We put together an annual plan. We let the state know how these dollars would be expended. We always request the maximum award, which is \$30,000 and on several occasions, the County has been awarded \$30,000. This is free money to the County. It's over and above Lodger's Tax collections or facilities funds, the dollars that are expended on advertising. So these become supplemental to the County's annual budget.

We also serve as a representative for Santa Fe County with the national media for media contacts, for travel writers, for familiarization programs. We put together special cooperative advertising opportunities between the City and the County, and I think this is an important point when we look at the City's funding for their tourism promotion, and the County's funding for their tourism promotion, they are skewed very differently. The City obviously has more money to put together. However, we recognize that both entities need to work together, not only to celebrate the County of Santa Fe, but the city, because the city, in 1996, was actually

designated as the number one travel designation in the world by Conde Nast readers. Where the county was relatively obscure and unknown to the national audience, they did not realize what was available outside the city parameters. And that was part of the Lodgers' Tax objective to the advertising agency was to develop a brand that would celebrate the offerings of the city, while also promoting the events and the attractions outside the city limits within the county.

So that would go from Edgewood and Wildlife West Nature Park, all the way north to Chimayo and that particular area and everything in between. But again, it's very different and complementary to what is offered here in the city, including the Native American pueblos. So with that, we presented originally several campaign options to the Lodgers' Tax Advisory Board. We actually presented six campaigns. The Lodgers' Tax Advisory Board adopted there's more to Santa Fe than Santa Fe. And that particular campaign again celebrates the offerings in the city while promoting things outside the city limits and within the county.

Our goal initially was to develop a program and recognition for the county. We had to develop a brand, something we could hang our hat on. And again, we had to develop that and develop national, regional and local recognition for the county as a vacation destination. We wanted to extend the visitor's stay. There's visitors who are already coming to Santa Fe. We wanted to share with them additional itinerary information so that they would go beyond the Santa Fe city limits and visit entities within the county, whether that be Shidoni Foundry or Wildlife West Nature Park or the ski area or the opera and so forth.

We also needed to develop a foundation for the program. We started that program tactically by developing a campaign and then implementing it through national print media, that is national magazines, and we looked at those magazines that could give us the highest exposure to the target audience and make sure that we were getting return on investment, so we were looking at publications such as *Texas Monthly*. Texas is the number one market for New Mexico travelers. We recognized that would go beyond Texas, but *Texas Monthly* is one such publication. We also looked at publications such as *Conde Nast Traveler*, *National Geographic Traveler*, and so on. So they were travel oriented publications whose audience was the same as our audience.

We also developed new brochures. You'll see brochures in the back of your handbooks. Those are brochures that have been developed through the year. The first brochure that we developed was called the "Great Finds" brochure. It featured a map of county activities, points of interest, camping, recreation, dining, shopping and so forth, and highlighted various areas within the county. Inside this particular brochure we developed coupon inserts and we worked with county businesses who offered discounts to travelers. These particular brochures were distributed originally at county businesses as well as area hotels, and of course the Convention and Visitors Bureau.

Since that initial brochure, we have gone to a four-color piece, again, detailing further the information available at the county and highlighting the main reasons that people do visit the county as a vacation destination, which is history, culture, arts and outdoor activities, which is listed in the center here. Again with a map and some suggestions for travel. We also went to county businesses. We went through the County Business Registry, looked at county businesses who are affiliated with tourism and we provided that information to the consumer so that they would stay, dine, shop and so forth.

We also for the first time launched a television campaign on behalf of Santa Fe County. The initial campaign was called the Santa Fe County Classroom. It was a fun and educational opportunity. We produced 25 television spots, and it was kind of question and answer. It was a "Did you know" followed by the answer. For instance, Did you know that the lights in the Madrid Christmas celebration were an inspiration for Walt Disney? You can only get that in Santa Fe County. Please call 1-800 and so forth. So again, we implemented that.

We took that to a regional and a national television program where we created two additional television spots, one celebrating arts and culture and the second spot celebrating the opera and romantic getaways, again, targeting our audience.

We run regional and statewide newspapers. We feature events that are happening within the county and we also offer cooperative partnerships as I mentioned a little earlier with the Santa Fe Convention and Visitors Bureau. Two of the highlights of those promotional partnerships from the current fiscal year, which just ended June 30th include radio promotions that we put together in key geographic markets in Texas. We were able to secure at no charge \$38,000 worth of media. We offered this opportunity as well to the City of Santa Fe who joined us, and what we did is we put together vacation packages through merchants both from the city and the county. We promoted those merchants as well as the Convention and Visitors Bureau in Santa Fe County tourism on air to our radio audience, and then we gave the trip away at the end of the promotion. The value of that was \$38,000.

Additionally, we went to west coast California. We worked with McDonalds Corporation and we put together television spots. We worked with the New Mexico Department of Tourism in partnership with Santa Fe County as well as Santa Fe Convention and Visitors Bureau. We obtained \$198,000 worth of media at no charge to the County. We went on air with television spots. We had onsite point of purchase registrations at McDonalds locations in southern California, people registered to win the trip. We had a drawing and we gave away that trip and in addition to that, we were able to collect a database for future mailings. So we gathered consumer name, addresses and phone numbers.

We also developed an on-line website. Tourist information inquiries, the way they are searching for information is changing. We are also changing with the times and recommended an on-line website which promotes itineraries, county businesses and things to see and do in the county. This year we also went on-line with a banner advertising campaign through the number one travel destination site in the country and that is Travelocity.com. And that particular promotion exceeded the original projections.

The results are measured in a variety of different ways. As we look at an advertising campaign, we look at the circulation, the number of people we are reaching through our print media, we look at the promotional opportunities and the value negotiated for the County at no charge, we look at return of invest in the form of inquiries, how many people are responding to the ads and so on and so forth. So those are things that we bring to the table 30 days prior to the end of a fiscal year and we can look at those expectations.

Within your handbooks, approximately mid-center, before the Be Creative? you will see three grids. The first of those grids shows inquiry comparisons from fiscal year '96 where another program was there and under that program 22,000 inquiries were being produced in response to advertising. At this particular time, five years later in fiscal year 2001, we are now producing 39,299 inquiries in response to advertising for the same national budget.

Under Lodgers' Tax receipts in fiscal year '96 it was \$212,756. Last year's collections exceeded \$362,000 a year. This year we're reporting \$312,000 with only 11 months reported in the year in one of the primary months still outstanding. This particular production is also taking into account two of the counties largest hotel and lodging properties has been either closed for renovations or under renovations and had limited inventory during this particular period.

I would be happy to stand for any questions from the Commissioners or the chairman.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: I just want to thank Rick Johnson. I want to thank Mr. Serber who is right. I know at some point a couple of years ago or a year ago, he said he was going to be stepping off and I just almost went nuts because of his commitment and certainly the vision that he's had for our county and showcasing our county to the world. It's seems since '96, since the Commission originally went with Rick Johnson that there's been a great team in place and certainly you've been able to carve out an identity for the county without offending the city, which is obviously something we always want to be concerned with. We want to work as a team collectively but yet there are many good businesses in our county. Many excellent lodges in our county that people need to know about and based on the data that you've shown us your campaign has been very effective in making people realize that that exists.

So I want to thank the agency for your diligence in being so committed to this county. I think our staff can tell you, Mr. Chairman, that Rick Johnson Agency, just the personal attention we get from them, the commitment they have to seeing this county succeed is very commendable. It certainly not part of their contract. It just goes into who the agency is and that's why I've always been committed to them and I know and I think that's why Mr. Serber has always been committed because of the individual attention that he believes they've provided our county. So I rise in support of this contract, Mr. Chairman, and hope that the Commission does the same.

CHAIRMAN DURAN: Great. I have a couple questions. Are your efforts tied into our webpage at all? Is there a link going to the work you've done?

MS. LOMAN: There are multiple websites that the County has. We developed a website and the URL for that is seesantafe.org. That particular website is exclusively tourism and visitor promotion. It is linked to the City of Santa Fe, the state of New Mexico and various tourism organizations statewide.

CHAIRMAN DURAN: Great. And the other thing is we are spending roughly \$18 million in open space and I don't know if you have geared any of your advertising towards that. There's nothing really in place at this point to allow the public or actually promote the visitors to go out there and take a look at it, but hopefully in the next year or so we'll have a program put together that will provide tours of this open space and when we get to that point it would be great to have you incorporate that into your advertising program because it's beautiful land that we have purchased and preserved and it doesn't do us any good if people can't see it.

MS. LOMAN: Absolutely. We're in total agreement with that and as the County develops the infrastructure to support that kind of activity we would be happy to address that within the advertising campaign. For the Commission's consideration, we did bring along

advertising that we have run historically. Some of that is in your book; some of it is not. If you'd like to take a look at it we'd be happy to bring that up and pass that down.

CHAIRMAN DURAN: I think we're fine.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I have a question. This is the third year of the three-year contract. Is that correct?

MS. LOMAN: This is the second year of the second contract.

COMMISSIONER SULLIVAN: It's the second year of the second contract.

MS. LOMAN: Correct.

COMMISSIONER SULLIVAN: And will there be a third year after this one, or an option for it?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, there was a contract awarded in '96 that was a four-year. It was a one-year with three renewal options. This contract was awarded for the first time last year. It was competed and Rick Johnson won that contract. It was a fiscal year 2000 contract. We extended it last year. This would be the third year if you approve the amendment in the next item on the agenda.

COMMISSIONER SULLIVAN: So the answer to my question is yes.

MS. MILLER: Yes.

COMMISSIONER SULLIVAN: As Dandy Don Meredith used to say on Monday Night Football, if you have a good play, keep running it. But my concern is, you're an Albuquerque firm. Is that correct?

MS. LOMAN: We're a New Mexico agency. We represent clients all over the state. Our office is located in Albuquerque.

COMMISSIONER SULLIVAN: I like to promote Santa Fe County in terms of doing business here as well as in terms of visiting it. Can you give us a percentage perhaps, a rough estimate for example, of the amount—and I realize your contract also includes pass-through monies that are paid to the TV and radio and publications that you place ads in. Could you give us some idea of the amount of work from your contract which gets generated in Santa Fe County? I'm thinking of things such as printing brochures or anything of that nature.

MS. LOMAN: Yes, we always try to use Santa Fe printers that they have the presses that are capable of producing the product for, for instance, the Santa Fe County brochure. We always try to give preference to Santa Fe County businesses on those particular projects. As far as dollar amounts, that varies from year to year, depending on what the project is. As far as agency services, we have worked at a \$45 an hour rate since we have originally contracted with the County in fiscal year '97. We have not raised those rates but we have invested more than dollar for dollar in matching services at no charge. The annual approximation for our services that go directly to Rick Johnson and Company is approximately \$20,000.

COMMISSIONER SULLIVAN: So what you do locally, in terms of local input from your contract would primarily be focused on the printing of brochures when they have that capability.

MS. LOMAN: That's correct, because the media is placed nationally and that goes out to national media firms.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: If there's no other questions, what's the pleasure of the Board?

COMMISSIONER GONZALES: Move for approval. Oh, it's a presentation.

MS. MILLER: Mr. Chairman, the first item was their presentation. The second item under Finance is the request to approve the amendment.

COMMISSIONER GONZALES: Move for approval.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: There's a motion and a second to request authorization to enter into amendment number five to the professional services agreement, #20-00521FI with Rick Johnson and Company for advertising and marketing services. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

Thanks very much. Thank you, Ben. You're there for another five years?

IX. C. Land Use Department

1. Resolution No. 2001-92 A Resolution Replacing Resolution No. 1991-52 "Establishing Development Permit Fees"

TOM DOMINGUEZ (Subdivision Engineer): Mr. Chairman, Commissioners, this resolution that is before you is a result of a request by the Board of County Commissioners during the fiscal year 2000 budget hearings. Land Use was granted a new FTE position in development review and in approving that position, the Board directed staff to amend and update the existing development permit and review fees and that is what's before you.

CHAIRMAN DURAN: Any questions of Tom?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: The one of these fees that I'm uncomfortable with is the appeal fee. I think that, if I understand it, a development permit application is \$75 and an appeal fee is \$75. I think we want to discourage spurious appeals but I think that requiring someone who has had a development imposed on them and who wished to appeal that, requiring them to pay \$75 to appeal something that they didn't initiate in the first place is a bit onerous. I'm not sure what the Commission's feeling is on that but I feel perhaps a nominal processing fee of \$10 or something like that, but I don't feel that \$75 is appropriate for an appeal.

CHAIRMAN DURAN: Where is that appeal fee?

COMMISSIONER SULLIVAN: It's on the third page of the resolution, almost near the bottom.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, Commissioners, we made a commitment, Land Use made a commitment to you all that we would adjust certain fees and we held to those fees. The appeal is the same as it was in the 91-52 resolution. We did not change that. I know we had discussions pursuant to Commissioner Sullivan bringing that up in the budget hearings as well and although I know

you feel it's a bit onerous on those that are making the appeal, we still stand on the fact that if that is adjusted we're just going to have a lot more people appealing the decision. And that would be an appeal of any decision by either the Board or the Land Use Administrator. But that fee did not change from the prior resolution.

COMMISSIONER SULLIVAN: I understand. I felt it was too high before. Again, I just feel where someone's taking initiative to do, propose a development, then they understand what the fees are and they consider that in their application and in their financial thinking. Where someone is having something to them and they want to appeal that, they're also required to shell out a hefty amount of money just for the right to come here and complain.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, you made a statement that a development permit fee is \$75 and so is the appeal. If they were appealing a zoning application or a development plan or something of that sort, the fee is much higher than \$75.

CHAIRMAN DURAN: Why don't you give us a for instance. Let's say that somebody applied for a variance, okay? And it was approved at CDRC. It automatically comes to the Board of County Commissioners for final determination. Is that not correct?

MR. DOMINGUEZ: Mr. Chairman, that's correct. If you look at the fee structure, a variance is \$75.

CHAIRMAN DURAN: So bear with me before you get into your thing. So where would there be an appeal in that particular case? Where would someone who didn't approve the CDRC's approval of that variance, they would have to pay an appeal fee, right? Because it automatically comes to the Board of County Commissioners.

MR. DOMINGUEZ: Mr. Chairman, that's correct. The Board has the final say on an appeal of a variance.

CHAIRMAN DURAN: So tell me when an appeal—

COMMISSIONER SULLIVAN: Mr. Chairman, it comes in when the CDRC approves something under their jurisdiction that doesn't come to the BCC. Then the only way you can get it to the BCC is to cough up your \$75 and appeal.

CHAIRMAN DURAN: Okay, so someone who was opposed to that would have to pay \$75 to appeal.

COMMISSIONER SULLIVAN: Right. In order to get it to the BCC. That's correct.

MR. DOMINGUEZ: That would also be true of a Land Use Administrator's decision.

CHAIRMAN DURAN: So if you gave someone a letter that basically said they couldn't do something and they wanted to appeal your decision, that would be \$75.

MR. DOMINGUEZ: Mr. Chairman, that's correct.

CHAIRMAN DURAN: So what you're concerned about is the right for someone to appeal a decision that was approved by a CDRC or a committee.

COMMISSIONER SULLIVAN: That's correct. Where that's the end of the line. By virtue of what that is it doesn't go any further, to the EZA or the BCC. It stops there. Anyone who wants to appeal from that point on, or as indicated, a decision by

the administrator to deny something, or to approve something, then must pay the \$75. If it's something that goes automatically to the BCC then they don't have to pay. They come to the BCC and they make their case and the BCC approves it or not.

CHAIRMAN DURAN: Is there any other instance that someone would have to pay an appeal fee other than what we just talked about? Other than a public hearing, a matter that went through a public hearing that got approval at the CDRC and stopped there? Is there any other case that somebody—

MR. DOMINGUEZ: Mr. Chairman, no, it would only be an appeal of either the Land Use Administrator's decision or the local development committee's decision. Any appeal of the Board is an appeal to district court.

CHAIRMAN DURAN: To district court, right. So do you want to just do away with—I mean I agree with you. If someone is opposed to it.

COMMISSIONER SULLIVAN: Staff is worried it will cause a flood of applications or something and people will just spuriously send letters to appeal and I think that may happen. So I think a nominal—as I say \$5 or \$10 or something that makes them put some money on the line and think out their appeal is appropriate, but I think \$75 is too high.

MR. DOMINGUEZ: Mr. Chairman, if I may, and Commissioners, I did as part of a memo to Estevan that was presented to you, did a little bit of a breakdown and if you look at something that just goes through an administrative process, there's approximately \$750 dollars worth of staff time that's put into that process. This is merely for a breakdown for informational purposes. If it goes to one committee, the local development review committee, whichever that would be, it's approximately \$1500 and then if it goes all the way to the Board, staff time from beginning to end is approximately \$2500. If you compare it to that, a \$75 dollar review fee or an appeal fee is in our mind minimal.

CHAIRMAN DURAN: But that's our job.

MR. DOMINGUEZ: As I mentioned, it was merely for information. That's why we get paid the big bucks.

COMMISSIONER TRUJILLO: Mr. Chairman, how many appeals do we get a year? And if this is going to give impetus to frivolous appeals, are you looking at exponentially?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Trujillo, at each local development review hearing per month, we see on the average probably five or six.

COMMISSIONER TRUJILLO: Appeals, not appeal/variances?

MR. DOMINGUEZ: Well, they run together. They're typically appealing the Land Use Administrator's decision because they need a variance to the Code, so they generally run together.

COMMISSIONER TRUJILLO: They run together. They're not separate like you have them here.

MR. DOMINGUEZ: Well, they are, but what we do is we charge them \$75 and we take them forward with both an appeal and a variance. If the Board decides to, or whichever review committee is looking at it, if they decide to hear the appeal, and then they act on the variance.

COMMISSIONER TRUJILLO: And this fee is already there. How long has it been in place?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Trujillo, the resolution was 1991.

COMMISSIONER TRUJILLO: So it's been in place for the last ten years.

MR. DOMINGUEZ: That's correct. And we didn't change it.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I think the \$75 is a fair fee. It's been in place for a long time and it hasn't been challenged. I don't think we should be looking at whether it encourages or discourages the appeals or variances. It's just a small amount of money to compensate us in a small way for the full cost of staff time.

CHAIRMAN DURAN: Any other questions of Tom? What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I can see a difference in the structure in an appeal from the Land Use Administrator's decision and an appeal from a local development review committee or the CDRC and I could see that. But I would move for approval of the resolution with an amendment that the appeal be reduced to \$10.

CHAIRMAN DURAN: Only in the—not to the Land Use Administrator's decision but the CDRC—

COMMISSIONER SULLIVAN: Or the LDRC.

CHAIRMAN DURAN: Or the LDRC.

COMMISSIONER TRUJILLO: So that's going to have an impact on the new fee schedule because you're going to lose money on the appeal side, so it's going to impact what you're generating on the new fees, right? For the purpose of supporting that new position.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Trujillo, that's correct. We didn't account for a reduction in that cost.

COMMISSIONER TRUJILLO: Not for a reduction. So what do you generate a year, do you think, ballpark, on appeals?

MR. DOMINGUEZ: Mr. Chairman, I would approximate, roughly probably \$5,000.

CHAIRMAN DURAN: And how much do you anticipate these increases will generate?

MR. DOMINGUEZ: Mr. Chairman, we were anticipating approximately \$18,000.

COMMISSIONER TRUJILLO: And that supports the new position?

MR. DOMINGUEZ: That was just through this process.

COMMISSIONER SULLIVAN: How many of those appeals are appeals to the Administrator and how many are appeals from a CDRC or an appointed board? 75/25 or something like that?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, I would

guess it's probably 80% Land Use Administrator appeals, 20 percent—

COMMISSIONER SULLIVAN: So most of the appeals come from the Land Use Administrator.

MR. DOMINGUEZ: Correct.

COMMISSIONER SULLIVAN: So really fiscally, we wouldn't impact that. We would leave that \$75 as is. So we'd only be talking about probably less than \$1,000 in terms of revenue difference.

MR. DOMINGUEZ: Mr. Chairman, that's correct, and I guess that's acceptable with us. If you would want us, maybe you're directing us to have two lines in the appeal—an appeal of Land Use Administrator's decision would stay \$75, an appeal of the Board would be \$15 or—

COMMISSIONER SULLIVAN: That was the intent of my motion.

MR. DOMINGUEZ: That's acceptable.

CHAIRMAN DURAN: Okay, I'll second it. Any further discussion? Those in favor signify by saying "aye." [Commissioners Sullivan, Duran, Gonzales and Trujillo voted aye.] Opposed? [Commissioner Campos voted against the motion.] Motion carries.

IX. C. 3. Request Authorization to Enter into a Memorandum of Agreement (MOA) with the City of Santa Fe for a Santa Fe Southern Rail Corridor Appraisal and Valuation study

JACK KOLKMEYER (Planning Director): Thank you, Mr. Chairman. Good evening, members of the Commission. Jack Kolkmeier, Planning Director for the County. The City and County passed joint resolutions on June 28, 2000 and August 29, 2000, directing staff to investigate public acquisition of the Santa Fe Southern Railway. The resolutions established the necessary steps and studies to be undertaken and instructed staff to requisition any necessary appraisals concerning the value of the property to be considered for purchase. A request for proposal was issued on January 25 of this year seeking a team with demonstrated experience in title work, valuations and appraisals of rail corridors as well as experience in right-of-way appraisals in the Santa Fe area.

On February 16 of this year, three proposals were received. In early March, an evaluation committee made up of City, County, State and railroad officials reviewed the three proposals and ranked them as follows: Allen, Williford and Seale, Incorporated from Houston was first, Linderlake Corporation was second, and Pendleton Appraisal was third.

On March 20, the Regional Planning Authority unanimously recommended that the City and County share equally in funding a contract with Allen, Williford and Seale. At that time, it was understood that the contract would be for \$46,000 and that the City would operate as the fiscal agent for the contract with AWS. An initial professional services agreement was prepared and signed by the City for subsequent signature by AWS for an amount not to exceed \$46,000. This professional services agreement was signed by the City on May 2. In subsequent discussions with the City, the County indicated it could only contribute \$20,000 based on budget considerations that were being undertaken at that time. The City renegotiated

with AWS to undertake the study for \$40,000 with each entity contributing \$20,000.

The City has actually amended this PSA with AWS. For the project to continue, the County needs to sign a memorandum of agreement with the City indicating that we will contribute \$20,000, an amount that we requested from you to be included in this year's budget. That request was approved with the adoption of this year's budget. Under the TEA-21 Federal Transportation program, the City and the County have been appropriated \$4.5 million for a central Santa Fe commuter train project. The proposed appraisal and valuation study is the first step in obtaining this federal money. It is extremely important that we proceed with the approval of this memorandum of agreement with the City.

Staff recommends the BCC approval of the memorandum of agreement with the City that stipulates a \$20,000 contribution from Santa Fe County. Staff, however, recommends an amendment that states, "Santa Fe County agrees to pay the City of Santa Fe, as fiscal agent, up to an amount not to exceed \$20,000 upon completion of this project."

We tabled this from the last BCC meeting and there were a number of questions and concerns why we tabled this and there were three reasons why we tabled this item. One is the money actually did not become available to us until July 1. We did not want to proceed under the assumption that we had the money. We wanted to wait until the budget was officially in place. Secondly, there was confusion on whether the total cost of the project was \$46,000 or \$40,000, and we needed to clarify that with an amendment from the City which we subsequently received and put in your packets. The total cost if \$40,000, and that we also were not in, we did not have a signed, original document with all the signatures on it in time for the last BCC meeting and Commissioner Duran called a special meeting and we were able to pull that together pretty quickly once we did that.

So we are requesting approval of this MOA.

COMMISSIONER SULLIVAN: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: There's a motion to approve by Commissioner Sullivan.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Second by Commissioner Trujillo. Any further discussion?

COMMISSIONER CAMPOS: Question for Mr. Kolkmeier. Mr. Kolkmeier, do you know how much the Santa Fe Southern Railway is asking for this property, for this?

MR. KOLKMEYER: No, sir.

COMMISSIONER CAMPOS: None at all. No idea what they're asking.

MR. KOLKMEYER: It would be—we've heard rumors, but nothing has been given to us in writing, or there's been no official statement from Santa Fe Southern.

COMMISSIONER CAMPOS: Have there been any discussions with Santa Fe Southern about the price?

MR. KOLKMEYER: We've had lots of discussions with them. One of the reasons that all this has taken so long is we've wanted to make sure they're a partner in understanding the process. But we haven't discussed with them an actual price at this point.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: They think it's worth millions and we don't think it's worth anything.

COMMISSIONER CAMPOS: Sounds about right.

CHAIRMAN DURAN: Okay, there's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

MR. KOLKMEYER: Thank you.

CHAIRMAN DURAN: Thank you, Jack. Thank you for working on that so quickly.

MR. KOLKMEYER: Two years worth. We appreciate your help. Thank you.

IX. C. 5. Request authorization to enter into a customer contract with Phillip and Deluvina Sena for commitment of water and sewer utility service for a project utilizing the transfer of development rights program

MR. LOPEZ: Mr. Chairman, Commissioners, I'm bringing forward a contract, a water and sewer utility service contract that would dedicate up to 18 acre-feet of water supply to a project by Mr. Phillip and Deluvina Sena that would be utilizing the transfer of development rights program. Ordinarily, we would not have water available for allocation at this point, but for action that was taken by this Commission on May 15, which the Commission authorized staff to consider reallocation of water rights that were not being fully utilized in County projects for projects that would utilize the TDR program.

At that meeting, I've misstated in my memo, I mentioned that there was 25 acre-feet available, that had been made available after our analysis. In fact that number was 23 acre-feet. But nevertheless, one of the points that was made at that meeting was that these water rights could be considered for TDR projects but would be subject to specific approval of the water service commitments. So this is the first such water service commitment that would come before you.

The contract is structured—there are a couple of points that need to be made about this contract. One is the basis for water allocation would be a quarter acre-foot per dwelling unit, and the price that is in the proposed contract is \$20,000 per acre-foot as has been standard in recent times, for a total of \$360,000. The payments for the water are structured such that the Senas would pay ten percent down and the remaining balance would be paid in five equal annual payments with eight percent interest. This also is similar to several of the recent contracts that we had entered, of the most recent contracts that we had entered into.

Additionally, there would be payments for sewer service that would be, that are laid out in our sewer use and user charge ordinance. The actual amounts are not laid out in the contract itself, but Mr. Sena has been made aware of the total potential and that's in the range of \$23,100, assuming no reinspections are required.

A couple of other things to point out about the contract: First, I apologize that the contract that's included in your packet does not include a signature by the Finance Director. This was my mistake. In fact the contract had been reviewed but I submitted it at the last minute and didn't get one that was actually copied. It has been reviewed and now it's got signatures on the same contract.

Secondly, ordinarily the customer would sign the contract up front, before it came forward for your action. However, Mr. Sena has submitted a letter requesting that the

Commission authorize the water rights commitment at a cost of no more than \$10,000 per acre-foot. This is a deviation from what we have in the contract proposal. And all the other terms in the contract are acceptable to the Senas, but they wanted the Commission to consider that particular request prior to signing the contract.

Attached with my memorandum are the Senas' initial request for water, a copy of the contract that's being proposed tonight, and a copy of the follow-up letter by the Senas requesting consideration on this. I stand for questions.

COMMISSIONER TRUJILLO: Estevan, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: What's the value of these water rights? The market value?

MR. LOPEZ: Excuse me, Commissioner, Mr. Chairman, Commissioner Trujillo. The water rights—we're assigning a value of \$20,000, which has been the typical amount for these types of contracts. However, in terms of actual water rights value, it really depends on where such water rights would be acquired. The contract that we're currently a party to to purchase water rights from the Hagerman well, those water rights were valued at approximately \$11,000 per acre-foot. Water that would be coming, say, from the river at Buckman, in that area, would be water rights from the Middle Rio Grande and those, typical ranges for those are probably four to five thousand dollars per acre-foot, but that doesn't include anything in terms of the conveyance system to get them up to this area.

Water rights in the Upper Rio Grande Valley, say if we were able to use a San Ildefonso type diversion, might be in the range of two to three thousand dollars per acre-foot. So it really depends on where the water rights would be purchased from.

COMMISSIONER TRUJILLO: I see that there are some conditions here that have been delineated by Mr. Sena that would give impetus to something that we've been talking about for a long time and that's affordable housing. That's an issue that this Commission has talked about. I think that we have an opportunity now to get away from the rhetoric and support that position. I would say that because of that, and the affordable housing perspective of this development that we make those water rights available to Mr. Sena for \$10,000. And I'm comparing this development with Rancho Viejo, who's a big development and they build houses but there's no affordable housing perspective to those developments. They sell those houses for whatever they want to sell them for. In this case affordability is something that is of paramount need and importance in the community and I would support selling these water rights for 10K for this project.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: Following along those lines, in the letter that Mr. Sena submitted, he's quoting that he's saying here that the lot sizes will be 5,700 square feet to 11,000 square feet. Ground level home on permanent foundation. Developer rebate of \$2,000. Prices would range from \$114,000 to \$120,000 and parks with amenities. Is there an opportunity Steve or Estevan, if the Commission were to grant Mr. Sena this water and also agree to sell for something less that you can make this part of the contract and bind him to selling homes in that range and that if, in the event homes were not sold in the range, that a clause would be in the contract that would kick it back up to whatever the regular water price

was? Is that too complicated? Is that something that could be done?

As Commissioner Trujillo indicated, rarely do you see an opportunity, in my mind, to find a win-win situation. If we can transfer these development rights off the corridor into an area that we have designated as high-density, provide water and assure that 100 percent of that water is going to be used not only to vacate the corridors but for affordable housing, it seems that that is a win-win opportunity. But that only works if those homes are really sold. If they really are 5,700 square feet to 11,000 square feet lots, if the homes are really being sold between \$114,000 and \$120,000, if the developer is willing to give a \$2,000 rebate. Can you bind legally, the water to those prices of the homes?

MR. KOPELMAN: Mr. Chairman, Commissioner Gonzales, I think we would be able to do that in a contract, and the issue about requiring the building of affordable housing, it would be similar to any situation now where we have affordable housing agreements now that we're bringing forward in the Community College District. So I think we can certainly do that and come up with language in the contracts and have clauses that would deal with situations if in fact there was non-compliance. I think we'd probably need to work, a few different departments would need to be working on this but I think it can be done.

COMMISSIONER GONZALES: So 100 percent of the water could be required to go to affordable housing?

MR. KOPELMAN: Mr. Chairman, Commissioner Gonzales, that could certainly be a condition that you'd put in and that we would have to include in a contract. And I assume also that you are talking about establishing this as probably some kind of policy also for future situations that arise that are similar.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: If I were to approach you, Mr. Lopez, and ask you for purchase of water rights to use in a development, what would you ask me about my needs, projected needs, connection, how close am I to the County water line? How far is this project from the County water line?

MR. LOPEZ: Mr. Chairman, this project is—I'm not exactly sure but I think it's about within a quarter mile. The water line actually borders the property itself. So the water line already extends to the property site. They would just have to build the internal infrastructure.

COMMISSIONER CAMPOS: So there would be no additional cost to the County or to the developer to extend into the property in question?

MR. LOPEZ: No, the current owner of the land, Mr. Parker, has already participated in extending the line for fire protection purposes to that site. So the additional costs then would be associated with building the internal infrastructure within the development itself.

COMMISSIONER CAMPOS: Okay. Now, are there other people in line waiting for water, have applied for water?

MR. LOPEZ: Mr. Chairman, Commissioner Campos, there are a number of people that have submitted letters of interest for County water, and they have not been considered. This is the first request that comes under the TDR program and that's the only reason that we're bringing it forward.

COMMISSIONER CAMPOS: The density here would be 70 units. I think

that's what's proposed.

MR. LOPEZ: Mr. Chairman, Commissioner Campos, there is a total of 70 units being proposed here and the density for that development would be five units per acre.

COMMISSIONER CAMPOS: Right. Without the density transfer, it would only be six units? And now he's getting approximately 64 more?

MR. LOPEZ: It would be one per 2.5, about six units. That's correct.

COMMISSIONER CAMPOS: So basically, Mr. Sena has incentive now with so many additional units, to make them affordable if that's what he plans to do. Has anyone else ever contacted you and asked you for a reduction in price or have you ever given a reduction in price to anyone else?

MR. LOPEZ: Mr. Chairman, at various times when we are in negotiations over water contracts, individuals have requested reductions in price. We have not given any without certain specific outstanding reasons for doing so.

COMMISSIONER CAMPOS: So you have, in the past, given some reductions?

MR. LOPEZ: We've given one that I can think of and that was in terms of a settlement type arrangement where there was a claim of a prior commitment that we were in essence being threatened for—there was a potential for litigation if we didn't go to a price that was similar to the earliest prices that were given.

COMMISSIONER CAMPOS: How was the \$20,000 amount per acre-foot arrived at? And when was it arrived at?

MR. LOPEZ: Mr. Chairman, Commissioner Campos, I don't know all of the analysis that went into the \$20,000 per acre-foot number. That's a number that's been in use, at least for the time that I've been here and I think I've seen it in contracts as early as 1995, and all contracts since then, but for special conditions have been for a price of \$20,000 per acre-foot.

COMMISSIONER CAMPOS: Is the price set by resolution, or ordinance, or just by tradition?

MR. LOPEZ: Just by tradition and practice, Commissioner.

CHAIRMAN DURAN: Market.

COMMISSIONER CAMPOS: Is the \$20,000 a fair price?

MR. LOPEZ: Mr. Chairman, Commissioner Campos, I guess I would have to assume that it is, given that there are many developers that are basically lined up to pay for it.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think what we have to keep in mind here is that we have a limited amount of water rights. We just have a 500 acre-foot allocation and of that 500 acre-foot allocation, 117 acre-feet have been reserved for County projects. So we took, by action of the Commission last month, 23 of those acre-feet from that 117. Now that leaves us with that much less water rights and those allocations are for the detention facility, they're for affordable housing, and they're for an economic development park and others. So we have set aside, for example, 9.4 acre-feet for affordable housing.

I think that all of the developments that are going to be coming forward, the majority of

them, just as Rancho Viejo, they have an affordable housing requirement in their contract. So I think we're going to be seeing all new developments come forward to the County with an affordable housing component in them. My concern is then each one of those developers will say well we should get this \$10,000 rate too. And it's really, we have a limited supply, regardless of what sales may be occurring in other areas, with our water system and our diversion points, we only have 500 acre-feet and it's already fully committed with the exception of the 117 acre-feet that we're using for County projects.

So I think that sets a different evaluation, way of valuing it. We certainly want to encourage and continue to encourage affordable housing. The affordable housing in Rancho Viejo is different that this affordable housing. These are manufactured homes. The affordable housing in Rancho Viejo is stick-built in separate individual homes. So there's a difference in the type of construction. And that's good. So we have a variety. I have a—I'm glad to see us moving forward with these types of housing opportunities but I don't think we should set the precedent of changing the rate structure at this point.

COMMISSIONER TRUJILLO: Mr. Chairman, obviously, there's a finite availability of water rights. The point is what's going to make this project affordable is \$10,000 and \$20,000. I have not seen, up to this point, any developer come forth and provide affordable housing. This is a project that will provide affordable housing. There's a finite availability of water rights. If he's going to pay \$20,000 or \$10,000 for those water rights, and that's the difference between selling houses for \$115,000 to \$120,000 or \$130,000 to \$150,000.

Okay. He's going to get the water rights, but the affordability of those houses, there's a dire need in our community for affordable housing. And that will make the difference.

CHAIRMAN DURAN: I'm not as concerned about whether it's \$10,000 or \$20,000. I'm really more concerned about the quality of the product that's being proposed here. I think that affordable housing in the past has been sub-standard housing in many cases. And I want to make sure that if the County's going to get involved in actually producing an affordable housing product out there, which we basically are. We're participating in this. Without our water rights, there is no affordable housing project.

So my concern is more around the quality of the home, the infrastructure. Are there parks there? Is it a community that they're going to provide the community out there or is it just a bunch of affordable housing without, that turn out to be slums of the future? I don't know much about this project and I think I am committed to providing affordable housing to the community. I think that allocating some of this water that we have towards this effort is something we should commit ourselves to.

The other thing is, doesn't this—these water rights get attached to the piece of property that Sena owns on 599, right? And that's where the transfer of development rights are being transferred from?

MR. LOPEZ: Mr. Chairman, no. These water rights, as the contract is currently written, would be used at the receiving site. That's where they will actually be put to use.

CHAIRMAN DURAN: Where is the sending site?

MR. LOPEZ: That's the 599, the old mercado plan.

CHAIRMAN DURAN: Okay. Good. So the sending site would be the old

mercado. So in addition to providing affordable housing, we're preserving a very important piece of property along the highway corridor. Would you agree with that

MR. LOPEZ: Mr. Chairman, yes. I think that's the basis of the whole TDR program, and having established those areas as sending sites, and other areas as receiving sites.

CHAIRMAN DURAN: Okay. Well then for me, it's just a matter of not having enough information on this project to be able to say yes or no. Is there any way—where is this project relative to the approval process?

MR. LOPEZ: Mr. Chairman, you'll be hearing it later on the agenda tonight. It's item number 8 on your Land Use Department public hearings, and you'll get more specifics on the projects from the development review staff that's actually gone over that. And I guess to the extent that you do take action on this contract, you may want to condition it on approval of that project later tonight. I'm not sure exactly the best way to do that.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: I agree with your comment on wanting to focus on quality as well, and I guess that's why I went more to the point of what was stated in Mr. Sena's letter, where item 4 talks about a smart home concept with double pane windows and 2 X 6 construction. It seems like that's at least a start. I want to see a quality product come up as well, and I guess if legally we can tie these conditions to assuring that the product that's delivered is quality in nature and affordable, and we preserve a part of the corridor that the community has asked us to preserve, and we fulfill the requirements of the TDR that that is something that I think warrants consideration of the costs of the water rights. And so I would just point to those issues when we begin to talk about this issue is that this project as it's being proposed is 100 percent affordable and I do think that we do need to set some policies in place so that our water policies are more clear, but I think there are issues like this in many respects force us to define policy through our actions.

I don't think it's bad policy to sell water for \$10,000 an acre, \$5,000 or whatever it is, to be able to deliver a product that isn't currently being delivered. And if you can do it in a quality manner, then that is good public policy.

CHAIRMAN DURAN: Estevan, do you know how much, what the value of these lots are going to be with the water? Affordable housing can only truly be achieved if you can keep the cost of the land down and I would only be interested in reducing this, the cost of the water, or committing the water to this project if I was assured that the land value was low enough to actually provide for—to allow Mr. Sena to provide an affordable product.

MR. LOPEZ: Mr. Chairman, I'm not sure of the actual land value and the lot prices he's proposing, other than what has been supplied by Mr. Sena in his follow up letter as to the full sales price ranging, if I understand this correctly, ranging from \$114,000 to \$120,000 with a \$2,000 rebate on those. And that's the entire product I believe. And I think that's what Commissioner Gonzales was asking us to really tie down, perhaps via an affordable housing agreement.

CHAIRMAN DURAN: Because what happens is that in this particular formula, you really don't know what the value of that land is, because you can build a pretty cheap house that's affordable, and I'm not interested in building some cheap houses so people can afford to live there, and let the developer take advantage of a windfall here because the land

is worth so much. So he's able to provide affordable housing, but it's inadequate housing and I'm just—I want to make sure that we have some control over that and nothing that's in front of us right now assures me that we have any kind of control.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I think this case provides a big policy question that we really need to think about carefully. I don't think it would be wise to act on it tonight. I think if we do, this Commission is going to be charged with acting politically as opposed to truly supporting affordable housing. So I would move to table this item at this time.

CHAIRMAN DURAN: There's a motion to table.

COMMISSIONER SULLIVAN: Mr. Chairman, I would second that because I think primarily because if we are going to take that concept of Commissioner Gonzales' and yours of fixing the lot values, and there's precedent for this; the City does it all the time. And fixing unit values in return for that concession, then I would like to see the contract. I would like to read the contract amendments that Mr. Kopelman can do. So I would second it so that if that's the route and the direction we want to go on this, we should have a good, solid contract. We should, as Commissioner Campos says, think about it. It will be a precedent and it needs some wordsmithing which I don't think we can do right here tonight.

So if that's the route we want to go, I would second the tabling to come up with a more comprehensive contract.

CHAIRMAN DURAN: Okay, there's no discussion on a table. Is that correct?

So there's a motion to table, seconded by Commissioner Sullivan. Those in favor, signify by saying "aye."

The motion to table passed with Commissioners Campos, Sullivan and Duran voting for and Commissioners Gonzales and Trujillo voting against.'

COMMISSIONER GONZALES: Mr. Chairman, I would just, for the record, to Commissioner Campos say that I think it's unfair to call the decision political. This is something that we have been working on for the past year, this TDR program. This project is coming forward in an area where it's compatible with the community and I would ask that if are going to develop a quality product that we spend the next—there's nothing wrong with defining what Commissioner Duran is asking for but that we bring back this issue for discussion, Mr. Chairman, at the next meeting, and define what quality is.

This has been an issue. We need to send a message out either that we're going to support this TDR program or not and I think that we could come back in a two-week period and define what quality is and assure that any County water that goes towards this project is going to support quality development. And I believe that the way it was stated here in this letter that it was going to support quality development. I'm not sure what the chair is asking for but I would ask that that direction take place.

Commissioner Campos, I support this not for politics but because I think this is something that we stated to our community that through the passage of this ordinance that we would take development off sending areas or off critical areas and move them to receiving areas. All that the applicant is done is follow that process. He has waited for the County to act

on that policy. The Commission passed a policy to allow for water to be used in this area several weeks ago. So I'm a little concerned about your phrasing about anything that's done in this area is political and something that's good from a policy standpoint. And I would hope that we could get this concluded fairly soon because we need to either make a commitment to this program or not. And I think the sooner we do that, the better off—I think we'll be the better off, the community will be in terms of understanding where we stand on this and the better off people like Mr. Sena will be, knowing whether the County is going to actually participate in this program or not.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: A brief response. I don't think there's any question that the Commission supports the TDR program. The question is should we give a discount? Should we just fix the price case by case, based on the kind of development. What is the big question about affordable housing? How do we truly provide it? Just by discounting water, or are there a lot of other elements we have to consider? That's the big question and I don't think we can answer that in two weeks. And I think this case has been politicized so much over the last six to nine months, that that's the way it's going to be perceived and that's what I'm saying.

COMMISSIONER GONZALES: You know, I think perception is one issue; reality is another, Commissioner Campos, and the reality has been that everything that's been brought forward here has been in accordance with ordinances that have been passed and a public process that has taken place. And it's unfortunate, regardless, people will call it what they're going to call it but, Mr. Chairman, I'd urge that we address this issue as soon as possible and decide where we stand on this. And I think that this is an important program. I think that where the County can contribute and participate in providing affordable housing, that that's good for our community and I'd encourage the chair to, if possible to reconsider his tabling and let us act on this, and if not, to allow us to bring back a policy in two weeks that the Commission can consider and see whether they want to support that or not, and go forward on this. This has been too long. We're either going to fully fulfill the commitment of this ordinance or not.

CHAIRMAN DURAN: Commissioner Gonzales, I want you to know that I am committed to the TDR program. I am committed to affordable housing. I believe that this project represents the vision and goals that this Commission has put in place and has been striving towards. My only concern is there isn't enough information at this particular point for me to actually vote in favor of it. Again, if it's \$10,000 or \$20,000, if we require them to pay \$20,000 that means that \$10,000 less goes into the structure. I want to make sure that when we—and maybe we can deal with all this when the project comes forward later on in the meeting. I'm more than willing, if the developer can bring us information that is adequate to make a decision to ensure that—I need some assurance that he's going to build a good home, an affordable home. Something that's good. Something that will last into the future and that there's some open space and that he builds community, not just affordability. And I think that we could possibly even reach that decision tonight. I kind of doubt it because I'm sure he doesn't have the materials and all of that, but I look forward to discussing it later this evening and bringing this request forward as soon as possible and take it off the table so that we can act

on it.

Because I think it does represent what we've been working towards in terms of putting together a TDR program that works and we're using it for affordable housing, which is—we've never adopted or approved an affordable housing project out in the county. And this is a great opportunity for us to do that.

COMMISSIONER GONZALES: Mr. Chairman, I'm all for discussing this tonight when this comes in and I just—I know in my heart of hearts that this is for the right reason. I don't see it as being political. I think that this is a product that's real. They're offering 100 percent affordable housing. They're willing to bound by it or we're willing to put into the contract, we should, that they would have to put up a quality home or quality structure, stay within a certain price cap. I don't think there's anything political about that. I would just urge tonight when we have this discussion that this consider in place. That if we approve the development that's coming forward then we need to understand that to have that development you need to attach some water to it and I think that that's important. But I'll defer that to later on tonight to see what the project looks like and to go along with what the chair is wanting to see when this proposal comes forward.

CHAIRMAN DURAN: Okay, great. Thank you, Estevan.

- IX. C. 6. Request authorization to acquire the following real property for the Wildlife, Mountain, Trails, and Historic Places Program**
- a. South Meadows Tract - Located South Meadows Blocks 3 and 4, Section 1, Township 16 North, Range 8 East, Section 6, Township 16 North, Range 9 East**
 - b. Madrid Lot - Located in Madrid, Improvement No. 208G, 209G, 210, 211, 212, and 213 as shown on the residential area on the townsite of Madrid**

ALINA BOKDE (Planner): Mr. Chairman, Commissioners, on May 22, 2000, the Board of County Commissioners authorized staff to proceed with negotiations for the purchase of the South Meadows property located at the intersection of Airport Road and South Meadows Road. This property includes 22.2 acres and is owned by Dr. Paul F. Peppard and Joanne Peppard. The Board approved COLTPAC's recommendation of the one million dollar purchase price. The fair market value established as of March 2, 2001 for this property is \$1.26 million.

Staff has completed the negotiations and is requesting authorization to purchase the South Meadows property for \$1,052,650, with funds from the general obligations bonds that established the County's Wildlife, Mountains, Trails and Historic Places Program. This amount includes the \$1 million recommended purchase price and the 5 percent operation and maintenance fund contribution from the landowner. Are there any questions?

CHAIRMAN DURAN: Any questions of Alina?

COMMISSIONER CAMPOS: I have a question. Ms. Bokde, use of the property. What do you plan, how do you plan to use this property?

MS. BOKDE: Mr. Chairman, Commissioner Campos, at this point, the vision

that the community brought forward as well as—and that was supported by COLTPAC, is that this property would be primarily used as open space, very low impact open space. There might potentially be some kind of a trail system on the property but there are no plans, kind of active recreational uses on this property. So the intent was to keep this primarily open space for an area that's rapidly developing.

This property, as well as all the other ones that are acquired through this program will go through a management plan process that will include the community as well as COLTPAC members. And those plans, after going through COLTPAC review, will come before the Board for final approval. So this property, if acquired by the County will proceed in that process as well.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER TRUJILLO: Mr. Chairman. You're proposing to buy these properties with bond monies on the \$12 million? The first bond?

MS. BOKDE: Mr. Chairman, Commissioner Trujillo, that is correct. The funds that were allocated for both the South Meadows and the Madrid lot will come from the first bond, which was the \$12 million general obligation bond.

COMMISSIONER TRUJILLO: And when are we going to start using the \$8 million, the second bond? When are those monies going to become available to start using them to purchase open space?

MS. BOKDE: Mr. Chairman, Commissioner Trujillo, the second general obligation bond that was passed by the voters in November this past year, that bond, it's my understanding will be issued very soon and will be available to draw funds some time at the end of this year or the beginning of next year. The Phase 3 project recommendations that came before the Board last months, those property acquisitions, the funding for those would come from the second general obligation bond. So that's time frame for it.

COMMISSIONER TRUJILLO: Is that according to schedule? Are we moving according to schedule? The reason I'm asking is because the \$8 million bond is a voice of the community and the community voted through referendum to make those monies available for open space. I didn't support it, but I'm congruent with the voice of the community and those monies need to become available as soon as possible.

MR. MONTOYA: Mr. Chairman, Commissioners, the intent of the administration is to sell the bonds, the \$8 million bonds by September of this year. The intent was to expend the balance of the existing bond so that we would be able to process the properties that were going to be sold or bought by the County in an expeditious way and I think that's the advantage that we now, that we are asking for negotiating authority, so that we can have the properties that the County wants to buy and then sell the bonds and not have a problem with holding the money for too long. That has been an issue in the past and we've had some problems with back payment to the IRS on some of the bond issues. So we wanted to be a little bit more efficient on the expenditure of the money and our intent is to sell them around September of this year.

CHAIRMAN DURAN: So Sam, if we sell the bonds in September, when is the money available?

MR. MONTOYA: Mr. Chairman, they would be, the money would be available late October, early November.

CHAIRMAN DURAN: So Alina, the property owners that we've been negotiating with in good faith, are they aware that this money in the second bond issue won't be available until November and they can wait until then for closing?

MS. BOKDE: Mr. Chairman, I've been working with staff to get a more concrete deadline that I can then inform the applicants who went through the Phase 3 review process of the potential deadline for the issuance of the second bond. I have spoken with some applicants to let them know that it will probably be towards the end of the year and they've expressed willingness to still continue to participate in the negotiation process.

CHAIRMAN DURAN: Great.

COMMISSIONER TRUJILLO: We also have a trails program that's going to be funded with second bond monies that we approved \$2 million for and we need to get started on that too.

MS. BOKDE: Commissioner Trujillo, yes, that's correct. The negotiation process, whether it's a trail easement application or a land acquisition process does take some time for us to do the background studies, the appraisals, so we can begin that process and move that forward so that by the time the monies are available from the second bond, we can hopefully be done and have an agreement, a contract agreement with the landowners. So hopefully, the issuance of the second bond will not hold that process up.

CHAIRMAN DURAN: Okay, how about the next one, the Madrid lot?

MS. BOKDE: Mr. Chairman, again, on May 22, 2000, the BCC authorized staff to proceed with negotiations for the purchase of the Church lot located in the traditional community of Madrid. This property includes .94 acres and is owned by Mr. Steven Lowe and Mr. Wes Pittman. The Board approved COLTPAC's recommendation of a \$40,000 purchase price. The fair market value for this property established on March 12, 2001, is \$50,000.

Staff has completed the negotiations and is requesting authorization to purchase the Madrid lot for \$42,105, which is a little different from what's stated in your memo. It's an additional \$105, with funds from the general obligation bonds that established the County's program. This includes the \$40,000 recommended purchase price plus the five percent operation and maintenance fund contribution from the landowner.

CHAIRMAN DURAN: Any questions of Alina?

COMMISSIONER CAMPOS: I have a question. Could you give me a little context? This was approved in 2000, before we took office and this is a church lot you're buying for open space and it's less than an acre. What's the value of the property? Why do we want this property?

MS. BOKDE: Mr. Chairman, Commissioner Campos, there were a number of projects that came forward in Madrid that were approved as part of Phase 2 recommendations. This is a piece of that. The County is currently negotiating with the community to purchase the Madrid Greenbelt, which is about approximately an 11-acre site. And that will be also coming forward to the Board very soon. The Madrid lot is adjacent to the greenbelt but is also an important kind of open space lot in front of the old church that exists in Madrid.

So its value is in terms of protecting the Madrid Greenbelt area, which is a community walking area. A lot of community members walk in the Madrid Greenbelt and hike to the northern part of the community as well as the south, so this would protect part of the arroyo as well as provide, I think, open space protection along the Madrid old church lot. So it's kind of

two-fold. Staff is very confident that we will successfully be able to negotiate a contract with the terms that came forward under Phase 2 for the Madrid Greenbelt. So this would really add to the Madrid Greenbelt project as well.

COMMISSIONER CAMPOS: Should we make this purchase contingent on the purchase of the greenbelt? Can we delay this purchase? I mean, otherwise, it wouldn't have as much value without the greenbelt feature.

MS. BOKDE: Mr. Chairman, Commissioner Campos, I would recommend that we proceed with this project only because it does have its own values in terms of being an important open space component in front of the church, the old historic church lot. I think it will add value to the purchase of the Madrid Greenbelt and staff is working very diligently on that process and we'll come forward to the Board on that one. At this point, the landowner for the Madrid lot are very anxious to close on the property and we'd like to proceed as quickly as possible. And they've also given us a donation less than fair market value. So staff would recommend that we move forward with the purchase of this one property.

COMMISSIONER CAMPOS: When do you expect that staff will come forward with the greenbelt property?

MS. BOKDE: Mr. Chairman, Commissioner Campos, the final piece to that process of the greenbelt is a survey that we are getting ready to hire a survey to do and I'm hoping to come back to the Board in the next two months or so with final contract terms.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Okay. Let's vote on these two separately. Any other discussion on the Madrid piece? What's the pleasure of the Board on the South Meadows tract?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: There's a motion and a second. Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

How about the Madrid lot?

COMMISSIONER GONZALES: Move for approval.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

Okay, I think there's a lot of people out there that came to listen to the discussion relative to the Eldorado issues here. We'll go ahead and move them forward if it's okay with the Commission. I just don't know which one—do we want to move them both forward, which would be the public hearing, the ordinance, which is X. B. and the Land Use case?

COMMISSIONER CAMPOS: I have no objection, Mr. Chairman. I would ask for a short break. Maybe a ten-minute, fifteen-minute break.

CHAIRMAN DURAN: We'll take a ten-minute break and then we're going to hear first the ordinance declaring a moratorium on new subdivisions and then we'll move into the Land Use case on the Village at Eldorado. Roman, could you please come up here?

MR. ABEYTA: Mr. Chairman, there's three items that concern Eldorado. One is the ordinance having to do with the moratorium. The second item is X. D. 5, which is the Village at Eldorado, and the third item is X. B. 6, which is the Agora plat vacation.

CHAIRMAN DURAN: Okay, we'll hear those in that sequence in ten minutes.

MR. ABEYTA: Thank you, Mr. Chairman.

CHAIRMAN DURAN: Thank you, Roman.

[The Commission recessed from 6:55 to 7:24.]

CHAIRMAN DURAN: We're going to hear the Village at Eldorado.

- X. D. 5. CDRC CASE #Z 01-5130 **The Village at Eldorado. Allan and Stacy Crossingham applicants, request a Master Plan amendment to include 30,000 square feet of retail shops (including take-out food establishments, an open air market and a pub with the sale of liquor) a 21,000 square foot 6 screen movie theater, 5,000 square feet of office space and 14,000 square feet of Community Service space on 9.59 acres. The request includes the property to be served by an onsite well instead of by Eldorado Utilities. The property is the Village at Eldorado (formerly Sierra Plaza) located at the southeast corner of Avenida Grande and Caliente Road, within projected Sections 9 and 16, Township 15 North, Range 10 East**

Exhibit 1: Letter from 285 Coalition
Exhibit 2: Letter from Pat Kuhlhoff
Exhibit 3: Sierra Plaza information packet

FRANK WHITE (Review Specialist): Thank you, Mr. Chairman, Commissioners. On April 13, 1993 the Board of County Commissioners granted Master Plan approval to Sierra Plaza for a village scale commercial development which consisted of a three phase-development with the following uses; A 4,500 square foot building to house a real estate office and the Eldorado Utility Company Office; 9 buildings ranging in size from 4,3000 to 4,356 square feet for retail, offices, personal services and community services; fourteen 4,320 square foot buildings for retail, offices, personal services and community services. This is Exhibit D of your packets.

On July 12, 1994 the Board of County Commissioners granted approval for an amendment to the Sierra Plaza Master Plan, to allow for the recreation of ten lots through administrative approval.

CHAIRMAN DURAN: Excuse me, Frank.

MR. WHITE: Yes, sir.

CHAIRMAN DURAN: I'd like to say those of you who have signs, I don't mind that you have them in here but I do mind that you flash them around. So you can put them up anywhere you'd like to but please keep them stationary. Thank you. Go ahead, Frank.

MR. WHITE: Thank you, Mr. Chairman. Existing approvals allow the applicant to develop 10 acres of commercial at this location. Sierra Plaza has built out lot 1, this is phase I, 1.24-acres, and sold lot 2, 1.40-acres. Lot 3 is 0.72 acres, is owned by the applicant and is not part of this submittal. This is Exhibit E of your packets. The applicant is still allowed 6.64 acres of commercial development at this location.

The 2.95 acres of proposed community service facilities do not count against the ten acres of commercial allowed at this location.

Applicants' request: The applicant now proposes to amend their existing master

plan to allow for a single construction phase to include the uses listed in Exhibit H, which read as follows: 30,000 sq. ft. of retail shops, 21,000 sq. ft. of a 6 screen movie theater, 5,000 sq. ft. of office space, 14,000 sq. foot of community service space.

The major changes in this use list are the theater, the open-air market, and a pub with the sale of liquor.

Article III, Section 4.3.2 establishes the guidelines for types of permitted uses and structures in Local or Small Scale Districts. This is Exhibit I of your packets. Theaters are not included with the uses permitted. Due to the concerns regarding traffic impacts, staff's position is that the theater is not a compatible use at this time. The primary intent of this section of the Code is to permit intensive development of selected land uses at designated locations with adequate infrastructure such as roads, and utilities.

Article V, Section 5.2 establishes master plan review criteria that must be considered in making determinations and recommendations for amendment of master plans. This is Exhibit J.

The Land Use Department has received approximately 14 letters and a petition with approximately 66 signatures in opposition to the project. The neighborhood feels that the project, in particular the theater, negatively affects the character of the local community bringing in the hazards of increased traffic, water use, noise and crime. This is Exhibit K of your packets. Also, Mr. Chairman, there has been letters of support. I believe it's probably about 370, that have been passed out to you and are also included in the packet.

Access: The access to the property is off Caliente Road at the western boundary of the site. Caliente Road is two lanes paved extending south from Avenida Vista Grande to the property and runs along a portion of the west property boundary and continues as a basecoursed road to Avenida Eldorado. Staff's concern is that the theater use at this location will burden the existing roadway network and residential properties. The hours of operation of a theater are typically during the evening and through the night; therefore, the traffic generation will be greatest during these times. Traffic will enter and exit the theater at scheduled intervals at the same location onto Caliente Road. The underlining concern is that once a movie is done traffic will be exiting the site, typically during the night, at one location and will lead to the stacking of vehicles along Caliente Road and Avenida Vista Grande. It's staff's concern is that if stacking occurs traffic will find alternative routes of exiting the site. One of these routes will be south on Caliente Road to Avenida Eldorado the other will be through Floresta Drive to Avenida Vista Grande. Both of these alternate routes currently serve residential properties and increased traffic will be a nuisance to these residential areas.

The applicant proposes to serve the property by an onsite well instead of Eldorado Utilities. The applicants' totaled proposed water budget is 2.93 acre-feet, which is 952,650 gallons of water per year.

Recommendation: It is staff's position that this proposed theater is not compatible with established guidelines set forth in Article III, Section 4.3.2. The primary intent of this section of the Code is to permit intensive development of selected land uses at designated locations with adequate infrastructure. Therefore, the theater would be more appropriately located in a larger district.

The theater should be removed from the proposed use list due to the fact that the access to the proposed development is off Caliente Road and the amount of the public

concern regarding increased traffic through Caliente Road as well as the surrounding network by the proposed theater. With the removal of the theater from the use list, staff feels that this application is in accordance with Article V, Section 5.2 for the master plans of the County Land Development Code.

The decision of the CDRC was to recommend approval of the amended master plan excluding the theater from the use list subject to the following conditions. Mr. Chairman, if I may enter them into the record?

CHAIRMAN DURAN: Please.

MR. WHITE: There will be an amendment to condition number 16. It shall read, and this will be the second sentence: A revised disclosure statement and covenants for this tract shall be recorded with the master plan. Thank you, Mr. Chairman.

1. All redline comments will be addressed, original redlines will be returned.
2. The applicant shall submit a drainage and grading plan with storm water calculations. Retention ponds shall be sized and located by a Professional Engineer at preliminary development plan stage.
3. The applicant shall submit a more detailed water budget, updated water quality information and proof of long-term water availability for full build out of the project with the preliminary development plan. The applicant shall identify the limits of the 100-year floodplain.
4. The applicant shall meter well and submit meter readings to the County Hydrologist by May 31st of each year.
5. The applicant shall register the water system as a public water system. A permit is required from the Environment Department.
6. The well shall be permitted with the State Engineer's Office.
7. The applicant shall install two additional hydrants as per Fire Marshal requirements. All hydrants shall flow at 1000 gallons per minute with a 20-psi residual pressure.
8. The applicant shall submit plans for the wastewater treatment facility with the preliminary development plan. If flows exceed 2000 gpd a discharge permit is required from the Environment Department.
9. An automatic fire protection sprinkler system will be required in all buildings, designs for this to be approved by the Fire Marshal prior to permit issuance.
10. All proposed lighting shall be shielded. The applicant shall provide cut sheets and a lighting analysis with preliminary development plan.
11. No structure is to exceed 24' in height. The applicant shall provide elevations/sections of all structures with preliminary development plan.
12. A Fire Department Access Plan shall be submitted to the County Fire Marshal for approval. A Knox rapid entry system shall be installed wherever practical as approved by the Fire Marshal.
13. All utilities shall be placed underground.
14. The applicant shall submit an NPDES permit as required by the Environment Department.
15. The applicant shall submit signage and landscaping details with the preliminary development plan. Treated effluent shall be used for landscaping whenever practical; design proposal for this shall be approved by the Environment

- Department and submitted with preliminary development plan. A 50' landscape buffer along US/285. 10' landscaping buffers are required between the development and residential properties. All landscaping shall be in accordance with Article III, Section 4.4.4f of the Code at development plan stage.
16. The master plan shall be recorded with the County Clerks Office. A revised disclosure statement and covenants for this tract shall be recorded with the master plan.
 17. The existing and proposed driveway shall meet local road standards. The applicant shall be required to provide plan and profiles and cross-sections for the driveway/roadways.
 18. Food service establishments must obtain permits to operate from the Environment Department to be submitted with preliminary development plan.
 19. Compliance with the applicable review comments from the following:
 - A. State Engineer's Office
 - B. State Environment Department
 - C. State Highway Department
 - D. County Development Review Division Director
 - E. County Fire Marshal
 - F. County Public Works
 20. The applicant shall pave Caliente Road from Avenida Vista Grande to Avenida Eldorado and shall participate in any improvements required of the surrounding road network or intersections.
 21. The following must be added to the master plan: "Approval of this Master Plan is intended to demonstrate that the development concept is acceptable and that further approvals are likely unless the detailed development plans cannot meet the requirements of applicable law and County ordinances in effect at that time. A preliminary development plan or plat must be submitted for each phase of the master plan and each development plan or plat must be considered on its own merits."

CHAIRMAN DURAN: Frank, I have a question. The total water budget of 2.93 acre-feet, that includes the theater use?

MR. WHITE: Mr. Chairman, that does include the theater use.

CHAIRMAN DURAN: Any questions of Frank?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I don't have a question but I want to get a procedural matter out of the way before we have the applicants' testimony. I want to point out to you, a few pages back in Section 16 of the CDRC minutes, or page 16 rather. It's just a couple pages back from the staff report. About 2/3 of the way down, apparently, according to the minutes of the CDRC meeting, a statement was made by the applicant, "Opponents to the development of this project working in conjunction with Commissioner Sullivan due to fear of competition." I want to be sure that this Commission and the audience knows that that's a patently false statement.

There are in Eldorado and in the 285 area residents who supported my campaign

who favor this project and there are residents who supported my campaign who oppose this project. So I intend to hear the issues, as will the other Commissioners this evening and make my decision accordingly. The County Commission has a procedure that this chairman has adopted that it does not personal attacks in the testimony and I would recommend that the applicant when they speak stick to the facts the issues during their testimony.

I would also make the Commission aware that in March of this year in response to the Crossinghams' repeated requests, I took time off from my work to meet with them together with County Land Use staff to give them an opportunity to brief me on their master plan revision. Several months after that briefing, the Crossinghams wrote to County Attorney Steve Kopelman that I had made prejudicial statements in that meeting and demanded that I recuse myself from this deliberation. Our County Attorney, Steve Kopelman investigated the matter, interviewed me and staff present at that meeting and determined that no such statements were made, and has so notified the Crossinghams.

I understand that the Crossinghams have nevertheless continued their demands that I recuse myself from this issue. I want to let the County Commission and my constituents know that there is no cause for a recusal and to do so would disenfranchise the Eldorado 285 area residents I represent. Therefore I will not recuse myself on this matter. Thank you.

CHAIRMAN DURAN: Okay, any questions of Frank?

COMMISSIONER GONZALES: I have a question, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: Just concerning the water budget that was presented, Frank, I guess I need your help on this. About 70,000 square feet, is that right, of proposed use?

MR. WHITE: Mr. Chairman, that would be correct

COMMISSIONER GONZALES: And the applicant is proposing a water budget of 2.93 acre-feet?

MR. WHITE: That is correct.

COMMISSIONER GONZALES: Where's Ms. Yuhas? Katherine, I apologize for not knowing this as well as I should, but I'm assuming that you've reviewed that, you've reviewed the water budget and you find it acceptable.

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, yes I have seen the water budget. At the master plan stage, especially since approval of the movie theater is not being recommended by staff, I find the water budget to be acceptable and at development plan level I would give it a more thorough scrutiny as to what was exactly going to get approved. But yes, this seems within reason.

COMMISSIONER GONZALES: So help me understand, under our current Code, the ability to use a well to support commercial development.

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, anyone with a piece of property, a platted lot I should say, can drill a domestic well for the purposes of domestic use, which include some commercial services, such as restroom facilities, restaurants and things like that, and that's a determination that the State Engineer makes. And there are a number of commercial facilities that use a domestic well to serve their

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property.

The regulation for domestic wells is really specifically to discourage people from using a domestic well for agricultural purposes that they're going to sell. It would also not be acceptable to use it for mining or for an industrial use like a car wash, something like that. But most, many commercial uses actually fall under the provisions of the domestic well.

COMMISSIONER GONZALES: I'm sorry, say that again. Most what?

MS. YUHAS: Many commercial uses are acceptable to the State Engineer to be served by a domestic well.

COMMISSIONER GONZALES: So for this particular well in this particular area, has there been a review by the State Engineer's Office?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I don't think so.

COMMISSIONER GONZALES: And would that happen? Or would that be required to happen? And again, I'm sorry if you've already mentioned it.

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I stand corrected. There has been a review from the State Engineer and I'll look at it now and tell you what it says. Their opinion says that it is not complete enough for them to offer an opinion as to whether or not it is in compliance with the County Subdivision Regulations, and I think that is probably true. At this stage they have not submitted a full hydrology report on the well.

COMMISSIONER GONZALES: At this stage are they required to submit?

MS. YUHAS: No, they are not.

COMMISSIONER GONZALES: Okay. So if, and I'm assuming that the applicant is going to ask for the theater use to be added to the commercial list, then how will you approach that use and the 2.93 acre-feet of water that they would be saying would be used to support all commercial activities.

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, when I review a water budget I use the Uniform Plumbing Code as a standard reference for how much water could potentially be used at a development, and that's a fairly conservative reference to use because they don't take into account water conserving fixtures for any of their calculations. I also would allow an applicant to come forward with a water budget from a similar facility where they had records from the past year. So for the open air market, if there were similar records for another market I'd look at that or a theater in the area, because I do think that the Uniform Plumbing Code can be an overestimation.

So that's how I conduct my review and if their water budget comes under three acre-feet and it appears that it's reasonable and could be served then I would recommend approval.

COMMISSIONER GONZALES: So help me understand how this process would work. If the cap is 2.93 acre-feet, and if the Commission were to adopt all the use list that's in our packet, pharmacy, jewelry store, movie videos, florist, camera shop, stationary shop, barber shop, movie theater, performing arts center, professional offices—all those types of things. Would it just be at the time they come back for preliminary and final that they would more clearly define which of these uses they're wanting to present and then match a water budget with that use?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I think that would be a very appropriate way for them to come back at development plan level, would be to have a water budget that would list out each development that they're looking at and how much water they expect at each one. And that way, we could subtract out the theater if it was not to get approved and set their water restriction back to whatever it would be in that case.

COMMISSIONER GONZALES: So basically, you at that time, whether there was any type of use, including the theater, would evaluate a water budget and determine whether it was appropriate to support whatever the use was.

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, that's correct.

COMMISSIONER GONZALES: Okay. So staff's concern—this goes more back to Frank then and the issue of the theater itself, is not so much an issue of the water and the water budget, but you're saying that it's not compatible or doesn't meet the intended use or parameters of Section 4.3.2?

MR. WHITE: Mr. Chairman, Commissioner Gonzales, that is correct, but also dealing with access to the site itself. Public Works has reviewed this, as well as the State Highway Department. Both are in agreement that the access is relatively poor to support the movie theater at this location. And that's stated in our recommendation.

COMMISSIONER GONZALES: Okay. Thank you, Mr. Chairman.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One question for Katherine. Following up on Commissioner Gonzales' question, you indicated that you weren't too comfortable with the water budget and your report says the water budget submitted is not adequate to evaluate the water needs of the project, particularly with regard to the theater. But that would come later in the preliminary development phase. The theater, regardless of whether it would come later or now, the three acre-feet would be their limit under a residential well. Is that correct?

MS. YUHAS: Mr. Chairman, Commissioner Sullivan, that is correct.

COMMISSIONER SULLIVAN: So my question is then on the theaters and perhaps the applicant will address this then too when they speak. The theater is projected at 400 people per day and 2.5 gallons per day, for a total of 1000 gallons a day in their water budget. I believe six theaters or six screens are proposed, so that would be 66 people per day per screen. Correct me if I'm wrong. So that would mean that that would be the maximum number of people that would attend each of those theaters each day. And I'm not saying that to be derogatory. I'm just trying to understand if that's the way the water budget is—you read the water budget.

MS. YUHAS: Mr. Chairman, Commissioner Sullivan, I'd like to have the numbers in front of me before I start doing math in my head and sounding stupid in front of anyone. But the way that I reviewed it was as I had explained, the Uniform Plumbing Code lists out an amount of water per seat per day that they expect to be used. And unless the Crossinghams were able to provide a different source, I would expect them to recalculate their water budget using what the Uniform Plumbing Code says, which I think is four or five gallons per day per seat.

That does not take into account occupancy—how many people actually go to the theater or anything like that. It just says, you have 500 seats, you have x-gallons per day.

COMMISSIONER SULLIVAN: So if each theater had 100 seats, let's just say, then we'd have 600 seats, times five gallons, would be 3,000 gallons per day.

MS. YUHAS: That's correct.

COMMISSIONER SULLIVAN: Three thousand gallons per day in and of itself would exceed three acre-feet.

MS. YUHAS: Yes, it would.

COMMISSIONER SULLIVAN: So your guess, and I don't know if the theater is 100 seats or not. I would assume there are more than 100 seats. But at 100 seats, the six theaters would exceed the three. So in all likelihood the applicant would need to be coming back with some refinement of that estimate.

MS. YUHAS: Mr. Chairman, Commissioner Sullivan, yes. Their water budget needs to be refined, and in this area I specifically recommend to people that they try and get numbers from some place that is operating, to try and get a better feel for how much water truly does get used.

COMMISSIONER SULLIVAN: Because their total proposal now is 2,610 gallons per day, and that's including the theater, the landscaping, the office space and the retail space. That's everything included. That answers my question. Thank you.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: I want to go back to the issue of the access and it's probably more an issue of Public Works because I know that I want to try and understand this before we start hearing the public testimony. In your report on access, it's stating that you reviewed the application and recommended a more detailed traffic analysis with updated information of similar intensities be submitted a preliminary development plan stage. Is that language just towards just the uses that were approved by the CDRC? Or are they towards the development as proposed by the applicant, which includes the theater?

MR. WHITE: Mr. Chairman, we have Daniel Ryberg from Public Works to be able to entertain any questions on access.

DANIEL RYBERG (Traffic Engineer): Mr. Chairman, Commissioners, it was specifically for whether the theater was going to be approved or not. It was just for the overall development and the access being on Caliente Road.

COMMISSIONER GONZALES: So if the master plan is approved tonight, at preliminary and final, or preliminary, which is where you're stating this needs to take place, that's where the detailed analysis would be done on the actual traffic that would be proposed on the project as a whole.

MR. RYDBERG: Exactly.

COMMISSIONER GONZALES: Whether it has a theater or not, you're going to do a detailed review.

MR. RYDBERG: Oh, exactly. Yes.

COMMISSIONER GONZALES: Let me ask you this. I'm assuming that at that point, as in any point of a preliminary development plan where you're doing this

type of analysis, you're making recommendations, what type of recommendations would you make knowing this site? What needs to happen? Are there alternatives that exist, or are there things that can happen on this site that would address the amount of intensity that's going to be around it as a result to the commercial development that's going to be—

MR. RYDBERG: Not at the moment. It doesn't appear there's any obvious solutions to it. I heard mention of a proposed request maybe for an access onto Vista Grande, which would, instead of just being Caliente Road. Right now, it doesn't seem like it's viable to have that much, with just that Caliente Road entrance, ingress and egress. It just doesn't seem—and as far as putting it on Vista Grande, there's going to be the State Highway Department, is going to be very involved in that also because it's going to greatly affect the intersection of Vista Grande and 285, which is a State Highway facility and they will have a lot of say on what happens there.

So no, it's not obvious that there's any solutions to another access. There's nothing obvious to that.

COMMISSIONER GONZALES: Okay. And I'm assuming that if this was approved that at development phase, they'd have to provide some form of access, if not then, could they proceed forward? I mean, they couldn't. Could they proceed forward?

MR. RYDBERG: No. They'd have to satisfy the state and County requirements on the amount of vehicles and what could be used on the facilities. If not, then they'd have to find some alternative.

COMMISSIONER GONZALES: Okay. Just to continue questioning, I guess probably for the staff now, for Frank, and it goes to the whole issue of a couple of questions. One, this request for retail shops, the movie theater, the office space, the community service space, is there some type of market analysis that was done? Was there something that—do we require that? I know in the past we've looked to see if there is an established need. I guess my point is I know that this is a large area. It's grown to be a large area. Has there been any type of market analysis done or reviewed that would warrant these type of uses?

MR. WHITE: Mr. Chairman, Commissioner Gonzales, there was not a market analysis done on this proposal. Staff did not require one. Of course, maybe at preliminary development plan, if you'd like to see that, we can definitely include one.

COMMISSIONER GONZALES: Can you help me understand in this general area what uses are around it?

MR. WHITE: Sure. Basically it's a local center district. And of course to the north we have Agora Center.

COMMISSIONER GONZALES: Are you looking at something in that packet that I could look at?

MR. WHITE: Let's see. Let me refer to something. Basically, if you take a look at the memo, it will address adjacent properties. It's the third page of the memo. So what we have is we have the Agora Center to the north, Cimarron Village with the gas station. To the Northwest is Sierra Plaza office building and two undeveloped lots which were lots one and two. I'm sorry, lots two and three. And of course US 285 bounds the property to the east and the Eldorado Subdivision residential lots bound the property to the south.

COMMISSIONER GONZALES: In terms of the uses that are being proposed including the theater, are those uses already being used in the Agora Center and the Cimarron Village?

MR. WHITE: There are similar uses, Mr. Chairman, Commissioner Gonzales. Of course there's not a theater.

COMMISSIONER GONZALES: Right.

MR. WHITE: Anything of this magnitude, within this use list.

COMMISSIONER GONZALES: But the rest of the uses that were approved by the CDRC—

MR. WHITE: Right. That's correct. There's some more uses in the area. Retail, community service and so forth.

COMMISSIONER GONZALES: Okay. Thank you.

CHAIRMAN DURAN: Any other questions of Frank? Is the applicant here? Would you please come forward and give us your name and address for the record.

STACY CROSSINGHAM: My name is Stacy Crossingham and I reside at 8 Isidro Road in Eldorado.

CHAIRMAN DURAN: And the Clerk will swear you in.

[Duly sworn, Stacy Crossingham testified as follows:]

MS. CROSSINGHAM: Okay, well, we started off on a different foot than I expected but I appreciate you moving our case forward. Let me first give you a really brief outline. I know it's going to be a long night for you, so I'm just going to give you a brief outline. Al and I originally purchased this property to move over a video store that we currently have at the Agora. We were running out of space. It wasn't servicing our needs for growing.

We came into an opportunity where the previous owner wanted to sell it. We arranged a deal. That happened last October over a year and half of finding out what our zoning issues were and what we were required to do to make a development over there. Originally, Sierra Plaza, which it was called formerly before the Village at Eldorado, was designed to accommodate nine separate lots with nine different owners, which would provide a major inconsistency to that corner.

And we felt that by purchasing the entire corner that we were going to be able to provide some sort of consistency and use, not only as a business member of the community, but also as a resident. Our only vision for this corner was to make it the best corner it could be. We live in this community. There are no services for children. There are no entertainment sources and we felt like we wanted to be creative in our uses. This hearing tonight is strictly a hearing for amended use plans. There was already a master plan pre-approved on this property for community service, for office use and for commercial. It seems to me that the County has approved uses that are very redundant on every single corner in the corridor area.

We felt that we wanted to be different and we wanted to provide some sort of service that would provide entertainment and facilities for the community at large. The median age in Eldorado is 39, as of the 1999 census. It is not a retirement village anymore. There are a lot of young kids. There are a lot of people here tonight who unfortunately because of the time delay we lost a few people. There are a lot of people

who are not represented. But we did get a lot of letters of support. As you saw, 370 letters.

I think this is a pretty loud voice saying that they're ready for a change and they want to see something positive grow in that community. That community is growing. Of course we have opposition. We welcome opposition. We've always told the opposition that. But it has to be honest opposition. And we are trying to work with the community in the best way we can to make this not only a good corner for the opposition who live nearby, but also for the rest of the community that lives beyond that area. I have met with every single one of you and I thank you for your time in advance.

Some of you had positive things to say; some of you didn't. But I think overall I think we can all agree that the growth is happening out in Eldorado and we need to diversify our uses. And that's why I'm here tonight. We're trying to find some diversity to that corner. By putting up more office and more commercial retail, we're not creating any diversity.

The theater, as far as water use, is a very low water use type of property. We have done our research on similar size properties around the country. Our original seat count was going to be 800 seats if we went all the way up to six theaters. I'd like to advise every single one of you that we are not stuck on six theaters. We never have been. It was something that we were asked by County to present as our maximum so that we can support future growth in the area. If we start with one, two, three, four theaters, we're perfectly happy with that and if the water budget that is required at development review and the traffic studies that are required at development review that are not required now come up with other things, we're willing to adapt to that. But we want to make it the best corner possible.

All the issues regarding lighting, signage, traffic, access, all those things occur at design stage. I have been very active and supportive of contemporary community planning, of the Highway 285 committees, and of the Highway 285 Coalition. I have stated many times to these communities, or to these community groups that I support their efforts and that I am offering, Allan and I are both offering to work with them to create a design that's going to conform to what we want to create in Eldorado.

As far as signage and lighting. Allan and I do not believe in a lot of signs. We do not like and don't think it is necessary to put marquees up. We don't think it is necessary to have to delineate where this corner is. People who live out there and the people that weren't intending to attract are going to know it's there. We're not trying to attract people from town. We're trying to attract the rural community that we are currently serving in our video store currently. We have approximately 6,000 and 7,000 members at just the video store - not everyone uses it and not everyone will use the theater either. The theater will offer a variety of services. We also plan on putting in a very quaint size auditorium with 75 to 125 seats. There will be one little larger theater with approximately 300 seats, which if you ever go to a theater and count seats, it's not very big. We'll also house what we call a live performance stage so we can have children and adult theater groups and offer some sort of live performance facility.

The lobby will be a meeting place. A destination point for the community to come and socialize with their friends and family up there. It will prevent people from having to

come into town and drive after work. It's going to have a large fireplace and lounges and a coffee bar and maybe a piano bar and they'll be a place for kids to have a birthday parties in private room. You know, it is all community oriented.

Our goal, our only goal, is to bring community together. That's what Allan and I want. That's what we have been after. That's the whole purpose of us investing our lives in this development.

The benefits for this project, obviously in addition to employment opportunities for people to be able to work locally, being able to provide new services to handle the continued growth that the County is allowing to happen out there. But it also puts money back into the pockets of the community. The business people that already exist out there, us included, have spent thousands and thousands of dollars donations in putting back into the local schools and the people itself. And I'm going to let my husband discuss that end of it. But a lot of the good benefits go sight-unseen by the opposition and if they only knew how many times a day business owners get called for donations and how much money actually gets pumped back into their community by these business owners, they would probably have a different view.

Our landscaping, we fully intend on xeriscaping as much as possible. We are extremely concerned about water. Like I said, this is our backyard as well: we live in Eldorado. We plan on spending extra money on putting in tanks underground to capture roof water and the parking lot that we're required to put in by the County to capture water off the parking lot as well. Our intention is to use run-off and effluent water from the development for landscaping purposes. We don't plan on using additional water for that.

Access is an issue and I'll be the first to admit that. We are fighting very hard with the County to work together to find a solution for that. Like I said, if it is necessary for us to downsize the theater, we are more than willing to do that. But we feel that the diversity offered by having a theater there and creating a new use is something that is more of a benefit than anything else. I urge all of you to approve it and I welcome you to listen to all of the support and opposition tonight.

Thank you.

COMMISSIONER GONZALES: Just a question to the theater because it seems to be the theme and topic. I know that you purchased the property to help your own business grow which is a video store?

MS. CROSSINGHAM: Correct.

COMMISSIONER GONZALES: What is that made you decide or begin thinking about proposing the theater as a use in the community?

MS. CROSSINGHAM: We were again trying to figure out diverse - see originally we only put in an offer on two of the nine lots, and that's all we were going to do and then we ended up getting in a situation with the previous sellers who wanted out and made them an offer on the entire project because we saw a vision that we thought having nine inconsistent owners on those properties would not be in the best interest of that lot. They accepted our offer and we went forward with it.

COMMISSIONER GONZALES: Okay, what is your vision if master plan is approved and the theater use was allowed. What is your vision with what this will externally look like and how does that compare to what is already out there?

MS. CROSSINGHAM: I'm sorry, Commissioner Gonzales, if it were approved and what?

COMMISSIONER GONZALES: If the master plan was approved and part of the use list the Commission granted the use of the theater, tell me your vision of what it would appear - because to me in my mind I'm thinking of Century 24 and these huge -

MS. CROSSINGHAM: Right, no, this is going to be similar to an oversized pueblo house. We are very -

COMMISSIONER GONZALES: An oversized pueblo house?

MS. CROSSINGHAM: An oversized pueblo house. It's with a pueblo design, although contemporary community plan and all of that are kind of leaning more toward a ranch style. So it's going to be probably a combination of ranch and pueblo - but that's all evolving.

But our purpose is not to have a big box standing there. It will be broken up by glass atriums so that, God forbid a bad decision happen, and I don't expect that to happen, but if something should happen to the theater use, then that building could be downsized effectively and used for other uses.

What we're going to do is basically break it up by atriums, glass atriums, so that it is not as massive looking. That is our intention at the moment.

COMMISSIONER GONZALES: What type of lighting are you proposing?

MS. CROSSINGHAM: Only what the County requires. There will be no neo-lighting. It's not going to have Hollywood strobes, we're not into that. We are going to protect the night skies as much as possible. We're going to do the minimum lighting that the County requires for safety purposes period.

COMMISSIONER GONZALES: Because you're a business woman, I'm assuming that you did some type of market analysis to understand if this need existed in the Eldorado community.

MS. CROSSINGHAM: Correct. We have not done, let me rephrase this. Being a business owner and having the video store, we have a lot of contact with a lot of people daily, my husband more so than I because I have my business in town. The families out there and I have to say there are senior citizens out there that have called me and shown support and I'm sure that there are some here tonight, have also said that they're tired of driving in.

I have based my financial numbers to see if the property is feasible on a very conservative number. I have used a 10 percent occupancy during the week and a 20 percent occupancy during the weekend as a very conservative number. That is not to say I expect the theater to be 80 percent empty as some might claim. It is to say that I took a very conservative number. When I originally did the video store with which I had no experience prior to opening that up, I too did the budget numbers and exceeded that in the first year. I'm in finance. I work with numbers daily and I feel pretty confident that it's going to be a very feasible project and a very needed service for the families in that community. And a lot of people - I'm a mortgage broker, that's my business and I get a lot of people who are considering moving to Eldorado but one of the big issues is that there's not enough services to attract them and they don't like the drive. And I - as a matter of fact, someone told me that this morning. So I feel there is a strong need and it

will be a very successful project.

COMMISSIONER GONZALES: What's the target population and how many people live out there in the 285 area coalition and Eldorado?

MS. CROSSINGHAM: The 285 Coalition area is a little different than what we originally looked at. We looked at a population of 20,000 people in a 10-mile radius. We have people coming all the way from Stanley, Pecos, Glorieta, Rowe, Valencia that are serviced by our video store. And I think we have a pretty good handle on the type of people that use the center. We don't plan on attracting any additional people other than those who already come to the Agora. Just the supermarket alone, and I asked what their numbers were as far as traffic goes, and they get about 1,500 people a day and about 2,000 people on the weekend as an estimate just to the grocery store. So the traffic is already there and being handled effectively. We don't expect more than 3,000 people at the theater a week. So it's a big difference.

COMMISSIONER GONZALES: Thank you.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Tell us about the terrain where the project is going to be situated and where the theater will be located commensurate with the terrain and if there is any mitigating natural landscaping that will be utilized?

MS. CROSSINGHAM: Thank you, Commissioner Trujillo. Yes, the nice thing about this property is - I'm assuming that all of you have gone out to the property but if not - Caliente Road and Vista Grande sit pretty high up and this property sits pretty low. The position where the theater is going to be even though we have to capture pretty much height for straight-in style seating, we are sitting in a situation where the natural terrain sits 20 feet below the road. So it's already sitting down and if we're going to the ground about 8 feet we're going to sit 5 feet lower visually and physically than the current office building sitting on the corner of Vista Grande and Caliente Road today. Visually it is also hidden by a lot of trees. And we were walking the property last week and we couldn't even see the office building from where we were. So visually it is protected. There are a lot of trees and there's a natural berm that borders the residences on Caliente Road or is it Caliente Place and the property and we plan on any plants or trees that we have to transplant to satisfy parking requirements, we plan on building up a natural berm even higher to protect those residence from any unnecessary car lights or anything like that.

We're trying to be as sensitive as possible to everybody around it. It's actually the best place for this type of use because of its lower terrain.

CHAIRMAN DURAN: Thank you, Ms. Crossingham. Was your husband going to speak?

MS. CROSSINGHAM: He's going to wait until after the community speaks?

CHAIRMAN DURAN: Okay, how many out there are going to be addressing the Commission out there? Okay, how of you out there have children with you? I'm going to let those with children come up first. Please come up and get in line and then when you're through we'll open it for the rest of you.

Please state your name and your address and let the County Clerk swear you in.

[County Clerk Bustamante swears in those wishing to speak]

CHAIRMAN DURAN: Since there are so many of you that want to speak, I'm also going to limit you to three minutes. If you go beyond the three, I'll definitely let you speak but be mindful that there are a lot of people in here that want to speak.

[Previously sworn, Carolyn Lee testified as follows]

CAROLYN LEE: Hi, my name's Carolyn Lee and I live at 52 Camerada Loop. I just want to say that I'm very, very, very enthusiastic about having a theater out there. Not six, I think that's maybe a little too much but I'd say three or four. I have two small children who are at home in bed like so many of the families in Eldorado who couldn't be here. I'm speaking for about 10 families myself who are home with their little children and they're all very much in favor of having a theater out there. It takes an hour to drive in and back and when you have teenagers, like I have, they need something to do so they're not sitting around saying, 'it's so boring in Eldorado, I hate living out here.' And a lot of us have moved out to Eldorado because we couldn't afford being in Santa Fe and I never wanted to live that far out of town but finances dictated that with my growing family I had to move out.

I know I speak for a huge amount of the population out there. Everybody on our street has children of all different ages and sizes and I think that it's a wonderful opportunity to have theater, to have live theater. I used to be a dancer and I'm a big theater buff. Any kind of opportunity for live theater is I think extraordinary. My children will be going to this school and I would live for them to have a venue for performances and I know that most of this audience here is of older residents of Eldorado and they have the time and the ability to be here tonight. They also have the time that they can drive in and out of town and maybe they're not even going to the theater as much as younger people would. So it's kind of an unfortunate time frame, we've all been here for three hours and there were a lot of people here with little children that have since gone home. So please bear that in mind.

I too am big on water conservation and safety - and I'm speaking as fast as I can because I'm running out of time - but I really, really, really want this theater so I hope that counts for something. Thank you.

CHAIRMAN DURAN: Next speaker, please.

[Previously sworn, Lisa Lincoln, testified as follows:]

LISA LINCOLN: Thank you so much for letting the people with children go first because mine are still in the lobby.

My name is Lisa Lincoln. I live at 13 Melado Drive and I have a small children theater group in Eldorado. It's grown to 23 children in the last two years which has totally surpassed what I ever expected. It started with eight children and about 40 more want to join in the fall. But the problem is, there is no space out there. We rehearse at the Eldorado Community Center which is tiny. It would mean that we have to move to town and then it would not longer be an Eldorado group. We tried to get the public school to add a stage. There is no funding there, absolutely. So I am really excited about the performing arts space. It is badly needed out there. There are so many children and families who want to do live theater and want to do something that is not bad for the

for an emergency pack of diapers and being really upset that I was doing that at 10 o'clock at night. But also upset that I was spending the money in gas to do it and being ecstatic when there was a supermarket there that was going to service those needs. Fortunately, I don't do the diapers anymore but the supermarket was instantly crowded and remains that way today. It's obviously a place the community appreciates and needs. This design offers a community center for activities which are not available now. The ECIA has a converted ranch house and the rooms that were in a private residence available for the use of the folks in Eldorado which does not include the surrounding community is available for their activities. This design offers much, much more and those are activities and opportunities that this community certainly needs.

It serves a really huge area: Glorieta, Pecos, Arroyo Hondo, Cañoncito, greater downtown Galisteo all the way down to Stanley. People drive into Santa Fe to do their shopping, to go to movies, to take their kids to activities - this would cut out a lot of that compute and it provides a benefit to the community because it's well designed. It's designed by people that live in the community and care about the community.

There are objections to this which to me are the essence of "not in my backyard please." There is, as we know, having put up with orange barrels for a long time in this neighborhood, the 285 corridor has been extensively upgraded over the past year and that's finished now. There are already traffic control devices there which are very efficiently taking care of the traffic that exists. The increased traffic from this project to me would be the movie traffic, more than likely, and that would occur at the times of the day when there would be the least amount of traffic otherwise. That is in the late afternoon, the evening, on the weekends: we're not going to have traffic jams out there. And this is traffic that would otherwise instead of driving there, would drive an extra hour, taking the time, money and gas to go to the Villa Linda Mall or to De Vargas Mall to accomplish the same means of entertainment or to go shopping or whatever else. That's wasteful and it's not good to the environment to expend the extra time and gas.

The same is true of the water that the lady before me noted.

CHAIRMAN DURAN: I'm going to ask you to kind of wrap it up.

MR. BARTON: Yes, I will wrap it up.

Whatever water is going to be used at this place, will be used at the Villa Linda Mall. It's coming out of the same source. The idea that it's going to expend a lot of extra water I think is a fictitious idea. In short, I urge the Commission respectfully to give approval to this project. It's a responsible well designed project and I appreciate the opportunity to speak.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, Dan Miller, testified as follows]

DAN MILLER: Hi. My name is Dan Miller. I live at 4 Lauro Road which is a road that is an offshoot of Caliente.

I want to say that I vehemently oppose this development. I see above your heads "protection of property" as one of the things. That's one of the reasons that I come here tonight to ask you to protect my property values, my neighborhood, my children. I don't want cars racing up and down the street as they rush to exit the theater on a weekend or an evening. My wife and I chose to live in Eldorado specifically because it is a homeowner

community and there is not a lot of commercial development out there and there is a lot of open space that you can walk around and enjoy things and not be worried about being run-over by traffic moving up and down the street.

I'm sorry that the many of these people that live out there seem to be inconvenienced by the distance Eldorado is from services. But many of us chose to live out there for exactly that reason. Ms. Crossingham talking about how new potential residents are turned off because there's not enough services, well, I say to those people they should find a different place to live.

I am personally offended by the fact that a well was being able to be drilled - it was my understanding that all commercial development in that area was supposed to be linked to the Eldorado water supply. So to be able to just drill a seemingly residential well for a commercial purpose seems to be bypassing the moratorium. Certainly we've conducted studies of the water out there and there does not appear to be adequate water: it still seems to be in question. The recent Shomaker report left things quite uncertain. It didn't say there was plenty of water for everybody to go out and build whatever they want. There's no need for the commercial development. I see spaces for rent at the Agora. There are certainly other things that are located nearby. Certainly failed businesses within the Agora do not mean success for anything that goes there. While I think the grocery store turned out to be a service to the community. I think that is a needed service versus a luxury service that some of these other things, you know, perhaps if they want to watch a movie they can go the Crossingham store and rent a video.

Again, I urge the people, you as Commissioners, to protect my property as well as that of my neighbors. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, Steven Mee, testified as follows]

STEVEN MEE: Thank you. My name is Steven Mee. I live at 2 Antigua Road in Eldorado.

We just listened to a speaker come up here and talk about the property protection of people's rights in the property that they do own. When they moved into that area, that was commercially zoned property. That hasn't changed and no one is asking that to be changed.

CHAIRMAN DURAN: Excuse me, sir, can you pull that -

MR. MEE: Okay.

When they moved in there that property was zoned commercial and that hasn't changed and the Crossinghams are not asking for that to be changed at this time. It's unfortunate for them that they bought in an area in close adjacency to a commercial piece of property, adjacent to a four-lane highway several blocks away from I-25 running northbound and they didn't take into account that at same time this could be developed. It would be beneficial for those of us that do live in Eldorado that it were developed by someone who is a resident and would have our interest at heart as opposed to an outside agency that would come in here from out-of-state or outside of the community and not really be interested in our quality of life.

There has been a lot of comment tonight about young children being able to stay tonight and I heard some moans and groans from those people that are sitting in the

audience. We value the life of our children and their quality of life and when it gets to a point where it is too late for them to be up, it's time for them to go home and some of us have to do that. So we're not here to speak with them.

Travel back and forth, it is for us – it's an hour. If you do a roundtrip into the theaters into town it's an hour if you abide by the speed limits that we have. So you go in and you leave your children in town and you don't leave them in town you stay with them so you're there to support them if something were to happen. We have a very fast paced town now. We have a lot of tourists that are coming and going all the time. There's increased crime. We see it right there in our own malls. We're seeing car-jacking and other violent crimes are taking place.

The last meeting that we came to there was talk about pristine areas and that's why they moved to Eldorado so that they could have that kind of pristine location. Again, if you're looking for that, you wouldn't move in that close to an area that could be commercially developed or already is actually with the Agora and then with the highways that are running up and down it.

We had a sign here that talks about big business needs to be in big cities: I would propose to you that we're talking of a community well in excess of 4 million square feet. We're not a small little residential neighborhood. I believe when the last census was done, we were listed as the largest subdivision in the state of New Mexico. So you've got a very diverse amount of people. You've got people that are travelling into town everyday but you've also got the surrounding communities from as far away as Pecos, Galisteo – those people are going to be using these services and they do use these services at this time.

I don't wish to take up your time, but I would wish you to support this development, the entire development especially the theater I think it will be a great asset, especially for our children. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker, please.

[Duly sworn, Steve Harbour, testified as follows]

STEVE HARBOUR: My name is Steve Harbour. I live at 5 Azul Drive in Eldorado. I'm a recent transplant to Eldorado. I lived in Albuquerque before this and worked for Sandia and had a chance to work in Los Alamos but I chose to move to Eldorado because my wife is from Santa Fe and she wanted to move home, closer to home, and raise our children in some place that is safe. The schools are one of the best there is that we could find and the community, since it is very proactive, we wanted to be part of that. So we moved to this community mainly for our children. My wife couldn't be here tonight because she is with our kids.

But when we spend our dollars, our hard-earned dollars, we typically instead of going to Santa Fe to spend them, we typically just take the extra 30 minutes and go all the way into Albuquerque. Now that is money that I feel that we should keep in this community and do whatever possible that we can to make sure it does so.

CHAIRMAN DURAN: So, sir, were you in favor of it?

MR. HARBOUR: Yes.

CHAIRMAN DURAN: Those of you that would like to speak could you raise your hand and stand and let the County Clerk swear you in please.

[Previously sworn, Chuck Dippold, testified as follows]

CHUCK DIPPOLD: Good evening, I'm representing the homeowners association out there so I'd like to beg your indulgence and take a few more than three minutes. I'm Chuck Dippold at 22 Caliente Road. I have a handout. May I distribute that?

CHAIRMAN DURAN: You're not going to read this whole letter into the record are you?

MR. DIPPOLD: Just in parts.

CHAIRMAN DURAN: You'll need to skip big parts of it, sir. A summary would be great. There are 25 people behind you that would like to speak.

MR. DIPPOLD: I understand. Yes sir.

CHAIRMAN DURAN: Good.

MR. DIPPOLD: Mr. Chairman, County Commissioners, I'm Chuck Dippold and I am here to represent the Sierra Plaza Homeowners Association, representing some 70 petitioners from the immediate Sierra Plaza neighborhood. The local community would be unalterably harmed by the proposed commercial expansion of the Sierra Plaza property located in Eldorado. Building an inappropriate six-screen multiplex movie theater adjacent to our residential neighborhood, in combination with shops and an office park is a marked departure from the originally approved 10-site plan pledged to home buyers.

We are gratified that the Land Use Department and the County Development Review Committee have recommended against the theater in accord with County ordinance. The new owners have made representations to residents. Last year at the Eldorado Improvement Association meeting, the new Sierra Plaza owners first presented a movie complex, remarking on a few potential shops. Later, at the Eldorado Association meeting in response to opposition, the Crossinghams offered to pursue a clustered shops concept instead.

Therefore, residents have been surprised, dismayed and frustrated to see the Crossinghams' amended master plan because this is both theaters, shops and an office park. The local homeowners' perspective is that the Sierra Plaza has been consistently portrayed to local homebuyers as a low profile office retail park by the previous owner, Mr. Mark Conklin of Sierra Plaza. His brochure is appended. And he thereby incurred obligations in accord with his residential customers to delimit Sierra Plaza to his conception.

Most importantly, Conklin's design portrayed no individual site large enough for the multiplex configuration, so homebuyers could have had no expectation of such magnitude. Likewise, the County's approval had effectively certified the property's development scale to homebuyers.

Residents' main concerns are is that a multiplex would generate late night traffic in a residential neighborhood, a pub adds intoxication, a multiplex would need to draw half or more of its audience from outside of the area, thereby raising concerns about our public safety, given the absence of a real police presence in Eldorado and the US 285 corridor, while adding emergency medical operations to the fire district, assuredly reducing the property values inside a mile of the theater, for myself, likely \$15,000 to \$20,000.

The community's profound opposition has been documented by petition, letters and reports sent to the Land Use Department last July when the movie theater was first

surfaced. I do have to make the short comment on battling petitions. From a market research perspective, the homeowners chose to limit their survey mainly to the 70 or so homes most affected so as to underscore impact. By delineating its population, the homeowners association can claim a mandate from its constituency. Our information and observations is that the Sierra Plaza owners use their video store in Eldorado to garner letters and petitions from a marketing perspective. The sample population is unrepresentative of the area, mainly video movie patrons.

The master plan's documentation is inconsistent. The documentation's square footage varies. The water budget and traffic figures do not add up, so one or the other is miscalculated. Traffic impact is understated. The water budget is likewise understated. Our alternative assumptions find that water usage would likely be 50 percent higher.

The foregoing conclusions were based on figures in the owners' own submission. Therefore, as I talk about demographics, and there's been a lot about demographics here this evening. Conversely, demographics predict that the theater will be acutely underemployed. Based on year 2000 census, the area's demographics demonstrate the County Code prudently excludes a theater from small scale districts. The theater's admissions would be a function of local age distribution and a percentage of total admissions by age group.

There's two charts here, the one on the left gives local, movie age population in the market area and observing there, we can see there are few youths and it's skewed towards an older population. On the right chart we can see movie admissions by age group, and this from the Motion Pictures Association of America. Likewise that skews towards few admissions in an older population. If you put the high older population and the fewer theater admissions together, you can draw some conclusions about how many people will be coming to that theater.

As I turn the page, we have one more graph that shows several market areas that people have discussed. The first market area in the graph represents the immediate US 285 corridor. The next market represents the market corridor that has been described here by the Crossinghams, and the next is an extended area that takes in the Pecos, Glorieta, Stanley area. Finally, there's a representation of the owners' representations here.

The property owners have emphasized serving the community's youth, however the industry's target audience of the adolescents and young adults is wanting and the local census skews older, with the 40-over age group constituting 65 percent of the area's population. Using a semblance of the owners' market area and adjusted for movie ratings, roughly the under 25 percent movie-going population is only 1550 in the market area.

CHAIRMAN DURAN: Sir, you've gone over the limit twice. Could you wrap it up please?

MR. DIPPOLD: Okay, I will go to recommendations. We trust that the County will preserve the originally approved scale of development, in particular a movie multiplex is wholly incompatible with the residential nature of the immediate neighborhood, the greater community, and threatens our public safety. The Land Use Department review concludes that the proposed theater is not compatible with established guidelines. Functionally, only the retail shopping cluster and offices come closest to the original intentions, so we are not opposed to the offices and the shopping. There's a

number of items that we'd like to see approved there, but I'll skip those.

Last, a caution and an option. In CDRC testimony, Ms. Crossingham described an abbreviated theater and others have suggested a smaller, one-screen theater. Nevertheless, the formal submission before you is for six screens, 21,000 square feet, and 1,000 seating.

An option: The Land Use Department and US 285 communities are currently organizing the area as a contemporary community, recommend that any different theater concept be reconsidered in the future context of a contemporary community plan.

To wrap it up, certainly many live in the immediate neighborhood for shopping and convenience. More broadly though, folks live out here to get away from urban, suburban development and any growth needs to be compatible with the character of the surrounding community. We are confident you will do the right thing and protect your citizens. Thank you for your time.

CHAIRMAN DURAN: Thank you, sir. Next speaker please.

[Duly sworn, Karen Erickson testified as follows:]

KAREN ERICKSON: Karen Erickson and I live in the Ridges. Do you want the whole address. Number 5 Hijo de Dios, 87508. When I got here this afternoon, this is what was waiting by the door. Water shortage emergency. If we don't have water we don't have anything, and I'm really worried about the theater and the amount of water that it's going to use. And I think it's rather hypocritical to make all of us cut back on our water or to charge us extra if we go over what we're supposed to use, and then to build theaters and use up the water. That doesn't make any sense unless she's discovered a river that I don't know about in Eldorado.

I have nothing against theaters. My husband and I make our living by being in films and in theater, so I love it. I love film. Perhaps a small live theater would work and I think it might be wonderful for the children. They do need something to do. But not a six-screen theater. She also might consider a park where they could roller blade or something like that. They're always doing things like that in the Agora. It would be nice for them to have an official place where they could go. And I'm also a little bit concerned about a pub. As someone else mentioned, we don't have—as you know, we don't have a police force. And if we're going to have a pub and then we're going to have all the people coming in to go to the theater and they're going to be driving fast to make the movies and then maybe going to get a drink and driving fast and with all the children there. I'm just very concerned about what's going to happen. I can just hear all the sirens going up and down 285,

So I'm obviously against it, but a bakery would be lovely. Thank you.

[Duly sworn, Kevin Quinn testified as follows:]

KEVIN QUINN: My name is Kevin Quinn. I live at 1 Torneo Road. So I do not live, or I do not have this development in my backyard, theoretically. I'm about two miles from it. I strongly oppose any development period in Eldorado. We do not have the water. From what I understand at the last water meeting out in the Eldorado area, this well that these people have drilled taps the headwater from the mountains and it's going into our community. So this will be siphoning off water before it even gets to our community.

I think we need to wait until we get this San Juan Chama diversion water before we

do any more development out there. I don't believe we need to have any more amendments to our moratorium out there. We have 370 letters for? Well, I'm sorry I didn't write a letter against. I probably should have. I probably should have signed a petition, but I'm here instead. It's not in my backyard like I said; it's two miles away. One hour into Santa Fe. Boy, it takes me about 20 minutes one way and that's not breaking the law.

As far as Eldorado being the biggest subdivision, I think Rancho Viejo probably is and if these people were involved supposedly in the community like I am, and I'm on the security committee out there, they would be coming to meetings. We have no people coming to the ECIA Board meetings. We have nobody coming to committee meetings. If this guy is involved in the community I'd like to see him at meetings. Thank you.

COMMISSIONER TRUJILLO: Next please.

[Duly sworn, Lloyd Sidney testified as follows:]

LLOYD SIDNEY: My name is Lloyd Sidney and I live at 10 Camino Castadino. It's also not in my backyard. I live in Dos Griegos which is a subdivision alongside the Eldorado Subdivision. Several major objections. Number one, I'm very concerned about the traffic. Where we live, it's an alternative route into Eldorado through our subdivision. I can see in the evenings, and movies are in the evenings, drinking may well be in the evenings, will be going through our subdivision. I don't live in Glorieta. I don't live in Pecos, and we will have more people coming through our subdivision in the evenings, going to movies and potentially drinking coming through our subdivision from areas outside the Eldorado and the 285 corridor.

I'm also concerned about security as the lady previously said. If there's drinking problems, if there's traffic and accidents, we do not have a police force. I'm concerned about security and accidents and drinking in particular, we do not need a bar—we can call it a pub. It is a bar in Eldorado where people are drinking.

Kids go to movie theaters. We have two grown sons who were teenagers. As teenagers wait for their parents to pick them up they look for things to do and sometimes they get in trouble. We know. Again, we had two sons. We are concerned about that in that area.

I also am puzzled why it takes half an hour to drive into Santa Fe. It takes us 20 minutes to get to Villa Linda and I am not speeding on a 75-mile an hour road.

I attended as the other gentleman did a meeting of the water and utility meeting sponsored by the Eldorado about water usage and it was alarming. Now the people in Pecos and Glorieta are not on the Eldorado system. Again, we'll have people coming in, using our water system, using the movies, drinking and so forth. It is alarming what we heard about water in Eldorado and in a few years we're crossing a line. We may not have enough water to support our community.

We go into Santa Fe to go into the movies. We do not go into Albuquerque. I don't understand going to Albuquerque unless there's a movie not playing in Santa Fe. So we don't drive to Albuquerque. We go to Santa Fe for the movies. Agora's a convenience. I have a real problem with movies and drinking and additional shopping and retail stores and fast food places. And frankly, it sounds more and more like not Vista Grande, but it sounds more and more like Cerrillos and St. Michaels and St. Francis. And

we don't need that in our community.

We came to this community because it is removed from Santa Fe. It is away from St. Francis, St. Michaels and Cerrillos. We don't want that. Thank you and we hope you vote against this.

[Previously sworn, Kirk Ellis testified as follows:]

KIRK ELLIS: I'm Kirk Ellis from 10 Caliente Road. It's really interesting.

I think a number of us are talking at cross purposes and I want to state at the outset that while I am adamantly opposed to the theater for the reasons that will become clear, I think that this development does offer certain advantages to Eldorado. But are we talking about a performing arts complex or are we talking about a six-plex movie theater. Because we can't be talking about both. A performing arts theater and a six-plex movie theater cannot exist in the same space.

I work as a writer and producer in motion picture and television and I covered the exhibition industry for the Hollywood trade papers for 7 ½ years. Believe me, if there was money to be made in Eldorado, somebody from Hollywood would have made it already. That is the issue and that is why you have not seen a rash of the building of theaters in Santa Fe. From the point of view of a distributor, somebody who would be giving theater owners, like the Crossingshams, films, we are overscreened. There are 21 theaters, not counting the art houses, the Plan B and the Screen, currently in Santa Fe. The Santa Fe market is considered a secondary market. We do not get every first-run film. There are a number of films that are released in even cities like Albuquerque that never make it up north because this market is deemed to have not the profitability that the added expense of manufacturing prints and shipping them up to Santa Fe—you can't cover the cost of it.

You've seen very visible signs of this in Albuquerque. You'll see two ruined theaters empty just off I-25. The old GCC 6-plex, and another one, the three-plex, on Wyoming off of I-40. That's Albuquerque. A number of people came here tonight and said that they drive to the Rio 25 in Albuquerque to see movies. This theater isn't going to compete with the Rio 25. It's not going to compete even with the Translux Theater in Española. More on that in just a second.

You cannot adequately stadium seat a 300-seat theater, let alone a 50 or 75-seat theater and make it competitive. You're talking about theaters as big as an average living room and you cannot make that competitive with some of the larger chains. There's an issue of *Preservation* magazine that came out this month that talks specifically about how independent theaters not affiliated with chains are going out of business across the country because they're not getting the movies. And it's difficult to get a handle on this particular theater because it shape-shifts like the Terminator. It differs every time one of these presentations happens.

But just to, if I may refer to the Crossingshams' own editorial in the *New Mexican* from June 20th. It says the larger auditorium would also have a performance stage so that live entertainment would be able to perform. That means that you're not going to get a show in that day. You're going to have to reduce the number of times you're showing the movie. No one's going to rent you a film, knowing that they're going to be pre-empted for live performances. Performing arts stage? Great. It's not part of this six-plex.

It's also noted in here that I honestly do not feel that the people would drive to Eldorado to see a movie when they have theaters in town. Tell that to the people of White Rock, a city of 8,000, a town of 8,000, whose only theater, a single-screen theater went belly up. The same thing's happening in Los Alamos and even the Española Dreamcatcher is on rocky ground. I think that it was a very, very wise decision on the part of the CDRC to allow this development to continue without the theater and I would urge you very strongly to second that recommendation. Thank you.

[Duly sworn, Burt Leyva testified as follows:]

BURT LEYVA: My name is Burt Leyva. I live at 7 Esquila Road. Commissioners, I think the overall view of this is that I encourage, I support this endeavor by the Crossinghams, first of all because I think we need a little diversity. We need a little culture. I think we're becoming more disenfranchised with one another. I think it's a family atmosphere that needs tending, the one-on-one sort of communication that goes on in this world. And to quote John Donne, No man is an island. If you want to be on an island, the bell's going to toll for thee. So it's going to happen sooner or later. You can't stop it and I encourage your vote for it. Thank you.

[Duly sworn, Tom Highland testified as follows:]

TOM HIGHLAND: My name is Tom Highland and I live on Old Road Ranch, which is a neighborhood about two miles south of the corner of Avenida Vista Grande. I'm representing most of my community this evening. I've heard from the majority of the homeowners. There's about 31 houses there at Old Road Ranch, and the majority, over two-thirds of the people there do not want to see this development occur.

I am a sign painter and I have created most of the signs that are hanging at the Agora shopping center. I painted a sign, it's a 4 x 8 at the end of the parking lot that says, Agora, Phase II, and right now it just says opening soon. It used to say opening spring of 1997. And then Jim Karris, who was the owner of the place at the time, he'd have me paint it out and then I'd say, Opening spring of '98. And then I painted that out and it said Opening spring of '99. And then finally he says, just put Opening soon on there. So I said, Jim, what's the deal with the Agora Phase II. And he goes, Tom, I'm not going to open up Phase II, I'm not going to build Phase II if I can't fill up Phase I.

Another thing about living out there in the neck of the woods, we are on septic system. There is no sewer out there. So normally, the wind is blowing from the west, but when you're experiencing the wind blowing from the east, when that happens, you can smell this rich aroma coming across that field from the Agora shopping center, and this is just what is draining into that insufficient system that the Agora has right now. And so to propose another Agora and another shopping center across the road from it, I fear for the air, I fear for the community.

We like it dark. We're not afraid of the dark out there, so I vote, I hope you all vote to not approve this development. Thank you.

[Duly sworn, Tom Nasco testified as follows:]

TOM NASCO: My name is Tom Nasco. I live at 420 Sosaya Lane, Santa Fe, 87501. Members of the Commission, I'm an attorney and I have to make a disclosure. I'm also a co-owner of the Agora shopping center with Gary Boyle. And you know Gary better than you know me and I'd like to keep it that way but tonight, I decided to come

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forward because I'm vehemently opposed to this development, although for a completely different reason that the Commission has heard tonight.

I noted with interest Commissioner Gonzales' comment as to whether the State Engineer would allow a well, a three acre-foot well, which is called a 72-12-1 well, and whether this Commission had to allow that in order for development to proceed. The answer is very simple and this is the way that the New Mexico statutes intertwine with this Commission's authority. The legislature has stated, and the State Engineer must abide by the requirement, that one can drill a 72-12-1 well for residential purposes. However, this Commission has the authority invested by it through the legislature in Section 31-9-6.e to impose any constraint or restraint or condition on development that it deems necessary with the only proviso being that the development does not contravene existing zoning laws.

This Commission exercised that authority back in 1994 when it approved this subdivision and made certain requirements a condition of that approval. What we are hearing tonight is a proposal to use a water well, a privately drilled water well, for the water requirements of a subdivision when this Commission specifically prohibited that use when it approved the subdivision in 1994. We are seeing an attempt to vitiate a lawfully imposed condition that this Commission imposed on that subdivision.

A brief history is in order and I will be brief on it because as early as 1993, when the CDRC approved this initial commercial development and the initial master plan, one of the conditions, an important one, was that the applicant get a letter of commitment from Eldorado Utilities to serve the water needs of any future development on this property. The applicant did that. In April of 1993 the staff recommended approval of this development, but saying we will abide and recommend that the Commission adopt those conditions and requirements as recommended by the CDRC to wit, that the water supply plan be filed and that that plan specify EDU water service to serve any development.

The Commission approved this subdivision on July 12, 1994. Staff came to the Commission and said, and I quote, Staff recommends approval of this subdivision subject to all conditions previously imposed, plus a new one. The new one being that the applicant agree to put in its disclosure statements all of the conditions of approval including the limitation of use on water. And that being the water must be supplied by Eldorado Utilities. The Commission approved it on that same date, July 12, 1994, stating in its approval that this is subject to all previously imposed conditions, including the conditions imposed by the CDRC.

Those conditions as lawfully imposed by this Commission have the force of law. That's not my statement; that's the New Mexico legislature's statement. They have ceded to this Commission that authority to impose those restrictions. And there is a reason for that. And when I explain the reason, it will become relevant why I'm here as a co-owner of the Agora Center. The reason is reliance. Reliance from the date of the subdivision approval forward. When we looked at the Agora Center, we did so in our due diligence by analyzing all available commercial properties in the area and their ability to construct what we believed through our market research was unneeded commercial development. We determined that no commercial development could proceed in this area because all subdivisions previously approved by this County, or through voluntary consent by the property owner, was subject to the restriction that they use EDU water.

I recall a conversation I had with Mr. Boyle saying everything is okay, but you've got to know, we can't develop this property by drilling a well. We're going to have to develop an innovative solution that is water neutral, which we did. We spent a long time investigating and analyzing the expensive proposition of water recycling. That's not before the Commission, but as a result of the attempts to vitiate those prior requirements on which we relied and on which I suspect many homeowners relied in acquiring their property, we now have no reason to go forward with that proposal. We can drill a well. Everyone can drill a well. One more straw into the aquifer is something we simply do not need.

Now, I have heard that this is simply an amendment to the master plan. It's not an amendment to the master plan. It's an abrogation of the prior approvals of the subdivision process. I've also heard that this amendment to the master plan is simply going to change that which the Commission already approved. I say that this Commission cannot change that which has the force of law, that which is imposed as a very condition of dividing this property and allowing it to be developed.

Now, where does that leave us? That leaves us in a situation where we are effectively attempting to resubdivide property in an ex post facto fashion and avoid requirements that were imposed with the original subdivision. But it's too late; we cannot put the toothpaste back in the tube, because we have already sold parcels in this subdivision. This is not an amended master plan application for the subdivision; it's an amended master plan proposal for one lot, one lot within five of the subdivision. In order to do that today, this applicant would have to go forward and comply, clearly with Section 6.3.1 of the Santa Fe County Code, which specifically states if you have five lots you can't drill a private water well.

So they are trying to do—and I don't know that it's intentional. I doubt it. I think it's simply just happening unwittingly. They're trying to resubdivide this property and they can't do it. It's already divided and it's already been sold. That raises the final issue of what do the remaining properties within the subdivision do? How are they to obtain their water? One of the properties, I understand owned by First State Bank, I don't know how they're supposed to obtain their water, because now we have totally abrogated the community water system requirement imposed on this subdivision. I suppose they could drill a well. I suppose they could hook up to EDU service.

But the reality in this situation is that this subdivision has been approved subject to that very specific requirement. It is a requirement lawfully imposed by this Commission. It is a requirement, an authority granted to this Commission by the New Mexico legislature, and I submit to you it is a requirement as the statute says, that has the force of law, and respectfully submit that the Commission ought to honor that requirement and decline the approval of this development process. Thank you very much for your time.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, Sheila Ellis testified as follows:]

SHEILA ELLIS: My name is Sheila Ellis. I live at 10 Caliente Road in Eldorado. And first of all, when we bought the property on Caliente Road, there was a small office complex there and we were told that the rest of the property would be zoned for a low-impact development, such as more offices, as the Sierra Plaza is, a doctor's office, a dentist office, a real estate office.

For people to say, well, this was zoned commercial—you should have known better, is really unfair. If you buy a house in good faith and you were told what the property is zoned for and allowed for I think you have a reason to expect that to continue. There are so many issues here and there are so many things that change each time we come to a meeting because the Crossingshams come up with a new wrinkle in the plan. A six-plex theater, we were told by the Crossingshams that they would have to build a six-plex theater because that's the only way they could get film distribution. Now it turns out that they don't need to build a six-plex theater so I don't know what changed in that regard.

I'm puzzled by a movie theater with a lobby with a piano bar and a place to congregate. I don't know about you but when I go to a movie theater, I really don't want to hear a lot of people in the lobby and a piano playing. I want to hear the movie that I'm going to hear.

The other concern that we had was what was described at the CDRC meeting as a kid-friendly pub. At that would be modeled after pubs in England. Now, my husband and I lived in England for two years and I can attest to the fact that pubs are not kid-friendly. They are no place for children. I cannot imagine, well, mom and dad want to go out for a few beers. Let's take the kids along. And they can play chess or checkers or darts while mom and dad get sloshed and then they can all get in the car and drive home together. I mean, this is to me totally lacking in common sense.

I can't speak on the water issue. I'm not an authority. I know it has been an ongoing concern of the community about water. To say, well, I'll go to the theater but I won't use the toilet is a little bit disingenuous as well. Perhaps if they built the movie theater and didn't put toilets in, that would solve the problem and those who come down from Pecos to go to a movie theater can just hold it until they get home or use the lot outside. There's just so many things that are wrong with this that just don't make any sense.

We were not opposed to a small development with some shops, with a café, with a bakery, but we're talking about 70,000 feet of development in a residential area, all of which will let out on a two-lane dirt road. This is totally lacking in common sense. I just don't know how you can justify that in any way. So my opinion is a small development, a few stores would be fine. A six-plex movie theater is just totally out of the question. 70,000 feet of development in this little rural area just doesn't make any sense. I don't know where they will get the people to rent these spaces. I really don't.

If you run a jewelry store, do you think that Eldorado is going to be a great market for you? I don't think so. So you really need to think carefully about are we going to be creating a white elephant if we go along with this huge project. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please. Could I ask you all to save you're applause until the end?

[Duly sworn, Deborah Hayden testified as follows:]

DEBORAH HAYDEN: Hello. My name is Deborah Hayden and I am a resident of the ridges, 27 Pan de Vida, 87508. I'm here today to represent the 285 South Coalition, which really comprises over 19 subdivisions from Lamy north to highway, basically 25 along the 285 corridor. All of the representatives of those subdivisions basically have had major concerns, although we realize the community will continue to

develop and support that development, we do have concerns about the Village at Eldorado.

There are two planning phases in place right now, the corridor plan, which was approved by your Commissioners here. It's been in the planning stage for a year and a half out in our area, and also we will bring forward to you the Simpson Ranch community contemporary plan, which also composes all of these neighborhoods. We would like to suggest that this project and all other future development projects be considered within the community rubric and basically the developers should be required to meet with the committee, the 285 corridor planning prior to each stage of the public hearing process. Hopefully, that would avoid what is happening here today and allow us to proceed in a different way.

Also, just overall in terms of traffic, I would agree with everything that has been said. Those concerns have been raised. Theater complex: I could just tell that within the 285 South Coalition, every ten or eleven subdivisions actually were polled by the phone and I think you have numbers in front of you. The Ridges Subdivision results are included in what I'm going to say now, but essentially, what we found, there were 172 of the phone calls that were not in favor, 82 in favor and six undecided. So that put it at 70 percent not in favor, 33 percent in favor, and 2 percent undecided [sic]. So that's all I want to say about that to you but I think it will stand for itself that at large, the community does not support certainly a six-plex movie theater out there, but I think stage, yes. People would probably very much support that.

We also believe one of four additional things and then I will give the floor over to others. We believe that due to the significant changes in the original master plan, the developer of the Village of Eldorado should prepare a market analysis and economic impact statement. We also believe that due to the serious nature of our local water situation, that the water budget should be carefully examined. We also agree that the original plan, there were trail easements on the property, and we would like to make sure that the trail easements for the community continue through all revisions and amendments, and then every new project should be reviewed for connections to the larger open space and trails program.

We also feel that if this project is going to continue, we must look at parking and how the parking is arranged on the property. Right now, if you take 400 parking spots and make it blacktop, I don't care how many trees separate everything, it isn't going to be a very pretty sight. So we would really like to recommend small parking areas, distributed throughout the natural land contour.

And finally we would request that the park and government offices be returned to the community services use list and that the wastewater treatment facility be removed from the proposed community services list. Thank you very much for listening to our presentation and for your consideration of these issues.

CHAIRMAN DURAN: Thank you. We have been on this for over an hour and there is still a number of people that want to speak. By my calculations that's going to take another half hour at three minutes apiece. So I'm going to be pretty tough on the next several speakers, all the rest of the speakers to try and stay with that three minute limit. Thank you. Next speaker please.

[Duly sworn, Pat Kuhlhoff testified as follows:]

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PAT KUHLOFF: My name is Pat Kuhlhoff and I live at 14 Duende Road. And in the interests of time, the statement that I'm going to make this evening will apply to this case and also to the following case, so I will not get up and read it again. And I would like to say that I am speaking for the 19 subdivisions, the landowners, and the developers of the 285 South Corridor Planning District Committee, which was authorized by the Board of County Commissioners.

We are a diverse and committed group that have covered a lot of ground in the last 18 months and have built a trusting and productive working relationship with one another and with the Planning Department staff. Under your charge and with the help of the County Planning Department we have developed a vision for our corridor and have begun to articulate specific standards which will help guide both the residents and the developers toward realizing a plan that will be the backbone of our growing community for generations to come.

We anticipate completing design standards within the next few months. Most potential developers have actively participated and expressed a willingness to integrate our newly evolving standards into their planned development. Other developers may be bringing projects to the County without being aware of our community vision. It is with this prospect in mind that we wish to request of you, the Commissioners, your renewed endorsement and active support of our committee efforts to create a well-designed corridor that meets the needs and expectations of the local residents and the larger community.

To this end, we would ask you to endorse our request that all development plans in this corridor bounding be reviewed by the 285 South Corridor Planning District Committee throughout the remainder of the planning process. This would include master plan, preliminary and final approval stages. This review would include site planning, architectural style, water resource management, traffic impact and land use. We want to work with the Planning Department and the developers in a cooperative relationship with the support and endorsement of the Board of County Commissioners, even as we finalize the corridor plan and accompanying ordinances and the intent of community based planning. We thank you for your time and efforts on behalf of everyone in the corridor committee. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, Paul Eick testified as follows:]

PAUL EICK: Mr. Chairman, members of the Commission, my name is Paul Eick. I live at 25 Lucero Road in Eldorado. I wanted to say that I'm a father. I'm a husband. I'm a homeowner. I am not anti-development, but I'm opposed to this request for special privileges is how I consider it or how I look at it. I've been to a lot of the meetings out there in Eldorado and the surrounding area and listening to the people and I'm not satisfied that all of the information that is needed to make a good, sound decision regarding water in that area has been exercised as of yet.

I'm also being educated by the contemporary community process that's being used out in that area. One of the things that I'm being educated upon is that what affects or what goes on in Eldorado doesn't just affect those of us that live in Eldorado. It affects all of our neighbors in all the communities, all the subdivisions that go all the way down to Lamy and by this decision, those people may be affected and they may not be heard here

so I'm speaking as a person that says I don't want to see this go ahead as it is now.

And that's basically all I had to say. Everything that, all the objections that I had have already been spoken, and I thank you for your time.

CHAIRMAN DURAN: Thank you sir. Next speaker please.

[Duly sworn, Kathleen Sisten testified as follows:]

KATHLEEN SISTEN: I'm Kathleen Sisten. I live at 2 Caliente Place on the corner of Caliente Road, about 1/10 of a mile from the access to this proposed development. So it is in my backyard. When I came to this area and I bought my home in Eldorado, I did it not looking for a new diversity and high-end development. I bought there because there were rules and regulations, covenants and conventions, governing the property and our expectations of the development that would be put in. That's what we moved there for. And it's a betrayal of those of us who moved there wanting it to be what we thought we were buying, what we were told we were buying, to change the whole nature of the development now, putting in this kind of development.

One thing no one's even mentioned tonight and I find it amazing that I'd be the first to bring it up. 285 is the WIPP route and I can't understand why anybody would think that putting establishments serving alcohol right on the corner of those highways makes any sense. It doesn't make any sense to me at all. I already know that the traffic on Caliente Road is really abominable. That road's a washboard and you can't actually have two cars pass each other. Two cars cannot pass each other because the road is that bad. And there is no point in talking about the traffic into the Agora being comparable. The Agora, as it presently stands has two driveways off of Avenida Vista Grande, which makes it not a problem.

This development, this proposed development, has no access off of Avenida Vista Grande and there's no chance it's going to have it as I understand it. And the access that is off of Caliente Road is so minimal right now, it would be hard for it to even management the traffic from the road density development that was originally approved for that particular area.

So I'm actually against the theater. I'm against the pub. I'm against anything that changes the original plan that we were sold when we bought our homes there, which is just the same sort of things there now. Small, low-density, and low-impact. And I can't see also, when we are being asked to conserve our water, which I take very seriously, to the point that I've actually put a 5,250 gallon tank in my backyard and I capture rainwater off my roof. I put in a lot of money to conserve water and that's a big issue for us out there.

Any new development is going to impact on the water. There's only so much and we all know that. This is all we talk about out here. So any development is going to impact on the water. I could go over all the other issues—traffic, lack of police presence, noise, late hours. We've heard it all and it's late. So I would just like to say that I really respectfully request that we adhere, that you adhere to the original plans for this development, which is low-density, low-impact, not a theater, not a pub, not anything that's really going to change the nature of our community. It is a residential community. That's what it is and that's what we want it to be. And I know I speak for a lot of my neighbors. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, Chris Stead testified as follows:]

CHRIS STEAD: My name is Chris Stead and I also live at 2 Caliente Place. I have three words to say and I'll keep this really brief. Traffic. Water. Sewage. Thank you.

CHAIRMAN DURAN: Thank you, sir. Next speaker please.

[Duly sworn, Alex Delacuse testified as follows:]

ALEX DELACUSE: My name is Alex Delacuse and I live on 52 Camerada Loop. To be quite frank, Eldorado sucks when you're a teenager. There's nothing to do out there. It's boring. It's dry. So I think a theater would do a lot for the community and half my friends that live out there also agree with me, but they couldn't be here tonight. That's all I have to say. Thanks. Oh, yes. And I don't think it would be like Cerrillos, whoever said that. It's not going to be huge chains of McDonalds and Wendys of what have you. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, MaryAnn Hale testified as follows:]

MARYANN HALE: Hi. My name is MaryAnn Hale. I live at 42 Estambre, and I'm five miles away, so it's not in my backyard. It is my understanding that the Commissioners are hearing proposals tonight to amend the present water moratorium to permit a development under which private wells would be allowed as well as one which would permit recycled water. As a property owner and along with most of my neighbors on Estambre, I am vehemently opposed to use of the aquifer resources in Eldorado in the form of new or existing wells to support commercial development.

This adds up to more straws, very thirsty straws in the same cup we're all drinking from. It's my understanding that 100 years of water supply is mandatory for consideration of any development of this sort. The last I heard, all Eldorado Utilities was able to prove was 40 years. It's also my understanding the aquifer characteristics under Eldorado are only partially understood or mapped. Thus, these people who are drilling their own wells are most certainly drilling into the same aquifer supplying me and my neighbors' homes.

They claim that their water supply is adequate, but they're using our water too. I'm not opposed to commercial development. As others said, I also like the idea that someone local would be planning it, someone sensitive. But more important than anything else is water. You have to have water. And I think that we should continue the work that Commissioner Duran has been doing, the other Commissioners to work with the City for our long term planning on water.

When that is done, when that good work that's just been started is done, then we consider what our long term water needs are. And I also hope that you will wait until the corridor district and the new contemporary community plan has been presented by consensus as it is required, so we will have a true feeling of the neighbors here and what our real planning needs are. Let's not jump the gun.

CHAIRMAN DURAN: Next speaker please.

[Duly sworn, Jim Cummings testified as follows:]

JIM CUMMINGS: My name is Jim Cummings and I live at 45 Cougar Canyon in Cañoncito. And I am very much aware of the competing, or the complexities of the situation with the water and the community planning. What I want to speak to for me

at this point is I really appreciate the diversity this project would bring to the area. If anything, I would rather see some of the office and retail stripped from it and have the new uses included. I ask you to recognize the scale that they're talking about. We're not talking about a Villa Linda Mall movie theater. It's a small scale theater.

And I also, in terms of the pub, ask you to recognize not everyone that goes to a pub leaves sloshed. In fact the vast majority who go to, especially a friendly, community oriented pub would be drinking very responsibly or not at all and just being there for the community atmosphere. That's another piece that's very important to what I see them bringing is community spaces.

So as you juggle all the pieces here, I just ask that you hold the matter of scale and the matter of diversity, and keep that in mind whether you approve it now or whether we continue this process over time. Thank you.

CHAIRMAN DURAN: Thank you, sir. n

[Duly sworn, John Reeder testified as follows:]

JOHN REEDER: Good evening. I'm John Reeder. I live at 1 Bosque Loop in Eldorado. I'm speaking tonight a private resident of Eldorado and I want to make it perfectly clear that I do not represent the Eldorado Community Improvement Association in my remarks. Also I wanted to make sure that the Commission was aware that this project is really outside of the boundaries of the subdivision of Eldorado.

I'd like to speak to the proposed theater issue as an item on the master plan use list.

The concept of a theater was introduced to the community in its largest form. Terms such as a six-plex theater. Terms that it was a big complex were used to describe the project, and of course this has created a lot of concern in the community, particularly about traffic.

But listening to the community also, a smaller facility may be acceptable. Listening to the Crossingshams, there's room to compromise. And I do not think that the theater has to be a no decision tonight.

To completely lose this option for the community does not serve our best, long term interests. This theater proposal is unique in so far as it is not only a movie theater, but it serves as a gathering place for the community. It is being offered as a local performing arts facility for local concerts. It's a place for our residents and their children to display their talents, and it's a place where the community can have large meetings. The theater can help create our community, and by working with the developers I would suggest a facility that meets the community needs in a positive way can be realized.

I'm asking the Commission to give the community and the developers time to get beyond the conceptual ideas of the project and work at a theater design that can meet the needs of the community at large, the local residents most impacted by this project, and the developers. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, Gary Boyle testified as follows:]

GARY BOYLE: My name is Gary Boyle. I live at 830 Acequia Madre in Santa Fe. And I'm the other owner of the Agora. And Tom Nasco has basically stated our position about this subject, but I thought I'd just talk for a moment about the line of questioning that Commissioner Gonzales was pursuing earlier about the market. Basically, we and our consultants have been looking at the market as an eight by thirteen mile stretch

from I-25 to Galisteo and then on either side east and west of Eldorado to Glorieta. That's about 100 square miles, 7,000 people presently, 2,800 homes and by our calculations, that kind of population and spending will support in a community like this, about 60,000 square feet of retail.

One of the biggest nightmares I have is waking up and seeing two 70,000 square foot shopping centers facing each other across Vista Grande. Let me just add a little bit of meat to that. Our experience at the Agora has been as follows in terms of vacancies: Over the entire six-year period that this center has been open, the average vacancy has been about ten percent. Last year we had four spaces out of 16 empty for more than half a year with about a 15 or 14 vacancy. This year we're down to 8 percent in the beginning and now down to just about five percent or a little less, which is where it ought to be.

So the demand for retail space is not so overwhelming that we've been able to keep this place filled all the time. So in terms of the future build-out of either our center or whatever happens across the street, I think we have to keep in mind that we've got to keep supply and demand in balance, otherwise we're all going to get hurt, tenants and owners alike. Thank you.

CHAIRMAN DURAN: Next speaker please.

[Duly sworn, Carolyn Sigstedt testified as follows:]

MS. SIGSTEDT: My name is Carolyn Sigstedt. I live in Santa Fe but lived in Ojo de la Vaca for 20 years. And rather than amend the master plan, I would ask us to go back to it. The County plan which actually can include things like this but from a community base and in a scale that the full community would agree with. Eldorado will be a new community. It really is, Eldorado and its periphery that should be determining and planning their own community and the scale of that community.

Then another issue that I want to mention is I question having lived in Ojo de la Vaca, the water out there is very, very delicate. They're very shallow wells. So the idea of just plunking wells to solve your problems is frightening. And I feel, having watched the County process for a number of years, that we might need to take a look at our Land Use Code in regard to sensitive areas and water and tying water to development. We often, I have seen this happen over the years, where we have gotten ourselves as a community in trouble because we have approved a master plan and later down the road have found out that the calculations in terms of water or something else don't add up.

Tonight we saw our County Hydrologist, who is very competent, come up here and not really have enough information to make me feel assured of anything. And I realized that that wasn't her job, to have that information at this point in time, because this is just the master plan stage and the more detailed—the devil's in the details—information would take place at the development phase. But I'm thinking that perhaps, with water being what it is in certain areas of our county and with us being totally committed to tying our water to development responsibly, perhaps we need to do a little more up front work at the master plan level when it comes to water, and have the detailed figures and know—

We heard tonight that the State Engineer couldn't make a decision on this development because he didn't have enough information. If we don't have enough information about water in this area of our county, I don't think we can make a decision. And in terms of three acre-feet, three acre-feet is not given to us. It's not a right we can

use. It's discretionary. We have up to three acre-feet. So it is really your discretion and I feel ours is a community to determine how and where and when we use that. Thanks.

CHAIRMAN DURAN: Next speaker please.

[Duly sworn, Richard Lindahl testified as follows:]

RICHARD LINDAHL: My name is Richard Lindahl. I live at 9 Duende Road and basically, I think the overriding issue is water. I think this may or may not be a good proposed project. It has its pros and cons. You've got a couple other items on the agenda tonight that would deal, have an impact on water issues and water usage in the Eldorado area. I think instead of piecemeal, picking away, eating away at the moratorium, approving an amendment to this ordinance or a change to that, etc., that's not good long range, comprehensive planning, and it's not good public policy. And I think as the Board of Commissioners, one of your responsibilities is good long range planning for the benefit of the county and setting good, sound public policy.

I don't think this piecemeal approach to these problems is really going to help you or help the residents of the county in the long run. I would urge you to—what's the rush? There's no rush to approve this tonight. You've heard from a lot of people that there's not enough information and I think you ought to postpone any decisions in terms of approval or even disapproval of this tonight. Get more information. First develop a comprehensive water policy, which has been—water has been an issue for the Commission for years and I think Commissioner Gonzales very capably brought up the concerns about the water usage for this particular project.

Let's first have a comprehensive water policy and I think you're moving in that direction. Let's stick to that course of action. You've got a good contemporary community planning process in place. Your own staff, Jack Kolkmeier is very able. He worked on this with many of us in Eldorado. Let's keep that going. Let's work on that. Let's look at water usage in that process as well. So please develop a comprehensive water plan before you take a piecemeal approach to any of these items. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, MaryAnn Stickler testified as follows:]

MARYANN STICKLER: My name is MaryAnn Stickler and I live at 635 Caminito del Sol in Santa Fe. I was a long time resident of Eldorado and I currently live in the city but continue to own property in the Eldorado area and have had a continuous, active involvement in the community for 19 years. I raised my daughter in Eldorado who is now 21 and almost graduating from college, and I gave birth to my son in Eldorado. He's a native Eldoradoan. We've been involved from a family point of view and how hard it is to raise children out there and have them really feel like they're part of a community. When they go and participate in activities in Santa Fe, they're not truly Santa Feans because they don't live in those neighborhoods and see those kids on a daily basis, and when they're in Eldorado the facilities don't exist for them to create a lot of the social groups and interactions and long term sports programs and theater programs and art programs and stuff that would add a lot of continuity not only to their own growth but to the growth of their relationships.

In my case, my daughter was very active in theater, so I think one of the things that I think is interesting about this project is the fact that it does offer diverse use. I think that

to continue to restrict our concept of commercial development in Eldorado to strictly office and retail space is missing the opportunity to actually round out this community. I know that I had originally felt that it was appropriate as a property owner out there to stay neutral and to stay out of this debate. However, it's not my nature to not have opinions and I have formed actually a fairly strong opinion in favor of the very things I've heard some people oppose, which is the diverse use that this project offers to the community and the opportunities that that does in building social connections, not only among children but in adults as well and I think that's really the fabric of the community. It's not the building but it's in the interactions of the human beings that live there.

I would like to ask that you might consider the possibility, and I'm not that familiar with what is possible, but I'm just going to throw this out. It's my understanding that this is basically a conceptual review and that there's an enormous amount of material that has not been developed in detail relating to water, traffic, wastewater treatment, rainwater catchment, all these sorts of issues. The market analysis, for instance, that Commissioner Gonzales brought up. And it's my understanding that these are components are required in depth with staff review during preliminary and final. And in fact if this is a conceptual approval, would it be possible to have the movie theater/performance space listed as a use without a particular square footage or a number of theater specified, but just like have it a use like a barber shop, a jewelry store and not be so specific because it seems to me that's going to come out in the wash with a much more conscientious, diligent study during preliminary and final.

If that's a possibility, I would ask that you approve those uses on that basis, knowing that there's a lot more work to be done both by the applicant, by the staff, and also in relationship with the applicants' relationship to these planning committees and community groups. I don't know if that's possible but I'm hoping there's a way to proceed without a black and white decision here tonight. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, Jeff Rowe testified as follows:]

JEFF ROWE: Jeff Rowe, 1 Rey de Reyes. My wife and I live in the Ridges on Highway 285 just south and across the road from this proposed development. We strongly urge you not to allow the development of a theater or a pub in this area. First of all, many of us settled here precisely because there were no theaters or pubs with their attached nuisances and dangers. Please help us preserve the rural community we came here for.

If you visit this community after 9 pm you will currently observe peace and quiet. A theater will generate late night noise and traffic. A pub will add drinking and intoxication. Both will add to our concerns about night time cruising, misconduct, vandalism and a general threat to public peace and safety. As you know, there is only a small police presence along the 285 corridor and a private security force is just not going to cut it. Then comes the water issue. This area has a finite supply of water and none of it should be used for flushing movie theater toilets.

Through a loophole in the moratorium, a private well has been drilled that will now be used for commercial purposes. This is an abuse of our water supply. No matter how you put it or no matter how you phrase it, this is one more straw into the same glass of

water and should be disallowed. Months back, way, way back, when we first heard about this issue there was an appropriate community uproar. At that time the Crossinghams were quoted in the *New Mexican* as stating that if the community didn't want a theater, they wouldn't build a theater. Well, the community doesn't want a theater.

The Ridges development was polled and does not want a theater. The CDRC disapproved the theater and the County Commission should follow suit. Please do not let this happen to a community we have all come to love for the current lifestyle it affords us.

Once again, we strongly urge you, Commissioners, to come to our support and put an end to this unwelcome project. No theater. No pub. Thank you.

CHAIRMAN DURAN: Next speaker please.

[Duly sworn, Norton Bicoll testified as follows:]

NORTON BICOLL: Mr. Chairman, County Commissioners, I will really be very brief. There are three things I'd like to visit with you about just for a moment. By the way, I'm a unit commissioner in scouting and I saw a lot more of my scouts and their parents here than I see now. Thank you for staying. And I'm also a dentist. And I see what's happening with wastewater.

CHAIRMAN DURAN: Could you please state your name for the record.

DR. BICOLL: I'm Norton Bicoll, 3 Solano Court. I live right near the school, and that's one of my points. Actually, I'd like to see another [inaudible] in the school. That could solve a lot of our problems and that could wipe this out. But I think we're putting the horse before the cart here. I too have been told that the contemporary planning committee that we have out in Eldorado is going to be recognized by you people. Why don't you let us hash this out there? You have a lot of other things to do besides this. Let us do that and I understand we have a consensus or we will be a consensus committee. Is that correct? That when we make a recommendation, that will make it much simpler for all of you to make a decision. Am I correct in that?

CHAIRMAN DURAN: I wouldn't say that.

DR. BICOLL: At least let us hash it out there. I understand you're planning to recognize us as an official organization. Is that correct? You wouldn't say that either.

CHAIRMAN DURAN: The way—once you have come up, you make recommendations to the Board and the Board makes their decisions based not only on your recommendations but a number of other factors.

DR. BICOLL: Okay. We have a lot of developers and a lot of citizens out there who are going to get together and who have gotten together. And I think it would be better for us to do that there before you make any decisions about what's happening with the theater, etc.

The last thing I want to mention is, the Agora has been advertising space. I think they ought to have what they're planning to have. The wastewater problem bothers me a great deal. As a dentist, I use a lot of chemicals and we don't have sewers in Eldorado. We have septic. If something within Eldorado, especially in the middle of Eldorado is planned, we're going to have some problems within five years of poisoning our water. There's no question in my mind about that.

One more thing. I was at these art theaters, the art shows that we had out in

Eldorado. And of all the art, all the people that have studios out there, there were 20 of them who would not go out of their studio to take space. And there are five people who have offices in their home who have no intention of going. I think the developers may be shooting themselves in the foot. Thank you.

CHAIRMAN DURAN: Thank you, sir. Next speaker please.

[Duly sworn, Robert Corbey testified as follows:]

ROBERT CORBEY: Hello, I'm Robert Corbey. I live at 3 Caliente Place. One of the first gentleman that spoke said we don't want it here because it's our backyard. Well, that's exactly what it is; it's in my backyard. My back property line is common with their property. My main concern—I'm not even going to talk about water, but my main concerns is traffic, safety and noise. I'm adamantly opposed to any theater, which I don't think is viable anyway, and I'm opposed to the pub.

Being an engineer by profession, there is no reasonable solution to the traffic pattern that this is going to create. So I really am opposed to much of this development. Thanks.

CHAIRMAN DURAN: Thank you, sir. Next speaker please.

[Duly sworn, Gloria Dryling testified as follows:]

GLORIA DREILING: My name is Gloria Dreoling. I live at 3 Caliente Place. I have to admit that when I first heard of the proposition, I did attend a special meeting that the Crossinghams provided. I actually was very biased, or actually I should say I was not biased. I really believed that it might be okay. I had moved here from the metropolitan Phoenix area and it didn't scare me as much as it did my fellow neighbors. But I have to say that over the period of time with all of the conversations, the newspaper articles, the meetings, and especially tonight, from everything I've listened to, both pro and con, that I have made my decision to be opposed to the project.

The other thing I must say is to those who are in favor of it, it is in my backyard and I would venture to say that if the project is approved, that if I were to put my home on the market, none of the people who are in favor of it would buy my house because it is in the backyard. So thank you for listening to my voice.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, Charlee Chapman testified as follows:]

CHARLEE CHAPMAN: Charlee Chapman, 10 Monte Alto Place, Eldorado. I'm going to make it short because there have been a lot of good things said tonight and I don't need to be redundant. I would urge at this time that you vote against this project, as we are not against diversity. On the contrary, we support diversity, and I would like to see something that was not flawed from its inception come forward. And I think you would find the contemporary planning community committee and as well as Eldorado getting behind it.

This particular project has been flawed from day one if not slipshod. I respectfully request your vote against it. Thank you.

CHAIRMAN DURAN: Thank you. The Crossinghams, you have the last word here.

MS. CROSSINGHAM: Do I only have three minutes? I want to thank everyone who came tonight and I know it was a lot of time taken out of their day and their

evening. From the very beginning before we went and purchased this property we did our due diligence to find out what we were allowed to do. We conversed with the County. We found out—this is back in 1998, 1999, we were very thorough on our research, on what we were allowed to do and what we weren't allowed to do. I'm sure Penny can attest to this because she spent a lot of time with us.

We were told that the moratorium was not written to stop development. The EDU had an issue and we won't get into that right now. We went and spent, on the recommendation by the County and by the State Engineer issuing us our permit for commercial use for this well, and by our covenants on our property that are recorded allowing us to drill this well, we went ahead and drilled the well, knowing that we were in full right to do that, to continue the development. We didn't know what we were going to find. We didn't know whether we were going to have a good well or enough water. We had to prove a 100-year supply just like any county member that lives in Santa Fe County and wants to develop has to prove. Nothing's changed, moratorium or not.

When we started pumping our well and drilling for water, we were very, very surprised. We were told by our hydrologist that we had an excellent, or has quotes it, a "killer well." There is no evidence to determine whether this is new water that EDU has not sourced out yet. They have not drilled in this area. As a matter of fact, there's been some off the record discussion about purchasing it to add to the system. This well may very well turn into a benefit to the community. We don't know that yet and we're not ready to make that decision, but for purposes of argument, that well may very well be a positive that had happened for the community than a negative one. And that was also addressed at the water meeting. I believe it was June 14th.

As far as Tom Nasco, this man is very well uninformed. He has not done his research. In 1995, the master plan for Sierra Plaza—I was not the owner or the applicant at the time the time the master plan was approved. It was under different ownership. That was re-amended and it was filed with a disclosure statement and covenants and restrictions on the property. Covenants and restrictions and disclosure statements, I will reiterate again, disclosure statements and covenants and restrictions are between the property owner and the buyer of that property period. It has nothing to do with the person across the street.

As far as their analysis on what they think is good for the community and not good for the community as far as I'm concerned, Gary Boyle thinks that there's only enough for Gary Boyle. So there's argument. We have a lot of letters of intent for leasing space. A lot of people are very excited about the new diversity to this project and are very excited about it coming on board. I believe, I have experience in managing properties and shopping centers around the world. I've done it in Australia, California as well as here. And I can tell you that I have a lot more experience in management than just marketing and doing numbers. It doesn't boil down to that.

Santa Fe is a different market than L.A., Chicago, New York, major metropolitan cities. We have a different market place. We have a different attitude. It's the City Different. And the video store, I have to tell you, is a clear example of this. Where 4,000 mom-and-pop video stores have closed down because of competition with Blockbuster, Hastings, Hollywood and all that, who are not doing well. The mom-and-pop stores have

closed up in fear of that development and yet our video stores have succeeded quite well because of location.

There are not 21 theaters in Santa Fe. There are 14. I'd like to correct someone. In addition to that, the original plan for Sierra Plaza allowed only a 20 percent building coverage for development. We have changed and amended that to be less than 20 percent building coverage. We too believe in open space and are working again with community planning and with corridor planning and Highway 285 Coalition to come up with a proper design that will look good, benefit the neighboring properties, as well as work in conjunction with the Agora.

A six-plex. This magic number came when we originally did our research in 1998, came from people we had talked to in the movie industry. And they said, We advise you to get six screens, not knowing our community, because then it's easier to get new-run films. This audience and this community may not be a first-run film place. It may be a foreign/arts/classic film place. It may be second-run films. There's a lot of research that has to be done that's not required at this point. Alls we are trying to do is get the use put on there.

I might also add that when we purchased the property and when we reviewed the property, there was a use list already established and it said movies hyphen video store. We brought this to the attention of Commissioner Paul Duran, as well as the staff, and we never really got an answer on that as far as, the staff came back and says, well, I guess they meant retail establishment. We don't go to the movies store. You go to the movies. You go to a video store. So we can interpret this a lot of different ways.

CHAIRMAN DURAN: I talked to you about that? I don't recall.

MS. CROSSINGHAM: You told me we would discuss it later. You remember, I faxed you that information?

CHAIRMAN DURAN: Right. I never met with you.

MS. CROSSINGHAM: We never met. We talked on the phone. We discussed it and you said we'll deal with it when it comes up to the hearing.

CHAIRMAN DURAN: Right.

MS. CROSSINGHAM: So I'm just mentioning it. I lot of people think they have the right to be concerned about the feasibility of the financials of this project. I don't see any of them offering to put the money up and risk their investment like we are. We have investors involved, I would be the last person to put my investors' money at risk. I'm a business woman. I have five corporations and none of them are defunct.

I'm trying to make this as quick as possible. We are not resubdividing a property. As a matter of fact we are leaving it as we purchased it. We did not have to amend anything. As far as the First State Bank that wishes to build on their lot, number two, in the subdivision. They're waiting to hear what happens tonight. Everyone is allowed to hook up to EDU per the moratorium requirements if they can prove than they would not use more than a quarter acre-foot per year.

This property is paved from the point of access of this property to Vista Grande. The people coming in from Vista Grande on to the property through Caliente Road, and unfortunately, and I think it's unfortunate that we only have that access currently, but we're going to work on that. I do not think are going to storm down or race out of the

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movie theater. I don't think there's going to be any car racing. I think that's an overexaggeration. There's not enough distance to get that speed. So that's kind of a lame argument. But it does not let out on a dirt road. The rest of Caliente Road is dirt, but the same people who access Caliente Road today are the same people who are going to access it then. It's the current residents who use that and that is a County road. It does not belong to the residents of Caliente Road.

I want to reiterate that I am very active in community planning. I am very active on the corridor and I do go and attend the coalition, although I'm not a voting member. I have also reiterated that I am willing to sit down, actually, I've already vowed to the members that we will work with them and deal with the design issues and whatnot and standards that they're requiring. I do not believe it's fair to ask an applicant to wait until an unknown time frame—it could be two years; it could be five years—when we've made an investment with these certain understandings with the County. What I understood is that whatever rules are on the books today is what shall apply.

I also want to reiterate on this poll that the Highway 285 Coalition took. They said they did a total of 260 votes, of which 82 were supportive of it. If I take the 82, plus 370 support letters that you've all received, we have a total of 452 people who are supportive of this project in this community. That represents well over 75 percent approval rating. Is that my time?

CHAIRMAN DURAN: No, you can have—we had an hour of comments against it. You have a little bit more time.

MS. CROSSINGHAM: Thank you. As far as the wastewater location, the wastewater location has never moved off the corner that it was originally approved on. We haven't changed that. It was always on that corner and it was stipulated on the sales information that the previous owner was passing out was that that location would be where wastewater would be located. If someone has a better suggestion, we were told it had to be certain distances from the well and whatnot and that's already been in place. We're not stuck in stone here. We're very amicable and we're willing to work with everybody to a fault.

As far as scale and planning traffic, again, I've said this before in the beginning, we are going to be working with design standards with corridor planning and contemporary community. I think a lot of people who have opposed this project have not called me and have not come up and sat down and talked about the project and our ideas. They're going off other people's hearsay and how they interpreted the project. I have opened my doors. I wrote articles. I said please call me. Not one person called. I take that back. One person did call, but he didn't give his name.

That pretty much wraps it up. I just want to say, we think the theater is a viable use. It's feasible for that community. It's going to bring together the community and have more of a community sense. I hear a lot of people talking about I don't want this. I don't want that. Eldorado is a community and we've got to figure out what the community wants, not what I want, not what you want. And I want to get people out of that feeling. It's not about them; it's about us. And Al and I are very sensitive to the community's needs and we feel that it's welcomed.

We are planning on providing security. I do feel that the people who have claimed

that it takes an hour to drive, the people who are saying it doesn't take an hour live in Dos Griegos, which is up front. They don't live in the back. I think they're forgetting it's five to eight miles to the back of Eldorado. And there's a lot of people that live back there.

This property is zoned commercial whether we like it or not and we have to develop it within a certain time frame per County Code. It's commercially zoned, so the question is, how can we make it the best corner it can be? What uses can we provide that would bring diversity and support for the children in our community and provide the education and arts and culture that we think is important that's lacking. I urge all of you to really consider all this.

I also, one more thing I want to say, is at CDRC, it took them a very long time to come to that conclusion. And it wasn't because they were opposed to the movie theater. It was because they were asked by County to make a stipulation, a condition, on the approval of the movie theater. They clearly said, I want the movie theater. Kathy Pilnock, I think, was the one that was making the motion and County had said to her You need to give us a specific condition that you want to put on. She was put on the spot and couldn't think of anything, so in order to get it to this level, they went ahead and passed it without the support and said let the BCC handle it.

Here we are today. I also want to mention that a senior citizen of Caliente Road area had called me. She gave me her name. I'm not at liberty to disclose of it. She was very fearful of her neighbors and she said that she wanted to remain anonymous but she was in very much support of the theater and she thought it would be a great idea. She says, As a senior citizen, the last thing I want to do is drive at night to a movie.

Anyhow, I stand here before you today because I've been directed by the County. I followed directions. I followed the rules. I have done nothing against what the County has set out for me and I urge you to pass the movie theater. I think you're doing the community a great service. Thank you very much.

CHAIRMAN DURAN: Ms. Crossingham, would you be opposed to three theaters rather than six?

MS. CROSSINGHAM: Not at all.

CHAIRMAN DURAN: Would you be opposed to a sit-down restaurant where liquor could be served with food and not a pub? I'm not sure what the pub is.

MS. CROSSINGHAM: Let me explain the pub. That's one thing I didn't touch on. My husband's from Australia, a very big pub community. We met in England. We've lived in England. We've had a lot of pub experience, and pub's are a friendly atmosphere. They are not a place where people get sloshed. Yes, there's a few irresponsible people that are drinking at Steaksmith or Harry's Roadhouse or Zen that might drink. Do we want them to drive all that way on the highways and the interstates drunk? Or would we rather have them here where they can call a family member to come and get them if they get to that point?

The pub is a place for dart championships and for fun activities, and yes, it's family friendly. That was the word I used at CDRC, not kid-friendly. It's for the whole family. It's to have social events and bring the community together in a destination spot. And that's our only purpose of the pub. We're not planning on serving food at the pub. What we're trying to do is complement the other people who have applied to rent at our place to

supply the food. There will be no sit-down restaurants at this place because of water, and we thought that was a sensitive approach to the water issue and conserving water. So there will be a take-out hamburger place. If someone wants it, we will call up, we will order from there.

It's not made for food order, okay? That will be served on plates that need to be washed or those kind of things. I think a pub adds a lot of—if you think about the Lamy bar that was down, that got shot off because people, they closed it down for whatever reason. It was a great place to go. You had a place where community members got together. They didn't have to drive back into town after working all day to have their entertainment. And it was well liked. And I don't even know why it got closed down. So I use that as a—

Well, you know, some people can handle their liquor and some can't. Anyhow, I think there's a happy medium between opposition and support for this project and I think that we are all adults here and we can come to a conclusion on what would be best for the community and I just urge your support and I think the 370 letters says a lot.

CHAIRMAN DURAN: Thank you very much..

COMMISSIONER GONZALES: Mr. Chairman, I have a question of the staff concerning the commercial uses. According to the applicant, it appears in the memo that you—or that staff's written that the property is currently zoned commercial. Is that right? The ten acres?

MR. WHITE: Mr. Chairman, Commissioner Gonzales, that is correct. It is currently zoned commercial.

COMMISSIONER GONZALES: Okay. So regardless of what's occurred here tonight there's a commercial zoning that's in place for a set amount of uses. I'm wondering if this proposed use list that was provided in our packet—pharmacy, jewelry store, hardware, movie, video—what are the uses that are currently approved under the current zoning? Or maybe it's easier to say which uses are not.

MR. WHITE: Well, the major changes, Commissioner Gonzales, in the use list of course, are the theater, the open air market and the pub with the sale of liquor. So those are the major changes to the use list.

COMMISSIONER GONZALES: So the amendment is to allow for the theater—

MR. WHITE: Right.

COMMISSIONER GONZALES: --the pub, and the open air market.

MR. WHITE: That's correct.

COMMISSIONER GONZALES: So minus that though, minus that, the applicant can come forward with a—

MR. WHITE: With a development plan.

COMMISSIONER GONZALES: A development plan with approval by the State Engineer and proceed forward for request for preliminary and final. Is that correct?

MR. WHITE: That's correct.

COMMISSIONER GONZALES: So if the Commission voted no tonight to the request, commercial designation still exists, and the opportunity still exists to go forward for development for preliminary and final. Is that right?

MR. WHITE: Mr. Chairman, Commissioner Gonzales, that is correct with the condition that the use of a well is allowed.

COMMISSIONER GONZALES: So then that's the fourth question then. Can a well be used to support the commercial master plan that's in place?

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, at the moment, the project is approved for retail and office uses with the use of Eldorado Utilities. If the applicant came forward with a development plan for some of those uses using Eldorado Utilities, they could not prove 100-year water supply and at development plan level they would need to do that.

COMMISSIONER GONZALES: Okay.

MS. ELLIS-GREEN: So they could keep their master plan how it is but they couldn't move forward at the moment.

COMMISSIONER GONZALES: So with the domestic well that they're proposing, would they have to prove a 100-year water supply?

MS. ELLIS-GREEN: The well they would use at preliminary development plan, they would have to do a geo-hydro report proving a 100-year water supply.

COMMISSIONER GONZALES: And if they did not prove the 100-year water supply it would be unacceptable.

MS. ELLIS-GREEN: Correct. We would not accept an application if it didn't have a geo-hydro report with a 100-year water supply.

COMMISSIONER GONZALES: Help me understand again the water, the aquifers out in that area, Katherine. Is this well going to go into the same aquifer that the Eldorado Utility is going into?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I don't have the geo-hydro report. I have heard some information from their consultant that he thinks it may be getting recharge from the mountains in that area so it may be a quicker recharge source, but I don't have the report so I don't want to say definitively. There is essentially one aquifer there. There are not numerous ones.

COMMISSIONER GONZALES: Okay. So there's one aquifer.

MS. YUHAS: That is correct.

COMMISSIONER GONZALES: So if Eldorado—I just want to go to the issue of the water real quick. If Eldorado Utilities is having a difficult time proving the 100-year water supply, is it reasonable to expect that they may have, the applicant may have a difficult time proving the 100-year water supply?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I think it is reasonable to expect that they may have a difficult time, but I would not rule out the possibility that they could.

COMMISSIONER GONZALES: So moving that to the side now, then we focus on the issue of uses in the amendment then, right? So there's really four issues before us: Do we amend the master plan that allows for a pub, a movie theater and open air market, and then the fourth question before the Commission is, if they can provide a 100-year proof of water supply with a domestic well, can that be used to support the commercial designation?

MS. YUHAS: That sounds right.

COMMISSIONER GONZALES: Okay. Thank you.

CHAIRMAN DURAN: Do you have any questions Jack, Commissioner Sullivan?

COMMISSIONER SULLIVAN: Mr. Chairman, I think the concern that we've heard and is still there has to do with the drilling of individual residential wells for commercial use and one possible way of handling that is to include a condition in the approvals that even if, regardless of which uses you do or don't approve, that they tie to EDU Utilities. Now this could be done by the possibility of them—if the well proves out, based on the geo-hydro report, that it is a 100-year and it doesn't affect nearby wells, then they could sell it to EDU and they could continue forward.

The problem still here is on the water supply that drilling of individual wells for commercial use pretty much obviates the moratorium. I'm trying to think of ways that we can work to make that work and stay within the intent of the moratorium. That may possibly be one.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Sullivan and Katherine, wasn't the intent of the moratorium from what I understood was to force Eldorado Utilities and the community as a whole to basically find additional supplies of water. One was to upgrade the system, find additional supplies of water and get moving. Is that right?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, that is correct. It was to get Eldorado Utilities to develop a better infrastructure for their water supply. And if I could just for one minute speak to the idea of them giving the well to Eldorado Utilities, they couldn't at this point do that because it's a domestic well and you don't have a real water right to transfer with a domestic well. They'd need to actually own commercial water rights in order to give it to Eldorado Utilities. So that tie-in option won't quite work. The moratorium never prevented the drilling of a domestic well for commercial purposes. That's always been an option during the entire time that the moratorium has been in place.

COMMISSIONER SULLIVAN: What I had in mind, Katherine, was that they could physically transfer the well. The problem is that Eldorado Utilities, for whatever reason, doesn't have adequate capacity for the growth that's occurred in Eldorado, whether it's 40 years or whatever the estimates were. The initial estimates that I read in the Shomaker report were 40 years. What they need and for whatever reason they haven't done it is additional wells. So normally, municipalities, the City and County, require developers to bring water rights to a development. If you want to develop something, you bring the water rights to the development. In this case that hasn't happened. We're using a residential well.

The way it could happen is if the Crossingshams purchased water rights and had them applied to this well, and then transferred the well to EDU, they would now be on—we would be solving two problems. One, they would be able to proceed with whatever development the Commission says is appropriate for the area, and number two, Eldorado Utilities would have additional supply, additional capacity it didn't have before. So that's a way of handling it, because here we have a situation where we're not requiring any water rights to be brought in by the developer and that's the gray area, that and testimony that

were conditions on the subdivision itself that wells could not be drilled. We may be able to get around those issues by doing that. That's what I mean.

I understand you can't transfer water rights from a residential well because a residential well, you don't own the water rights. So they would have to bring water rights in, but if they physically have a well now, that's a possibility. That's what I was getting at.

CHAIRMAN DURAN: Okay. What's the pleasure of the Board?

MS. CROSSINGHAM: Could I make one comment?

CHAIRMAN DURAN: Sure.

MS. CROSSINGHAM: I'd like to state to Commissioner Sullivan that we do indeed have water rights as required by the County and issued by the state. Our water rights are limited to three acre-feet. Whether you call it a domestic well or not, this is how the County currently operates. And it clearly states use of water, drinking and sanitary purposes and the irrigation of non-commercial trees, shrubs and lawns in conjunction with a commercial operation. I don't set the rules for the County, I only follow them. So I just want to let you know that I do have three acre-feet water rights.

COMMISSIONER SULLIVAN: Let me correct that. You have by virtue of the State Engineer and state law the right to use up to three acre-feet. You don't own the acre-footage. If you only used an acre and a half of it you wouldn't be able to sell or transfer or do anything with the other acre and a half based on a residential-type well. So it's totally different from a water right purchase that can be transferred just as the County purchases water rights. We could not say, for example, as the County, purchase your three acre-foot or any portion of it.

MS. CROSSINGHAM: Right. Right.

COMMISSIONER SULLIVAN: So you don't have a water right that you can transfer. You have permission to use up to three acre-feet.

MS. CROSSINGHAM: You're correct.

COMMISSIONER SULLIVAN: That's what the County Hydrologist was saying was that you couldn't transfer water rights to EDU and I was agreeing with that but I was saying you could purchase water rights and with those water rights purchased and applied to that well, you could then transfer the well and the water rights to EDU. So that's an option.

CHAIRMAN DURAN: Thank you, Stacy. I have a question for you, Frank. How many square feet over the original plan is this proposed development?

MR. WHITE: Mr. Chairman, this is actually under the original proposal.

CHAIRMAN DURAN: Okay, good. I'd like to make a motion to approve this case with the following conditions: That three of the—theaters go down to three, and one of those theaters is always available to the community on some kind of scheduled basis for the use by the community for the dance and all the other activities that you had agreed to had there been six; and that your pub closes at 11:00.

MS. CROSSINGHAM: I don't have a problem with meeting that. We were actually planning on making the theater dark at 10:00. The pub as well, so that's not a problem.

CHAIRMAN DURAN: Okay, then I'll change it to 10:00.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

COMMISSIONER GONZALES: Mr. Chairman, I'd like to ask for a friendly amendment. I too am concerned about two 7,000-square foot shopping centers or two large scale developments being side by side and the fact that because of the market, especially in this economy, could cause these buildings to be empty. And I think that that plays—I don't think that's necessarily in the community's best interest to have large, empty buildings. However, I think in a community, in any community, you want to find some sustainable equation. You want people to live, work, shop, be entertained in their community so that you minimize traffic and you do achieve that sense of community.

So I don't know if it's within our purview to require on any request to come back for these uses during preliminary and final development that a thorough independent market study be done to assure that there is in fact a need in place and that we don't move forward in approving something that will just create a bunch of empty buildings in a community. And I know you're saying you would protect your investors, however, who's going to protect the community when you have large buildings that are empty.

So I think that, Mr. Chairman, I would ask—if we can do it—can we require that? Can we require an independent market study to come in prior that substantiates the need for what's in place?

MR. ABEYTA: Mr. Chairman, Commissioner, yes. The Commission, that's within their discretion. You can put a condition on this master plan that will require that.

CHAIRMAN DURAN: How about from a legal point of view? We're basically interfering with competition. We're allowing—just because the Agora's in place, we're not allowing this project to go forward.

COMMISSIONER GONZALES: That's not what I'm saying, Mr. Chairman. What I'm asking is that a thorough, independent market study accompanies any request for a use during the preliminary phase that substantiates the need for what's being requested. I think, my concern is that in a community of 7,000 people, even 10,000 or whatever it is, there is just a certain amount of retail, office space that can be supported and I would fear that there would be this overbuild and there's no sense of community when you have a bunch of empty office spaces that are sitting there.

So what I'm asking for is—and I'm assuming the Crossingshams are going to do it anyway, or their investors are going to ask them to do it, is that there be some type of market study that supports and substantiates the need and I would assume that that market study is going to be driven from the needs within the Eldorado community and not so much outside. So I'm asking if we can get that attached.

MR. KOPELMAN: Mr. Chairman, Commissioner Gonzales, I believe that the Code does authorize you to include that condition.

CHAIRMAN DURAN: I don't understand the condition.

COMMISSIONER GONZALES: The condition would be that an independent market analysis would have to be performed and submitted to the County accompanying any request for any of the uses that the Commission would be approving at the preliminary level, so that the Commission could look at this analysis and assure that in fact there is a need that's in place.

CHAIRMAN DURAN: Based on what data? And paid for by whom?

COMMISSIONER GONZALES: Well, an independent analysis would be done by someone in the field performing independent analyses.

CHAIRMAN DURAN: Who would pay for that?

COMMISSIONER GONZALES: The applicant would pay for it.

CHAIRMAN DURAN: Let me just say that I'm not interested in attaching that friendly amendment. I don't find it friendly at all. I find it very—I think we start playing with their rights to develop this property like everyone else. The other developments out there don't have to do that.

COMMISSIONER TRUJILLO: I agree. I think that we're infringing on the domain of the developer to decide what sort of business is going to be accommodated in that area. They're going to do the appropriate marketing studies. They're not going to build buildings that will remain vacant. That's not a good investment. I would not support that amendment.

CHAIRMAN DURAN: Commissioner Gonzales, couldn't we, when they come forward with their master plan, or final plan approval, couldn't we at that point scrutinize the phasing of the development? I doubt that they're going to build 70,000 square feet of office all at once without taking into consideration what the vacancy factors have been out there in the last few years.

COMMISSIONER GONZALES: Mr. Chairman, I just have a couple more questions if that's okay. If we can just move past this because I know what you and Commissioner Trujillo indicated.

MR. WHITE: Mr. Chairman, just if I may, to keep in mind that the development plan will only be going before the CDRC. It will not return to the Board of County Commissioners.

CHAIRMAN DURAN: Can we require that it come before us?

MR. WHITE: You can do so.

COMMISSIONER GONZALES: Let me ask a question. What's the status of the 285 Coalition's corridor plan? Where is that?

MR. ABEYTA: Mr. Chairman, Commissioner Gonzales, I couldn't answer that. I'm not sure. We'd have to check with our planning.

COMMISSIONER GONZALES: Does Commissioner Sullivan know where it is? Commissioner Sullivan, do you know where the 285 Corridor Plan is?

COMMISSIONER SULLIVAN: We had testimony from the participants out there that it was, I believe, two to three months away from completion. They're shaking their head, I think that means yes. Either that or they're going to sleep.

JOELLEN SCHILMOELLER: I would just—we just ask that question of Jack Kolkmeier two nights ago and he does think that it's two to three more months of work on the part of the community and then of course there's all the staff work that needs to be done before it actually can be brought to you to be made into ordinance.

COMMISSIONER GONZALES: I'm assuming that that corridor plan is going to be very similar to the Highway Corridor: that's going to have design standards for development along—

MS. SCHILMOELLER: You're talking about—there are two separate

planning processes, the corridor planning process, which has been in place for a year and a half now, and then the contemporary community, which you will be hearing at the next, the meeting on the 24th.

COMMISSIONER GONZALES: I'm talking about the corridor, because this development from what I understand is on the corridor.

MS. SCHILMOELLER: That's correct.

COMMISSIONER GONZALES: So based on the fact that the Commission will be hearing the corridor plan within the next two to three months, this is going to take a while for you to come forward. Mr. Chairman, would you be acceptable to the plan, that any architectural standards be required to comply with any highway corridor plan that was adopted?

CHAIRMAN DURAN: I'll take that as a friendly amendment.

COMMISSIONER GONZALES: Okay, I'll offer that as a friendly amendment.

MS. CROSSINGHAM: Commissioner Gonzales, could I make a statement? I've already volunteered to work with the corridor—I go to the committee meetings and I already support the standards. Plus, they are already verbatim in my covenants. So those design standards are already outlined.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: We're right in the middle of a motion so there's no more public comment. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd offer an amendment. I don't know if it's friendly or not but I think it's realistic and that is along the lines that a condition include that the applicant, as all applicants are required to do, bring the necessary water rights to the project, and upon having done so, transfer those or make those available. I don't necessarily mean transfer at no cost, make those available to Eldorado Utilities, together with the well.

CHAIRMAN DURAN: Well, based upon what the hydrologist said that's an impossibility. I mean those rights that the applicant has that apply to that particular piece of property can't be transferred elsewhere.

COMMISSIONER SULLIVAN: No, the residential rights can't. That's correct. The applicant would need to purchase water rights, just like the County purchases water rights.

CHAIRMAN DURAN: But for this development, the State Engineer, after he has reviewed, I believe, will or will not make the determination that the rights that she has out of the well that's there right now are adequate for the development. If he determines that they are, then the applicant can use those for the commercial uses that we approve this evening.

COMMISSIONER SULLIVAN: That's true. But the State Engineer also gives local jurisdictions the authority to restrict well drilling just as Santa Fe does. They don't allow well drilling within the city limits. And I'm saying in this case, we're saying that the well is in place and that its highest and best use is as a part of the EDU system.

CHAIRMAN DURAN: Okay, well I again, with all due respect would not accept that as an amendment to my motion. I think that it creates more problems. The

applicant has done exactly what the County and the State Engineer has told them. They've drilled the well. They've drilled the well based on being able to use the water from that well for the commercial uses and I think that it just further complicates the issue here and is unnecessary.

So if there's no other amendments to my motion.

The motion passed by majority [3-2] voice vote: Commissioners Duran, Trujillo and Gonzales voted in favor of the motion and Commissioners Sullivan and Campos voted against.

RECESS

Chairman Duran declared this meeting was recessed at 10:20 p.m. and announced it would reconvene at 4:00 pm on July 24, 2001.

Approved by:

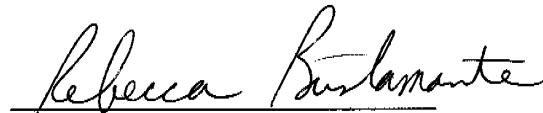


Board of County Commissioners
Paul Duran, Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



US Hwy 285 South Coalition.
List of Delegates

1965149

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Revised 5/25/01 RMB

Tuesday July 10, 2000

Board of Santa Fe County Commissioners
102 Grant Ave.
Santa Fe, New Mexico 87501



1965150

Marcos P. Trujillo, Dist. 1
Paul Duran, Dist. 2 (Chairman)
Javier Gonzales, Dist. 3

Paul Campos, Dist. 4
Jack Sullivan, Dist. 5

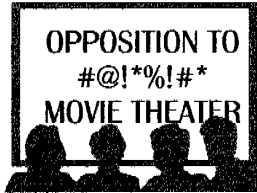
My name is Pat Kuhlhoff and I live at 14 Duende Road. I represent the 19 communities, the landowners and the developers of the 285 South Corridor Planning Committee. We are a diverse and committed group that have covered a lot of ground in the last 18 months and have built a trusting and productive working relationship with one another and with the planning department staff. Under your charge and with the help of the county planning department we have developed a vision for our corridor and have begun to articulate specific standards which will help guide both the residents and developers toward realizing a plan will be the backbone of our growing community for generations to come. We anticipate completing design standards within the next few months.

Most potential developers have actively participated and expressed a willingness to integrate our newly evolving standards into their plan development. Other developers may be bringing projects to the county without being aware of our community vision. It is with this prospect in mind that we wish to request of you, the Commissioners, your renewed endorsement and active support of our committee efforts to create a well-designed corridor that meets the needs and expectations of the local residents and the larger community.

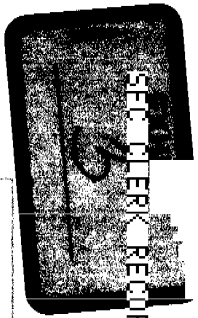
To this end we would ask you to endorse our request that all development plans in this corridor boundary be reviewed by the 285 South Corridor Planning Committee throughout the remainder of the planning process. This would include, master plan, the preliminary and the final approval stages. This review would include: site planning, architectural style, water resource management, traffic impact, and uses. We want to work with the planning department and the developers in a cooperative relationship, with the support and endorsement of the BCC, even as we finalize the corridor plan and accompanying ordinances to get the full advantage of our efforts and the intent of community based planning.

We thank you for your time and efforts on behalf of developers Mary Anne Stickler and Dennis Kensil, Stacy and Alan Crossingham, Pat Coughlin, and Fred Raznick, The communities of Alteza, Belicia, DosGriegos, Eldorado, Los Caballos, Tierra de Casta and The Ridges and all the corridor committee.

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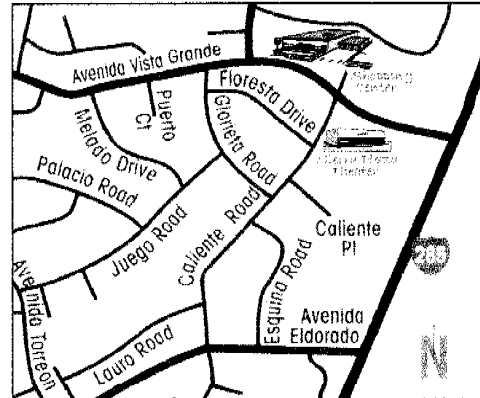


SUBMITTED BY: **The Sierra Plaza Home Owners Association, Ad Hoc**
 Chuck Dippold, 22 Caliente Road, Eldorado, SF, 87505, 466-1025
 Charles De Muth, 12 Esquina Road, Eldorado, SF, 87505, 466-4064
Representing over 70 petitioners from the immediate Sierra Plaza neighborhood.



The local community would be unalterably harmed by the proposed commercial expansion on the Sierra Plaza property located in the Eldorado community. Building an inappropriate, six-screen-multiplex movie theater adjacent to our residential neighborhood in combination with 20 clustered shops and an office park is a marked departure from the originally approved 10-site plan pledged to local home buyers.

We have been gratified that both the Land Use Department and the County Development Review Committee have recommended against the theater in accord with county ordinance, so our effort today will be to reinforce that conclusion.



NEW OWNERS' REPRESENTATIONS:

- Last year, at the May 16, 2000 Eldorado Community Improvement Association board meeting, the new Sierra Plaza owners--the Crossingham's--first presented their movie multiplex, remarking on a few potential shops, and assuring their regard for residents' views.
- Later, at the July 10, 2000 Eldorado Residents Association quarterly meeting--in response to pronounced theater opposition--the Crossingham's offered to pursue a clustered-shops concept instead. Residents left favorably disposed to what appeared to be a resolution.
- Therefore, residents have been surprised, dismayed, frustrated to see that *the Crossingham's amended master plan consisted of both the theater and shops, plus an office park!*
- Also, in testimony the property owner's advanced a pub with alcohol sales, describing it first as family oriented, and then as an English-style pub accentuating games and people congregating. Land Use terms this a "major change" to the use list.

HOME OWNERS' PERSPECTIVE

- Sierra Plaza has been consistently portrayed to local home buyers as a low-profile office-retail park by the previous owner, Mr. Marc Conklin of Sierra Homes (sales brochure appended), and he thereby incurred obligations--an accord with his residential customers that delimited Sierra Plaza to his brochure's conception.
- **Most importantly, Conklin's design portrayed no individual site large enough for the multiplex configuration, so home buyers could have had no expectation of such magnitude.**
- Likewise, the county's approval had effectively certified the property's development scale to home buyers and necessarily limits changes.
- *Any expectations by the new owners beyond having purchased seven lots could only be speculative.* Our view is that new ownership knew of encumbrances, had full knowledge of theater opposition before closing, and being in the business and living in Eldorado, shouldn't have had any illusions regarding pitfalls.

RESIDENTS' MAIN CONCERNS ARE:

- A multiplex will generate *late-night traffic in our residential neighborhood.* A pub adds *intoxication.*
- A multiplex would need to *draw half or more of its audience from outside of the area* due to insufficient local population...
- Thereby raising concerns about our public safety (cruising, disturbance, misconduct) given *the absence of a real police presence in Eldorado and the US285 corridor...*
- While adding *late emergency-medical operations* to the fire district's responsibilities.
- Altogether, an expected 50% increase in traffic congestion over the original sites.
- Assuredly reducing residential property values inside a mile of the theater.

- Sierra Plaza faces homes on two sides, and its entrances are on a residential street.
- Water impacted: Drilling a private well skirts the water moratorium.
- *The community's profound opposition has been documented by petition, letters and report* sent to the Land Use Department last July when the movie theater first surfaced. (Petition facsimile attached).

No one can know beforehand the exact impact a theater will have on our neighborhoods and public areas. However, weighing a small movie-going convenience against any level of inherent harm seems a poor tradeoff, and a gamble we should not have to take.

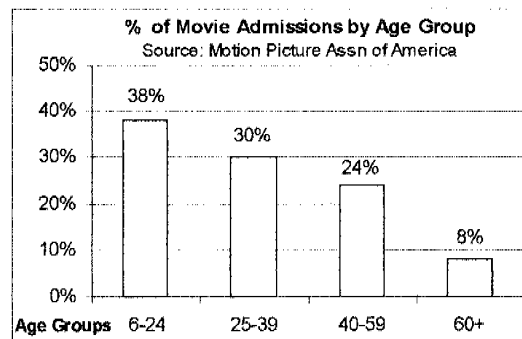
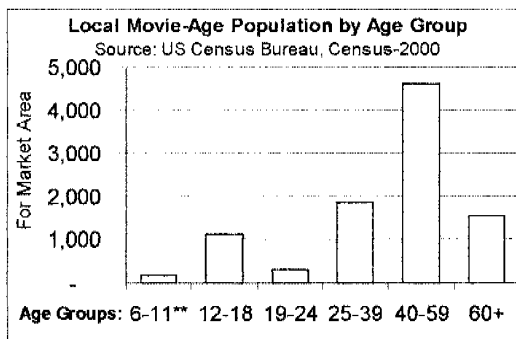
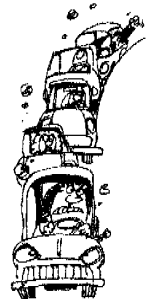
THE BATTLING PETITIONS, A MARKET-RESEARCH PERSPECTIVE:

- Home owners chose to limit their survey area mainly to the 70 or so homes most affected, so as to underscore impact. Sampling was not perfect. *Still, by delineating its population, the home-owners association can claim a mandate from its constituency.*
- Our information and observations are that the Sierra Plaza owners' used their video store in Eldorado's Agora shopping center to garner letters and petitions. From a marketing perspective, the sampled population is unrepresentative of the area: mainly video-movie patrons.
- The owners' 250 supportive CDRC letters represent 2.3% of their 11,050 market area population.
- Another local residents group conducted a nonpartisan straw poll in mid-June (6 hours over 3 days at the Agora shopping center) to discern residents' sentiment. This snap shoot weighed in against the theater, with 34% (42) for the theater, 65% (80) against, and one was not sure.

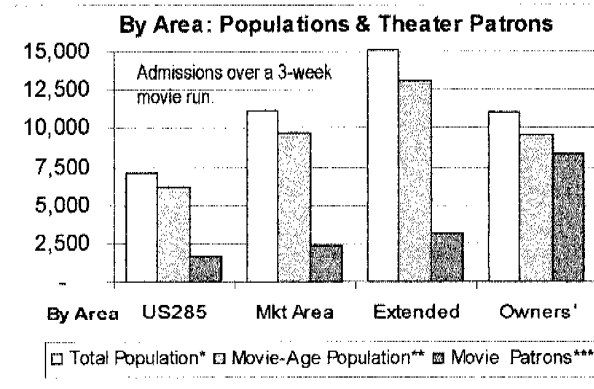
THE MASTER PLAN'S DOCUMENTATION IS INCONSISTENT:

A review of the Land Use Department's master-plan file found inconsistencies and omissions, and the submission's documentation seems less than dependable.

- The documentation's square footage varies. For instance, the text's traffic figures give the theater as "13,000" square feet, while elsewhere its "21,000."
- The water budget and traffic figures do not add up, so one or the other is miscalculated. The water budget states theater attendance at "400" a day, while traffic generates an average "308" trips a day, yielding a seeming low average of 1.3 people per theater trip. (Weekday trips stated at "1,533," Saturday at "311," doubled for Sunday).
- Traffic impact is understated:
 - Stated traffic numbers evidently represent *round trips*. By our reckoning each round trip presents an "in and out" trip, doubling trip numbers to some 300 vehicles an hour over a 12-hour day or some 25,000 a week.
 - Another three adjoining Sierra Plaza lots and noted inconsistencies could each eventually add 45 more vehicles an hour.
 - All-in-all, *an expected 50% increase over our traffic projections for the original sites.*
- Water Budget is likewise understated: Our alternative assumptions find that *water usage could as likely be 50% higher.*
- Demographics: Conversely, demographics predict the theater would be acutely under employed:
 - Based on the year-2000 census, *the area's demographics demonstrate that county Code prudently excludes a theater from "Small Scale Districts:"* The theater's admissions would be a function of local age distribution (Chart 1) and the percentage of total admissions by age group (Chart 2).



- The industry's target audience of adolescents and young adults is wanting, and the local census skews older, with the 40-and-over age-group constituting 65% of the area's movie-age population.
- Using a semblance of the owners' market area (taking in Galisteo, up the US285 Corridor and Rancho Viejo) the under-25 movie-going population is 2,385 ages 6-24. Weighting ages 6-11 for parental-guidance ratings drops available population to roughly 1,550 on average. Using industry ratios, under-25 attendance over a 3-week movie run would average 12 patrons a showing, 2 per screen. (1,550 population x 38% / 3-weeks / 16 showings a week). For all age groups *we could only come up with average weekly, local theater attendance of 800 a week, less than 30% of the owners' 2,800 projection.*
- Extending the area West to Pecos and South to Stanley (and adjusting for added distance) predicts a bit over 1,000 weekly attendance, or 37% of owners' projection.
- At peak circumstances the proposal's own figures predict *an 80% empty theater*, unless substantial audiences can be drawn from outside of the market area.
- Caliente Road description is misleading: The proposal depicts the property's main access route in terms of a "...two-lane, two-way paved Caliente Road." Actually this residential street is paved for less than 600 feet alongside the Sierra Plaza property, and thereafter it is a **dirt** road, as are all other secondary roads in the vicinity.
- Plan shortcomings: Waste water treatment and water ponding are adjacent to residential, posing a nuisance and hazard. Insubstantial screening between commercial and residential. No depiction of marquees and other signage. Road upgrades are undefined--wider roads, turning lanes, traffic signals, intersection lighting, curbing residential traffic, etc.



* Total Population: US Census Bureau, Census-2000.

** Movie Age Population: The age 6-11 group is weighted for parental-guidance ratings.

*** Movie Patrons: Number of patrons over a 3-week movie run: "Owners" patron number from Master Plan submission. Other groupings' patrons based on Motion Picture Assn of America movie admissions by age group.

RECOMMENDATIONS:

- We trust that the county will preserve the originally approved scale of development. In particular, a movie multiplex is wholly incompatible with the residential nature of the immediate neighborhood and the greater community, and threatens our public safety. The Land Use Department's review concludes, "...that the proposed theater is not compatible with the established guidelines set forth in [Code]."
- Functionally, only the retail-shopping cluster and offices comes closest to the original intention.
- Limit residential repercussions:
 - Signs and Screening: In CDRC rebuttal testimony Ms. Crossingham committed to non-intrusive signage and lighting, and to boosting residential screening. *Request that the county's review of a required landscape and lighting plan particularly take into account residential proximity.*
 - Ponding: In testimony, owner was averse to relocating the waste-water treatment and water ponding away from residential. *Nearby residents urgently request that the county staff's review of required siting by a Professional Engineer take into account residential proximity.*
 - Pub: Implementation presents a wide range of possibilities, although common understanding of an English-style pub is that it is first a drinking establishment, and would put it at variance with other intended uses for day care, school and community center. *Nearby residents urgently request that county offices monitor this "major change" to assure residential compatibility, and to curtail any unsuitable implementation.*

- **Roads/Traffic:** Importantly, involve local residents in traffic studies, and routing and road decisions. The Land Use report stipulates that the applicant pave the length of Caliente Road. *A critical addition would be a parallel pedestrian pathway for this residential street, plus measures to slow traffic.* (Possibly, make Caliente Road one-way North to Floresta, and use the freed roadway portion for a pedestrian path).
- **Last, A Caution and an Option:** In CDRC testimony, Ms. Crossingham described an abbreviated theater -- and others have suggested a smaller, one-screen theater. Nevertheless, the formal submission before you is for six screens, 21,000 square feet and 1,000 seating.

An option: The Land Use Department and US285 communities are currently organizing the area as a Contemporary Community. *Recommend that any different theater concept be reconsidered in the future context of a Contemporary Community plan.*

Certainly, many live in the immediate neighborhood for shopping convenience, more broadly though, folks live out here to get away from urban, even suburban development, and any growth needs to be compatible with the character of the surrounding community.

We are confident the county will do the right thing to protect it's citizens. Thank you for your attention and consideration.

THE SIERRA PLAZA HOME OWNERS ASSOCIATION



APPENDIX:

DEMOGRAPHIC CALCULATIONS

Source: U.S. Census Bureau, Census 2000 (www.census.gov), relevant portions of Tracts 103.6, 106, 107, 108 and 9576
Age groups based on Motion Picture Association of America categorization (www.mpa.org).

ESTIMATE MOVIE THEATER PATRONS BASED ON POPULATION, AGE, AND MOVIE RATINGS:

Theater's Market Area, from Lamy/Galisteo, along US285 corridor, West to include Rancho Viejo subdivision.

Movie-Age Population

	Total Population	Movie-Age Population	%	Over a 3-week run		
				# Movie Patrons	Patrons Per Showing**	Patrons Per Screen***
RECAP						
Infants, 0-5	704					
School Age, 6-11	956					} Weighted for
Weighted School Age, 6-11		123	38%	47	1.0	} movie ratings
School Age, 12-18	1,105	1,105	38%	420	8.7	
Young Adults, 19-24	323	323	38%	123	2.6	
Adults, 25-39	1,848	1,848	30%	554	11.5	
Mature Adults, 40-59	4,636	4,636	24%	1,113	23.2	
Senior Adults, 60-79	1,413	1,413	8%	113	2.4	
Elder Adults 80+	148	148	8%	12	0.2	
3-week run totals	11,132	9,596	25%	2,381	50	8.3
1-week totals			8%	794	50	8.3

* The %-Attending is based on Motion Picture Association of America movie admissions by age group.

** Number of showings is based on 2 showings each weekday, and 3 on weekend days: 16 showings a week, 48 over 3 weeks.

*** Based on proposed 6 screens.

WEIGHT AGE GROUP 6-11 BY PARENTAL GUIDANCE RATINGS:

Attend	Age Group	Population	%	Recent SF Listings	Combined # Listings*	%	Attendance Proration (# x %)
Attend G	ages 6-11	956	100%	G-rated movies	2	4.3%	41
Attend PG	ages 10-11	353	37%	PG-rated movie	11	23.4%	83
				PG13-rated movies	23	48.9%	n/a
				R-rated movie	11	23.4%	n/a
				Revised 6-11 Patrons	47	100%	123
				(Those not excluded by ratings)			Weighted Average by ratings

*Total of 3 weeks listings between early June and early July (UA screens+).

The Right Place The Right Time

Sierra Plaza is at the center of a rapidly growing economic area. While the Professional Center is full, commercial lots are available now. With prices starting from \$3.50 per sq. ft., the time is right to purchase these county approved lots.

Commercial uses include:

- Retail Establishments**
- Pharmacy
 - Bakery
 - Meat Market
 - Hardware Store
 - Camera Shop
 - Florist
 - Pet Shop
 - Video Store
 - Record Store
 - Art Supply Store
 - Stationary Store
 - Book Store
 - Apparel Shop
 - Galleries
 - Shoe Store
 - Jewelry Store
 - Toy Store
 - Music Store
 - Household Goods
 - Crafts Store
- Personal Service Establishments**
- Barber Shop
 - Beauty Salon
 - Dance Studio
 - Shoe Repair Shop
 - Exercise Studio

Professional Offices - All Kinds

- Medical Offices and Clinics**
- Banks/Financial Institutions**
- Community Services Facilities**
- Library
 - Gov. Offices
 - Day Care
 - Parks
 - Churches
 - Private Schools

Represented by:
Mark Conkling, Broker

Western Heritage
Rio Rancho: 505/892-9794
4200 Meadowlark - Rio Rancho, NM 87124
or Sierra Homes at Eldorado: 466-4903

Sierra Plaza at Eldorado

County Approved Commercial Land

4-15-97 Prices Subject to Change Without Notice

SIERRA PLAZA CALCULATIONS DERIVED FROM MASTER PLAN AMENDMENT SUBMISSION

Theater Patronage Calculations				Calc people per trip	
Water Budget states 400 people a day				people a day	400
Traffic states 1,533 weekday trips, 311 Saturday trips, assume same for Sunday.				trips a day	308
Therefore, per proposal, each trip generates 1.3 average passengers				= people per trip	1.30
Weekday Occupancy: @ 1.3 customers per proposal per trip					
Theater seats	Weekday* Trips	Weekday Customers	Average at 2 showings	Occupancy Rate	
1000	307	399	200	20.0%	= peak
Weekend Occupancy: @ 1.3 customers per proposal per trip					
Theater seats	Saturday** Trips	Weekend Day Customers	Average at 3 showings	Occupancy Rate	Peak Customers
1000	311	404	135	13.5%	169
				Peak Occupancy	16.9%
*Proposal's weekday trip generation = 1,533 trips a week or 307 a day average.					
**Proposal's Saturday trip generation = 311 trips; assume about same for 3 Sunday shows.					

Demographics, Theater						
Per Proposal: Per US Census Bureau: 11,050 people in the surrounding market area.						
Total Theater Draw, all screens	Patrons per week			Patrons for typical feature run		
	Patrons/Day	Week	% population	3 Weeks	% population	
Proposal's patrons at 1.3 a vehicle:	400	2800	25%	8400	76%	
Our patrons calc at 2.2 a vehicle:	680	4760	43%	14280	129%	

Calculate Traffic Increase and Undercount Compared to Original Plan						
	Per Proposal:		Our Assumptions:		Trips Increase	% Increase
	New Plan	Vehicles Avg Daily Trips	Original Plan	Vehicles Avg Daily Trips		
Retail Shops	20	1220	10	610	610	50%
Office buildings	3	293	3	293	0	0%
Theater	1	307	0		307	100%
Sub-total		1820		903	917	50%
Add:						
+ 3 other lots*	3	285			285	100%
+Schematic SF** For 12,000 sq ft		267			267	100%
Totals		2372		903	1469	62%
Range=50% to 70% with varied assumptions						
* Another 3 adjacent lots adds their traffic to the proposal's for TOTAL Sierra Plaza traffic.						
** Proposal's trips are based on text's square footage, so add for schematic diagrams' footage undercount .						

Recalculate Round Trips as "In and Out" Trips						
Assume proposal's trips = round trips from context, otherwise theater patronage halved to less than one, etc.						
So, double round trips for in/out trips, then add 3 other lots and schematic's sq ft:						
Use	Per Proposal		Restated		Day week	Year
	Round Trip Avg Daily Trips	In&Out Trip Avg Daily Trips	Round Trip Avg Daily Trips	In&Out Trip Avg Daily Trips		
Retail	1,220	2,440	1,220	2,440		
Office Park	293	586	293	586		
Theater	307	614	307	614		
+ 3 other lots*			285	570		
+Schematic SF*			267	534		
*see above		3,640		4,744	Day	week
		25,480		33,209	Year	year
		1,328,600		1,731,601	hour/12 hours	year
		303		395	hour/12 hours	minute
		5.1		6.6	minute	minute

WE THE UNDERSIGNED OPPOSE THE BUILDING OF A SIX SCREEN MOVIE COMPLEX THIRTY (30) FEET IN HEIGHT ADJACENT TO THE SIERRA PLAZA WHOSE ENTRANCE IS ON A RESIDENTIAL STREET (CALIENTE ROAD). THIS WILL BRING TRANSIENTS, LATE NIGHT NOISE, AND CRIME INTO A RESIDENTIAL NEIGHBORHOOD BORDERING THIS HUGE COMMERCIAL VENTURE. THIS COMPLEX WILL ENDANGER OUR LIMITED WATER SUPPLY, AND PROPERTY VALUES WILL DROP DRABSTICALLY IN THE SURROUNDING VACINITY.

NAME:	ADDRESS:
Otto Gaster	1 Caliente Pla
Alma Raster	1 Caliente Place
St. Anne's Church	15 Glorietta Rd
Paul D. Baker	15 GLORIETA R
Whitey Ellis	10 Caliente Rd
Charles Carly Erson	13 Esquina Rd
Kathleen Sipton	2 Caliente Place
Christopher R. Steadman	2 Caliente Place
Gloria Grubing	3 Caliente Place
Maria Kuyak	6 Caliente Place
Melita Dredow	28 Caliente Rd
Bonnie Dredow	28 Caliente Rd
Rebecca Lallee	26 Caliente R
Sam Salas	26 Caliente Rd
Leahy Darnita	1 Laurel Rd
Paul D. Baker	1 Laureate
Robert	4 Caliente PLACE
Ana Maria	8 Caliente Rd
Sam Owen	1 Floresta Dr
Rich D. Owen	1 Floresta Drive
James K. Zorn	4 Floresta Dr
Barry Zorn	4 Floresta Dr
Robert M. Wolf	8 Caliente Pl
John M. Wolf	" " "
Janice Harris	7 Caliente Place
Charles R. Muth	12 Esquina Rd
Dorson L. Sawyer	17 Esquina Rd
Lon Ellen Crawford	13 Cam Potrero
Wesley M. Lyden	2 Laurel Rd
John J. Lyden	2 Laurel Rd
Stan Lyden	10 Esquina Rd
Daphne Cohen	10 Esquina Rd

NAME:	ADDRESS:
Richard E. Parkline	18 Esquina Rd
Mary Ann Parkline	18 Esquina Rd
Richard E. Parkline	18 Esquina Rd
Rick Ellis	10 Caliente Rd
Steve & Ella Ruud	21 Jungo Rd
Scott & Linda Lang	8 Esquina Rd
Joe Lang	8 Esquina Rd
Jan Herbst	3 Esquina Rd
Jim Smith	1 Esquina Rd
John D. Lee	1 Esquina Rd
Rien Giles	2 Esquina Rd
FREDA SUZAN GILES	2 Esquina Rd
Jim Smith	9 Esquina Rd
James Lamberts	7 Calle Alejandra
Donald Wilson	17 Camino de los Reyes
Carlaine Baxand	35 Camino Capellos
Carlaine Baxand	60 Camino Vela
Charles Baxand	22 Caliente Road
Trudy Baxand	22 Caliente Rd
Trudy Baxand	3 Laurel Road
Lucy Baxand	3 Laurel Rd
Logan Baxand	31 Caliente Rd
Estelle Baxand	31 Caliente Rd
Don P. Muth	4 Laurel Rd
Carl J. Rogers	#6 Laurel Road
Julien M. Roberts	8 Laurel Rd
John M. Roberts	8 Laurel Rd
GREG HARRIS	7 Camino Place Somente
Alan Cantorick	113 Avenida Donatona Glorietta
Francis Hill	16 Bonito Rd Santa Fe
Bridget Philbrick	78 Encantado St. S.F. 87508
Angelo G. Verdugo	4
Wesley Harris	10 BONITO COURT S.F. 87508

By e-mail and phone:
 Liz and Paul Botell, halibot@mindspring.com
 Sheila Cowing, 5 Bonito Road
 Sandy Edelman, 7 Caliente Place
 Julie Lubize and Marty, 12 Floresta
 Herb Burlina, 13 Glorietta Road
 Bob Redaington, kobajohn@ay.bermesa.com
 John O'Malley, kobajohn@ay.bermesa.com

By letter:
 Joseph & Donna Burgess 16 CALIENTE ROAD
 Helen Kumpel The Office Bldg 1000 S. GLORIETA
 Tanya Sydney 4 CALIENTE ROAD

US Highway 285 South Coalition
7 Avenida Vista Grande B7-#176
Santa Fe, NM 87505

1965158

RECORDER RECORDING 08/16/2004

July 9, 2001

Santa Fe County
Board of County Commissioners
P.O. Box 276
Santa Fe, New Mexico 87504-0276

Dear Commissioner Sullivan,

The purpose of this letter is to express the US Highway 285 South Coalition's concerns about the proposed amendments to the Sierra Plaza Master Plan, newly named The Village at Eldorado. Although the project will have some positive benefits for our community, three major concerns remain that we feel will have negative impacts on our community. They are the lack of integration with the ongoing County planning processes for the community, inadequate design of the anticipated increased traffic flow, and the size of the proposed movie theater complex.

Local County Planning

Currently there are two major community planning initiatives in progress. We see no methods or effort by the County to integrate the community's development plans with projects being proposed that will have a major impact in our community.

In December 1999, the Board of County Commissioners designated a seven-mile section of US Highway 285 South as a Highway Corridor Planning District. A committee of county planners, residents, and developers have already spent 1½ years developing this plan. In addition, the Simpson Ranch Contemporary Community Planning District is in the startup phase and has already been recommended by the CDRC. The proposed Village at Eldorado project is within both of these major planning districts. We believe that a full review of this proposed project, in terms of the Highway Corridor Plan, should be required at all three steps of the permit approval process: master plan, preliminary, and final. And that a review in terms the Contemporary Community Plan should be required for the final stage of permitting.

Traffic

Traffic concerns relate to increased traffic flow in a residential community and safe ingress and egress. The traffic from this proposed project will seriously impact the major access route to the largest residential subdivision in the area. We understand that the County Land Use staff has been working with the Public Works staff to explore the possibility of adding an additional, right turn only, entrance/exit from this property onto Avenida Vista Grande. We request that the County staff members working on this option discuss it with the County Planning staff to see if their idea would be in line with the plans that the Community has been making for this area through the Highway Corridor Planning process?

Theater Complex

A large six-screen movie theater complex is considered inappropriate for the community. A community poll was conducted of 225 residents from subdivisions throughout our community. Sixty-two percent (62%) of the residents opposed a six-screen movie complex, 36% were in favor, and 2% were undecided.

As you consider the proposed amendments to the Sierra Plaza Master Plan, for the proposed Village at Eldorado, we urge each of you to take into account our concerns regarding the apparent lack of integration with community planning, the impact on the community of increased traffic flow, and the community's objection to a six-screen movie theater.

Along with these three major concerns we have several other concerns that we would like to briefly mention at this time. We understand that the developer of this property was not required to prepare a **market analysis and economic impact statement**. We believe that the significant requested changes to the original master plan justify both a market analysis and an economic impact study be provided by the developer.

Second, due to the serious nature of our local water situation, the change in water source, and the significant requested land use changes a complete **water budget** should be required and carefully examined at this time.

Third, the original Master Plan includes **trail easements** on the property to connect with the existing 11 acres of public open space beside the property. We would like to be sure that public trails for hikers, bikers, and equestrian use continue to be a part of this proposed commercial project. The County's open space and trails program is in its infancy. Every new project should be reviewed for connection to this greater system.

Fourth, the proposed amended plan shows **large mall like parking** with over 400 parking spaces. We request that the parking be broken into smaller segments to reduce the visual impact of these spaces. We also request that the County Land Use staff give very careful consideration to options for shared parking with neighboring commercial and community service facilities so that the total number of spaces could be reduced.

Fifth, we request that "park" and "government offices" be returned to the community services use list and that "waste-water treatment facility" be removed from the proposed **community services use list**.

The US Highway 285 South Coalition recognizes the need for services to support the area residents. However, each proposed project should be considered as only a piece of the whole. No one commercial center needs to, nor should it, meet all of the needs of the community. We believe that an unsuccessful commercial project could bring a terrible burden to the community. We, therefore, encourage you to honor the input of the community so that we will have a successful commercial center and community for generations to come.

Sincerely,

Rose Marie Bagioni
Co-Chair
466-0755

Joellen Schilmoeller
Co-Chair
466-7701



Representing the US Hwy 285 South Coalition:
Deborah Hayden
27 Pan de Vida
Santa Fe, NM 87505
466-9026

cc: County Commissioners
Jack Kolkmeier, Planning Division Director
Frank White, Development Review Officer

attachments: list of US Hwy 285 South Coalition delegates

COUNTY OF SANTA FE 1701398
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on the 29 day of Aug A.D.
20 01 at 9:58 o'clock PM
and was duly recorded in book 1965
page 052-159 of the records of

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