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SANTA FE
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

July 13, 2004

Paul Campos, Chairman
Michael D. Anaya
Jack Sullivan
Paul D. Duran
Harry B. Montoya

SFC CLERK RECORDED 09/15/2004
SFC CLERK RECORDED 09/14/2004

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

July 13, 2004

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:00 p.m. by Chairman Paul Campos, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance, roll was called by County Clerk Rebecca Bustamante and indicated the presence of a quorum as follows:

Members Present:

Commissioner Paul Campos, Chairman
Commissioner Mike Anaya
Commissioner Jack Sullivan
Commissioner Paul Duran
Commissioner Harry Montoya

Members Absent:

[None]

IV. Invocation

An invocation was given by Deacon Juan Martinez of St. Francis Cathedral.

V. Approval of the Agenda

- A. Amendments**
- B. Tabled or withdrawn items**

CHAIRMAN CAMPOS: Approval of the agenda. Mr. Gonzalez, what do you have?

GERALD GONZALEZ (County Manager): Mr. Chair, members of the Commission, we have some tablings in the proposed agenda. First under Section XII., subsection A, item number 3, the John Montano appeal/variance has been tabled. Then Section XIII. Staff and Elected Officials' Items, subsection A. Health and Human Services Department, item number 2, Authorization for a professional services contract has been tabled.

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Then in Section XIV. Public Hearings, under subsection B. Land Use Department, we have tablings for items number 3, number 4 and number 7.

CHAIRMAN CAMPOS: What about Matters from the County Manager?

MR. GONZALEZ: I have some verbal matters that I'll be bringing forward to the Commission, but apart from that, that's it. I just wanted to give some very quick verbal briefings to the Commission as a whole.

CHAIRMAN CAMPOS: Attorney Ross, executive committee, you're estimating about an hour?

STEVE ROSS (County Attorney): About an hour, Mr. Chair.

CHAIRMAN CAMPOS: Okay. Any items that you want withdrawn, anybody, from the Consent Calendar at this point? Okay. Is there any other amendment or change to the agenda? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Gerald, the John Montano appeal/variance, why is that taken off?

MR. GONZALEZ: I'll let Deputy County Manager Roman Abeyta explain, Mr. Chair, Commissioner Anaya.

ROMAN ABEYTA (Deputy County Manager): Mr. Chair, Commissioner Anaya, that case is still – the actual findings of fact. adopting them, is still being reviewed by the Legal Department. It's just that it wasn't ready to be approved tonight.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Thanks, Roman.

CHAIRMAN CAMPOS: Is there a motion to approve the agenda with the amendments proposed by the County Manager?

COMMISSIONER ANAYA: So moved.

CHAIRMAN CAMPOS: Second? I'll second it.

The motion to approve the agenda as amended passed by unanimous [5-0] voice vote.

CHAIRMAN CAMPOS: We have a fairly long agenda. I was hoping we could try to get out of here by nine. Take an executive break at 4:00, come back at 5:00 for the public hearings. Does that work? So we've got to move along.

VI. Approval of Minutes: June 8, 2004

CHAIRMAN CAMPOS: Is there a motion to approve?

COMMISSIONER MONTOYA: I have a couple of amendments.

CHAIRMAN CAMPOS: Minor amendments?

COMMISSIONER MONTOYA: Typographical.

COMMISSIONER SULLIVAN: So do I.

CHAIRMAN CAMPOS: Is there a motion to approve with the typographical

corrections presented by Commissioners Montoya and Sullivan?

COMMISSIONER MONTOYA: So moved.

COMMISSIONER SULLIVAN: Second.

The motion to approve the June 8th meeting minutes with corrections passed by unanimous [5-0] voice vote.

June 15, 2004

COMMISSIONER MONTOYA: So moved for approval.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER SULLIVAN: Second.

The motion to approve the minutes of the June 15th meeting as submitted passed by unanimous [5-0] voice vote.

VIII. Matters of Public Concern - Non-action Items

CHAIRMAN CAMPOS: Anybody in the public want to come forward and discuss with the Commission any issue of public importance. Okay, no one having come forward we go to Matters from the Commission.

IX. Matters from the Commission

A. Discussion and Possible Direction to Amend Ordinance 2002-13, the Santa Fe County Water Conservation Ordinance (Commissioner Duran)

CHAIRMAN CAMPOS: Is there any material here, Commissioner?

COMMISSIONER DURAN: No.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER DURAN: I actually met with Liza Vitale about a month or so ago because there was some concern that she had relative to the people that were notified that they had – they were given a year? Liza, is that correct? They were given a year to comply with the ordinance and very few of them had complied. So I asked her to bring it up to the Commission to consider perhaps extending that period of time for another six months or a year or whatever the Commission deems appropriate to allow them to conform to the ordinance. My understanding is we really don't have anything to compel them to comply and if we could find ways of making it easier and Liza has some ideas on that, and give them more time to comply with the ordinance it would behoove all of us to work on that.

CHAIRMAN CAMPOS: Commissioner, when does the deadline run again?

LIZA VITALE (Planner): The deadline is January 1, 2005.

CHAIRMAN CAMPOS: Okay, that gives people another six months or so?

MS. VITALE: Yes.

CHAIRMAN CAMPOS: And you think that's too short?

MS. VITALE: I think that we were just discussing different ways to mitigate the financial strain on some people and perhaps giving them more time would be the easiest solution.

COMMISSIONER DURAN: Isn't it true that many of the people that you spoke to were having a hard time finding the finances to do that? Retrofits.

MS. VITALE: Many people found it kind of difficult to pay for that out of their pocket without any sort of incentive. So we can offer them a sort of time incentive would be the best solution and there are some other ideas that I've also come up with.

CHAIRMAN CAMPOS: These are strictly commercial businesses, correct?

MS. VITALE: Correct.

CHAIRMAN CAMPOS: Okay. Commissioners, any comments about the duration? Discussion.

COMMISSIONER ANAYA: I don't have a problem moving it back another year.

CHAIRMAN CAMPOS: Another year?

COMMISSIONER ANAYA: Yes.

CHAIRMAN CAMPOS: The discussion was six months.

COMMISSIONER DURAN: I don't think it was six months. It was six months to a year.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER DURAN: If you want to give it six months and then review it again in another six months. If we give them a year I think that should take care of it.

CHAIRMAN CAMPOS: Mr. Abeyta, any comments?

MR. ABEYTA: Mr. Chair, no. I concur that we need an extension of time but it's up to the Board if you think six months is appropriate or a year.

CHAIRMAN CAMPOS: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just want a clarification. If we did this, I would assume it would have to be a change to the ordinance.

COMMISSIONER DURAN: Right.

COMMISSIONER SULLIVAN: But it wouldn't relieve them from the obligation to do it, it would just give them more time to do it. In other words, it wouldn't be a situation where if I got my final plat approved between now and six months, I wouldn't have to do the conservation.

COMMISSIONER DURAN: I think it's just for people – correct me if I'm wrong – that have existing businesses that were given notice that they needed to comply.

COMMISSIONER SULLIVAN: Oh, I see.

COMMISSIONER DURAN: Not ones that have been approved since we

adopted it or ones that we will gain approval afterwards.

COMMISSIONER SULLIVAN: When does the new commercial establishment have to comply?

COMMISSIONER DURAN: Immediately.

MS. VITALE: I think most of the commercial developments are already in compliance because it's standard it's standards that were imposed in 1995 that call for a 1.6 gallons per flush toilet. So any new development unless they are using a very old building for the most part would be in compliance but from my understanding, everybody had until January 1, 2005 to comply, any business that is in our database.

COMMISSIONER SULLIVAN: Okay, so if it's a new business, they have to comply right away as part of their construction, as part of their business.

MS. VITALE: Correct.

COMMISSIONER SULLIVAN: If it's an existing business, they had until July 1, 2005 and we're saying now let's extend that six months until June 30, 2005.

MS. VITALE: That's correct, Commissioner.

COMMISSIONER DURAN: I think six months is okay.

CHAIRMAN CAMPOS: Okay, Ms. Vitale, you said you had a couple of other ideas you want to pitch out, maybe a resolution requiring that monies collected by issuance of fines, of tickets that would result in fines would go to a special fund?

MS. VITALE: That's correct.

CHAIRMAN CAMPOS: Would you like to elaborate.

MS. VITALE: What I would like to do is every fine that we collect from the water misuse violations, and there are many different water misuse violations outlined in the Water Conservation Ordinance, I'd like to see a water conservation fund and have every fine go into that fund and then we can use that money in the future to help defray costs for conservation-minded goals, whatever we feel is appropriate. That way the people that are misusing water will be directly affecting the conservation of water in the future.

CHAIRMAN CAMPOS: Okay, from staff, Mr. Abeyta, are you in concurrence?

MR. ABEYTA: Mr. Chair, I am and we would bring forward next month authorization to publish title and general summary and we'll provide in there details of proposed amendments.

CHAIRMAN CAMPOS: Do we need to do that? If we're just saying the money needs to go to a special fund, do we need to amend the ordinance or can we just be resolution say that money collected will go to a certain fund?

MR. ABEYTA: Mr. Chair, I'd have to defer to legal.

CHAIRMAN CAMPOS: Mr. Ross?

MR. ROSS: Mr. Chair, the latter is really just a finance issue, a budget issue. But we'd have to amend the ordinance to extend the deadline.

CHAIRMAN CAMPOS: Yes, sir, but we're not talking about the deadline. We're talking about the money, the finances. We could do that by resolution?

MR. ROSS: I'm not sure what the historical vehicle has been. We have to have some formal action.

CHAIRMAN CAMPOS: Okay. So at the next meeting, is there a consensus, first of all as to the extension. Do we want to have staff come forward with a proposed amendment to the ordinance. Is there a consensus? Yes? Okay. On the issue of having the money, the fines going to a special fund to be used strictly for water conservation, is there consensus on proceeding, having staff come back to us in a month with a proposal either an ordinance change or a resolution, whatever's necessary?

COMMISSIONER DURAN: Yes.

CHAIRMAN CAMPOS: Okay. The other issue was enforcement. Is that right, Ms. Vitale? You said that perhaps certain members of the County would need authority to enforce the issuance of some of these citations?

MS. VITALE: That is correct, Mr. Chair. Certain members would need the vested authority like myself and certain other members of the County that would like to have that authority vested in them to cite people for water violations.

CHAIRMAN CAMPOS: What do we have to do as a Commission to authorize you to have that power?

MS. VITALE: I'm not actually sure of that, Mr. Chair.

MR. ABEYTA: Mr. Chair, we would add additional names to the resolution that you usually approve as a yearly thing. Every year we bring back an amendment to that resolution.

CHAIRMAN CAMPOS: Is there a consensus that we should add additional names to enforce this particular ordinance and that that matter be brought to us at next meeting for action? I would concur. Any objections? Okay. Thank you.

MS. VITALE: Thank you very much, Mr. Chair.

CHAIRMAN CAMPOS: Okay. Any other matters from the Commission?
Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, we've got some new hires at Santa Fe County and I just want to read the list off. There's Steven Hayes, Ashleigh Bowker, Emilio Campos, Deseray Gallegos, Andrea Jaramillo, Trevor Larrañaga, Erica Martinez, , Gabrielle Martinez, J.C. Martinez, Amanda Mayrant, Amanda Montano, Jessica Montoya, Jessica Lee Romero, Kelly Shepherd and Jimmy Tapia.

Under Public Works, our new hires, Jonathan Gonzales and Max Ortiz. The temporary Fire Department, firefighters and paramedics, Douglas Boozer, Christina Collins, Ananda Dinsmore, Robert Dinsmore, Roy Holliday, Ron Lucero, Andrew Montoya, Erin Quintana, Mike Ruane, Daniel Williams, Bryan Conkling.

And under the Clerk, Victoria Romero. Under Corrections, Julie Barela, Sherie Lopez, Rebecca Ortiz, Monica Pineda, Maria Rodriguez-Stoll and Andrew Wagner. I just want to welcome them all to Santa Fe County. Thank you, Mr. Chair. That's all I have.

CHAIRMAN CAMPOS: Thank you, sir. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just have one thing, Mr. Chair, and this is

for Roman. I saw in the paper last Wednesday, July 7th, a headline indicating that a developer plans for more homes in the Eldorado area and it pertains to a development by Mr. Sebesta that involves 14 homes, apparently, all of which are going to be family transferred. It seems like a serial family transfer subdivision which by doing that it exempts itself from the Santa Fe County Subdivision Codes. I wanted to find out just a little more about that, Roman.

MR. ABEYTA: Thank you, Mr. Chair, Commissioner Sullivan. We do currently have an application pending in the Land Use Department for a 14-lot family transfer. Thirteen of the lots are 12.5 acres in size and the last lot, the 14th lot, will be 49 acres, about 49.60 acres. Under the County Code there is an exemption for family transfers, provided that you transfer property to immediately family members, but the definition of immediate family member not only includes mother, father, children, grandchildren but also nephews and nieces. So that's why you're getting up to the number 14 with this list.

They will have to comply with the water availability requirements in the Code. They'll have to do a hydrology report and demonstrate that there's enough water to support these lots. They'll have to build the roads to County standards, but they're not a subdivision so they don't have to come before any review body. It's an administrative review.

COMMISSIONER SULLIVAN: And there's no time period in which these family members are required to hold it until they resell it?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, that's correct. There's no time period. They could turn around and sell the lots.

COMMISSIONER SULLIVAN: So if you had enough family members. Say, 50, you could do a 50-lot subdivision without any County review for a fire code or for access or anything other than their well needing a 100-year geo-hydro report.

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, that's correct. And that is a - the County Code mirrors the state law, the state subdivision act, and there's been many attempts to try to amend it because it is a problem. The definition for family transfer is too broad. But you're correct. You look at it for water and roads being built but that's it.

COMMISSIONER SULLIVAN: So is that anything that we can address in our Code revision or is that trumped by state law?

MR. ABEYTA: Mr. Chair, I'd have to check with our legal requirement but we may be able to be more restrictive than the state act. If not, then we would have to change the state subdivision act.

COMMISSIONER SULLIVAN: That seems like it's not a good way to plan, to me. As much time and effort as we put on master plans and community planning and involvement and fire protection and emergency services, just to say these things aren't necessary if you were transferring it to x-number of family members. That's the only issue that I had, Mr. Chair. I would feel that if there's any reason that this subdivision should come to the Commission that the Commission should look at it and the CDRC should look at it. And I ask you to investigate that. I don't know if that's within your discretion or again, whether the state law does not give you that discretion. Do you have any experience in that?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, if they meet the

requirements of the Code then I'd have to approve it. But then that could be appealed by a neighboring resident and that would be the only way it came up through the process is if there was an appeal filed.

COMMISSIONER SULLIVAN: Okay, so if someone appeals that. And when do you plan to make that decision?

MR. ABEYTA: The application is still incomplete. They have gone through the posting period, the required posting, and I have received several phone calls from neighboring residents. But they're waiting for a hydrology report to be sent in. So there's still plenty of time and a lot of review that's going to go in it.

COMMISSIONER SULLIVAN: And is there a certain time period that a resident has to appeal after you make a determination?

MR. ABEYTA: There will be five working days that they have to appeal.

COMMISSIONER SULLIVAN: Okay, so how do they find out then? That's a short period of time. Do you publish that in the paper? Do you put it on the website? Or how do we get people to know that they have a five-day window to appeal?

MR. ABEYTA: What we do is, on the notice, we'll let people know when the posting period is up and then they'll contact us and that's the time for us to contact us and at that point we get their name and number and let them know they will be notified as soon as we make a decision so that they'll have the five days.

COMMISSIONER SULLIVAN: Okay, so you notify not only the applicant but anybody's who's indicated an interest. Okay. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Mr. Abeyta, would you keep us informed? Would you brief us, maybe at the next meeting?

MR. ABEYTA: Mr. Chair, yes, I will.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, just a couple of things. First of all, I'd like to wish my son a happy birthday, Angelo, who turns 19 today. And I'm glad to hear we're going to get out about nine or so. Maybe they'll save me some cake.

CHAIRMAN CAMPOS: Might be earlier.

COMMISSIONER MONTOYA: And then I just wanted to thank staff, Doug, Stephen Wust and some of the other County – Erle Wright. I don't see Erle here, but they were there again Saturday for the water fair in Nambe and we had a really good turn-out. Doug, what did you get in terms of water samples? There were eighty when I left at noon.

DOUG SAYRE (Deputy Utility Director): Mr. Chair, Commissioner Montoya, it turned out we took in 122 samples for analysis in Nambe on Saturday. The interest was there and a lot of public concern and they certainly brought us a lot of samples. At the present time, I think we're up to 300 samples that have been brought in since we started the water fair in June. So we have a substantial number of data points to try to analyze all that and start to work with it.

COMMISSIONER MONTOYA: Great.

MR. SAYRE: Glad you brought a couple of samples also.

COMMISSIONER MONTOYA: Absolutely.

MR. SAYRE: Thank you.

COMMISSIONER MONTOYA: Thank you, Doug. Thank you for your work. And I was glad to see that Greg Parrish gave us a report and update on the Youth Development Facility. The potential is there to get about \$300,000 to \$400,000 for an assessment reporting center, which would be great. That would probably reduce our costs over there. We're looking at about \$16,000 to \$19,000 per month if we implement this program. So that was good news.

And then just quickly, Dan. An update on the speed hump ordinance. Is that coming before us next month?

DAN RYDBERG (Traffic Engineer): Mr. Chair, Commissioner Montoya, it's going to be ready for the next meeting. I have two attorney reviews and I'm waiting on a review from Finance Department with some financial numbers to put in there. My caption's submitted and it will be all ready to go for the next meeting.

COMMISSIONER MONTOYA: Great. Thank you, Dan. Thank you, Mr. Chair,.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: Roman, could you please come up? On this issue of the Sebesta family transfer. I understand that they have the right to appeal your decision to approve it. My question is, can they just appeal it for anything?

MR. ABEYTA: Mr. Chair, Commissioner Duran, yes.

COMMISSIONER DURAN: And how does the Land Use Department respond to that? If there's no basis to approve it, because your approval of it is based on the County Land Use Code and the state code, and someone has the right to appeal it, how can they substantiate their right to appeal, other than they have the right to do it?

MR. ABEYTA: Mr. Chair, Commissioner Duran, whatever decision we make, we'll defend it at the committee level and if we feel that they don't have substantial reason or finding then we will let the committee know that and we'll recommend that the committee uphold our decision.

COMMISSIONER DURAN: So at the County Commission meeting, would it be appealed to CDRC?

MR. ABEYTA: Yes. And then that decision could be appealed up to the Board of County Commissioners. By either neighboring residents or the applicant.

COMMISSIONER DURAN: So the only time that the Commission or the County gets into any - has any exposure relative to overturning your decision - it would only happen at the BCC. In the committee meetings, if they overturned your decision

MR. ABEYTA: It would still be up to you guys. You would have the final say if appeals were filed.

COMMISSIONER DURAN: Okay. Because I just think we need to be cautious about supporting an appeal that's not substantiated in the Code. Thank you. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: That concludes Matters from the Commission.

X. Committee Resignations/Appointments/Reappointments

A. Request Reappointment for the Library Board for Another Term

SUSIE SONFLIETH: Mr. Chair, Commissioners, I'm Susan Sonflieth. I'm the interim director for the Santa Fe Public Library. According to our ordinance two of our library board members represent the County and before we take this appointment to the Mayor, recommendation, we come to you and ask for your endorsement. And tonight we have Shelly Moore who has served one three-year term on the library board. She has said that she would be willing to be reappointed for another three years. She's been a really good member and represents the southern part of our county out in Eldorado.

CHAIRMAN CAMPOS: Let me ask you a question. Why do you come for confirmation of something you've done at the City? I think the County's appointment, shouldn't you come here first and ask for our suggestions?

MS. SONFLIETH: That's what I'm doing. We come to you first. What she did is she has served one three-year term. And at that time, we come to you and ask for an endorsement and then we go to the Mayor. And that's - she's asking for reappointment, so that's the process I'm following again.

CHAIRMAN CAMPOS: Okay. So someone at the County did nominate her or suggest that she be appointed.

MS. SONFLIETH: Originally, yes.

CHAIRMAN CAMPOS: When was that?

MS. SONFLIETH: That was in 2001. Our terms are three-year terms.

CHAIRMAN CAMPOS: But you didn't do that now, for the new term?

MS. SONFLIETH: No. We did advertise.

CHAIRMAN CAMPOS: But you didn't come to the County first.

MS. SONFLIETH: No, because she was already on the board.

CHAIRMAN CAMPOS: Okay. Any comments or questions?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER MONTROYA: Second.

The motion to reappoint Shelly Moore to the library board passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this action.]

CHAIRMAN CAMPOS: Just a suggestion in the future. If this is really a County appointment then we should look at it first.

MS. SONFLIETH: Okay. Thank you.

XI. Presentations

A. Presentation by the Regional Development Corporation Regarding the North Central Regional Transit District

JACK KOLKMEYER (Planning Director): Thank you, Mr. Chair. Good afternoon, Commissioners.

CHAIRMAN CAMPOS: Mr. Kolkmeier, how much time do you think?

MR. KOLKMEYER: Ten or less.

CHAIRMAN CAMPOS: Ten or less is good.

MR. KOLKMEYER: All right. Off we go. As you may recall, on January 30, 2003 the BCC passed a resolution, 2003-16, a resolution in support of the proposed state legislation for the creation of a regional transit district. That law, Senate Bill 34, subsequently passed and was signed into law by Governor Richardson as the Regional Transit District Act on March 21, 2003. Our participation in this project was further outlined in Resolution 2003-18 that you adopted on August 28, 2003. Since that time we have been working on diligently on creating the necessary documents and concepts for the Regional Transit District, mostly under the guidance and leadership of the two ladies who will give the presentation this afternoon, Lilian Montoya Rael and DeAnza Valencia. They will make a brief presentation and answer questions primarily about the certification documents that you have received copies of a while back in a booklet that looks like this, in case maybe you haven't picked it up.

And also we have some amendments to that as well. They'll go over that with you in their presentation here this afternoon. These documents represent over a year of collaborative work by representatives of the RTD organizing committee. The presentation this afternoon will focus primarily on the intergovernmental contract and board of directors that the Board, the BCC, will be asked to adopt by resolution at a subsequent public hearing, which we hope to do in early August, next month.

Participating members will then seek certification from the New Mexico Transportation Commission, also in early August. So we're on a little bit of a tight time line here. But I'd also like to bring it to your attention that several entities have already adopted the resolution to move forward and become members of the Regional Transit District. Pojoaque Pueblo Council voted unanimously to become a member on July 3, 2004 and several others, but you'll go over that. So I'd like to introduce Lilian Montoya Rael and DeAnza Valencia and I will pass out the information that they will go over. [Exhibit 2] Thank you.

LILIAN MONTOYA RAE: Good afternoon, Mr. Chair, Commissioners. I don't want to go into reiterating too much of what Jack said, but I did want to acknowledge that when you took action last fall, to explore this opportunity of creating a regional transit district for the tri-county area, you also designated Jack and his time and I wanted to make note that he has contributed significantly to the development of the documents that we will be providing to the Transportation Commission in August.

The working group from the organizing committee represents ten governmental units, five Pueblos, three counties and two cities. These folks have met at least monthly, but in most

cases bi-weekly to discuss financial strategies as well as the development of a document that will be required. We have had unanimous interest from the Pueblos of Pojoaque, San Juan, as well as from the City of Española and Rio Arriba County. They joined the district. We anticipate having action taken from six other governmental units before the end of the month. Our goal is for this district to be the first in the state.

It will also be the very first in the state to represent three kinds of governmental units, Pueblo government, city and county governments. DeAnza is going to spend just couple minutes walking through our process. I really wanted to emphasize the amount of staff time from these units that has been invested in the development of the document and I also wanted to make sure that you were aware that once this community chooses to join the district you will have an opportunity to designate a member of the Commission to the board of the Regional Transit District. And although this has taken a lot of time, well over twelve months, the ball really got rolling once the governor signed the Regional Transit District Act, I think the bulk of the work, the bulk of the heavy lifting will actually take place once the district is created. That's when some real hard decisions are going to be made about service plans, the service to the community as well as sustainability for Park 'n' Ride, which is a major program in this community.

And I'd like to go ahead and turn it over to DeAnza Valencia. Before she comes up here I did want to let you know that when our office, the Regional Development Corporation, and DeAnza's office the Surface Transportation Policy Project, were asked to take this on, it was at the expense of the Department of Transportation. They recognized that they needed to have a intermediary in this community who didn't have a vested interest in the outcome so much as to build some collaboration with communities. So we've been putting a lot of time into the development of this work. DeAnza will join the RDC staff on August 2nd. So she's going to leave STPP and she'll be working within this community and a whole host of other areas. As many of you may know, I'm going to be leaving the RTC and I'm going to be heading to the laboratory as director of community relations and small business advocacy. So I'll see you then but it will be a different hat. DeAnza and I will continue to work on this transit project and anticipate working with the board once this is created and helping them really create a comprehensive service plan for this community.

DEANZA VALENCIA: Mr. Chair, members of the Commission, again, my name is DeAnza Valencia and I'm currently the director of the New Mexico Office of the Surface Transportation Policy Project, but soon to be, as Lilian noted, with the Regional Development Corporation. I just am briefly going to walk you through the process so that you know where we're at and then answer your questions about the Regional Transit District and how it will relate to the County.

So if you could please look at your map in the RTD vision document that Jack just handed you. Primarily, I just wanted to point out the three key boxes. It starts with the yellow box, which is basically the vision that we have for the need for regionally coordinate public transportation services. This references the NCRTD Mobility concept map, which is the other handout that Jack gave you. It basically outlines sort of the vision of regional transit services

that we have for this tri-county area. You can just take a look at that. But those are some of the ideas and the possibilities that could potentially emerge out of the creation of a regional transit district.

So there was a vision to coordinate services in the region, specifically public transportation services. Basically, the idea is to turn what are now barriers into opportunities. For example, the expansion of public transportation services, facilitate better connections between public transportation services in the region, the need for more efficiency in terms of funding, to better utilize federal funding throughout the region, to remove the jurisdiction limits in terms of providing public transportation services regionally, and improving communication within the region.

So we have this vision and the next step was basically working with the governor and the legislature to pass the enabling legislation and that was done last year in 2003, and after the legislation was passed and signed, our organizing committee was formed. This is a committee that Lilian and I have been staffing over the course of the last 11 or 12 months and the committee of which Jack has been an integral part of.

The organizing committee then, over the course of the last 12 months worked with representatives from the governmental units to create the documents that are required for the New Mexico Transportation to certify a regional transit district. So basically, where we're at right now is in this green box. We're trying to actually create the district so that we can have the structure to actually get to the orange box, which is everyone likes to talk to, the actual providing of services in the region.

So what we're asking from the Commission, at a later date would be to actually pass the resolution to join the district, agree to the contract, so we can actually have this new level of government in place, which is the Regional Transit District. Once the Regional Transit District is created and certified by the Transportation Commission, then the board of directors, on which the County will have a representative on, will then determine - will actually be functioning in the orange box, which is talking about the types of services that can be provided by the district, potential cost and all of the related items. Between, you'll see from the orange box to the green box is obviously the need for funding and the development of a service plan.

I just wanted to make a couple keynotes. One is, at this time, we're not asking - there's no financial commitment to join the district. It merely allows the governmental entities in the region to have a seat at the table and we're talking about planning and coordinating and managing regionally coordinated transportation services.

The New Mexico Department of Transportation has committed \$25,000 for the North Central Regional Transit District once certified by the Transportation Commission. So we envision that first \$250,000 to be used in the first year to basically get us from the green box into the orange box. So in the first year administrative funding would be covered by the DOT. Once a service plan is developed with the input from the board of directors, that's when services would be provided and Santa Fe County would have place to say we would really like to have this type of service.

The expectation for the district, the first major project would be for the district having a

role for example, the Northern New Mexico Park 'n' Ride service and coordinating that with the local services, which is just an example. So that's sort of a broad overview of the district. We just wanted to be here to answer any major questions. Jack mentioned some changes in the contract from the version that you received. They're very, very minor. Nothing of any substance. It was just that DOT legal had some changes in some legal language regarding pronouns and also a change from a reference change to indemnification to a reference to tort claim. So they're very, very minor. They're in no way substantive. We would stand for questions.

CHAIRMAN CAMPOS: Questions?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sire.

COMMISSIONER ANAYA: DeAnza, have you looked at – how long have you been doing this? How long has this been set up? How many times have you all met on this?

MS. VALENCIA: The organizing committee?

COMMISSIONER ANAYA: Yes.

MS. VALENCIA: We've been meeting over the course of the last twelve months. Once a month as a full committee and the document subcommittee, of which Jack was a member has met at least twice a month.

COMMISSIONER ANAYA: Okay. Have you talked at all about maybe some transit between the town of Edgewood into Albuquerque?

MS. VALENCIA: We have talked about it in a very broad scope, as part of this sort of regional vision, the type of service that could be provided that's exactly the type of service we envision that could be provided. But at this point, what we're really just trying to do is just create the structure so that the board, as a regional entity, can really decide whether we'd want to provide services. But that would definitely be on the table once the district is created.

COMMISSIONER ANAYA: Okay. Thank you.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: I would just like to commend the staff and Jack also for the work that you've put it. And I would encourage us to, as some of the other governments have already done, encourage us to bring forward a resolution at the next appropriate meeting. Roman, maybe if we could do that, so that we would be a participating – we'd be more than a participating member. We'd be a member-member. So that's kind of what I would like to see, Mr. Chair, and kind of a farewell and welcome to Lilian. She did a wonderful job on the Regional Development Corporation and I know you're going to do a wonderful job at LANL as well and they're fortunate to have a person of your competence and capability. RDC will miss you but it will be another life. And thank you for all you've done here as well, Lilian.

CHAIRMAN CAMPOS: Mr. Kolkmeier, you want to do a resolution as soon as possible. Is that what you're requesting, or do you have a time line of some sort?

MR. KOLKMEYER: Mr. Chair, yes. I believe that as both Lilian and DeAnza

said, we have to approach the Transportation Commission, the State Transportation Commission the second week of August. And Roman and I have spoken about this, is bring a resolution forward at the next BCC meeting, which would be the 29th. And act on it at that point. Because it's really important that as many members are ready to go and have signed up and have formally agreed, the more that we have behind us the more the Transportation Commission will look favorably on that. So we'll come back on the 29th.

CHAIRMAN CAMPOS: Okay. Thank you, sir.

MR. KOLKMEYER: Thank you.

CHAIRMAN CAMPOS: Thank you very much for coming. We appreciate the information and all your work. Thank you.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: Do we need to appoint somebody now or –

CHAIRMAN CAMPOS: After there's a resolution.

COMMISSIONER ANAYA: After the resolution?

MR. KOLKMEYER: Yes. After there's a resolution. I've been a member working with this group up to this point. Once you agree upon the resolution then I believe it would be open for an official member of the BCC to be appointed.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN CAMPOS: Anything else? Thank you very much. I have a letter that I just received from Senator Roman Maes that he'd like us to read, addressed to Chairman Campos.

This letter will serve as notification of my resignation from the New Mexico State Senate District 25, Santa Fe County. The effective date will be midnight, July 14, 2004. As I leave the New Mexico Senate and the State Legislature I must say what an honor, a privilege and a pleasure it has been to serve the people of District 25 and the people of New Mexico. During the past 20 years I deeply appreciated the opportunity entrusted to me as a public servant and more so as a State Senator. My early departure will allow me to move forward in my endeavors and allow my successor an opportunity to have at least six months of tenure and experience. It is my desire to assist and support my successor in every possible way. Best Wishes, Senator Roman Maes.

So effective tomorrow he is resigning. I would just say that Roman Maes did a great job as a New Mexico State Senator and that we're going to miss him. Any other comments?

COMMISSIONER ANAYA: Mr. Chair, I'd also like to thank Senator Roman Maes for all the work he has done for the state of New Mexico. We're going to miss him in the Senate, but I wish him luck in whatever he decides to do and if he does need any assistance in any way, don't hesitate to contact Santa Fe County or myself. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you, sir. Any other comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Should it be put on the agenda for the next meeting, consideration of appointment? I know Mr. Grubestic would like to be appointed, so we

could probably, if that's the desire of the Commission, put that on the agenda for the next Commission meeting.

CHAIRMAN CAMPOS: Yes. That would be appropriate.

XII. Consent Calendar

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

1. **EZ CASE #DL 03-4961 – Santos Family Transfer (Denied)**
2. **CDRC CASE #V 04-5080 – Bruce Gollub Variance (Approved)**
3. **CDRC CASE # A/V 04-5071 – John Montano Appeal Variance (Approved) TABLED**

B. Resolution No. 2004-71. A Resolution Requesting an Increase to the Road Projects Fund (311)/Various Projects to Budget Grants Awarded through the New Mexico Department of Transportation for Expenditure in Fiscal year 2005 (Public Works Department)

CHAIRMAN CAMPOS: Is there a motion to approve the Consent Calendar as amended?

COMMISSIONER MONTOYA: So moved.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER ANAYA: Second.

The motion to approve the Consent Calendar as amended passed by unanimous [5-0] voice vote.

XIII. Staff and Elected Officials' Items

A. Health & Human Services Department

1. **Resolution No. 2004-72. A Resolution Requesting an Increase to the General Fund, Home for Good – El Norte Project, to Budget a Contract Awarded through the New Mexico Department of Health, Behavioral Health Services Division, for Expenditures in FY 05 (\$211,920)**

STEVE SHEPHERD (Health and Human Services Director): Mr. Chair, Commissioners, this is a budget adjustment request for a contract that's been signed with the Department of Health. This is the state-funded portion of our Home for Good project that will work with former inmates and their families from Tesuque on north. I'd like to point out one error that was made just for the record, on page 2. This was made in the packet material but

subsequently corrected on the original. Under expenditures, where it says \$8, that is Workers' Compensation, it is not professional contracts. And the \$115,241 is actually professional contracts.

COMMISSIONER MONTOYA: Not telephone.

MR. SHEPHERD: Not telephone. But it has been corrected on the original for signature.

COMMISSIONER MONTOYA: Mr. Chair, move for approval.

CHAIRMAN CAMPOS: As amended?

COMMISSIONER MONTOYA: As amended. Yes, sir.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER DURAN: Second.

CHAIRMAN CAMPOS: Discussion?

The motion to approve Resolution 2004-72 passed by unanimous [5-0] voice vote.

XIII. B. Matters from the County Manager

MR. GONZALEZ: Mr. Chair, members of the Commission, we had talked about possibly scheduling some additional Commission work sessions in the future and I wanted to go over just a quick list and see if there were other items the Commission might want to also schedule study sessions on in the future. The items that I have on my list for future study sessions are water, wastewater, and they could be combined or separated, whichever, strategic planning, study session to review the adult and juvenile jail facilities. We have a GRT bonding session already set but I also wanted to add somewhere down the road a study session just on the budget in general, looking at the nuts and bolts of the budgeting process for the County and what the Commission's vision would be for future budgets.

So those are items that I had on my list but I wanted to see if there were any additional thoughts or suggestions that you might have for setting BCC study sessions.

CHAIRMAN CAMPOS: Mr. Gonzalez, how much time? Are we looking at a couple hours? Half day? A day?

MR. GONZALEZ: Most of these would probably be a couple of hours apiece.

CHAIRMAN CAMPOS: Okay. And I assume you'd present the Board with a briefing paper of some sort with enough time that we could digest it.

MR. GONZALEZ: Right, and do a little presentation as we have with all the study sessions before. We have – and perhaps you can give me some feedback after we do the GRT study session tomorrow. We do have a handout for that. And if that's the kind of thing that works for the Commission we can continue to do for the future study sessions.

CHAIRMAN CAMPOS: Do you need this done in a month? Two months? By the end of the year? What's your time line on it?

MR. GONZALEZ: My time line would be to set up at least one of these a

month, and possibly two, if we have a hot issue come up. We may want to do water and wastewater both in the same month.

CHAIRMAN CAMPOS: As far as Diane Quarles is concerned, when do we have her on as Utility Director?

MR. GONZALEZ: The paperwork is in process and actually I think her first official day is July 9th, if I remember correctly.

CHAIRMAN CAMPOS: Okay. Any comments from the Commission? Okay, that's it. Start setting them up one a month starting with water and wastewater. Commissioner Montoya.

COMMISSIONER MONTOYA: Do you think it would be too much if you think we tried to hammer a lot of this out in maybe one day?

CHAIRMAN CAMPOS: Dedicate a day?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN CAMPOS: Well, that would certainly put a burden on staff to get four presentations. I don't know. Mr. Gonzalez, what's your -

MR. GONZALEZ: It would be easier from a staff perspective to space them out. Now if you want to do a couple a day, we could do that. The other thing is I wouldn't want to throw so much information at the Commissioners in one day that then we'd end up having to do it all over again. So two sessions a day could work. I think more than that would be taxing all of us.

CHAIRMAN CAMPOS: I would be inclined to do one because these are big issues, huge issues with a lot of information.

COMMISSIONER MONTOYA: That's fine.

CHAIRMAN CAMPOS: Any other comments? So let's start looking for dates for I guess, you want to start in August?

MR. GONZALEZ: Yes, I'd like to start in August. I'll send out a list. I'll e-mail to all the Commissioners the list that I just read off and if you have anything to add to the list then just e-mail me back.

CHAIRMAN CAMPOS: Okay. Anything else, Mr. Gonzalez.

MR. GONZALEZ: Just one other item. I confirmed a short time ago that Roman Maes has submitted his resignation as State Senator, I think effective the 30th.

CHAIRMAN CAMPOS: I think it's tomorrow. He delivered a letter to me and asked that I read it and I did read it a few minutes ago when you were out. Anything else? Okay.

X. Matters from the County Attorney

1. **Executive session**
 - a. **Limited personnel issues**
 - b. **Discussion of bargaining strategy preliminary to collective bargaining negotiations**

Commissioner Anaya moved to go into executive session pursuant to NMSA Section 10-15-1 (2 and 5) to discuss the matters delineated above. Commissioner Montoya seconded the motion which passed upon unanimous roll call vote with Commissioners Anaya, Campos, Duran, Montoya and Sullivan all voting in the affirmative.

[The Commission met in executive session from 3:55 to 5:10.]

Commissioner Duran moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Sullivan seconded. The motion passed by unanimous voice vote.

XIV. Public Hearings

A. Attorney's Office

1. **Adoption of Ordinance No. 2004-3. An Ordinance to limit participation within one year after completion of County government service in matters in which the person has participated personally and substantially (Second Public Hearing)**

MR. ROSS: Mr. Chair, members of the Commission, this item was before you during the first meeting in June. It comes before you today on the second public hearing on the proposed ordinance to limit employment and other matters after elected officials, appointed officials or County employees leave government service. As you recall, you instructed our office to begin working on an ordinance like this. I think it was in February or March. And we had some discussion about it at least a couple Commission meetings before you instructed us to publish title and general summary.

We brought to you some proposed language which appears on the document that I think you all have in front of you, that I passed out earlier with the red "draft" stamped on it. [Exhibit 3] The first paragraph represents the changes from our existing conflict of interest ordinance, which is 1993-1. My plan was when drafting language was just to insert it into that ordinance since it seemed to be a convenient vehicle for these kinds of issues. So I drafted this new section 9 which is before you.

And we considered just the first paragraph during the last public hearing a month ago.

Since that time I have had a chance to look at the minutes and digest your comments and I've provided a couple more alternatives represented by the second and third paragraphs, for you to consider after you have your public hearing. The second paragraph was an attempt by myself to address some of the concerns that were raised last month, particularly by employees and others concerned about whether a given conduct would bar them from representing persons after they left government service. So I drafted an additional two sentences that attempt to define more closely the key phrase in that paragraph, which is whether somebody has participated in a matter personally and substantially.

The key amendments are, in the second sentence, that you don't participate personally and substantially unless you are essentially in a decision-making role in connection with whatever it is that's at issue and in the last paragraph, I've come to address some of the comments along these lines and defined what incidental conduct might represent, including things like supervising, mere super of employees that do participate personally and substantially over matters – just happening to know about a particular matter because you work in the office. So these two sentences attempt to mitigate maybe some of the harshness of the first sentence of that paragraph.

And then I've also provided in the third paragraph the option that keeps being discussed which is the six-month as opposed to the year limitation. It's been voiced by some of the Commissioners that may be another way that we could mediate the harshness of the rule. So that's what's before you. Once again, this is the second public hearing so I think we'll have to move into that before we have any further discussion of this matter but I wanted to give you a little bit of an introduction.

CHAIRMAN CAMPOS: Mr. Ross, did you have an opportunity to distribute a copy of your proposed change to the members of the public? Or just to the Commission members?

MR. ROSS: Just to the Commission members at this point.

CHAIRMAN CAMPOS: Okay, Commissioners, any comments? Okay, this is a public hearing. Anybody here who would like to discuss this particular ordinance amendment come forward now, for or against. Okay, the public hearing is closed, no one having come forward. Discussion by Commission? Motion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: Steve, which one are you recommending?

MR. ROSS: I think I'm in a position to recommend the second alternative, simply because what I was trying to do, what I was trying to capture in this paragraph were concerns that you voiced during the last minute and concerns I've heard from folks in the halls.

COMMISSIONER ANAYA: I like the second one but I'd like to change it from the one year to the six months.

CHAIRMAN CAMPOS: Okay. You want to make that motion?

COMMISSIONER ANAYA: I'd make that motion.

CHAIRMAN CAMPOS: Could you read that for us. At least outline what that

version is.

MR. ROSS: Shall I just read the text?

CHAIRMAN CAMPOS: If you think that's appropriate.

MR. ROSS: Okay. I'll read quickly. What we do is propose a new Section 9 in Ordinance 1993-1. So we would amend Ordinance 1993-1 and give it of course a 2004 Ordinance number, and insert a new Section 9 in there which would state the following: The heading would be Limitations on Employment Following Government Service. And the text of the section would read as follows:

A former Elected Official, Appointed Official or County employee shall not represent a person in dealings with Santa Fe County government on a matter in which the former Elected Official, Appointed Official or County employee participated personally and substantially, while an Elected Official, Appointed Official or County employee for a period of six months following termination of service or employment.

An Elected Official, Appointed Official or County employee participates in a matter personally and substantially, for purposes of this section, when the Elected Official, Appointed Official or County employee is in a decision-making capacity during government service and has the capacity to affect the outcome of the matter while an Elected Official, Appointed Official or County employee. Incidental contact with a matter, or supervisory control over persons with direct control over a matter is not personal and substantial for purposes of this section.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Hold on. There's a motion. Is there a second?

COMMISSIONER DURAN: Second.

CHAIRMAN CAMPOS: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: How about nine months?

CHAIRMAN CAMPOS: Let's have a discussion about that, about the time.

What if this information was confidential and something that's developed in the County, it's confidential and in six month or in twelve months they can come back and consult with someone and then we don't have that protection of confidentiality. I think that exposes the County; it makes us very vulnerable. We're simply protecting ourselves and our own government and the public. Because we don't want to set ourselves up, and that's what we're doing. We have a feeling that we need to shorten this up to six months or whatever or not even have something, because we want these guys to go out and become consultants or lobbyists. But the discussion is going around the country that this is a bad thing. We have people in government go out and become consultants, come back.

Not only that, now we're talking about confidential information that could be shared with people that are presenting matters to the County or negotiating important things for the County. So that's my argument. Any other discussion?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: I still think a year makes sense. That's consistent with the state statute and seems to work there. As I've said, if the majority feels that

that's a little too long perhaps we could split the difference and make it nine months but I think we need a longer period of separation from that revolving door.

CHAIRMAN CAMPOS: Absolutely. I wouldn't suggest a compromise. I'd say 12 months. We're talking about confidentiality of important information to the public and to the County that could be used against us. A one-year is a minimum. A lot of places wouldn't even allow this. That's my argument. Commissioner Duran.

COMMISSIONER DURAN: I think six months is fine. There are people that are going to take advantage of this whether it's six months or a year. Thank you.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: I've all along supported the 12 months. I think that's an adequate period. One year. That's still the way I feel. Again, it's something that I experienced myself as a former state employee and it goes by pretty quick.

CHAIRMAN CAMPOS: It sure does. I'm for 12 months. Commissioner Montoya, I think Commissioner Sullivan support the 12 month. Would you like to amend that to say 12 months, Commissioner Anaya?

COMMISSIONER ANAYA: No, there's a motion and a second.

The motion to make the limit six months failed by 3-2 voice vote, with Commissioners Anaya and Duran voting with the motion.

CHAIRMAN CAMPOS: Is there another motion?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: I've move for adoption of the second paragraph as recommended by the County Attorney related to Section 9.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Okay. Discussion. Okay, this is an ordinance. We take a roll call, don't we?

The motion to approve Ordinance 2004-3, with a one-year time limit, passed upon 4-1 roll call vote with Commissioners Campos, Montoya, Sullivan and Duran voting in favor and Commissioner Anaya voting against.

COMMISSIONER ANAYA: Mr. Chair, I'd like to recognize a former County Commissioners of Santa Fe County, Commissioner Don King. He's here with us and his wife Dorothy King. Thank you for being here.

CHAIRMAN CAMPOS: Commissioner King. Thank you for coming.

COMMISSIONER ANAYA: I believe he was Commissioner back in 1967. Sixty-four to seventy. Thank you for being here, Commissioner.

A. Land Use Department

1. Resolution No. 2004-73 A Resolution Amending Resolution 1999-137, the Santa Fe County Growth Management Plan, to Adopt and Incorporate the US 285 South Highway Corridor Plan (Second Public Hearing)

JUDY McGOWAN (Senior Planner): Mr. Chair, Commissioners, I'm going to do a very brief summary of the memo. I don't have a presentation, and I know you've got a long agenda and you want to get through it.

This is the second public hearing on the U.S. 285 Corridor plan. The first public hearing was held on June 8th. The Board directed staff to prepare a matrix with comments received about the plan and responses, with any recommendations for amendments. You received in your packet the beginning of that matrix. One letter was received at the last minute when the deadline was due, and couldn't be responded to. I have given to each of you and to the recorder a copy of that second matrix, [Exhibit 4] and also a page two of proposed amendments that respond to that particular letter, [Exhibit 5] and also copies of all the letters and e-mails, primarily e-mails, that I know of that have been received by the County since the June 8th public hearing [Exhibit 6]. So I'm entering those into the record.

Once again, to point out that this hearing has been noted in display ads on the *Eldorado Wrapper*, in legal ads in the *New Mexican*, in a display ad in the *Journal North*, and previously notice was mailed to all persons listed as a committee member or a participant in front of the plan, and to all property owners within that corridor plan area. Plans have been available at the Vista Grande Library, on the County website, and to anyone who requested them from the Land Use Department.

The recommended amendments that you have in your packet, there are three categories of those. One is the category of amendments that were recommended by the planning committee, the staff, and by the CDRC. And those were discussed at the last hearing. A second category of amendments is at the bottom of page 1 of the recommended amendments, amendments that came from the planning committee and staff review of the comments that were made at the June 8th public hearing. Those amendments consist of a recommendation to amend the recommended land use map, in response to a request by the Ramseys, but to not increase the total amount of acreage or square footage that could be zoned for commercial mixed-use districts. Another recommendation, a question was raised about the use sizes, and upon reflection, the committee thought that the use size standards that are proposed in the plan may conflict with the building size standards in a way that would prevent the building size from being implemented. And they're recommending that the use sizes be deleted from the plan.

The second page of recommended amendments are amendments that are being recommended by staff based on the comments from the letter from Mr. Roben. And I can just list those real briefly. One is to change some of the maps and add some maps for each crossroads to the plan. Another is to add some more detail and description of what

residential uses in the commercial mixed-use districts would be described as, and what would not be allowed. A third is to delete the reference to up to five units per acre for the Spur Ranch crossroads. That actually conflicts with another section of the plan, and it's nice to have that pointed out. And then it was pointed out that we didn't have a definition for what small-scale light industry would mean. So I have added the definition for that.

The other issues that were raised in the memo were two, one having to do with core values, and the other with water issues. The core values discussion was a way of trying to get under what some of the comments were coming back and saying, to understand what they were really saying, and pointed out that there's not agreement on core values, obviously, among residents in this area. And the County growth management plan is what we're operating under as staff and as a Commission, and what the planning commission was operating under. And it gives us certain directives having to do with corridors. One has to do with economic development. Another has to do with limiting the impacts on traffic to the region by providing more services and community areas. And that's where the committee was working from, and that's the values they were expressing and trying to work under. And there are obviously people who don't agree with that. It's not surprising.

There's also the issue that there's clearly people who don't want a corridor plan adopted. That's their opinion. So amendments to the plan are not going to satisfy them particularly. The inference from that is that they would like no more commercial uses in that area, and I guess the follow-up to that would be we would have to be required to down-zone in order to accomplish that. The planning committee didn't all agree on this at the beginning either. They spent a long time talking about this. They looked at the status of all the approved master plans, the lands that have been zoned out there, at what's actually been built, and asked the opinion of the County Attorney at the time. And they decided that they needed to honor the existing approved master plans. Because they agreed on the value of working with property owners and with each other towards the best community-minded development, and that causing a confrontation would not result in a plan, number one, and not result in a plan that was adoptable.

On water issues, the planning committee has recommended that new development within the corridor plan area, in particular the commercial mixed-use projects, be governed by the water requirements of the County Land Development Code, including the moratorium ordinance that's in effect within the Eldorado utilities service area. And I think there is a lot of misunderstanding about this moratorium in the general public. A lot of people seem to think it's a moratorium on all development. The moratorium is actually about connecting to the Eldorado Utilities Incorporated water system. And the reason for that, the intent of the moratorium, was that the County couldn't demand, or they tried to demand that EDU prove 100 years water availability, and were unable to get that information.

But there are options for people under that moratorium, for property owners. They can hook up to EDU if they have an existing tap, which for commercial uses I think there are only two that exist. I could be wrong on that one particularly. They can prove 100-year

water storage and use a well, with or without water rights, depending on their scale. They can create or connect to another community water system. And they also may choose to drill a well and then transfer those water rights to EDU and have EDU take over the maintenance of supplying water to their development.

The most important thing the plan recommends having to do with water is the recycling and conservation requirements that the committee would like to have the County impose on development in the area. This is actually the only suggestion that staff is aware of that would move us towards the general plan goal, which says we should work towards a sustainable water supply in the area. This would work towards sustainability by limiting overall water use and the draw on the aquifer.

The real question that confronts the Commission now is whether they agree that properties within the corridor plan area should be treated the same with respect to water requirements as the properties outside the corridor plan area. That, in effect, with the addition of the recycling and conservation, is the recommendation of the planning committee and the plan as its drafted right now. Should the Board of County Commissioners elected to supercede the those existing requirements and having different standards for development inside the corridor than outside the corridor, staff came up with two potential options that could be followed, which have their own legal and practical issues involved with them. And we have not pretended to do a very detailed analysis of that, just to note that there are issues that would have to be dealt with.

One option would be to require everyone in the corridor to hook up to a community water system, whether it's public or private, new or old. And this water system could in fact be an extension of the County water service utility, if the County was inclined to go that way. The other option would be to require new development to connect to EDU or its successor. This would require some amendment of the EDU moratorium, perhaps a repeal, it's not entirely clear legally about that, or at least I'm not clear. It would require providing options for properties that are outside the EDU service area, options for properties when water lines and supply are not available from EDU, and may require the County to reconsider the enforceability of the water availability requirements in the Code. And I say that last one because we've declared that EDU can't prove 100 years water supply by requiring hook-up. We'd basically be waiving that requirement for those properties.

The plan can be adopted and can function under each of these water supply options. In fact, to implement the water supply options it would have to be done either through amendments to a zoning ordinance to the Land Development Code or to the moratorium ordinance. Once again, the action requested is to amend resolution 1999-137, which is the Santa Fe growth management plan to adopt and incorporate the U.S. 285 South Highway Corridor Plan. And CDRC has recommended for approval, with certain amendments. They did not recommend other amendments being considered. We're recommending that you hear whatever public hasn't been heard so far in this public hearing, and that you adopt the plan tonight with whatever amendments you feel are appropriate. We're also requesting the

authority to prepare the plan as approved for publication by making any final corrections and edits to the plan.

CHAIRMAN CAMPOS: Ms. McGowan, is staff recommending certain amendments?

MS. MCGOWAN: The amendments that staff is recommending are the two pages that I entered into the record that were submitted to you this evening.

CHAIRMAN CAMPOS: Okay. Questions, starting with Commissioner Duran.

COMMISSIONER DURAN: Has the public had the opportunity to look at those suggested amendments?

MS. MCGOWAN: There are copies that were distributed in the back. One page of those amendments were available at the last public hearing. The others were in the packet. So if they had access to the packet – and there are copies in the back of the room.

COMMISSIONER DURAN: So prior to this meeting, some of the amendments were not available for the public to review.

MS. MCGOWAN: That's correct.

COMMISSIONER DURAN: Okay.

MS. MCGOWAN: I have to be honest, I'm really not aware of what happens to the packet and if that's available to the public before the meeting.

COMMISSIONER DURAN: When were the amendments complete and available for anyone to review?

MS. MCGOWAN: The second page of amendments were only complete this afternoon, because that 16-page letter was submitted right at the deadline.

COMMISSIONER DURAN: So very few probably had the opportunity to look at those amendments.

MS. MCGOWAN: That's correct.

COMMISSIONER DURAN: Okay. The moratorium, I just need to get real straight on the moratorium and why the moratorium was in place. And my understanding is that the Eldorado Utility was unable to prove that they had sufficient water to provide additional hook-ups to their system. Is that correct?

MS. MCGOWAN: That's my understanding too, Commissioner. I think it got very involved with people counting the number of lots and caps and determining who got what. But yes, that was the basic premise.

COMMISSIONER DURAN: Was that moratorium actually founded though in any real factual information relative to the aquifer? Because there are a lot of people out there that are subdividing in 12.5-acre lots, and they are able to prove water availability from the Code requirement, which is drilling a well, providing us with a geo-hydro report that proves 100-year water supply. So I'm asking these questions because I think that there might be some movement to require people close to the Eldorado Utility to hook up to the utility. And I'm just wondering what kind of impact that's going to have on the Code and how it's written presently, which is actually tied into a property owner's ability to prove

100-year water supply.

MS. MCGOWAN: Let me answer the first part of the question, and maybe the hydrologist can respond too. I believe that the moratorium was about EDU's inability to prove both physical and legal access to 100 years' supply of water for their customers.

COMMISSIONER DURAN: Over and above what they had at that time?

MS. MCGOWAN: Including what they had at that time.

COMMISSIONER DURAN: Oh, including what they had at that time.

Okay.

Ms. MCGOWAN: Yes. So I don't believe the moratorium was about the aquifer in general, and its ability to serve or not serve. It was specifically about EDU's being able to prove its ability to provide 100 years' worth of water, both legally and physically.

COMMISSIONER DURAN: And since we adopted the moratorium in that area, there was Shomaker's report completed after that?

MS. MCGOWAN: Yes.

COMMISSIONER DURAN: And for my information and maybe for the rest of us, do you recall what his report indicated relative to the aquifer in that particular area? Maybe that's a question for Steve.

MS. MCGOWAN: I believe that's a question for Steve.

COMMISSIONER DURAN: Okay. We're all concerned about the aquifer out there. But I think that we need factual information available to us to help us make decision on whether or not we're going to require hook-ups to EDU. And if the aquifer is too sensitive to allow people to continue drilling out there, I think that we need to know that.

STEVEN WUST: Mr. Chair, Commissioner Duran, Stephen Wust, County Hydrologist. Both the Shomaker report and the modeling done through the Office of the State Engineer and Jack Frost suggested that the aquifer - of course they're different scenarios - but would have severe draw-down if withdrawals up into the amount that was being proposed for total build-out and growth in that area were to try to be sustained by a water system relying solely on wells in the Eldorado area. And so it suggested the aquifer as a whole could be limited in terms of its ability to supply the total amount of proposed growth that was for that area. My understanding is that's not really the basis of the moratorium. Again, it was similar to what Judy said, that it was the moratorium, which is why the option's put on for people to be able to demonstrate water on their own. Yet the Eldorado Utilities had over-extended its commitments for its ability to supply, similar to what the City experienced with PNM.

But there was the possibility that there were water sources there that were untapped by EDU. And actually that seems to be the case in a couple of the recent well drillings. They went deeper, they tapped some different aquifer zones that had not been tapped before. Whether those are extensive enough to turn around and say that could supply the proposed growth of the whole area, is the uncertainty that was brought forth in the

Shomaker report, that the basin as a whole has a limited ability to sustain. But it was not a question of nothing more versus everything. It's was, Let's go a piece at a time. That was the option given the moratorium: Let's see if people can see some water sources and supply their own needs.

COMMISSIONER DURAN: Okay, thank you. I have one last question. Judy, in your report to us in the amendments, you have only letters of support. And in the last ten days I have received a ton of e-mails that are not in support of the plan. So staff is in favor of the plan?

MS. MCGOWAN: Commissioner, those are the only e-mails that I received.

COMMISSIONER DURAN: Okay. Thanks.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, Judy, we had in our packet suggested amendments regarding the self-storage units. Was that incorporated into the amendments?

MS. MCGOWAN: Chairman Campos, Commissioner Montoya, that amendment was proposed at the CDRC, and we proposed I think to you. The committee looked at that amendment and decided they were not in favor of it, that in fact what they're recommending is that in the ordinance self-storage units could be made - I can't remember whether it's a special or conditional use, and be approved with specific conditions on them, including the architectural standards of the ordinance.

COMMISSIONER MONTOYA: So it is a possibility to do that, then.

MS. MCGOWAN: Yes. What they're saying is the plan does not prohibit self-storage units. It just says they're not the preferred use, and that in the ordinance we could work out a regulation that would allow them with extra review.

COMMISSIONER MONTOYA: Oh, okay. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Commissioners, let me point out to you, in the packet is a page that has also some additional language. And you mentioned, Judy, that you felt that the conservation provisions were the only reasonable measures that would achieve sustainability in the water. And I would disagree with that. I submitted a clause that I think that I would like the Commission to consider as we talk about this, and as we hear from the public, which we will shortly. And that simply says that all commercial and mixed-use development - note that it excludes any single-family residential development - within 300 feet of an Eldorado Utilities, Inc. water distribution line shall be served by EDU. And we probably could put in there EDU or its successor, if there is one.

I think that that does not cause any problems for a number of reasons. It creates sustainability in that if they are requesting more than a quarter acre-foot, which is all you can get from EDU right now under the moratorium, so we hold that in place, so I don't think we get into boxing ourselves into a situation of saying that we're allowing the moratorium to be defeated. There is an option in the current moratorium that allows an applicant, which you mentioned, to drill a well or to utilize a well that they have and

transfer it to EDU, as well as the water rights. And doing that then is a great benefit to sustainability of the aquifer. Because that eliminates the free water syndrome. That eliminates the straws in the aquifer that are drawing water without requiring an offset or a retirement of water somewhere else within the basin.

So I think that that kind of provision would allow us to provide the water that these commercial and multi-use developments might need without further depleting the aquifer because we're retiring another right. And that's allowed within the current moratorium. So we're not doing anything else. The only problem with the current moratorium is that we have this other option which allows them to drill a domestic well. And that's the option that they currently use because it's less expensive. And that's the free water option. And even the County doesn't get free water. We're paying top dollar to purchase water rights up and down the Rio Grande for future use on the County water system. And I don't think we should adopt a policy that provides free water for applicants along the 285 corridor either.

So I want to point that language out for consideration by Commission. And it was mentioned that we're treating properties differently if we adopt some water restrictions. But we're really already treating properties differently. The hydrologic zones out there now are twelve and a half acres. That's the minimum. And so we've already allowed development on the corridor with considerably denser development than that. So even though the existing County ordinances and the node concept - we've already agreed to treat development along nodes or along the corridor differently, and to allow them denser development, and to allow them more water use. So I think that this would treat it differently than what's in the subdivisions proper on either side of the road, but I think to the betterment of the entire area, since we're not using new water, we're retiring other water.

I think we have to be cognizant of the fact that we can say we're not treating the properties within the corridor the same as the other properties, which would be true. But by the same token, in the corridor plan we're not dealing with the other properties right now. This would be the first step. And secondly, we're treating them differently now anyway. It's only a question of how should that treatment be different, or what should be the level of that different treatment. So I wanted to bring that to everyone's attention.

I don't feel, as Commissioner Duran was concerned about, by the way, that we're waiving that 100-year requirement. Because in that option that they have under the current moratorium, to provide a well and to provide water rights to EDU, they must demonstrate 100-year water supply for the proposed developments in accordance with Article 2 Section 6.4.2. You still have to do that.

COMMISSIONER DURAN: Can I ask you a quick question?

COMMISSIONER SULLIVAN: Sure.

COMMISSIONER DURAN: How do they prove that? Do they have to drill a well and then do a geo and then transfer the rights?

COMMISSIONER SULLIVAN: They can do it either way. That's typically

how they do it. If they already have a well, they can do the geo-hydrological test. If they want to drill a new well, then they have to drill an exploratory well and do the testing on it. And then it has to be permitted by the State Engineer.

COMMISSIONER DURAN: But wouldn't that require them to drill a well and do a geo-hydro and all of that prior to transfer?

COMMISSIONER SULLIVAN: That's still required, you're right. They have to do that now. The only difference is now you can do that with a domestic well. That's the difference. Without water rights. So in either case, the 100-year geo-hydrological is still a requirement. So I don't think anything that's proposed here tonight eliminates that.

COMMISSIONER DURAN: So they still have to go through the expense of proving 100 years.

COMMISSIONER SULLIVAN: That's correct. As I said before, we don't get free water in the County, and I don't think it's good policy to propose free water in other areas either, particularly where we know that there's limitations on the aquifer. So the 100-year water supply test still applies. It's in place now with domestic wells. It would be in place, with my proposed amendment, that they connect to EDU.

And I wanted to point out on that that a quick check with the EDU officials indicates that all of the properties within the 285 corridor that are proposed for this new development, with the exception of one, are within 300 feet of an EDU water line. And the only one that's not is the Freemont Ellis property, which is up by the old Fina station, right off of I-25. This is what I would call an aquifer protection clause. And I think I would like the Commission to think hard about when we're listening to the public hearing. Just a minute. I have one more item.

CHAIRMAN CAMPOS: Can we do that later, Commissioner, and come back to it after we let the public speak?

COMMISSIONER SULLIVAN: Yes, that's fine. That's all I have for now. Thank you.

CHAIRMAN CAMPOS: Commissioner Anaya? No comments? Okay. Public hearing. How many people here are for and how many people are against this proposal? I understand there's a major split. Anybody who's for raise your hand. Okay, those opposed. Is there a speaker for the opponents? Sir? Please come forward and state your name.

JERRY WILLIAMS: My name is Jerry Williams.

CHAIRMAN CAMPOS: You're an opponent?

MR. WILLIAMS: Yes, an opponent.

CHAIRMAN CAMPOS: Okay, and your address?

MR. WILLIAMS: It's 8 Redondo Court, Eldorado.

CHAIRMAN CAMPOS: And I understand you want to present a

PowerPoint of some sort?

MR. WILLIAMS: Yes, sir.

CHAIRMAN CAMPOS: And do you have speakers that will represent your group?

MR. WILLIAMS: Yes, we do.

CHAIRMAN CAMPOS: How many?

MR. WILLIAMS: How many are here?

CHAIRMAN CAMPOS: How many speakers? Okay, we don't want people repeating

themselves. We have a lot of hearings that are coming. So we want everybody to address different issues if that's possible. We talked earlier, Mr. Williams, and you said about ten minutes to make your presentation.

MR. WILLIAMS: Yes, sir. May I ask one procedural question before I begin? The amendments that are being proposed today – and I'm totally ignorant on this subject – are those considered first reading, or are they considered amendments to the second reading? How is that considered?

CHAIRMAN CAMPOS: My impression is that we can consider them tonight and pass them in tonight.

MR. WILLIAMS: So they would be considered second reading?

CHAIRMAN CAMPOS: I would think so.

MR. WILLIAMS: Okay. I just want the Commission to be aware that no one else has had a chance to see them.

CHAIRMAN CAMPOS: Okay. We've heard that argument, Mr. Williams. We've heard that information. Please make your presentation.

MR. WILLIAMS: Yes, sir. This is regarding the 285 Corridor Plan. The plan that is being proposed by staff, it needs to be understood, is contrary to policies that have been County general plan for the past 25 years, and is illegal under today's County Code. What this body is being asked to do is to begin to make it legal by making an amendment to the County general plan, thereby setting the stage for future Code changes that would make it legal. In other words, if the 285 plan is illegal under a law, let's change the law. This raises the question, is changing the law justified? We don't think so. Our goal today is to explore that question.

In summary, the plan is proposing 640,000 square feet of new commercial and mixed-use development along 285. Developed as commercial, it will equal the building of 20 new Agora centers on the five-mile stretch from I-25 to Lamy, and equals the size of the DeVargas mall and Zafarano's new big box combined. The result also is higher commercial density per capita than even Albuquerque. If developed as mixed-use, and we don't have a clear definition of mixed-use, it would allow developers to substitute residential units for commercial density. It would allow up to three housing units per acre to be substituted for commercial development. And there could be as many as 250 new high-density residential units built along 285 equal to all the homes present on the east side

of 285 at the present time. Three housing units per acre compares to the present average for all the greater Eldorado and greater 285 area, the average is two acres per residence, a dramatic increase in density.

The plan doesn't make common sense or Code sense. In terms of Code sense it is a fact that today this plan is not in compliance with either the present Land Development Code or the objectives of the 1980 or the 1999 general plans. In summation of the first county general plan, it stated that the scarcity of local water resources is a dominant influence on the location, amount, and intensity of future urbanization of Santa Fe County. In other words, anything that addresses development must address water.

As a result, the general plan of 1980 had two primary purposes; one, use of hydrological zones to control development density, and two, to require proof of water resources that will last over a long time horizon, thus the proof of the 100-year supply. In the County general plan of 1999, it reaffirms and extends those 1980 policies stating this plan will continue use of the hydrological zone system, and work actively to transition from a 100-year hydrology to sustainable water use.

Clearly, controlling development density in relation to water consumption have been key policies of the County general plan, and they are also key issues for the Eldorado community. This general plan policy occupies a very key section of the Land Development Code also, Article 3 Section 10, Relation of Lot Size to Water Policy. The four hydrological zones provision and their required densities in relation to water use continue today unchanged from the original 1980 code. So is the 100-year proof of supply as part of this section, thus at Eldorado and the hydrological zones.

Here is the Mountain Zone. You see Eldorado itself is the green section. And of course here is 285. Now, here is the Mountain Zone, here is the line, and that is the section of the Mountain Zone. The majority of the section is in the Basin Fringe Zone. So how does the Code's density and water-use formulas work in hydrological zones? Well, to make it simple, the water on a lot is to be .25 acre-feet, when the minimum lot size is, as you can see, is there. And if it is one acre-foot you can see the minimum is quite a difference, from 12.5 to 50 acres per lot size. In the Mountain Zone area, it's 20 acres versus 80 acres. And the Mountain Zone area is that zone area, well, actually, both of those are areas that include Eldorado. These are very large life-size standards when you consider that today's average developed lot size in greater Eldorado along 285 is approximately two acres. This is because most of Eldorado subdivisions, which is 80 percent of all the homes in the greater Eldorado area, was platted before the Land Use Code in 1980.

Hypothetical application of a hydrological zone, there would be 12,000 plus or minus acres in the Basic Fringe Zone, and 3,000 acres in the Mountain Zone to only 15,000 acres. A total of 15,000 acres between the two, and assuming that the use of the least amount of water at a quarter acre-foot per year consumption level, here's a calculation of the density and amount of water this community should be using, based on Code. And we can see that the 12,000 acres in the Basin Fringe Zone and the 3,000 acres

in the Mountain Zone, you divide by – you can follow the formula as it goes around. You end up with 12,000 acres that should equal 960 from the Basin Fringe Zone and 150 from the Mountain Zone. And that would give you the total of 15,000 acres and well over 1,000 lots. And the water usage would be 280 acre-feet.

How does this compare with the current Eldorado densities for water use? Eldorado in the year 2003, 15,000 acres, there were almost 3900 lots using 582 acre-feet. If developed according to our 1980 Code, the 15,000 acres should yield 1,000 lots, a little over 1,000 lots, and use 280 acre-feet. The difference in the density versus water, the number of lots, is, as we said earlier, in Eldorado right now is three times the Code. The water is two times the Code.

As we stand today, we already have land use, as I've said, that is three times more dense than the Code, and we're using two times Code determined water. And that's why there's been a County-imposed moratorium. We skipped a slide there. I'm sorry. But I think you get the idea. Today, Eldorado is not in conformance with the Code in regard to the three key elements of land administration, and these are very important: land use density, water consumption, and the 100-year water supply requirement. In about tomorrow, if the 285 plan is approved, it would allow eight times the increase in density versus what presently exists. To 80,000 feet of present commercial development, the plan will allow the building of a minimum of 640,000 new square feet.

The impact of this, let's look at population versus growth again. We expect the population growth will be from 7200 in 2000 to a range of 20 percent to 40 percent, that would be on the low side, up to 8800 to 10,000 on the high side, versus the plan's 800 percent increase in commercial development. That's a 30 to 40 percent increase in residential, 800 percent increase in commercial out of the plan.

Looking at population growth estimates over the next 20 years, common sense tells us that development is out of proportion. Let's look more closely at the 285 –

CHAIRMAN CAMPOS: How much more time do you need? You're over ten minutes.

MR. WILLIAMS: I'll move as quickly as possible. I should finish in five minutes. The plan calls for development in ten locations. These are all the locations along 285 that are commercial and mixed-use lots. And they equal 104 acres, 24 acres already built on and 80 presumed.

And now, once again, there's the hydrological zones and the basin fringe zones. And you can see once again the proposed areas in red. Forty new commercial acres in the Mountain Zone, 40 in the commercial zones. 40 new acres in the Mountain Zone – I'll just move through this very quickly – and there's a comparison of difference of what is required. But the total density for both zones is five lots or five dwellings and a quarter acre foot of water. On the 285 plan, 640,000 square feet, plus a water use of 64 acre-feet per year versus one and a quarter under the zones.

So there's the big difference. If we stay under the Code that exists at this time and you propose to add this new density of water use to a community that's already three times

more dense and uses two times more water than the Code, and the Code is still unable to provide a 100-year water supply, then the community is without a plan or resources in place to fix any of these problems. The plan doesn't make common sense, nor Code sense, and it has been fashioned using areas of the code which I'll move through very quickly.

The problem is that it is in conflict with one Code and it agrees with another. However, when that occurs, as you can see, there is one Code -- and I'm just moving through these codes, but you will have hard copies of this to review -- when there are conflicting provisions, when there exists a conflict and any limitation involving Code, the more restrictive limitation or requirement shall prevail. In today's code, the more limiting standard set by the hydrological zone must prevail. And so following the Code, the 285 plan does not conform.

Once again, we don't have a definition of mixed use. But we know that it includes a lot of things, we don't quite know what they are. In conclusion, the 285 plan in its present form is not in conformance with the current Code or the objectives of the general plan. But the real issue here is should the general plan be amended, today the general plan and subsequently the Code in line with the 285 plan as proposed. In other words, if it is illegal, should we change the law? That question you need to ask. Have there been compelling reasons offered in this plan to change 25 years of general plan policy and Code regulation in order to get this single plan approved and run through the system? Or is this developer-driven? Has community desire for high-density residential stock been shown? Are there studies that clearly demonstrate pent-up community desire or demand for more commercial and industrial development on 285? Or community polls or surveys that show that the community majority supports and understands the impacts such forms of development will have? The answer is no. To the contrary.

And finally the question once again: if the projected community growth is to be somewhere between 20 and 40 percent over the next 20 is outlined in the plan, why does the plan allow an 800 percent increase in development? If today's Code is strictly enforced, instead of this plan, it will not put an end to the cherished rural environment of the community, it will not allow 640,000 potential square feet of new residential office or industrial or mixed-use, at a total of nine locations on a very short stretch of four and a half miles. Water consumption would be a tiny fraction of the 64 acre-feet that would occur under the proposed plan. And this would not be added to a community already three times more dense than it should be under the Code, using two times more water than it should, unable to meet the 100-year supply requirement.

CHAIRMAN CAMPOS: This is repetitious, isn't it?

MR. WILLIAMS: Okay. And without the resources. We would not approve this plan, and we would not change the law. Thank you very much.

CHAIRMAN CAMPOS: Thank you, sir. Okay, other spokespersons for the opponents? Please all come forward at the same time. All of you. Do we have to swear in? No? Okay. Anybody who wants to speak against? Any other persons who want to speak against the 285 plan? Come up right now. How many? Two people? Okay. Great. Four.

COMMISSIONER DURAN: Five.

CHAIRMAN CAMPOS: Okay. Yes, ma'am. We're asking you not to repeat. Be focused on the issues.

MARIANNE HALE: I understand. And I've been asked to read something for another gentleman who was unable to be here tonight, Mr. Bill Robens, who is a resident of Eldorado and has forty years of experience. Marianne Hale, 42 Estambre Road. He has been a professional planner all of his life in the southern California area. So here is his.

"Mr. Chair, members of the Commission, I regret I'm unable to attend this evening's public hearing, and I have asked that my comments be read into the record. My name is Bill Robens, and I reside at 40 Estambre Road in Eldorado. I forwarded to you about two weeks ago a 16-page letter that I wrote to Judy McGowan, a critique of the 285 plan, the recommendations which I believe are needed to make the plan acceptable. My goal was to present a professional document based on my years of leadership experience, engineering, and land planning, a document with recommendations based on logic and fairness.

"The staff response to my letter is, I believe, instructive. It consists of five sentences, two of which were intended to paint me in a poor light, none of which responded to the central issues of my letter. I forwarded a copy of my planned comments to the County Manager, and in an e-mail indicated that I hoped he would ensure that staff took them seriously and not trivialize them. This is based on my previous experiences. The result was that staff, I feel, trivialized the comments and marginalized me personally."

CHAIRMAN CAMPOS: Ma'am, can we get to the substance, please?

MS. HALE: Yes, I can. "Why is it a bad plan? Several reasons. Many of the most basic principals of good community planning have been violated, including commercial and residential plans were done separately and apart, poor use of corridor concept, interdependency of land-use and infrastructure not adequately attended to, integration of the vision statement improperly handled, and the final plan was not given a community-wide hearing. The vision statement came in the third year, and from the committee, not the community. It is a committee plan, not a community plan. Much of the information needed for public understanding has been omitted. Some of the information is misleading, and is always in support of the plan. It is not balanced, and is not project-neutral. It misses easy reference charts, graphs, etc., and definitions for the community.

"Finally and more important is the substance of the plan itself. It may well lead to distasteful and unwanted development, and has no recognition of the potential downsides of the plan. Simple logic reinforced by years of experience indicates that vision must come at the beginning of the process, and if community is the goal, it must come from the community. The reason for this is that the purpose of the vision statement is to provide direction and guidance. Without this direction, the committee will develop their own vision and implement their own plan, and this is what happened. The vision statement came late, sometime in the third year, and it came from the committee, not the community. It is clear

that the vision belongs to the committee, and a plan to support their vision. It is their plan and not a community plan.

“Four million square feet of development, the plan, the staff, and the committee have boldly claimed there is a potential to develop four million square feet in the corridor. This plan has been used repeatedly to garner support for the plan, with an implied threat being that without the plan, this is a real possibility. The problem is that the plan also states plainly that maximum plausible build-out will result in only 9600 average daily traffic trips. A simple calculation using trip-generation figures accepted by staff in the Crossingham traffic study indicates it only takes 300,000 square feet of development to generate 9600 trips. Maximum plausible build-out is defined as worst-case scenario in the traffic study. How does the staff defend using four million square feet when it comes to justifying the density of this plan, when the maximum plausible build-out is only 300,00 square feet?

“While the plan takes credit for reducing potential development by 82 percent, the truth is it increases development by about 240 percent over the maximum plausible build-out. The fundamental issue here is one of honesty. The question needs to be asked, how would community support change if the truth were known? As a commercial mixed-use district, this is a new zone to the plan. Furthermore, as I can tell, it hasn't been fully explored in a community setting. The plan documented staff presentation implied that with this zone development will occur with a mixture of residential and commercial use. It talks about a lively mix of uses, but I maintain the plan does little to bring about such a thing. It's what's called a non-zone zone. It doesn't do it, and will not do what staff has said.

“Your staff has concurred that a ten-acre parcel will be developed wholly in residential with up to 35 units wholly in commercial with up to 870,500 square feet, or wholly in light industrial of up to 870,500 square feet. Or they could be developed in some unknown combination. I find nothing in the plan to require, promote, or encourage that developments relate to each other, even at the same node. The zone is essentially a license for developers to do whatever they want.

“The foundation of the commercial mixed-use district is a district so vague that it is impossible to know ahead of time whether a development will be residential or commercial or industrial. As a zoning designation, it is nearly useless. I believe the zone has been misrepresented to the public, and I believe the public has no idea what this zone really says. With a full and honest discussion of this zone, what it does, and what its impacts might be, it is impossible to know how the public would truly support the plan.

“Light industrial uses are permitted, but they are not discussed in the section of the text that deals with permitted uses. They are found in the fine print. This is an egregious omission when the guidelines indicate that small-scale light industry or arts and crafts is permissible. Light industrial uses, however, are not defined. Staff has agreed that high-tech uses, for example, would qualify as light industry. What about a bottling plant? It qualifies in many cities. How about a garment industry? Unclear.

“I'm sure it is not true, but it looks like the staff and committee are trying to sneak

this industrial use into the plan, and I think this whole issue needs to see the light of day.”

CHAIRMAN CAMPOS: Ma'am.

MS. HALE: I'll stop.

CHAIRMAN CAMPOS: One thing. You can continue, but the personal attacks, they shouldn't be there.

MS. HALE: I'm just reading what he wrote. I'll try to leave them out when I find them in Mr. Robens' comments.

CHAIRMAN CAMPOS: I'd appreciate it.

MS. HALE: “So let's look at traffic projections. The projections of the plan do not seem to be trusted. The conclusions based on these projections are likewise not to be trusted. The T-model, or any large-scale gravity model, is simply the wrong tool is to determine traffic impacts in a small-scale area. It makes no more sense to use this model than to try to hammer a nail into a piece of oak with a screwdriver.

“Much, if not most, of the plan is wrong. That is, either it does nothing to make safer or recommends things which when implemented would make things less safe. The problem lies in the fact that the conventional wisdom outside the traffic engineering profession is wrong in several areas. The plan relies unfortunately on that misguided conventional wisdom and cosmetic solutions. It is my judgement that nearly everything regarding traffic needs to be redone. If done correctly, there will be fewer accidents, fewer injuries, and fewer fatalities. And I'd be happy to sit down with Commissioners, staff, and the committee to go over this issue.

“I believe there needs to be a residential element and a public safety element added to the plan. The residential component of the mixed-use district is not addressed. Such items as density, apartment and condominium development, parking, and definitions of casitas and patio homes need to be addressed. Furthermore, with urban-type densities proposed, I believe it incumbent to include an element which discusses crime and police and changed fire potential and the ability to handle that change.

“As far as screening and buffering goes, urban-type commercial developments in residential areas usually need substantially more screening than in rural areas. This section provides neither guidelines nor performance standards. To protect neighborhoods from sight, sound, and smell of unknown quantities of commercial and industrial developments, trucks, loading docks, etc., I believe guidelines or performance standards should be included.

“There are many items in my comment letter which I have not addressed, and I will not slight those items. But I've taken my share of time. I believe there is still much work to be done to make this an acceptable plan. I believe the community is unaware that comparisons to four million square feet are very biased, and I believe the community is unaware of the real nature of the mixed-use zone. I recommend the plan be withdrawn and taken back to the community so these issues can be addressed. Thank you for your time. Respectfully, William Roben.” And that's for him, and I just had one short comment of my own.

I think it's been represented by many people, and it was mentioned tonight, that those who are opposed to the 285 plan are opposed to planning in general. I think this could not be further from the truth. I spent two years working with the Simpson Ranch committee, because I believe in planning. And I think we need a plan for the corridor. I just think this is not the plan.

I also know that it's hard to tell with a raise of hands what's really going on in the community. Those who share my views have been portrayed as people representing nothing but our own views. And I know the County has spent considerable time and money on this issue. I have one idea that I think might solve that, and it wouldn't cost the company and the County any money, which you don't need to spend any more of. Some of us are willing to put our money where our mouth is. We propose, with the help of our Commissioner, Mr. Sullivan, and with the approval of the final product by his fellow Commissioners, that a survey be done asking the public if they approve or disapprove of the plan and its elements. I think this can be done for three to five thousand dollars. We would propose to supply this money to the County. We would like to have thirty days to work to raise the money and get the survey ready to go. We would need then to send it out.

And we believe there should be, before the judgements, the public hearings which have not happened. I think staff certainly should make a presentation, I think people who are opponents should make presentations, and let the public make up their minds. If, at the end of that survey results, and they should be an easily tabulated survey, yes, no, ABC, what do you want, what don't you want, if the public wants the plan, fine. Let it go through. But if what I think will happen, the public does not agree with the plan as it exists now but want changes, then we should work to do it. I think we should have perhaps a committee of people who haven't been involved in it before. And I think we can do it in a year. Because we could use the plan that's here now proposed as a basis. And that's just a thought.

I think we need to have – this is such a fragile area. It is semi-rural. These are urban planning, what looks to be done. And I hope you would consider that proposal. Thank you very much.

CHAIRMAN CAMPOS: Thank you, ma'am. Name and address please.

PAUL EICH My name is Paul Eich. I live at 25 Lucero Road in Eldorado. Mr. Chair, members of the board, I think my comments will be very brief. What I really wanted to say is that all of the issues that you have heard so far, and those issues that are going to come from the members behind me, should be considered by this Board. And I would like to see this plan as it stands today re-evaluated.

At a minimum, the plan should be able to state in clear and concise language that all its future development, all the current development that's being proposed, work something with what Commissioner Sullivan has addressed to you, in that a hook-up is possible, it can be done, and I think we should be given the opportunity to actually explore that proposal.

I'm also concerned about the amendments that the staff has brought forward today. Once again, the amendments have not had the opportunity to have people in the community look at them, be educated on them, and be able to place some kind of input before the county Commissioners on that.

I would also like to say that at this point, I believe that all references to mixed use should be stricken from the plan until the whole community has had an opportunity to again be educated on what that means, what it would look like, and be able to put their own input into it. I'd also like to say that I support the idea that was brought up by the person before me. And that's all I have to say to you. Thank you very much.

CHAIRMAN CAMPOS: Thank you, sir. Next.

ALEXANDER HALE: Mr. Chair, members of the Commission, my name is Alexander Hale. I'm the husband of the person who just went a few pieces before me. I'm a resident of Eldorado, live at 42 Estambre Road. I'd like to make a few very brief comments to the Commissioners on the 285 plan up for approval.

While I have not done so before, I will make it official: I am completely in favor of planning, and indeed have participated in a great deal of it in the course of my professional life. I am opposed to this plan as it has been formulated. I am convinced the area does need a plan. It does not need this plan. I am on record as writing concerning many aspects of the plan being flawed. I recently e-mail some additional comments to the Commissioners. I will submit these to the secretary for the record. [Exhibits 7 and 8]

On water: The enactment of this plan will establish dangerous zoning precedents for the entire county. It is my understanding that in order to get this plan into ordinance, the existing hydrology zoning law will have to be changed for the 285 plan area. This is putting the cart before the horse. In other words, establishing a level of development, desirable or not, before ascertaining whether there are resources available to serve it. If this is done for the 285 area, how can the County say no when the next so-called plan is produced? On this count alone, the 285 plan should be rejected. I do not wish to see any more of my tax dollars wasted in lawsuits, and have already been spent on inappropriate planning.

On another aspect of the plan, I have recently prepared some rough drawings on the effect the 285 plan design standards could have on the community. By the way, although the plan refers to itself as a corridor plan, if one reads the document, it talks about community, and the effect it will have on community, well over 100 times. If my memory serves me correctly, it is 130 plus or minus. We should put to rest the notion that this is a corridor plan. To judge the effect, one has to review the standards critically, and then put down in a graphic representation the logical outcome of what could be built if these standards were exercised with no more constraints than are listed can be seen.

The result would be to change what is now what most residents think of as a semi-rural setting to a setting more appropriate to an urban environment. Indeed, with the building heights and areas shown, the mixed architectural styles, the accent colors permitted, the signs allowed to be wall-mounted as high as buildings, and street lighting

more appropriate to the highway could give a good approximation of Cerrillos Road. I doubt if even the proponents of this plan have any idea what could be built.

I feel compelled to make another observation. The Commissioners were given a packet of briefing documents in preparation for this meeting. I obtained a copy last night. I have thus not had an opportunity to thoroughly review it. But a cursory review reveals a number of serious misrepresentations, as well as a number of instances where a critical issue, particularly in water, appear to be evaded. How can a plan be considered when critical issues are not addressed? One item in particular, on page six, struck me. I guess I wasn't supposed to see this. At the bottom of the page, under Response or Discussion," it states: "The staff has repeatedly asked Mr. Hale to share his architectural expertise with the committee if he had specific issues with the standards. He declined. This is pure falsehood.

CHAIRMAN CAMPOS: Mr. Hale, that's way off the substance. Let's stick to the substance, please. We've got to move on. Please stick to the substance.

MR. HALE: Well, I have a recommendation to make.

CHAIRMAN CAMPOS: Well, go ahead and make it.

MR. HALE: That the staff would make this sort of comment to the Commissioners, in the manner in which it's done, raises a serious question as to staff objectivity, as well as the veracity of their other reportings to the Commissioners. As a citizen whose taxes pay for all this, it is felt that a thorough investigation of procedures -

CHAIRMAN CAMPOS: Mr. Hale, people cannot hear you. You need to speak into the microphone, and you need to wrap it up.

MR. HALE: That the staff would raise this sort of comment to the Commissioners in the manner in which it was done raises serious questions as to staff's objectivity, as well as the veracity of their other reporting to the Commission. As a citizen whose taxes pay for all this, it is felt thorough investigation of procedures and practices such as this must be implemented. This sort of thing cannot be allowed to continue. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Next speaker. Name and address please.

IRENE KERRY: Irene Kerry, 20 Aventura Road, Eldorado. As a new resident, I'm going to be very brief. The reason why I moved to this area was because it was so rural, peaceful, and quiet, without a lot of bright lights. And I think that this plan is for that community, so it should serve that community, and should take into consideration why these very people moved to this area. If they wanted a more urban area, I don't think they'd be there. So I think that the aesthetics and the whole complexion of this whole area is at stake. And that's one of things that I think really should be taken into consideration, that we don't have something that's offensive to the people that have moved there for certain reasons. And that's basically really all I want to say.

CHAIRMAN CAMPOS: Thank you, ma'am. Name and address.

CAROLYN WHEATON: Carolyn Wheaton, 1 Chapala Road, Eldorado. I

have attended meetings on both sides of this. And my concern is that I have not been able to find proof or likelihood even that there's enough water to sustain Eldorado as it exists. And I feel that further development is irresponsible.

CHAIRMAN CAMPOS: Thank you.

NATHAN OCKMAN: Mr. Chair, members of the Commission, my name is Nathan Ockman. I live at 4 Avila Court in Eldorado. I oppose this plan as formulated principally because of its recommendation of an additional 640,000 square feet of commercial mixed-use development over the next sixteen years, till 2020, at the five nodes. I will demonstrate that this amount of development far exceeds the community's needs, and consequently violates the purpose of the plan stated on page five, which is to prevent regional strip commercial development, with the emphasis on the word "regional."

Currently increased traffic, crime, noise, and possibility of white elephants, namely space that will stand unleased or unsold, and uses of water, are a problem of this large development. Namely, it would require about 64 acre-feet at full development, in addition to the 782 acre-feet at full buildup of the area, which we're getting close to. A figure of concern to Mr. Shomaker's report, which indicated 750 acre-feet, was the year 2002 capacity of EDU. So to do this we will need to drill more wells, lowering the water table and possibly drying out some of the present wells.

Now, the calculation I would make on what I consider a reasonable development is based on a survey made by the Simpson Ranch Committee, and done by a professional organization, the Southwest Planning and Marketing Group, hired by the County in November 2002. It had 1,349 respondents, which was a 40 percent response rate, which is a very high response rate for surveys of this kind, so it's very credible. And based upon the results, 58 percent of the people who responded gave very satisfactory ratings for availability of growth and services as of November 2002. So therefore the number of residents in this area was about 7500. And 7500 people thought in 2002 we had sufficient, good services available to us as of the present development, which was about 80,000 square feet.

Doing a rapid projection, again from the report, they indicate an average increase of population in the year 2020 to about 30 percent over the present. Using that number, which is about 9,592, divided by the present 7500 times 80,000 square feet, which the community thought was satisfactory, gives you a little over 102,000 square feet as a satisfactory total amount of development in the year 2020. It is only an increase of a little more than 22,000, not 640,000.

But I'm going to be a little looser on that, and I will consider something which the committee may want to have. Namely, at the present there's going to be an approved addition to the Agora of 43,000 square feet, Crossingham's Village of 56,000 square feet, and an additional Sierra Plaza space of 12,000 square feet. These have all been approved, and some will be under construction shortly. If you use 111,000 square feet in addition to the 80,000, and again use the 30 percent increase in population, these will lead to what I consider the maximum reasonable amount of development, namely a total of 245,000

square feet in the year 2020, which is only an increase of about 165,000 feet, again, not 640,000 square feet.

In conclusion, somewhere between a total of 102,000 to 245,000 should be more than adequate to satisfy the community's expressed needs for goods and services by the year 2020. A further increase will no doubt make this plan a regional plan, not a community plan, which is contrary to the purpose of the plan as stated in page five.

One should also note, which I don't think I've seen any discussion about, that most developers indicate that you have to multiply the development footage by factor two for the parking spaces that you need. In the case of 640,000 square foot increase, that's a 1.2 million plus square footage of parking space, which reduced by the smaller needs of the community. And of course the water increase of 64 acre-feet every year will be reduced to somewhere between two and a half to seventeen acre-feet per year, which is probably manageable, particularly with these new ideas by Commissioner Sullivan.

A couple of additional remarks and I'll wind it up. Multi-family rentals and owner-occupied townhouses as mixed-use projects, which have been mentioned, was not wanted by residents in this survey. In fact, 83 percent were against multi-family rentals, 72 percent were against owner-occupied townhouses. Again, the community has indicated they're not interested in a lot of these facets of the mixed uses that have been proposed. With my suggested increase in the commercial mixed-use space, the present crossroads utilize mainly the village, Vista Grande and 285, Alma Drive should be sufficient if there is possibly some more development in San Sebastian to take care of community desired increases in commercial development.

In conclusion, this supposed community plan never took into account the majority wishes of the community based upon the November 2002 survey, and have carried out what became a regional plan, violating its purpose. It will bring additional traffic, noise, crime, and depletion of water resources that can be ill-afforded in this present period of drought. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Okay, sir.

MR. WILLIAMS: I just wanted to say that I have a hard copy of the PowerPoint for all the Commissioners, and I have 58 e-mails opposing the plan I place on the record. [Exhibits 9 and 10]

CHAIRMAN CAMPOS: Place them with the recorder.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: Question to Judy or Jack. Does this 285 Highway Corridor Plan reduce the amount of commercial that could be done right now? Just a real simple answer. Does it reduce the amount of commercial that can be done right now if this were to be passed?

MS. MCGOWAN: Mr. Chair and Commissioner Anaya, the 640,000 square feet that is being talked about here is a build-out number, not a projection for a 20-year timeframe. And that's based on the existing building, what has already been zoned in the

area, plus a couple of spots of proposed that are at the fringes of the area. And we calculated that square footage potential based on a maximum potential. What actually gets built out there is less. So the plan is not saying 640,000 square feet will be happening in 20 years, and it is not recommending that that happen in 20 years.

But to answer your question more directly, what's in effect out there right now is the County Code as it exists today. And there are already several non-residential districts that have been established by parcels that have been zoned, some of that 422,000 square feet, and there are in addition intersections with lands around them that would be also eligible for non-residential zoning. That four million square feet was what we estimated could be approved under the current County Code.

COMMISSIONER ANAYA: So four million compared to –

MS. MCGOWAN: And then what the plan is saying is we would reduce the total potential for any non-residential commercial mixed use in the area to I think a total of 720,000 square feet. So what is being reduced is the potential to get rezoned and to apply for development in the area.

CHAIRMAN CAMPOS: Commissioner, can we move on? And we'll have an opportunity to comment at the end. Okay. All those who are opposed please stand up. Stand up. Opposed. So the Commissioners have an idea. Okay. Thank you very much. Are there spokespersons that are supporting the plan, would you come up? We'd like to not repeat, and we'd like to have focus. We have had a staff presentation already. It was fairly comprehensive, so we don't need a lot of reiteration or repetition. Okay, your name?

MARIANNE KENNEY: My name is Marianne Kenney, I reside at 91 Verano Loop, and I'm a 23-year resident of Eldorado and a longtime community volunteer. I'm speaking this evening on behalf of the planning committee in support of the U.S. 285 Corridor Plan, as developed over the past four years by a committed group of citizens from throughout the entire corridor area.

In 1999, residents of the greater Highway 285 region asked the Santa Fe County Planning Division to present us with planning options, due to issues that were raised by the expansion of the highway from a two- to a four-lane road. Residents were concerned that the newly enlarged highway could attract undesirable commercial development and sprawl, additional traffic, and accidents. The idea of discouraging large commercial development along 285 in favor of small village-type commercial areas was also expressed. After that presentation by the Planning Division to approximately 100 local residents, the group unanimously agreed to pursue corridor planning to address those issues and concerns.

As a result of that meeting, the Board of County Commissioners adopted Resolution 1999-159, which established the Highway Corridor District and planning committee. The planning committee was directed to prepare a corridor plan under the direction of the County Planning Division, and according to the provisions outlined in the Santa Fe County growth management plan. The corridor planning committee included representatives of over twenty existing community organizations and subdivisions, private landowners, and owners of undeveloped property along the seven-mile stretch of highway 285, between Old

Las Vegas Highway and New Mexico 41.

Tonight, we think the task you asked of us is complete. We have presented you with the plan that expresses the vision and hopes for the future of the corridor. We have addressed ongoing issues through the response matrix you requested. Approval of the corridor plan has been recommended by the CDRC. Detailed design standards and guidelines will be in the ordinances when they are written. The built-in review process will allow the plan to be updated as the community grows and changes.

Now our expectations are for you, the County Commissioners, to approve the plan and direct the County staff to develop the ordinances required for its implementation. Thank you.

CHAIRMAN CAMPOS: Thank you, ma'am. Next. Come on. We've got to get going.

KATHY PILNOCK: Okay, I want to basically address the proposed water amendment. It's been proposed that developers be required to contribute to Eldorado Utilities' wells and water rights in the amount required by the development, plus, an additional twenty percent to cover system losses. If our intention is to protect the aquifer, less water would be lost in smaller, newer, private systems that do not have miles of pipeline to maintain.

Typically, the County requires that these wells are metered and readings sent to the County on a regular basis. If a development were to exceed its water budget, the County would take steps to resolve the situation. Certainly, no developer should be required to make such contributions until and unless the utility becomes a public water supply system. EDU has put the system on the market, and seems to be willing to sell it to anyone except the community that it serves. More wells and water rights will raise the value of the system and make it more difficult for the Eldorado Area Water and Sanitation District to acquire.

The corridor plan only covers a very narrow strip of land along the highway. The water availability problem far exceeds those boundaries. The corridor plan would increase commercial water use potentially from one percent to seven percent of the total amount used. This is just a drop in the bucket compared to residential water use, which is expected to increase forty to twenty percent in the next twenty years. Amending the corridor plan would address a small fraction of the problem; amending the moratorium would address the entire EDU service area. Thank you.

CHAIRMAN CAMPOS: Thank you. Next.

JEAN CRAWFORD: Hello, Commissioners. My name is Jean Crawford, and I just want to address the issue of representation. I've lived at 10 Aneva Road for 23 years. The committee makeup and members and participants, one third of them were from Eldorado. And when you look at the map, one thing that's kind of interesting, of all the 23 subdivisions bordering on the corridor, Eldorado is the only one that does not have any residents touching the corridor. The Eldorado horse stables do. Thank you.

CHAIRMAN CAMPOS: Thank you. Anybody else?

JOHN REEDER: Good evening, my name is John Reeder. I live at 1

Bosque Loop in Eldorado. I just had a couple of quick comments. As a member of the planning committee, I just wanted to reassure the Commission that it was never the intent of the committee that we are endorsing growth. We've always recognized that it will be market-driven. Our intent is to control growth. And I think that's the intent of any growth management plan. It's not an endorsement. It's trying to control and preserve what we have today.

It's one thing to try to plan something when the land is new, when it's virgin land. It's another challenge to try to back-step planning into an existing large development like the Eldorado region. And that has been the challenge of trying to back-step and balance. And I think this plan does create a balance of the different needs and pressures and stresses of the area.

I think there's a difference between a plan - which is just recommendations, it's a vision, it's recommendations to the County Commissioners. The adoption, the implementation of that plan is going to be controlled through existing standards, codes, ordinances that the County has. So I don't think the plan contains all of those kinds of details, nor was it ever intended to. The implementation is a different process. Thank you.

CHAIRMAN CAMPOS: Thank you, Mr. Reeder. Okay, sir, name and address, please.

PATRICK COUGHLAN: Mr. Chair and Commissioners, my name is Patrick Coughlan. I actually live in Corrales. I lived in Santa Fe a good number of years and still have property here, and plan to build a place up here within the next five years or so. I would just like to make a couple of statements; it won't be very lengthy.

I keep hearing repetitions from this platform, as I heard them when I was chairman of the Simpson Ranch Committee for two terms, that the 285 Corridor Committee is developer-driven. I'm a developer. I'm accused of it often. And I decided about four, four and a half years ago, that I would attempt to become involved in the process, instead of standing on the outside and cursing the darkness. And there was a group that established itself of perhaps twenty to twenty-five people that became the regular participants in the 285 Corridor Committee. To say it was developer-driven would be to say that three members could drive that committee of twenty-five people. Let me tell you, when we first started out, it was a quite volatile environment. There were a lot of assumptions made on both parts. I had mine, and I know many people had those about me.

In a period of years with a lot of exchange, disagreements, we came to consensus. I must tell you, it was one of the more delightful surprises of my professional life, the way we worked things out. We were coming from different places at the beginning, or so we assumed, and as it turned out, we really were coming from pretty much the same place. And what is being proposed to you tonight is to approve that which we were commissioned to do in good faith. And I want to underline that. We all acted in good faith.

Interestingly enough, as far as the opposition group is concerned, those people by and large made up the body of the Simpson Ranch Committee that caused its downfall, because of the strife and contention that they brought to each meeting to where ordinary

citizens didn't want to attend. It was extremely frustrating on my part. And I see continued issues arise tonight from this podium.

The chairman of the CDRC, actually, in a meeting several weeks ago posed a question as to whether or not Mr. Boyle was the spokesperson for that group, and one member said yes. Well, I would say that's being development-driven. I think that if one looks closely at the data here, and at the motive, you'll see that there is some of that in the mix.

In closing, I just want to – and I don't mean to single out Mr. Boyle exclusively. I think that there were some, in my opinion as chairman of that group, there were some obvious conflicts that were present, that no matter how they were addressed logically and truthfully, continued to surface. For example, water issues were not to be a part of the 285 Corridor Committee because the County makes those decisions in the planning process, in the development process. As each project comes up for approval, it has to prove that there's viable water. If there's no water, the project will not get approved.

And I think that when we look at those issues, for example of four million square feet of commercial potentially, initially at least, and then down to 720 – I develop commercial real estate in Albuquerque. And commercial developers don't come out where there's not rooftops to support the stores and/or whatever commercial enterprises there are. So there's a lot of fear and emotion being played here that although having made attempts to explain the logic of our reasoning was disregarded.

In closing, I just would like to mention a few things that came up as the opposition was presenting their case. I heard words mentioned that there were veiled or thinly guised threats to the stability of the environment and the community out there. There were thinly veiled threats actually personally delivered to members of staff during this presentation by people who were very, very volatile on the other side. [Comments from the audience] Hey, wait a minute.

CHAIRMAN CAMPOS: Let's keep it quiet and respectful and no comments, please.

MR. COUGHLAN: As far as the term honesty was used, as I was chairman of the Simpson Ranch Committee, a letter was sent out with my name on it that I didn't authorize that contained data that I was in total disagreement with.

CHAIRMAN CAMPOS: Okay, we don't have to get into that.

MR. COUGHLAN: Okay, I'm just telling you that this is what we're dealing with.

CHAIRMAN CAMPOS: Please, in the audience –

MR. COUGHLAN: Okay, here's my point. We're dealing in good faith all the way through. Continually all the way through. We continually attempted to meet conflict with good faith, and it bore no fruit. And I'm saying that we did what we were charged to do. We presented ourselves continually in an honorable posture. And we would hope that you gentlemen would take that into consideration in making your decisions tonight. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Anybody else? One more person? Two more persons. Please, members of the public, keep it down, no comments or clapping. Let's do this in a business-like way.

MARIANNE STICKLER: My name is Marianne Sticker. I reside at 2017 Valle Vista in the city of Santa Fe, but I'm also a property owner in the area of the 285 corridor and have been a very active member, by invitation, on this committee since its inception and approval by the County Commission.

While I am in a corporation that owns land, obviously my comments are also very personal. I personally participated. I didn't participate as a company, as some big corporation, as some other entity other than as one citizen who brought my ideas and listened and participated in a County-sanctioned, County-directed process in good faith that the staff would educate us, that we would bring our ideas together, and we would bring you a plan that was arrived at by consensus and in good faith. And that is exactly what we've done. The investment of staff time, to me as a taxpayer, I have to tell you I think as been excessive. And it's been excessive because of what I believe is a deliberate attempt to sabotage the good faith efforts of citizens who gave an inordinate amount of time and effort over four years to arrive at this plan.

CHAIRMAN CAMPOS: Let's keep it to the substance.

MS. STICKLER: When we began, it was chaos. Our meetings were so volatile because people that participated in this committee were just across the board in their preconceived notions about what the community should look like and what it did look like. And I think a very important element of this four years that needs to be addressed and acknowledged is education. The people who stuck with this process and have brought you this plan were teachable. The staff was teachable. We brought in our own ideas and we learned from each other and we changed some of our perceptions because we were teachable, and we came in good faith to work together by consensus. And that is why we stayed together, and that is how we came to even be able to present you with a plan that is as well thought-out as it is, is because we learned from staff, the staff learned from us, and we learned from each other.

There's no way that we could have arrived at this plan if we came in with rigid thinking and we stuck to our rigid thinking and we all dug in. It would have fallen apart. The wheels would have come off years ago. But you had people that were teachable and a staff that's educated in their profession who brought that professional expertise to the community to help us come forward with something that was, by its intent, meant to reduce the potential for non-residential development in this area from over four million square feet to under seven hundred thousand square feet.

I would just ask you to consider the effort that's been made by both the citizens and the staff, the expertise and the demonstrative demographic work and consensus work that's been brought, and approve the plan that is before you and allow the staff to move forward on designing the ordinance so we can actually implement this to actually have a method to significantly reduce non-residential development in the corridor area. Thank you.

CHAIRMAN CAMPOS: Thank you.

DEAN ALEXIS: My name is Dean Alexis. My address is 58 Luz del Mundo, on the east side of Highway 285. I have a residential property that abuts the southeast quadrant of the village crossroads. I'm highly sensitive to the development in the area. I also purchased that commercial tract which includes the windmill and extends to Marianna's Barbecue. The reason I bought the property was to be able to control the appearance, the lighting, and what is placed upon the property so that it's in my best interest as a residential property owner nearly adjacent to it, to minimize the intrusion.

It's kindly requested that you adopt this corridor plan with one modification, this modification being an amendment to allow self-storage on that one tract of property in the village crossroads. Thank you.

CHAIRMAN CAMPOS: Thank you, sir.

FREMONT ELLIS: Hello, Commissioners, my name is Fremont Ellis. I live at the San Sebastian Ranch at the intersection of the Old Las Vegas Highway and Ellis Ranch Road. I'm going to bounce around a little bit, related directly to elements in the plan itself, and various issues of what have been brought up.

First of all, I want to round up a few issues about water. You'll see that there are a number of approaches to water issues in the plan itself that are actually quite serious, even though they're ostensibly or apparently brief. You'll see that on page 80 in the current plan as well as including the amendments to page 80 that, this is a quote, "The plan supports the Santa Fe County forty-year water plan, which lays out a potential method for providing needed supply to the service area, and the county's initiative toward regional water planning and management."

I'd also like to add that we've also got water issues addressed on pages 42 to 44, pages 66 through 67, and on page 214 in terms of resources. They had six resources listed that are directly related to water issues themselves. Also, we have the July 13th '04 matrix document that has recommended amendments, typographical corrections, and clarifications listed that you're familiar with.

I'd also like to point out that the forty-year County water plan was 79 pages, including both covers. In those 79 pages, there are some very important things going on. Considering the amount of complaints that we've received about the lack of user friendliness in the corridor plan as it stands right now, I can only assume that they would be even more disappointed if we were to have added the 79 pages for the County water plan into the document itself. But we weren't kidding when we referred to the County water plan on page 80, because there are a number of areas in the forty-year water plan that are very important to the plan itself, and they've been incorporated in various areas through the plan, including those page numbers I've listed to you just now.

The conclusions in the forty-year water plan on page 29 are particularly impressive. The exposition for the water plan is 29 pages in length, and then the following 44 page or so are various amendments and rules and regulations and codes that the County has set up, along with the State Engineer's Office, etc. One of the interesting things about the forty-

year water plan was that it includes the La Cienega plan in its list of plans that have been considered. The La Cienega plan is included in there, and it also includes the situation with water out in Eldorado on page 18 and its own contents.

The interesting thing about complaints about the corridor plan is that we've heard various things from various people saying that we don't incorporate enough information about water issues. And if you really look at this information and analyze this document - I picked this document up for free from the County Utility Department just by calling them and asking them. If I can do it, anybody else can do it.

But there are a number of things in there that I think are very important. For example, in the La Cienega plan, which I also have a copy of here, which is 58 pages in length with the maps, you'll find pages 11 through 24 in the La Cienega plan, which is part of the forty-year County water plan, as you know, pages 11 through 24 deal with very specific water issues, well issues, senior water rights, a number of things that you're all familiar with. You know more about it than I do, quite frankly.

But I think one thing that's quite important that they address in the La Cienega plan as well as the forty-year County plan, in the Cienega plan on page 17 they discuss senior water rights, and 200-foot hook-up requirements that are in the County Code for the forty-year plan as well as La Cienega. And that doesn't necessarily mean that pre-basin wells are required to hook up to a water system if it's there. There are well issues. For example, in the Aamodt situation, 72-12 wells, which are permit only that don't come with water rights, as you know, are a difficult problem.

But there are such things as pre-basin wells and 100-year water supplies that the La Cienega plan and the forty-year water plan support. They don't necessarily require them to be hooked up within 200 feet of the water utility, unless the water utility can prove its own water rights, can provide those hook-ups and taps within the 200 feet. And if over a five- or six-year period of time that doesn't occur, they can still continue to use their pre-basin wells or 100-year water supply wells. And I think those issues are quite important.

It's been mentioned in other letters that you've been given from various other parties that the Madrid water plan might be pretty important to consider relating to the corridor plan. My personal views on that are the Madrid plan is extremely different than La Cienega and the various other forty-year water plan elements, mostly because there's serious contamination issues related to coal mining, etc., out in Madrid. So I would consider that necessary to pay attention to regarding the corridor plan.

Also, I'd like to mention that in May of 2003, the Jemez and Sangre regional water plan came out. And one of the interesting things it indicates in there for six ways to improve water situations around the County is allowing more domestic wells in a sensible fashion, and enforcing them according to the kind of water rights and use and so forth that are already in place with the state and the county. I think those are important issues related to water issues.

I'd also like to respond to Commissioner Sullivan regarding private wells. Private wells in terms of pre-basin wells or 100-year water proved wells are certainly not free

water. And they're quite expensive to drill. A 160-foot, 200-foot well costs about five to eight thousand dollars to drill these days. In our area in the Mountain Basin, you have to go quite a bit further down than that to get decent water. So I would contest that issues as private wells and 100-year proof wells are quite expensive. And I'm sure you're all aware of that.

I'd also like to point out that San Sebastian Ranch in our area is not the only property within the corridor that is not within 300 feet of the EDU hook-up or any utility hook-up at the present time. There are a number of areas on the east side of corridor 285 that are also not within 300 or even 200 feet of any utility hook-up at this time, and probably for quite some time in the future.

There's also a misconception about the maps related to water districts. And the mountain zone did not does not include any part of Eldorado, to my knowledge. The Mountain Zone includes of course my area and further north and east of my area, as well as Alteza and Dos Griegos. Dos Griegos and Alteza, as you know, are technically not part of Eldorado and never have been. I believe, as a matter of fact, ironically the Agora and Aurora Properties development right there, the shopping center that's contingent to Eldorado, is not part of Eldorado either, but is part of the Mountain District Hydrological Zone. So it's good to sort of eliminate some of these delusions and illusions about things like that.

I think it's really important to consider the fact that the forty-year water plan for our own County suggests that 200-foot hook-ups are really quite appropriate, not 300-foot. It does not recommend anywhere in its plan a 300-foot hook-up to any utility, if that utility arrives to that position. Nor does the La Cienega plan suggest that, nor do the various elements of land projections for Eldorado suggest that, which is on page 18, nor do the priority level water systems and public water utilities suggest that on page 24 of the same document, etc. Eldorado is a Basin Fringe Zone. It is not in any way part of the Mountain Zone.

I'd like to jump onto something else.

CHAIRMAN CAMPOS: How much more time do you need, sir?

MR. ELLIS: Give me another five minutes. Is that okay?

CHAIRMAN CAMPOS: Five minutes.

MR. ELLIS: Do you want me to make it three?

CHAIRMAN CAMPOS: Three. Give me three.

MR. ELLIS: All right. If you look at the design tables on pages 119 through 125 in the corridor plan, you'll find that if you really look at them thoroughly and read them thoroughly, you'll find the aesthetics as well as very practical issues are considered in there, and have been considered actually in all the drafts previous in a number of ways.

Also, oddly enough, the use sizes that we have on pages 107 and 108 that are actually being extracted in the amendments are, ironically, examples of the kind of detailed thought we went through to try to figure out how we could make the neighborhood crossroads sections work with 15,000 square feet, and the village crossroads sections work

with 35,000 square feet in terms of mixed-use residential/commercial development.

There have been charts for reduction for the last two and a half years produced. And we have reduced actually 4.7 million square feet in current County zoning down to 720 thousand square feet, which represents an 82 percent reduction. And that is not illusion, it's not a delusion, and it's not a deception used to convince people that they've got to go with the plan. It's simply a matter of fact. If you look at the large regional node in my area, it's about 2500 feet in diameter. Under current county Code, there's about 185 acres eligible for commercial development in that currently. We personally have around 55 to 65 acres that would be currently capable of developing in that regional node at that particular intersection. But we prefer to get it down to 5.5 acres instead of 55 to 65 acres. And that would represent only 47,960 square feet, instead of a capacity for 598, 950 square feet in building size.

I'd also like to point out that -

CHAIRMAN CAMPOS: Mr. Ellis, I think that's enough. You're quoting a lot of numbers, and we've been here a long time.

MR. ELLIS: Well, you asked me to be specific and relate it to the plan, so that's what I tried to do for you.

CHAIRMAN CAMPOS: Yes, we did. Okay, thank you, sir.

CHAIRMAN CAMPOS: Mr. Ellis, I think that's enough. You're quoting a lot of numbers and we've been here a long time.

MR. ELLIS: You asked us to be specific related to the plan so that's what I tried to do for you.

CHAIRMAN CAMPOS: Thank you, sir. Anybody else? Okay, the public hearing is closed. Let's take a five-minute break.

[The Commission recessed for five minutes.]

CHAIRMAN CAMPOS: Please take your seats. Thank you. I have a question for the Commission. How much time - it's close to 7:30. How much more time should we give this case for discussion amongst ourselves in taking a vote? Sir.

COMMISSIONER DURAN: Let me make a motion. It will be two minutes.

CHAIRMAN CAMPOS: How much time do we need for discussion, seriously?

COMMISSIONER ANAYA: I'm ready to make a motion.

CHAIRMAN CAMPOS: The problem is we have a lot of cases we cannot get to tonight because of this discussion. I think we should think about tabling some of these cases.

COMMISSIONER DURAN: Mr. Chair, I'd like to make a motion if I could.

CHAIRMAN CAMPOS: Hold on, please.

COMMISSIONER DURAN: Okay, since you said please.

CHAIRMAN CAMPOS: Gentlemen, what do you think? We can't go all the way to 14. I don't think we can get past 9 and that's if we're lucky. So I would suggest - is Mr. Abeyta here? He's going to review some of this. Okay, Mr. Abeyta is looking at what cases we should table and we'll get back to him in a few minutes, but I think we should consider that. Okay, discussion.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Discussion. I don't want a motion. Discussion.

COMMISSIONER ANAYA: If we get a motion and a second, we can discuss -

CHAIRMAN CAMPOS: Let's have discussion first.

COMMISSIONER DURAN: You can have discussion under my motion.

CHAIRMAN CAMPOS: Please. Discussion. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair, I just think there's a lot of discussion and good discussion here and the committee has I think done an excellent job bringing the issues up. I think the people with other concerns have done a good job as well, and I think those issues can be debated for a long, long time and can be modified as we go along. I think really where the Commission needs to set direction and that's our responsibility is with regard to how we handle the future water use. When I say free water I don't mean that it doesn't cost something to drill a well, but I mean that you are withdrawing water from someone else without replacing it with a water right, without offsetting it with a water right. That's what I mean.

If we continue to do that throughout the 285 area then we're going to accelerate the process of depletion even faster than Shomaker predicted in his report. That's what I think is important for the Commission to consider in some fashion this evening. There's a lot of details to work out here. There's a lot of good work that's been done and there's a lot of, I think, coming together, although it may not sound that way. There's been a lot of differences in the Simpson Ranch area. But I do think that we can come up with a plan and an ordinance eventually. I still have some misgivings about the mixed-use concept which came up at the last minute. I have some misgivings about the total of the 720,000, which doesn't seem to have any market associated with it. But all those things aside I would really like the Commission to consider that we place some reasonable constraints on this continuation of random drilling of water that has no rights associated with it. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Other comments. Commissioner Duran.

COMMISSIONER DURAN: The County of Santa Fe Planning Department has been working on this plan for over four years. The community had asked the Commission for a number of years to fund the project and it sat in line for a year, two years before it actually was funded or that staff was able to get to it. And I think that it's time that we adopt this plan and ask for the amendment that staff has proposed and the amendments to the water requirement that Commissioner Sullivan is suggesting. Those can all be dealt with when we create the ordinances. To try to discuss them tonight, we

probably won't be able to have one more case heard.

So I would like to make a motion that we approve the plan -

CHAIRMAN CAMPOS: We're having discussion first.

COMMISSIONER DURAN: I'm just going to tell you what I'd like to do.

So I'd like to make a motion to approve it whenever you'll allow me to do that.

CHAIRMAN CAMPOS: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, you know, I think in reviewing the materials that we received over the year and a half that I've been on the Commission, there certainly has been a lot of good work that has gone into this whole planning process. And I think the reality is with any planning process, with any plan, with any document, you're never going to have 100 percent agreement on anything, regardless of what it is. My wife and I don't get along 100 percent. It's an 80-20 proposition. I get the 20.

I think the reality is we need to have something to start with and I think what we have here is something to start with and I think it was Mr. Reeder or one of the gentlemen that came up and said that we need to be focusing on the implementation because the implementation is going to be where the rubber hits the road in terms of how things are going to actually be carried out, so I think the concern that I had, the question that I had regarding the storage units has been addressed. That is something that may be allowable according to what Judy told me and I think I'm ready to move forward on this, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Commissioners and people that have come to talk about this, I want to thank you for being here. I just kind of wrote down a few things. Santa Fe County staff and the 285 Planning Committee have met over 75 times in the past four years. They have worked hard to come up a plan to look at residential, commercial and industrial development. We have people out there that have come from all over the country and the world that have their own opinion on how the 285 Corridor Plan should be. This could go on and on and we will never all agree on one certain plan.

So I feel that we need to move forward and I'd like to pass it over to Commissioner Duran if you would make a motion.

CHAIRMAN CAMPOS: I want to make some comments first.

COMMISSIONER ANAYA: Go ahead.

CHAIRMAN CAMPOS: I'm concerned about the square footage, the number of square feet. I think we need to do some down-zoning on some of the approved master plans. I think there are too many nodes; five is too many. I think when we do the ordinance we've got to be a little more careful. I think this does create a strip effect. The review committee, I think it should just come to the CDRC and not have a local review committee. I think the bureaucracy is just getting too big. And Eldorado, we need to engage them. We don't know where they stand on this. We don't even know if they have the capacity to deliver that much more water. I don't know if you've talked to them face to face and asked them these questions but I'm concerned about that. Commissioner Duran,

ready for your motion.

COMMISSIONER DURAN: Thank you, sir. I'd like to make a motion that we approve the Highway 285 Corridor Plan as presented to the Commission this evening without any amendments. The amendments brought forward by staff I think need to be thought out more by this Commission and the people that are – they need to be reviewed further. When it comes time to adopt the ordinance for this plan all of the issues that were raised in these amendments and other suggestions that the community came up with can be dealt with at that time. And very similar to the general plan that we adopted years ago, each particular significant item was discussed and voted on and I think that's how this plan is going to end up being adopted by ordinance. So my motion is to approve it as submitted and that's it.

CHAIRMAN CAMPOS: Staff conditions? The additional two pages, is that right?

COMMISSIONER DURAN: No.

CHAIRMAN CAMPOS: You don't want the new staff conditions?

COMMISSIONER DURAN: The reason for that is that they were just delivered to the community and the Commission half an hour before the meeting. And if you want to spend the next hour and a half discussing this amongst us we could do that. But my suggestion is that we do that at a later date at the same time that we consider the other issues that Commissioner Sullivan had brought forward. And the other thing is I would like to also say, with one amendment and that amendment would be that water, aquifer protection amendments must be adopted in this ordinance, and I'm saying it that way so that later on, when we start talking about the specific ordinances that we're going to adopt that it's in the record that allows us then to adopt changes to the Code.

CHAIRMAN CAMPOS: You said aquifer protection?

COMMISSIONER DURAN: Right.

CHAIRMAN CAMPOS: I've kind of worked – does that work? Aquifer protection amendments to be discussed at a later date.

CHAIRMAN CAMPOS: Is there a second to that motion? Okay, no second. Do you want to make another motion?

COMMISSIONER DURAN: I'll let someone else.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Do you want to go?

COMMISSIONER SULLIVAN: Let me just try one, Mr. Chair. Let me see first of all if I can work with the amendments and I understand the issue with the amendments. Let me ask Commissioner Duran, on your motion, were you going to include the amendments that were in the packet that the staff had already proposed and just exclude the ones they handed out tonight or were you just going to exclude all amendments until we'd hashed it out.

COMMISSIONER DURAN: That's what I meant were the amendments

today. Just the ones today.

COMMISSIONER SULLIVAN: Just today's amendments?

COMMISSIONER DURAN: I'm sorry.

COMMISSIONER SULLIVAN: Okay. And the only reason I ask is I looked those over and I think some of those did respond to Mr. Robens' comments. Is that correct, staff? And whereas before there was a very cursory response that I thought wasn't satisfactory. Some of these amendments did respond and correct some errors and as quickly as I could read them I think they make sense. So I personally feel that those amendments are okay but I understand that the public has not seen those. Other than I think it's available to them here tonight. So I would say that we could keep all of those amendments on the table as it were and have that discussion continue as a part of the ordinance, whether it's five units per lot or not.

So I would like to make a motion that we adopt the corridor plan, the US 285 Corridor Plan as presented, with the following amendment, that on page 80 we insert the language, "All commercial and mixed-use development within 300 feet of an Eldorado Utilities, Inc. or its successor (EDU) water distribution line shall be served by EDU or its successor." And that we adopt the staff amendments, those presented this evening as well as previously, with the understanding that there may be modifications to those during the ordinance process.

CHAIRMAN CAMPOS: Okay, is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Discussion.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: Mr. Chair, Commissioner, would you include the special use storage units on the recommendation amendments?

COMMISSIONER SULLIVAN: Yes, I think we need to discuss that. Are we talking about whether they need to be occupied or unoccupied? Is that it, or not the storage units themselves but whether they're self-storage or -what's the other term? Give me help with that, Judy. What's the other? The plan now does not permit unoccupied storage units. Is that correct? Unoccupied meaning - the plan does not permit self-storage units that aren't associated with a business as a part of it.

MS. MCGOWAN: The plan as it's drafted right now lists preferred uses and lists inappropriate uses. And it doesn't list storage units as a preferred use; it lists them as an inappropriate use. The logic behind that was that storage units, even though they don't use any water, don't promote as much traffic, have visual issues because of the fencing and the lighting that happens and that they create a dead space in a mixed-use environment that doesn't work very well. So I think the community's issues were that they should have to meet architectural standards, lighting standards, etc. and that also they should accompany another use, not be a sole use on a site.

COMMISSIONER SULLIVAN: And Commissioner Anaya, your issue is

you feel that we should at least continue to consider self-storage units?

COMMISSIONER ANAYA: Yes.

COMMISSIONER SULLIVAN: And how do you feel about the committee? Do you feel the CDRC can handle that review process or do you think we need another committee?

COMMISSIONER ANAYA: I think the CDRC can handle that.

COMMISSIONER SULLIVAN: Okay, so Mr. Chair, I guess I would then amend the motion to bring in the issue that you had brought in that the review committee would not be included but that would be the CDRC as it's currently constituted.

CHAIRMAN CAMPOS: So there's a motion and a second. Does the second accept the change?

COMMISSIONER ANAYA: Yes.

CHAIRMAN CAMPOS: I'd like to have a little comment from staff. Mr. Kolkmeier, as to the motion, do you see any problems?

MR. KOLKMEYER: Mr. Chair, no. I think that you've discussed that and laid that out very fairly. Judy and I were just discussing the point about the amendments coming in late and recalled that the Commission could make amendments without anybody having seen them and voted on them in an evening as well. So I think that Commissioner Sullivan's compromise suggestion there, to put them all on the table, let them be discussed as you move to the ordinance is as far as we're concerned, very fair. A very fair way to do that.

CHAIRMAN CAMPOS: Okay. Commissioner Duran.

COMMISSIONER DURAN: Mr. Ross, I like for you to kind of comment on this for me. I think that the Commission needs to consider the impact that Commissioner Sullivan's amendment might have on this particular plan and that is that if we require all the commercial development to tie into EDU and it's all of the commercial property except for one out there, the old Fina station, then what you're basically doing is creating a de facto moratorium. Because the Eldorado Utility at this point can't deliver any more water. They're maxed out. If you require this commercial property or the commercial sites within this plan to tie into that particular, in to that system, you create a couple problems, one of them is they have to drill a well, which they have to do anyway. They have to pay for that well. They have to pay for a geo-hydro and then they have to make application to the State Engineer. And the State Engineer is a two-year process and anybody can oppose that transfer. So anyone out there can oppose this transfer.

So what you've basically done is said, Let's adopt the plan and let's live with no commercial or no further non-residential activity out in the 285 corridor area for two years. If that's what you want to do then that's this Commission's decision but I think you need to realize that that's basically what you're doing. What I would like Steve Ross to address is my comment that I think that this is creating a de facto moratorium by requiring development to tie into the EDU. How are we protected from somebody making that claim and actually taking us to court?

MR. ROSS: Mr. Chair, Commissioner Duran, at least if you adopt a plan, the plan has no legal effect at this point. So I think until you start enacting ordinances, there's no concern. I think when you get to the point of drafting ordinances we're going to have to look at the moratorium, we're going to have to look at the requirement of a plan that people hook in to the various public utility systems and make sure that there's nothing impermissible about it. I think there's a way to make it work but I want to think about it some more. I think there's nothing per se invalid about a de facto moratorium any more than there's nothing impermissible about a moratorium so long as it's limited in duration and there's some sort of plan in place to put an end to it.

So I think you raise some valid concerns that we'll have to address during the ordinance drafting process for sure.

COMMISSIONER DURAN: Thank you.

CHAIRMAN CAMPOS: Okay. There's a motion. There's a second. Any further discussion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: So are we going to – Commissioner Duran raises a good point. Are we going to visit that later? Is that what you're saying? Is it okay to approve this as it is and then revisit it before the ordinance?

MR. ROSS: Mr. Chair, Commissioner Anaya, this is just a plan. A plan is a plan for an ordinance and it really has no legal effect outside of that. The zoning ordinance which is considered next has to conform to the plan. So aside from that it has no real legal significance. Where the rubber meets the road is when you do the ordinance and that's where all these concerns have to be addressed, fleshed out, what have you.

COMMISSIONER ANAYA: Thank you.

COMMISSIONER SULLIVAN: Let me just add too, that is open for discussion, Commissioner. In fact Steve and I spent a couple of days going through – we started out drafting in detailed language having to do with these connections. And as it got more detailed and more detailed we began to realize that that wasn't corridor plan language. It was ordinance language that we were drafting and in fact that's what it looks like. Five paragraphs. So I'm not proposing that, but that's where you would have to cover your bases, you would have to include your exceptions, where you would have to be sure that you didn't deny anybody a property right, that you were fair to those who had pre-basin wells and those issues. I think what we're doing here is setting a direction that we do want this type of plan, that we feel that some better control of the corridor is appropriate than what exists now. And God is in the details as Mies van der Rohe said. So I would suggest that all that's open but I thought it was important to put it in as an amendment so it's on the table in that format.

COMMISSIONER DURAN: I think that's fine.

CHAIRMAN CAMPOS: Okay, there's a motion and a second and there's been plenty of discussion.

The motion to approve Resolution 2004-73, the 285 South Corridor Plan, passed by majority 4-1 voice vote with Commissioner Campos casting the nay vote.

CHAIRMAN CAMPOS: Okay, Mr. Abeyta, we talked about tabling some of the cases. Do you have some suggestions for us?

MR. ABEYTA: Mr. Chair, I've spoken with some of the applicants. I don't have any agreement from the applicants. I let them know that we would be going to a certain time, maybe around 9:00 and then they'd be tabled automatically. The only thing I would ask, Mr. Chair, is that the Stanley Union Church case be heard this evening because we have a lot of people that came from Stanley, which is quite a distance away. But other than that, Mr. Chair, I've let people know that if we don't get to their case then we're going to have to move them to the next agenda.

CHAIRMAN CAMPOS: Okay, so they're willing to sit here?

MR. ABEYTA: Yes. I would just ask that Stanley Union be heard this evening.

XIV. B. 12. CDRC CASE # Z/DP 04-5130 Stanley Union Church Development Plan. Stanley Union Church, (Jeanine Fischer), applicant, request Master Plan Zoning Preliminary and Final Development Plan approval for a 9,981 square foot church facility on 26.5 acres. The property is located off Kinsell Avenue West in Stanley, within Section 27, Township 11 North, Range 9 East, in Commission District 3

WAYNE DALTON: Thank you, Mr. Chair, Commissioners. Stanley Union Church, (Jeanine Fischer), applicant, request master plan zoning preliminary and final development plan approval for a 9,981 square foot church facility on 26.5 acres. The property is located off Kinsell Avenue West in Stanley, within Section 27, Township 11 North, Range 9 East, in Commission District 3.

Recommendation: It is staff's position is that this application is in accordance with Article V, Section 5 (Master plan procedures) and Article III Section 4.4 (Development plan procedures) of the County Land Development Code. Staff recommends master plan zoning, preliminary development plan approval with final development plan to approved administratively for a community service facility to allow a 9,981 square foot church facility on 26.5 acres subject to the following conditions. Mr. Chair, may I enter those into the record?

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - (a) State Engineer
 - (b) State Environment Department

- (c) State Department of Transportation
 - (d) County Hydrologist
 - (e) Development Review Director
 - (f) County Fire Marshal (Development Plan and Building Plans)
 - (g) County Public Works
 - (h) County Technical Review Division
2. The master plan/development plan will be recorded with the County Clerk's office.
 3. All Staff redlines will be addressed, original redlines will be returned with final plans.
 4. All outside lighting on the property shall be shielded. The applicant shall provide cut-sheets for all outside lighting, and all exterior lights shall be directed downward.
 5. The applicant shall submit a cost estimate and financial guarantee for completion of the required improvements as approved by staff, or other method acceptable to staff.
 6. The applicant shall comply with the water harvesting requirements of Ordinance # 2003-6. A water-harvesting plan shall be submitted with the Final Development Plan application.
 7. The applicant shall screen all garbage containers or dumpsters with a wall or fence 6 feet in height.
 8. Final Development Plan submittals shall include, but not be limited to the following:
 - (a) A Landscape Plan shall be submitted and approved by staff prior to recordation of Development Plan.
 - (b) All landscaping shall be of drought tolerant varieties and shall utilize a drip irrigation system.
 9. Water well use shall not exceed 0.25-acre foot per year. A water meter shall be installed on the property. Annual water meter readings shall be submitted to the County Hydrologist by June 30th of each year. This shall be noted on the Development Plan and water restrictions shall be recorded.
 10. The height of the proposed facility shall not exceed 24' feet, and pole mounted lights shall not exceed 24 feet.
 11. This application is subject to final inspection by the County Fire Marshal. The applicant shall comply with all Fire Marshal requirements.
 12. The applicant shall pay a fire review fee in the amount determined by the Fire Marshal in accordance with Santa Fe County Resolution N. 2001-114, prior to recordation of the Final Development Plan.
 13. The applicant shall submit an access permit as required by the Department of Transportation.
 14. The applicant shall obtain a business registration prior to occupancy of building.
 15. The applicant shall obtain a County rural address prior to recording the development plan.

CHAIRMAN CAMPOS: Okay. Are there any questions for Mr. Dalton? Okay. Is the applicant rep here? Please state your name and address for the record.

[Duly sworn, Jeanine Fischer testified as follows:]

JEANINE FISCHER: Jeanine Fischer, and my address 3650 Highway 41, Stanley, New Mexico.

CHAIRMAN CAMPOS: Do you have anything to add to the staff report, or are you in agreement with it?

MS. FISCHER: I'm in agreement with it, and I'd also like to say thank you for bumping us up.

CHAIRMAN CAMPOS: Okay. This is a public hearing. Is there anybody out here that wants to speak against this? Come on up. State your name and address, please.

CARLOS FELIX PACHECO: You have to forgive me because I'm short-sighted legally from World War II. I want to congratulate staff council for being so prompt and expeditious in handling all of these geographical figures. My wife here is Eva.

CHAIRMAN CAMPOS: Let's move forward with the substance of your objections, sir.

MR. PACHECO: Will you give me ten minutes?

CHAIRMAN CAMPOS: No. What are your objections? State them now.

MR. PACHECO: My objections are the water. I don't want to go divining like your forefathers did many, many years ago. A 9,000 square foot building will use quite a bit of water. I'm in the church. I'm a deacon in the church. And we have property right next to that church, the Unitarian Church. Now, what I'm opposing here is that it seems to me like the whole previous people that have talked on the corridors, how far they extend, our forefathers used divining rods to find the water. And on those corridors on either side of the Rio Grande, 50 miles on either side -

CHAIRMAN CAMPOS: Sir, please get to the facts of this particular case.

MR. PACHECO: If this is approved, if you approve - well, the building's not built, but approved, 26 acres right across from where we live right there in Stanley, used to be a local cibolo we go back to 1876 in that area. The problem is water. The problem is contamination. I am a deacon in the church. If Intel can give money towards a church, that's okay. But if you have 9,000 square feet and a lot of people coming into that church and developing, I think there's a hidden development somewhere in here. 26 acres on Kinsell Avenue East is a dead-end or not a dead-end. Once the Kinsell Avenue is also a dead-end, we're on the other side of the street, the Highway 41. And I know that all you people are geographically familiar with that, Commissioner Sullivan and all of you. And many of you have lived there for maybe fifty or sixty years. I've lived there pushing eighty between my wife and I.

I am concerned with the contamination by Intel down in Albuquerque. And they're supporting this church. That's my concern. Where are the waters coming from? At one time there was one, seven miles from Galisteo, ten miles from Stanley. The corridor is all

there. You know that. You can research that. I can come up with maps, figures, all kinds of stuff. But you don't want that now, because I know you guys have listened to us.

But this is what I'm really concerned about: contamination of the waters. Who will be using the waters? It's going to be a recreation for the church. They're going to have a recreation center. People are going to be using water. Our water well's right across. There is a community well situated there.

CHAIRMAN CAMPOS: Have you read the report? Have you read the staff report?

MR. PACHECO: No, because of my eyesight because of World War II.

CHAIRMAN CAMPOS: Okay, that's where the information is. Is there anything else you would like to add?

MR. PACHECO: Let me see. Yes.

CHAIRMAN CAMPOS: Briefly. About a minute.

MR. PACHECO: Let's consider who donated for the church.

CHAIRMAN CAMPOS: Okay, that's enough. That's not relevant. Thank you very much.

MR. PACHECO: That's not in the record, is it?

CHAIRMAN CAMPOS: It's not relevant. It doesn't mean anything to -

MR. PACHECO: But it will go in the record, won't it?

CHAIRMAN CAMPOS: Thank you, sir.

MR. PACHECO: Thank you.

CHAIRMAN CAMPOS: Okay, for or against, Mr. King?

MR. KING: For.

CHAIRMAN CAMPOS: I would ask you to keep it very brief.

DON KING: My name's Don King, and I'm chairman of the board for the Stanley Union Church. I think we have met all criteria and everything that the planning Commission [inaudible]. To give you a little bit of history, the church was established there in Stanley about 1908 or so. It's the only church in Stanley. It's an independent church, it's interdenominational.

In 1940, they bought the first land there that Stanley my dad did, for a church there. Then we stayed there about twenty years, and then we built another church there that we're in now, in 1960. And this church here would just be about a half a block from where the regional church was there. And I think it couldn't be anything but an asset to the community. And I want to thank the Commissioners representative for - in Stanley and the playground equipment that we just got put up down there. We appreciate it very much. And I can't see anything else - the church does own 27 acres of land. And a lot of that land was in the original town outside of Stanley. Stanley, we weren't as lucky as Edgewood we didn't get the growth like they did. But I think it'll be all right. And the protesters here protesting the water there and stuff said we've used too much water. Well, I'll tell you, the King brothers, we have several hundred acre-feet of water rights that we've bought there within a mile and a half of this church, and I'll just leave out two acres

farm-land and pipe it up to the church, if that's what worries them.

CHAIRMAN CAMPOS: Thank you very much.

MR. KING: And I would like to say one thing, fellas. This is off the record here. Eldorado here tonight, I was one of the regional Commissioners that approved Eldorado, that they could submit plats through the County. And if you'll go back, there's about a 500- page report from four different hydrologists that there's plenty of water out there. But of course that plan has been amended and everything else. But I thought it was a split decision that night. And the next day in the *Santa Fe New Mexican*, the headline was, and my picture's up there in front of it, says "Commissioner King Says The Time Has Come to Make a Decision." Maybe that night if I'd voted no, Eldorado might have been different. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Okay, is there a motion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Hold on. Nobody else, right? Okay, is there a motion?

COMMISSIONER ANAYA: Mr. Chair. First of all, Mr. Pacheco, I've heard about you many a time, and I got to see you in action today. You being a deacon of a church, I was very disappointed in what you had to say today.

CHAIRMAN CAMPOS: Let's make a motion.

COMMISSIONER ANAYA: I want to thank Commissioner King for being here. And a lot of what has happened out there is because of your daughter, Representative King, which you mentioned, about the church and the playground and the road. She had a lot to do with that. So with that, Mr. Chair, I make a motion to approve this case.

CHAIRMAN CAMPOS: With conditions?

COMMISSIONER ANAYA: With conditions.

CHAIRMAN CAMPOS: Okay, any discussion? There's been a motion. Is there a second?

COMMISSIONER MONTROYA: Second.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: I had a question for staff. What is the criteria - I know this is master plan, preliminary, and final development plan, all at once. The written materials indicate that there's a lot of additional submittal material required. How do we decide that we're going to do three reviews all at one time?

MR. DALTON: Mr. Chair, Commissioner Sullivan, when an applicant comes in with a submittal, staff can decide, Well, in this case, is it a big case? Does it need master plan zoning first, or does it need development plan approval? Does it need to come forward with master plan and then development plan? Cases like this, like community service facilities, are pretty straightforward. And staff feels comfortable with bringing them forward with master plan zoning, preliminary and final development plan approval in one step.

COMMISSIONER SULLIVAN: So it's basically a staff analysis, looking at how complex the project is?

MR. DALTON: That's correct.

COMMISSIONER SULLIVAN: Okay. Well, I think in this case it's not a problem. I've seen some very complex subdivision plans come forward asking for the same thing. And I hope in our Code review we take a look at that. Because I think we need to draw a line at some point, whether it's number of units or acreage or something that states there has to be thirty- or sixty-day time period between one submittal and the other, just to give people time to see what's going on. In this case, you felt that the plans that they submitted to you were adequate enough to have all three approvals at one time?

MR. DALTON: Mr. Chair, Commissioner Sullivan, that is correct.

COMMISSIONER SULLIVAN: Okay, thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay, we have a motion and we have a second with conditions. Discussion?

The motion to approve CDRC Case #Z/SP 04-5130 passed by unanimous [5-0] voice vote.

CHAIRMAN CAMPOS: Thank you very much. We're going to go back to 14.B.2, request authorization to publish title and general summary of an ordinance amending the County Land Development Code to incorporate the recommendation for zoning and development standards for the approved U.S. 285 South Highway Corridor Plan.

XIV. B. 2. Request Authorization to Publish Title and General Summary of an Ordinance Amending the County Land Development Code (Ordinance 1996-10, as Amended) to Incorporate the Recommendations for Zoning and Development Standards of the Approved US 285 South Highway Corridor Plan (First Public Hearing)

MS. MCGOWAN: Mr. Chair, Commissioners, this is a follow-up to the case of the adoption of the 285 South Highway Corridor Plan. And the staff is requesting authorization to publish title and general summary so that we can start work on the ordinance. And I'm presuming that we would take into account the discussion and the motion that happened on adoption of the plan, and keep those issues on the table as the ordinance is developed.

CHAIRMAN CAMPOS: Okay, discussion? Commissioner Sullivan?

COMMISSIONER SULLIVAN: Judy, this says first public hearing. But we don't consider the publishing of title and general summary to be the first public hearing, do

we?

MR. ABEYTA: No, no. Mr. Chair, that's an error on that the caption.

COMMISSIONER SULLIVAN: Okay. So we will have a minimum of two public hearings, I assume, on this ordinance.

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: And this does not constitute one of them.

MR. ABEYTA: Right. But there'll be a hearing in front of the CDRC.

COMMISSIONER SULLIVAN: And one hearing in front of the CDRC.

MR. ABEYTA: Yes.

MS. MCGOWAN: That's correct. I didn't realize that that said that on the caption. The memo was clearer.

CHAIRMAN CAMPOS: Okay, further discussion. Motion?

COMMISSIONER SULLIVAN: Move for approval.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER DURAN: Second.

CHAIRMAN CAMPOS: Any further discussion?

The motion to authorize publication of title and general summary of an ordinance for the 285 Corridor Plan passed by unanimous [5-0] voice vote.

- XIV. B. 5. CDRC CASE # MIS 04-5380 - Galisteo Inn Transfer of Dispenser Liquor License. The Galisteo Inn LLC, (Chris Griscom, Owner) is Requesting a Transfer of Ownership of a Dispenser Liquor License. The Property is Located in Galisteo Off of Santa Fe County Road 42 at 9 La Vega Rd., within Sections 9 and 16, Township 15 North, Range 10 East. Victoria Reyes (Commission District 3)**

VICTORIA REYES (Review Specialist): Thank you, Mr. Chair. The Galisteo Inn, LLC, is requesting a transfer of ownership of an existing dispenser liquor license in accordance with the previously approved large-scale residential zoning. The property is located in Galisteo, New Mexico, off Santa Fe County Road 42 at 9 La Vega Road.

On October 25, 1984 the BCC granted approval for master plan zoning for a large-scale residential use and on July 13, 1993 the BCC granted approval for master plan zoning with final development plan to include a restaurant with liquor sales, not including package sales. The request is in accordance with zoning approval granted by the BCC and staff recommends approval for the transfer of ownership of a dispenser liquor license. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay, is the applicant here? Name and address.

JOHN SILVER: Mr. Chair, my name is John Silver. I'm the attorney for the Galisteo Inn. I'm at 802 Camino Acoma.

CHAIRMAN CAMPOS: Do you concur with the recommendation?

MR. SILVER: We concur with the recommendation.

CHAIRMAN CAMPOS: Okay, there's a public hearing. Anybody here to speak for or against it? Okay, the public hearing is closed, no one having come forward. Is there any discussion? Motion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: I believe that the Galisteo Inn has not paid their Lodgers' Tax and I want to know if they paid it.

MR. SILVER: Mr. Chair, Commissioner Anaya, we got that information yesterday and we got current and we're going to be paying the next year. The current fiscal year isn't due but we're negotiating - or not negotiating. We're finding out what that is and we'll pay that by the end of the week.

CHAIRMAN CAMPOS: Are there any conditions? Okay, move for approval.

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER DURAN: Second.

CHAIRMAN CAMPOS: Okay, discussion?

The motion to approve CDRC Case #MIS 04-5380 passed by unanimous [5-0] voice vote.

- XIV. B. 6. **EZ CASE # DL 04-4290 - Porter Family Transfer (Road Variance). George Porter, Applicant, is Requesting a Variance of Section 3.5.b.2.c. (Common Access Roadways) of the Extraterritorial Subdivision Regulations to Allow a 30' Easement with a 15' Driving Surface, and Plat Approval to Divide 2.9913 Acres Into Two Tracts for the Purpose of a Family Transfer. The Tracts Will be Known as Tract A-2-A (1.7412 Acres) and Tract A-2-B (1.250 Acres). The Property is Located at 14 Shrub Road Via 599 Frontage Road, within Section 20, Township 17 North, Range 9 East. Victoria Reyes (Commission District 2)**

MS. REYES: Thank you, Mr. Chair. George Porter, applicant, is requesting a variance of Section 3.5.b.2.c. (Common Access Roadways) of the Extraterritorial Subdivision Regulations to allow a 30-foot easement with a 15-foot driving surface, and plat approval to divide 2.9913 acres into two tracts for the purpose of a family transfer.

The tracts will be known as Tract A-2-A (1.7412 acres) and Tract A-2-B (1.250 acres). The property is located at 14 Shrub Road via 599 frontage road, within Section 20, Township 17 North, Range 9 East.

On June 10, 2004, the Extraterritorial Zoning Commission granted plat approval and recommended approval of the variance. Currently, the state of the road is a 15-foot easement with an 8 to 10-foot driving surface. As result of this family transfer the applicant is required by Section 3.5.b.2.c of the ESR to upgrade the onsite access to a 38-foot easement with a 20-foot driving surface. The applicant is requesting to be allowed to upgrade the onsite access to a 30-foot easement with a 15-foot driving surface.

Based on the recommendation of the County Fire Marshal, staff recommends approval as requested by the applicant for a 30-foot easement with a 15-foot driving surface. If the decision of the BCC is to grant approval of the request, staff recommends the following conditions be imposed. Mr. Chair, may I enter the conditions into the record?

CHAIRMAN CAMPOS: They're so entered.

1. Access roads must have a 30-foot easement with a 20-foot driving surface and a 50-foot radius cul-de-sac with a 42-foot driving surface; finished road grade shall not exceed 11 percent and must be developed meeting Santa Fe County Common Roadway Standards prior to recording the plat of survey or the applicant must provide Santa Fe County with a certified engineer's cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing 0.25-acre feet per year per lot. Water meters must be installed to each lot at the time of development and meter readings must be submitted to the County Hydrologist annually by June 30th of each year.
3. Applicant shall install a water meter on Tract A-2-A prior to recording the plat.
4. Water supply to these lots are governed by The Extraterritorial Zoning Ordinance Section 10.1.A
 - a) Drilling of any new domestic well is prohibited if regional water is available within 200 feet of these lots.
 - b) If regional water becomes available, domestic well use shall cease within 90 Days and these lots shall connect to the regional water system.
 - c) All well drilled on these lots post January 1, 2000 must be constructed per EZO standards listed in Section 10.1.A.3. Proof of proper construction must be submitted at the time of development permit request or upon demand by the County Land Use Administrator.
5. A 10-foot wide utility easement along all property lines must be dedicated and shown on the plat for future potential water lines.
6. As per ESR regulation require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$86.01.
7. Approval from the New Mexico Environment Department for the proposed liquid waste disposal system must be obtained at the time of development, submit permit

- for existing septic system as approved by NMED.
8. Applicant must contact Rural Addressing for the assignment of addresses for the proposed lots.
 9. Compliance with County Fire Marshal review as applicable. Off-site road shall be adequate for use by emergency vehicles.
 10. Submit family transfer affidavits and deeds transferring lots to family members to be recorded with the plat.
 11. Terrain management improvements in accordance with the Santa Fe County Regulations will be required on Tract A-2-A prior to plat recordation and on Tract A-2-B at the time of development.
 12. Address buildable area in conformance with slope standards.
 13. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Victoria Reyes, Development Review Specialist with the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.
 14. Submit access permit or approval by State Department of Transportation.

CHAIRMAN CAMPOS: Ms. Reyes, we have a minimum right-of-way standard and I guess that staff is recommending that they be varied?

MS. REYES: Staff is following the Fire Marshal's recommendation. For family transfers, they're required to do onsite improvements.

CHAIRMAN CAMPOS: They're required to do onsite?

MS. REYES: Right. To upgrade to 38 feet. Okay. What is the Fire Marshal considering in making the recommendation? And is there a recommendation in writing or is it verbal?

MS. REYES: There is one in writing and I believe I have it as exhibit. I'm sorry. I thought I put it as an exhibit. I do have a memo from the Fire Marshal. [Exhibit 12]

CHAIRMAN CAMPOS: Okay. Any other questions?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: I'd like to know what that memo says.

MS. REYES: I will make copies of it.

COMMISSIONER SULLIVAN: Could we get some copies distributed. I'd like as a minimum to put it in as a condition. I realize this is a long, skinny lot so it makes it difficult to comply with all of the requirements. Did the staff determine that the applicant - what would happen if the applicant were required to go to 38 feet?

MS. REYES: He wouldn't get his variance.

COMMISSIONER SULLIVAN: I understand that. What would happen on the property? Could he not develop?

MS. REYES: I do not believe he could develop. He doesn't have enough

buildable area to develop. It's a long strip.

COMMISSIONER SULLIVAN: So there wouldn't be enough area on each side.

MS. REYES: One lot is already completed developed.

COMMISSIONER SULLIVAN: I see that. There's a single story residence and some wells and so forth. How wide is the lot?

[Duly sworn, George Porter testified as follows:]

GEORGE PORTER: Mr. Chair, I could make a very brief statement about the reasons for a variance without going through the ten steps.

COMMISSIONER SULLIVAN: My question to staff was how wide is the lot?

MR. PORTER: It varies slightly but it's about 100 feet wide and a quarter mile long.

COMMISSIONER SULLIVAN: And the road is more or less on one side of that lot. So if you took out 40 feet on one side you would have 60 feet on the other side. I guess what I'm having trouble, and maybe you can answer this for me, at least in the survey plat that we have on him, the road is pretty much on the east side of the tract. So there's really not too much developable land on that, further along on the east side, is there?

MR. PORTER: No.

COMMISSIONER SULLIVAN: So why can't the easement be on the east side from where it is now? In other words, the road, the 15-foot easement – and let me be more specific. I'm discussing Exhibit D in the packet. It looks like this.

MR. PORTER: Exhibit D is the proposed family transfer plat.

COMMISSIONER SULLIVAN: And the existing road goes quite a bit west of what's proposed as the 15-foot wide easement. The 15-foot wide easement is all the way down the east side of the tract. Is that your plan?

MR. PORTER: The proposed easement would be starting on the east side and moving westward 30 feet. Yes. And the roadway would be within that easement.

COMMISSIONER SULLIVAN: As I say, this plat then only shows a 15-foot wide – what does this plat show?

MR. PORTER: The plat shows three slices along the east side. One is the existing 15-foot easement that was approved by the County in 1980.

COMMISSIONER SULLIVAN: You're not requesting a change in that.

MR. PORTER: Yes, I'm accepting the new regulations of the County that have come in since that time of prior approval so that there would be a 30-foot easement there, and then the third thing that the plat shows is the existing roadway which was laid out with the understanding of the prior County approval of 15 feet. So this is a pre-existing condition that was contingent on, based on and respecting the prior approval of the County that was given in June 1980.

COMMISSIONER SULLIVAN: Okay, so you're going for 30 feet instead of 38 on the easement, and 15 feet instead of 22 on the road. Now, I understand the easement situation because you can't build on an easement. What's your rationale for making the road

narrower?

MR. PORTER: Well, there are three rationales. One is that – , the things adjoining road were based on the understanding of the prior approval of the County. In other words, the walls, the location of the propane tank, the location of the house, the location of landscaping, the siting of the existing house, all of the things were – so that's the first reason. The second reason is that, the second reason to have a narrow roadway so that we can maximize the amount of land on our long, skinny lot. And the third reason is that the Fire Marshal, Captain Buster Patty and I went out there and he sees no problem with the proposed roadway. In fact his first comment is that the road is an improvement over what's there now and therefore would facilitate the fire access.

But he proposes a series of things that are in his memo, which accepts the roadway of 15 feet. If I could just summarize what I think are the pertinent points in Captain Patty's statement. He accepts a minimum roadway of 15 feet. He wants two turn-outs along the road. Those turn-outs will allow for stacking, having more than one fire vehicle there or other emergency vehicles. And there will be a turn-around at the second house on the new lot so that the five vehicles would be able to go back out to 599.

And then finally, the fourth point that I think is most pertinent of his pertinent points is that there's a sprinkler system in the new structure on the new lot. I hope that helps.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay, any further questions? Public hearing. Anybody in the public want to address the Commission for or against? Okay, public hearing is closed, no one having come forward. Any discussion or motions?

COMMISSIONER DURAN: Move for approval, Mr. Chair.

CHAIRMAN CAMPOS: With conditions?

CHAIRMAN CAMPOS: With conditions.

COMMISSIONER MONTOYA: Second.

COMMISSIONER SULLIVAN: Mr. Chair, discussion.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: Condition 9 says compliance with the County Fire Marshal review as applicable. Offsite road shall be adequate for use by emergency vehicles. Could we just simply says compliance with County Fire Marshal review, which I assume is this letter in front of us that's dated June 10, 2004.

CHAIRMAN CAMPOS: Ms. Reyes, is that acceptable?

MS. REYES: Mr. Chair, yes.

CHAIRMAN CAMPOS: Okay. There's a motion and a second. Commissioner Duran, the motion was made. Commissioner Sullivan has suggested a change. Would you consent to the change?

COMMISSIONER DURAN: Just say yes. On item 9, it says compliance with County Fire Marshal review as applicable. Off-site roads shall be adequate for use by emergency vehicles. And my suggestion was to simply say compliance with County Fire Marshal review, period. And I'm assuming it's this document of June 10, which we were

given, which has a number of conditions other than the width. He talks about the turn-outs and so forth.

COMMISSIONER DURAN: Yes.

CHAIRMAN CAMPOS: So you're substituting that for the condition?

COMMISSIONER SULLIVAN: For condition 9, yes.

CHAIRMAN CAMPOS: That's the substitution, condition 9 as stated in the report is deleted?

COMMISSIONER SULLIVAN: Well, it's not deleted. I just deleted the wording after the word review. So it says compliance with County Fire Marshal review, period.

CHAIRMAN CAMPOS: Okay, is that clear? There's a second. Commissioner Montoya, do you agree with that?

COMMISSIONER MONTOYA: Yes.

The motion to approve EZ Case #DL 04-4290 passed by unanimous [5-0] voice vote.

COMMISSIONER SULLIVAN: I just think it's applicable. I don't think we need to determine if it is applicable or it isn't applicable.

- XIV. B. 8. CDRC CASE # V 04-5170 – Julian Romero Variance. Julian Romero, Applicant, is Requesting a Variance of Article III, Section 4.1 and 4.2 (Types and Location of Commercial Districts) of the Land Development Code to Allow Commercial Zoning Outside of an Eligible Commercial District on .43 Acres. The Property is Located at Lot Three of the Carlson Subdivision, Off of Emily Road, within Section 34, Township 16 North, Range 8 East. Dominic Gonzales (Commercial District 3**

MR. ABEYTA: Mr. Chair, that case has been tabled.

CHAIRMAN CAMPOS: The Johnnie and Tillie Garcia has been tabled, right?

MR. ABEYTA: Yes, but we received a letter earlier this evening that Julian Romero requested tabling.

CHAIRMAN CAMPOS: Was that after we approved the agenda?

MR. ABEYTA: Yes.

CHAIRMAN CAMPOS: So is there a motion to amend the agenda allowing this case, the Julian Romero Variance, to be tabled?

COMMISSIONER DURAN: So moved.

COMMISSIONER MONTOYA: Second.

The motion to table CDRC Case #V 04-5170 passed by unanimous [5-0] voice vote.

- XIV. B. 9. CDRC CASE # V 04-4250 – Carol and Richard Thomas Variance. Carol and Richard Thomas, Applicants, are Requesting a Variance of Article III, Section 2.3.6b of the Land Development Code to Allow a Proposed Residential Building Addition to be Constructed at 32 Feet in Height. The Property is Located at 69 Waldo Mesa Road in Madrid, within Section 25, Township 14 North, Range 7 East. Dominic Gonzales (Commission District 3)**

CHAIRMAN CAMPOS: This is a height variance.

DOMINIC GONZALES (Review Specialist): Thank you, Mr. Chair. Richard and Carol Thomas, applicants, are requesting a variance of Article XIII, Section 4 of Ordinance 2001-1 of the Land Development Code, Madrid Community Planning, to allow a proposed addition to be constructed to 32 feet in height. There is currently a residence, a mobile home, a shop/garage, two water tanks and two septic systems on the property. The property is served by an onsite well.

Article XIII, Section 4, Ordinance 2001-1 states that the height of any dwelling or residential structure shall not exceed 25 feet in height. The applicant states they are planning to build an addition attached to the existing house. The applicants are requesting a variance to allow a portion of the house to be 32 feet in height.

Recommendation: On May 20, 2004 the CDRC met and acted on this case. The decision of the CDRC was to recommend approval for a variance of Article XIII, Section 4, Ordinance 2001-1 of the Land Development Code, Madrid Community Planning District, to allow the proposed addition to be constructed at 32 feet in height. Staff's position is that this application is not in accordance with Article XIII, Section 4 of Ordinance 2001-1 of the Land Development Code. Therefore staff recommends denial of the requested variance.

CHAIRMAN CAMPOS: Okay, applicant here? Please come forward. Say your name, address for the record?

[Duly sworn, Carol Thomas testified as follows:]

CAROL THOMAS: My name is Carol Thomas. My address is 69 Waldo Mesa Road. Mr. Chair and Commissioners, in the interests of time I do have some pictures of the house with the proposed addition. I would just like to say that the purpose of the part that is above the height of 25 feet is to cool the house and it won't use any water and it won't use any energy because it's a cooling tower and operates on high pressure and low pressure as the wind blows and you open the low pressure window and then the hot air will rise up out the tower. Currently, the house has no evaporative cooling so there will be no water use and the house has no air conditioning of any sort. So this would be good for energy and water.

And the other thing I'd like to say is that the house is bermed in on two sides and those

two sides, everything is within the County Code. It's 23' 7". But it's the two sides that are not bermed in and the Code was supposed to be from the most restrictive side. So the sides where the tower is closest are the bermed in sides and it's within the Code. But when you go to the two other sides of the house, that's what makes it come above the 25-foot Code issue. So if there's any more questions, I'll make it brief. I won't say anything else unless there's questions.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: Ma'am, how high is the part of the structure that seems to have bars sticking out and on the top, right next to the addition?

MS. THOMAS: The existing tower there, it's 22 feet above the grade, which is the bermed in side. If you go around to the other sides and measure other parts of the house then it's going to be probably 30 feet above the grade.

COMMISSIONER SULLIVAN: So that part of the house meets the Code?

MS. THOMAS: That part of the house, it depends on how you measure it. That part of the house is sitting right there on the grade and it's only 22 feet if you measure from right there where you can see the ground. If you go around to the other - the house is U-shaped. If you go around to another part of the U and you measure down there you will get up to 30 feet.

COMMISSIONER SULLIVAN: And are you planning to do anything else with that tower?

MS. THOMAS: No. No. That's tower's not going to have anything else done with it.

COMMISSIONER SULLIVAN: I just saw those rods sticking out.

MS. THOMAS: Those are not rods. Those are actually pieces of wood with flags on them.

COMMISSIONER SULLIVAN: Oh, pieces with flags. All right. So nothing more is going to be done to that.

MS. THOMAS: No.

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

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Carol, so if you were to build this new addition, it would be the same height as what you have existing right now.

MS. THOMAS: It would be about a foot and a half higher.

COMMISSIONER ANAYA: A foot and a half higher -

MS. THOMAS: The tower part. Just that -

COMMISSIONER ANAYA: Not the flag poles. Not the poles. From the top of that parapet, you would be about a foot and a half higher from the existing structure.

MS. THOMAS: That's right. The highest part. That cooling tower part.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN CAMPOS: Question. Visibility. You have a home on a 60-acre

site?

MS. THOMAS: It's on 30 acres.

CHAIRMAN CAMPOS: Thirty acres. Is it visible to highway or neighbors or anybody like that.

MS. THOMAS: It is visible to neighbors and I had the neighbors – there is a petition which I showed to the CDRC and I gave to the recorder that said the neighbors said they had no objections to the height of the building and from one very small point on Highway 14 it is visible for a very short distance.

CHAIRMAN CAMPOS: Okay. Any other questions? Okay. Public hearing. Anybody want to speak for or against? Public hearing's closed, no one having come forward. Any discussion? Any motion?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN CAMPOS: With conditions?

COMMISSIONER ANAYA: With conditions.

COMMISSIONER MONTOYA: Second.

The motion to approve CDRC Case #V 04-4250 passed by majority 4-1 voice vote with Commissioner Campos voting against.

CHAIRMAN CAMPOS: Mr. Abeyta has let me know that item B. 14, the Santa Fe Summit plat amendment may require early consideration. There's a gentleman here from Florida. Is there anyone on the Commission who would like to have this moved up to the next case? No?

COMMISSIONER DURAN: He's from Florida?

CHAIRMAN CAMPOS: Yes. He's here for this case. He's from Florida.

COMMISSIONER DURAN: Is he going back?

CHAIRMAN CAMPOS: I assume so.

COMMISSIONER DURAN: Tonight, or what?

CHAIRMAN CAMPOS: Is that right, Mr. Abeyta?

MR. ABEYTA: Mr. Chair, that's my understanding.

COMMISSIONER DURAN: To catch a plane?

CHAIRMAN CAMPOS: Well, it's going to be a month before we hear this again if we don't hear it tonight.

COMMISSIONER DURAN: Oh, if we don't hear it. I see what you mean. Okay.

CHAIRMAN CAMPOS: Is that okay? Any objection? Let's go to 14.

XIV. B. 14. EZ CASE # MIS 04-4430 – Santa Fe Summit Plat Amendment. John and Glenda Hodgson, Applicants, Tom Parmer, Agent, Request an Amendment of the 175 Ft. Open Space Setback Along Hyde Park Road as Approved for the Santa Fe Summit Subdivision (Phases 4, 5, and 6), to Permit a Portion of a House and Yard Wall with a Open Space Setback of 147 Feet. The Property is Located at 1519 Bent Hill (Lot 64) within Sections 8 & 9, Township 17 North, Range 10 East. Victoria Reyes (Commission District 2)

MS. REYES: Thank you, Mr. Chair. John and Glenda Hodgson, applicants, request an of the plat development plan regarding the 175-foot setback along Hyde Park Road as approved for Santa Fe Summit Subdivision to permit a portion of the house and yard wall with an open space setback of 147 feet. The property is located at 1519 Bent Hill, within Sections 8 and 9, Township 17 North, Range 10 East.

The applicants are requesting an amendment of the Santa Fe Summit final development plan to construct a residence and yard wall encroaching 27 feet to the east within the required setback, which would leave 147 feet of the 175 feet of the required setback previously approved. The purpose for this request is to move the building site away from the drainage and utility easement and to improve the design of the residence. The proposed residence is a single level consisting of 2600 square feet.

Staff recommends denial. The size of the house could be decreased to fit within the existing building envelope. If the decision of the BCC is to grant approval of the request, staff recommends the following conditions be imposed.

1. Maintain a 155-foot open space set. Yard wall should not encroach into the setback.
2. Address existing and proposed landscaping to provide an adequate landscape buffer as approved by staff.

CHAIRMAN CAMPOS: Thank you, Ms. Reyes. Applicant here?

[Duly sworn, Kevin Hilton testified as follows:]

KEVIN HILTON: My name is Kevin Hilton. My address is 134 Calle San Simon in Santa Fe.

CHAIRMAN CAMPOS: Sir, you've read the report?

MR. HILTON: Yes. I have some pictures –

CHAIRMAN CAMPOS: Please state you argument first.

MR. HILTON: Okay. The reason we'd like to have the adjustment is that the building envelope is relatively small and on the setbacks. On the southern side there's a 20-foot drainage and utility easement. Within that easement is a temporary construction road and that road is to be opened for an indefinite period of time to allow construction access into the subdivision. Because of that, to place the house within the building envelope within the setbacks, that places the building right, not in the road but at the edge of the road. And to create

any kind of buffer by means of a fence or wall, any kind of a buffer, would mean that it would be in the middle of the road, which is not possible.

CHAIRMAN CAMPOS: The middle of the road or near the road?

MR. HILTON: It would be in the road.

CHAIRMAN CAMPOS: In the roadway.

MR. HILTON: Yes. The pictures will give you an idea of what we're talking about. And so the design review board for the Summit suggested that we apply for this adjustment realizing the constraints of not being able to shrink the house significantly. The problem is that if you tried to create let's say a 10-foot buffer on that southern side that would shrink the size of the house by about 600 square feet, not including the garage. The garage cannot be any smaller according to the design covenants for the Santa Fe Summit. So shrinking that down 600+ square feet that would fit 2000 or less than 2000 square feet.

So we feel that by being able to move the house down that 20 feet, which would be along the northern border, maintaining that 12'6" setback as required going down the hill, then that pulls it away from that 20-foot drainage/utility easement and from that construction roads, allows for a buffer between the traffic and allows for some sort of fence or yard wall to be placed to enable the owners to have some sort of privacy and protection from noise, vibration, theft, etc. that can come from having access on a road that close.

CHAIRMAN CAMPOS: Okay. Let's look at the photographs. And let's make a photograph a part of the record. You can give Ms. Farrell a copy of your exhibit. [Exhibit 13]

MR. HILTON: If you look at both page 1 and page 2, this is looking from Bent Hill, the cul-de-sac, going down that drainage easement/construction road and the stake on the left-hand side on page one is the corner of the house, right on the edge of the road, as you can see from the adjacent picture. Now if you look at the circle, the next circle behind, that's a survey stake of where the house would be if it were allowed to be this adjustment. Page 2 is similar. This is looking down the road. The farthest end of the house, again, right at the edge of the road, but then with this setback change, allowing it to be further in, allowing to have a buffer between the house and this easement/construction road.

CHAIRMAN CAMPOS: Question.

COMMISSIONER MONTOYA: Mr. Hilton, why would you want the house right on the road?

MR. HILTON: Those lots, both this lot and the adjacent lot were created, the building envelope was created as is on the setback. The drainage and utility easement was part of that and the easement is right next to the building envelope. However, there is this construction road access that goes right through that easement and so we have not created the building envelope. That was created by the subdivision and so we're simply saying this is where the house has to be according to the building envelope. We're within the building envelope. We're within the setback. It is an odd-shaped building envelope with constraints as far as design and it is also relatively small. And so we've tried to build a house that fits within the envelope and the criteria of the design review board for Santa Fe Summit and is attractive and so on. And doing so puts it right on the road.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: Are you Mr. Parma?

MR. HILTON: No, I am not. He was unable to attend. I'm Kevin Hilton. If you notice on the application, my name is mentioned on there. Mr. Parma and myself have been working together on this.

COMMISSIONER SULLIVAN: You're a part of the design firm? The Parma Designs?

MR. HILTON: No, I'm not. I'm the building contractor.

COMMISSIONER SULLIVAN: Oh, contractor. Okay. I'm looking at Exhibit C which is showing the lot and it says a 75-foot building setback and in the description of the case it talks about a 175-foot setback. Which is it?

MR. HILTON: The lot is 75. 175 is from Hyde Park Road. That's the required. There's a 100-foot green space, open space between Hyde Park Road and between the lot. So it's 175 total, 75 from the lot, 100 for the green space.

COMMISSIONER SULLIVAN: Okay, and so there's still, as it indicates in the staff report, it would reduce it to 155 feet. Now, why don't you just reduce the 75-foot setback as a part of your discussion with the architectural review committee?

MR. HILTON: We're willing to do that. They've actually suggested that. However, it has to be together. The 75-foot on the lot, but as I understand it we are required to come before you to get the adjustment for the 175 feet.

COMMISSIONER SULLIVAN: So your lot ends and after your lot there's 100 feet until you get to Hyde Park Road right-of-way.

MR. HILTON: That's correct.

COMMISSIONER SULLIVAN: And then in addition there's 75 feet into your lot and what you're saying is that you need to reduce that building setback within your lot from 75 to 55 feet.

MR. HILTON: That's correct. We're not changing the size of the building envelope. We're merely moving it down the hill.

COMMISSIONER SULLIVAN: Right. But you're also not changing of course the 100-foot setback from Hyde Park Road.

MR. HILTON: That's correct.

COMMISSIONER SULLIVAN: Because that's part of the Hyde Park right-of-way. Hyde Park is a state highway. So you can't change that.

MR. HILTON: That's correct.

COMMISSIONER SULLIVAN: So you're only asking to change that 25. Now what is located on either side of you? Are there homes there? Are people – is that going to impact people on either side of you?

MR. HILTON: There's a lot 63, a home is being constructed now by Robert Franck and he was here earlier and we've had numerous discussions but then he's been to the

lot. His house is in the middle of construction. He was initially concerned because he wanted to make sure it didn't impact negatively his views and so on. After visiting the site, seeing the plans and seeing what we've recommended, he said that he'd give his approval to it. The next lot will be lot 62 by Ralph Brutsche. He is also the developer. He met us out there and gave his approval.

Lot 65, apparently you received a letter from him. That would be Duke Klauck, I believe his name is. He was sent a letter as required, certified mail and attempts were made by the developer's attorney to contact him on several occasions with that same intent to meet him out there at the lot so that we could address his concerns. He was not able to be contacted so we do not know what his views are on that. He does own lot 65. It is also part of this drainage easement and the construction road also goes through his property but we're not aware of his feelings on this matter. [Exhibit 14]

COMMISSIONER SULLIVAN: Does he have a house on that lot?

MR. HILTON: No, sir. He does not.

COMMISSIONER SULLIVAN: We just have a letter saying, apparently, that he only saw the sign here and that it was not visible from Hyde Park Road. It was behind the gate, the Summit gate and he asks that the matter be tabled. Have you or has anyone talked to him about this or been on the site with him about it?

MR. HILTON: No, sir. This was the first I saw coming into the meeting. We were handed this letter. As I said though, attempts were made to contact him several times by the developer's attorney for that reason. And the sign, the notification sign, provide by Land Use was put up per their instructions in the cul-de-sac on Lot 64 so we've done that. We also sent the letters as per instructed to those three lot owners so that they would have notification.

COMMISSIONER SULLIVAN: And you have the return-receipts from those?

MR. HILTON: We have return-receipts from two of them. He was not one of them. We e-mailed Land Use to ask to get another address or to find out how we should proceed on that. We've called trying to reach him by phone so that we could get that notification and we were unable to do that.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Any other questions? Okay, it's a public hearing. Anybody here to speak for or against? Sir.

[Duly sworn, Karl Sommer testified as follows:]

KARL SOMMER: members of the Commission, my name is Karl Sommer. I represent Mr. Ralph Brutsche and I'm here also in a representative capacity for the homeowners association for the Santa Fe Summit. I'd like to address a couple of things but first and foremost I'd like to say we support this application because Mr. Hodgson who is sitting back here has worked very diligently with the neighborhood, with the association, with everybody involved to solve what is a fairly sticky problem and we're here to support him because what he's asking for is good for everybody concerned.

I'll start with that and I'll be brief. First of all, the association has a desire to maintain a construction access and an emergency access and Mr. Hodgson and his wife Glenda have

agreed that they will cooperate with the association to do that. The other thing is is this lot has a building envelope that is moved away from Hyde Park Road in a way that was probably unintended. And I say that because I was part of the development team that got this approved. There is a 175-foot set back from not Hyde Park Road but from the right-of-way. The right-of-way from Hyde Park Road is 150 feet and Hyde Park Road is actually well beyond the limitation. So we're talking about a setback way away from Hyde Park Road that the impact on Mr. Hodgson's house will be zero on that setback. It meets the intent of the setback and the purposes.

What he is trying to do is to preserve the construction and emergency access and the value of his lot in a way that everybody gains. We support that effort and I'm here on behalf of Mr. Brutsche who is the developer and the association which represents all of the owners in that area, in that subdivision to support this application for those reasons. And I would answer any specific questions you might have about either the setback line or this application that I'm aware of. I would say that Mr. Hilton, Mr. Parmer, Mr. Hodgson and his wife, their attorney - he's not here tonight, but they've all been very, very cooperative in trying to resolve such a sticky problem.

As you've seen in the application, if the house is built within this envelope where it is it's moved right up against a roadway. And that's not fair either to the Hodgsons or to the people who have to use the roadway. And the Hodgson's are trying to move away from that roadway, and it actually affects their views in a way that they probably don't prefer. But they would like to move away from the roadway, solve that problem, and maintain the emergency access and the construction access on terms and conditions that are acceptable to them and to everybody.

So, in sum, I think this is a smart move. I think it's well intentioned on the part of the Hodgson, and the association and Mr. Brutsche as a developer support this application. Thank you.

CHAIRMAN CAMPOS: Thank you. Anybody else? Okay, public hearing is closed no one having come forward. Any discussion or questions for staff?

COMMISSIONER DURAN: Move for approval, Mr. Chair.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Okay, staff is recommending denial. You understand that.

COMMISSIONER DURAN: Move for approval, Mr. Chair.

CHAIRMAN CAMPOS: Is there a second? With -

COMMISSIONER DURAN: Staff conditions.

CHAIRMAN CAMPOS: With two conditions? Just two conditions, Ms. Reyes? Okay, any discussion?

The motion to approve EZ Case #MIS 04-4430 passed by majority 3-2 voice vote with Commissioners Sullivan and Campos voting against.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

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

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

COMMISSIONER SULLIVAN: Thank you.

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

[Duly sworn, Alan Mosely testified as follows:]

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

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

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

CHAIRMAN CAMPOS: How short?

MR. MOSELY: Two minutes.

CHAIRMAN CAMPOS: Good.

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

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

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

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

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

COMMISSIONER ANAYA: Tell me about the fencing.

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

will all be gone by spring of next year.

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

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

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

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MS. LUCERO: That's correct.

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

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

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

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

COMMISSIONER SULLIVAN: We already did? Excuse me.

CHAIRMAN CAMPOS: Discussions or motions?

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

CHAIRMAN CAMPOS: I'll second that. Discussion?

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

XIV. B. 12. EZ CASE # MP 04-4221 – Aldea de Santa Fe. (Arthur Fields), Applicant, Requests Master Plat Approval of Tract 6, Tract 7, and Tract 8 of Phase 1A of Aldea de Santa Fe. The Three Tracts Will Consist of 24 Lots. The Properties are Located Off of Avenida Aldea and E. Via Plaza Nueva, within Section 20, Township 17 North, Range 9 East. Vicente Archuleta (Commission District 2)

VICENTE ARCHULETA (Review Specialist): Thank you, Mr. Chair. The applicant is requesting master plat approval for tracts 6, 7, and 8 of the Aldea de Santa Fe Subdivision. There will be 24 lots in this development. On May 11, 2004, the BCC granted authorization to proceed with the master plan. On June 10, 2004, the EZC recommended approval of the application subject to staff condition.

A master plan authorization allows the applicant to submit a master plat which will establish a maximum number of lots and show a conceptual lot and road layout. The master plat application will be reviewed by the EZC and the BCC under the subdivision procedures as set forth in the Extraterritorial Subdivision Regulations. If approved the applicant will be required to file the master plat with the County Clerk. Once the layout is selected and amended the master plat as well as the development plan is submitted to the County for administrative approval. If approved the plat will be recorded with the County Clerk.

The application was reviewed for the following: Existing development, access, water, wastewater, fire protection, solid waste, terrain management, landscaping, traffic, archeology, disclosure statement, subdivision improvement agreement, owners association documents.

Recommendation: Staff recommends master plat approval for a 24-lot residential subdivision. The EZC recommended master plat approval with the following staff conditions. May I enter those into the record.

CHAIRMAN CAMPOS: They're so entered.

[The conditions are as follows:]

1. Plat/development plan shall be reviewed administratively with appropriate signatures shall be recorded with the County Clerk's office.
2. All redline comments must be addressed.
3. The standard County water restrictions, final homeowner's documents, and disclosure statement must be recorded with the final plat.
4. Road names and addresses must be approved by Rural Addressing.
5. All utilities must be underground.
6. The applicant must submit solid waste fees as required by the subdivision regulations.
7. All lots are subject to the Santa Fe County Fire and Rescue Impact Fees. This must be clearly noted on the final plat.
8. The applicant must submit an engineer's cost estimate and financial guarantee for all

- required improvements (i.e. Street and traffic signs, park amenities, fire protection, etc.). A schedule of compliance projecting time period for completion of improvements must be included. Upon completion, the applicant must submit a certification by a registered engineer that improvements have been completed according to the approved development plan.
9. A commitment contract between Sangre de Cristo Water Company and the applicant will be required prior to plat recordation.
10. ~~Submit an updated TIA.~~ [Removed at motion.]
11. Compliance with applicable review comments from the following:
- a) State Engineer
 - b) State Environment Department
 - c) Soil & Water District
 - d) State Highway Department
 - e) County Hydrologist
 - f) Development Review Director
 - g) County Fire Marshal
 - h) County Public Works
 - i) County Archeologist

CHAIRMAN CAMPOS: Are there any questions for Mr. Archuleta? Is the applicant here? Name and address please.

[Duly sworn, Lorn Tryk testified as follows:]

LORN TRYK: I'm Lorn Tryk, 206 Mackenzie Street.

CHAIRMAN CAMPOS: Have you had an opportunity to review the report?

MR. TRYK: Yes.

CHAIRMAN CAMPOS: Do you agree with the conditions?

MR. TRYK: We do have an exception to one of the conditions.

CHAIRMAN CAMPOS: Which one?

MR. TRYK: This is the condition that requires us -

CHAIRMAN CAMPOS: Give me a number.

MR. TRYK: I don't have a copy of the staff report. It's #10, Submit an updated TIA. This was not a condition of approval on our EZC, when we were before the EZC. The comment originally came up in the staff report as an agency comment and after we saw that when we came before the EZC we went back to District 5 and they wrote a letter to Joe Catanach saying that our TIA should be upgraded when our main arterial is connected up through the La Vida Trail. So we will be doing it during our phase 2C and 2D. Apparently Vicente was not aware of that letter.

CHAIRMAN CAMPOS: Mr. Archuleta, have you seen that letter?

MR. ARCHULETA: Mr. Chair, I have and we agree to that.

CHAIRMAN CAMPOS: You would agree to the suggested change proposed by the agent for the applicant?

MR. ARCHULETA: Yes, sir.

CHAIRMAN CAMPOS: To amend it. Okay, public hearing. Anybody out there who'd like to speak for or against? Okay, no one having come forward the public hearing is closed. Is there a motion to approve this with the conditions and condition 10 as amended by Mr. Archuleta and the applicant.

COMMISSIONER MONTOYA: So moved.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Discussion.

COMMISSIONER SULLIVAN: Mr. Chair, Mr. Tryk, were the commercial tracts on this moved from the original submittal?

MR. TRYK: Yes. The subject tracts have always been there. They've always been within the confines of phase 1A. All we're doing is master platting them. There was one of the tracts originally shown in the master plan as a commercial tract and it's now being shown as courtyard housing.

COMMISSIONER SULLIVAN: And if we put the commercial out does that eliminate the desirable aspect of having the commercial and the residential together so we can propose walking and less automobile travel?

MR. TRYK: Not at all. There's a lot of commercially zoned, if you will, land surrounding the plaza as well as pieces at the front of the project on the bypass. So it doesn't by any means eliminate the commercial aspect of the project.

COMMISSIONER SULLIVAN: And then in my understanding, maybe Mr. Abeyta can help me with this one. When we do a master plat approval then it never comes back to us. Is that correct?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, that's correct. The plats are approved administratively, the individual subdivision plats.

COMMISSIONER SULLIVAN: So we don't have an actual preliminary or a final development plan. Those plats can be adjusted around, is that correct?

MR. ABEYTA: Mr. Chair, yes, that's the intent of the master plat is it gives them flexibility to move the lot lines around.

COMMISSIONER SULLIVAN: Within what confines?

MR. ABEYTA: Within the confine of this tract 8 of phase 1-A.

COMMISSIONER SULLIVAN: And that's shown -

MR. ABEYTA: They have master plat approval for tract 6, 7, and 8 of phase 1-A. So they'd be confined to that area and 24 lots within that area.

COMMISSIONER SULLIVAN: I was just looking at Exhibit D. Do you have Exhibit D, Roman? Is it on there?

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: Which pieces are we talking about? I see a picture here with three future phases. And you're saying tract 1-A?

MR. ABEYTA: These are all part of tract 1-A, but 1-A includes more than

just these three tracts. What they're limited to are these three tracts. Tract 8, tract 7 and tract 6 as shown on this Exhibit D.

COMMISSIONER SULLIVAN: Okay, now tell me what lots those are. I don't see the tracts. I see Park 9. Okay, I see tract 7. It says eight courtyard house units. Is that it?

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: That's one of them?

MR. ABEYTA: Right. And they'd have flexibility within their lot lines.

COMMISSIONER SULLIVAN: And then tract 8 is the master plat. I see that one. And then where's the other one?

MR. ABEYTA: There's a tract 7 and a tract 6.

COMMISSIONER SULLIVAN: Okay, I see it. I got it now. So these three total 24 units.

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: And right now they're blank and one of those, Mr. Tryk, was originally to be commercial? Which one was going to be originally commercial?

MR. TRYK: Tract 7.

COMMISSIONER SULLIVAN: Tract 7? So that's now going to be housing. And where is the commercial?

MR. TRYK: Well, let's see. I'll have to point to it on your map.

COMMISSIONER SULLIVAN: It's not on this Exhibit D anymore? This one used to be the commercial here, right?

MR. TRYK: You can see the plaza which is located west of these three tracts and is still surrounded by commercial and live-work units. Park 10 is the plaza, and the plaza is still surrounded by commercial uses. West and east also. And then this portion of the master plat area will still be commercial. That's live-work units, as are these. Those are commercial. Those are live-work units. This is the one that I was talking about that we were proposing be courtyard housing.

COMMISSIONER SULLIVAN: You consider live-work units to be commercial.

MR. TRYK: Yes, absolutely.

COMMISSIONER SULLIVAN: So 24 includes this.

MR. TRYK: That's correct. Courtyard houses -

COMMISSIONER SULLIVAN: So this is all houses.

MR. TRYK: No, this is live-work. This is housing. It's actually mixed use, so it's housing and commercial.

ARTHUR FIELDS: Instead of this tract here, we were looking at doing commercial up here which is not platted yet. We have all this land up here.

COMMISSIONER SULLIVAN: Not to beat a dead horse. You can have your map back, but we've just experienced this evaporation of these community

commercials as the plans move forward and they are either unable or for some reason the commercial doesn't materialize and in other subdivisions we find it just ended up being a bedroom subdivision. At some point in time, do you have any commitments for commercial anywhere in here?

MR. FIELDS: May I be heard, Mr. Chair? My name is Arthur Fields. I'm one of the members, one of the owners of Aldea and I solemnly swear to tell the truth, the whole truth and nothing but the truth. Well, not the whole truth; we don't have time. But may I pass this out to you please?

COMMISSIONER DURAN: Just get close to it. I think it's fine.

MR. FIELDS: What I passed out is a live-work project on the plaza. This is on lots 74, 75, 6, 7, and 8. It's the entire west side of the plaza. The 74, 75, 76 is already permitted and ground has been broken and this is the building that will be built. This is five units. The other two are coming. The entire ground floor has very broad commercial zoning and the upper floor would be the residential. These are live-work. We're very excited about it. We have architecture studios opening. There's a café in unit 74. This is a real commercial structure. The entire plaza will be a commercial plaza.

The master plan required 100,000 square feet of commercial zoning and we intend to have at least that. We have maintained the integrity of the master plan. The entire north side of the plaza that I just showed you, Commissioner Sullivan, is not platted and that can hold 20,000, 30,000, 40,000 square feet of commercial space.

COMMISSIONER SULLIVAN: Okay, and then Mr. Abeyta, in terms of the staff, you're comfortable, although we don't see any lot lines or anything here. All we see is three big open tracks. You're comfortable working within those tracts to evaluate those and approve those.

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, yes. And if we did run into disagreements or issues then we would force the development plan to come to the BCC for approval. We always have that. In other words, we're not bound by approving these administratively. You've given us the authorization to look at them administratively.

COMMISSIONER SULLIVAN: Okay. Thank you, Mr. Chair. We have a motion and a second and we're in discussion.

CHAIRMAN CAMPOS: Any further discussion. There's a motion seconded, with the conditions.

The motion to approve EZ Case #MP 04-4221 passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

COMMISSIONER DURAN: Arthur, this looks beautiful.

MR. FIELDS: Thank you.

COMMISSIONER DURAN: It's going to be great.

XIV. B. 13. CDRC CASE # A 04-5151 – Joe Miller Appeal. Joe Miller, Applicant, is Appealing the County Development Review Committee’s Decision to Uphold the Land Use Administrator’s Decision Regarding the 1986 Board of County Commissioners Approval of a 50 Lot Residential Subdivision (Tierra Colinas) on 263.7 Acres. The Property is Located Along Avenida de Compadres South of Avenida Eldorado, within Section 30, Township 15 North, Range 10 East. Wayne Dalton (Commission District 5)

WAYNE DALTON (Review Specialist): Thank you, Mr. Chair. In May of 1986, the Board of County Commissioners approved a 100-lot residential subdivision on 547 acres which was known as the Tierra Colinas Subdivision. In 1988, a land division plat was approved administratively and recorded dividing the 547-acre tract into two separate lots consisting of 263.7 acres, which is known as Lot 8-A, and 283.6 acres, which is known as Lot 8-B.

On June 14, 1994, a request was presented to the BCC to confirm that the previously approved Tierra Colinas Subdivision was now a 50-lot residential subdivision on 283 acres – Lot 8-B. The BCC granted approval of this request with the understanding from staff that the owner of Lot 8-A, consisting of 263 acres would be submitting a master plan for 98 residential lots.

In January 1995, Lot 8-B was recorded as Tierra Colinas Subdivision consisting of 50 lots on 283 acres. On January 9, 1996, the BCC granted master plan approval for 98 residential lots on 263 acres, Lot 8-A, identified as Sun Ranch East Subdivision.

Staff has determined that the 1986 final plat approval was abandoned and has expired. Staff has also determined that the 1996 master plan approval extinguishes any prior land use or subdivision approval for that property. Also, the conditions of approval for that May 1986 plat were never complied with. A specific condition of approval required proof of adequate water supply and infrastructure. The proof was never supplied; therefore the 1986 final plat and development plan was never completed, thus there was never any actual approval and no vested rights.

Staff has also determined that the 1996 master plan approval extinguishes any prior land use or subdivision approval for that property.

Recommendation: On May 20, 2004, the CDRC met and acted on this case. The decision of the CDRC was to deny the appeal and uphold the Land Use Administrator’s decision that the 50-lot residential subdivision on 263.7 acres approved by the Board of County Commissioners in May 1986 has expired. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Any questions of Mr. Dalton? Is the applicant here or a representative to the applicant?

[Duly sworn, Joe Miller testified as follows:]

JOE MILLER: Mr. Chair, Commissioners, lot 8 of Eldorado at Santa Fe did

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have final plot plan approval for 100 lots. That was in May 1986. If you question that you I've got some packets. [Exhibits 15 and 16] I can pass those out first.

CHAIRMAN CAMPOS: It's kind of late. Shouldn't you submit them before the hearing so we have an opportunity to actually read them. We didn't. It's not fair to present them at this point, is it? It's not fair to drop that packet here at the last moment.

MR. MILLER: Well, I think every one of the Commissioners had a copy of this packet delivered to them within the last week. And this is just an update of it and it's got tabs on it so they can refer to these different exhibits. It's nothing really new.

CHAIRMAN CAMPOS: How much time are you going to need?

MR. MILLER: Maybe out ten, fifteen minutes.

COMMISSIONER DURAN: Mr. Chair, I got a copy of this. I think that all of us did. It was put in our boxes.

MR. MILLER: These have tabs on them and you can refer to the different exhibits a little bit easier than you can with the ones without the tabs. Lot 8-A was approved, you can see Exhibits B and C. It was approved by the County Commissioners back in 1986. After the split, after the subdivision was approved, the owners had kind of a split and what they did, they divided it into two pieces, lot 8-A and lot 8-B, and each piece had a 50-lot approved subdivision. You can see that in Exhibit Q. In 1996 lot B was developed and was sold out and it's now about 75 percent built out.

This was the first phase, known as Tierra Colina. The second phase that's now being developed is known as Tierra Bella. Before we purchased this property my attorney and I met with the County Attorney, Steve Kopelman. It was about the time he was leaving so he had the assistant County Attorney sit in on it also. And they assured us this subdivision was still in force. It was approved as a legal subdivision. In addition to that, Mr. Martinez and I also met with the Land Use Administrator who acknowledged the subdivision approvals were still in force. And I also relied on a letter which is in there as Exhibit C. It was from the County Attorney at the time, Terry Brennen. Terry Brennen states that Tierra Colina is an approved subdivision. It has never been rescinded, amended or otherwise affected. It also states that water taps would remain with the subdivision and it is no problem with the subdivision approval. That's when I purchased it. Exhibit C is Mr. Brennen's letter.

My planner and I, after I purchased it, my planner and myself met again with staff to determine what engineering plans and drawings were required. Mr. Martinez was hired. We met with staff on several other occasions to prepare the plans and the plats and the profiles and all the drawings. The utility companies were contracted with to prepare their designs and drawings. Before the water company, before they would design, they were the ones. They wouldn't let any third parties do it. They wanted to do it themselves. We had to sign a line extension agreement, and that agreement calls for ten percent down. Then they will come up and do the drawings that were required to get our development permit.

The balance of that had to be paid within 60 days. [inaudible] so I had to come up with the money anyway and pay it. The contract we signed, the line extension agreement, which everybody has to do says that after we pay the balance of it they'll have to begin construction

within ten days. That's going to be seen in Exhibit N if you have any questions about the line extension and when they had to start their construction and all.

After all the design work and the drawings and plans were prepared they were submitted to staff. It was at that time that staff said that the subdivision was revoked. It seemed that the reason it was revoked was that someone in 1996 requested a master plan that would have increased the density for Lot 8-A from 50 to 98 lots. The master plan, although it was recorded was never signed by the owner. You can't really tell or be sure that the owner accepted it or not and approved it.

A new ordinance that was passed in 2003, it was Ordinance No. 2003-2. It said master plan approval does not confer vested rights. It states, and I quote if you look at Exhibit S. It says approval is solely predicated upon the preliminary determination with request to the validity of the essential integrity. The master plan doesn't give you anything is what it amounts to and also it doesn't take anything away from you. Although it doesn't take anything away from you I spent about a million and a half dollars on this project already. Relying on staff's assurance, the County Attorney's assurances and all, then we find out that the approval was revoked.

Approval of a subdivision requires action by the Board of County Commissioners. Revoking a subdivision is likewise cause for action by the Board of County Commissioners. It must be at one of their scheduled hearings. The property must be posted. Hearings must be published and neighbors notified. No such action took place. The Board of County Commissioners never rescinded this. The Board of County Commissioners approved this for 98 lots. We're not asking for 98 lots. We don't want that kind of a density there. We want to keep it the same as it is on phase 1. Phase 2 should be just the same.

I don't believe that the Land Use Administrator has the authority to overrule the Board of County Commissioners and revoke this subdivision. When we appealed this to the CDRC board decision and we learned that apparently, the Land Use Administrator does have the authority to override the Board of County Commissioners by a 2-3 vote. I don't believe that's true. I don't think that the Land Use Administrator can override this Board. So that's why we appealed their decision to the Board and that's why we're here tonight to see if he does have the authority to override this Board.

There were some questions about the utilities. Well, one of the problems was the line extension. The water company was required to start their construction within ten days from the final payment. I contracted other companies to design and install the utilities. I gave the utility company easements so that they could place upgraded cable and gas lines on my property that would improve service and provide gas for Tierra Colina, which is the first subdivision, [inaudible]

I talked to these companies and they said that they were never required to get a permit to do utility work unless it involved a crossing or a County right-of-way. The electric company did get a crossing at the crossing of Avenida Eldorado and that's already done. The Condore Construction company who installed probably 95 percent of the water lines in Santa Fe since 1968, I talked to them and they said they've never yet gotten a permit. Never heard of them

getting permit. Same with the electric company and the gas company. They operate under the PUC and they work on easements.

I did apply for a permit so that we could do the utilities. I was informed by staff that they were directed not to accept any applications submitted by Miller. Unlike Miller's applications have to go directly to the County Attorney. I instructed my attorney to communicate with the County Attorney to find out how this process works. It's a new, unique process that only applies to Miller. No other applicant is treated this way. My attorney attempted to contact the County Attorney on a variety of occasions, by phone and by letter. Asking for a clarification of this unique process. He never received a response. My applications have all been put on hold. I have other applications I've submitted in the meantime; they're all on hold.

If you look at the board over here you'll see a board with everybody's applications and the status of them and you'll see "Miller". It says "hold". There's a picture of that board in Exhibit DD, where you can see it says Miller Hold. It's not required of me to get a permit. I applied for a permit. They refused to issue a permit and now they want to put me in prison because I don't have a permit. They instructed the utility companies to stop work on my properties although there's nothing to prevent them from performing work other than staff's refusal to process my application. I find it interesting that utility companies are permitted to continue work on other people's property adjacent to mine without a permit.

There was some question about water too that was brought up. The current moratorium does not apply to this subdivision. This subdivision was approved, had final approval prior to the moratorium. The only condition of approval related to the water by the Board of County Commissioners requires that the waterline extension be installed to verify water. That's condition #4 on Exhibit B. To satisfy this condition a 10" water transportation line was installed during the phase 1 of Tierra Colinas. This pipe runs from Avenida Eldorado down to our property, along the east side of our property and over to Tierra Bella and it serves phase 1, Tierra Bella and is to serve phase 2, all 100 lots.

The 8" waterline, the distribution line, [inaudible] service lines, all have been installed, pressure-tested, chlorined and they're ready for service. You can see that in Exhibits H and N. Water taps at Tierra Bella have been allotted at the prior subdivision. Look at Exhibit C. It shows you on there. In addition to this, I transferred 50 water taps from lot 18-A. These taps I purchased from the Eldorado Water Company back in 1984. You can see that in paragraph 9 in Exhibit 9. They were bought and paid for and we're just starting to use them now. And I hope that this satisfies all the concerns for the final approval of Tierra Bella.

It's strange that an approved subdivision must be reaffirmed. No other development has ever been required a second Board of County Commission approval when nothing has changed from the first one.

Now there were some concerns about some of the third parties from Mr. Wentworth who is here now and he represents various parties in the area, expressing concern that Las Compadres Road is the access to [inaudible] and the people wish – if we use this road we're trespassing on their property. I had Mr. Martinez survey the legal designated 50-foot access

easement, portions of the road people were using. It did indeed meander off the legal access, in some places as much as 65 to 70 feet. Compadres is the main north-south road in the area and the County should have graded it back on to the easement where it belongs.

To correct this, I applied for a permit to grade the road myself into the designated access easement. I was told there were no permits for Miller. I then asked the Enko Company, Construction company to contract with them, to permit them to grade the road at my expense. They went to get a permit and they told them that they needed a plat plan, a recorded plan and I provided them with a recorded plan and they presented that and requested a permit and were told, Oh, this is for Miller. Anything for Miller has to go through the County Attorney.

I assessed my property and not trespass on other people's property [inaudible] You see these pictures of where the road was and where it is now. I respect these other people's concerns concerning Tierra Bella, using Compadres to get to Tierra Bella. But this is the main road in the area and the only access to my property. If and when I do get a permit and can go forward, Compadres Road along with all the roads in Tierra Bella will be paved. I met with the owners of Tierra Colina Subdivision to discuss the concerns with them. One of the concerns was of our roads hitching up to their roads. Neither one of us wanted to do that. We checked with the Fire Marshal and he required at least two of those roads hitched up because if they weren't people in Tierra Bella who needed emergency service coming from one of the fire departments on Vista Grande and had to go east on Vista Grande or Avenida Eldorado to 285 then south on 285 to the Spur Ranch Road and then go west again. With these new roads and the paved roads they'll have paved roads all the way through it, Compadres cut through Tierra Bella and they'll be right at - it will cut the distance at least 50 percent.

We have an agreement with Tierra Bella Subdivision to share our open spaces, provide miles of trails for enjoying Tierra Bella and Tierra Colinas. I'd be happy to sit down and rediscuss concerns with any of the landowners in the area and I ask the Board recognize this as a subdivision, as was approved and require the staff to issue [inaudible] so we can proceed. If you have any questions I can answer now or Mr. -

CHAIRMAN CAMPOS: Any questions for Mr. Miller? Okay.

MR. MILLER: Tom Wilson, who is the planner, who was the Land Use Administrator at the time this was all going on has a comment.

[Duly sworn, Tom Wilson testified as follows:]

TOM WILSON: My name is Tom Wilson. I'm a land use planner in Santa Fe County primarily, 144 Verano Loop. I don't think I have a whole lot to add. Joe made a fairly comprehensive presentation. The only thing I'd want to emphasize is if there are questions about the water issues. Now, Joe did reference the letter from Terrence Brennen, Exhibit C, that did at the time he wrote the letter document the approval and water taps for the subdivision. Following that, Mr. Miller in addition to the original water taps that were allocated to lot 8 and acknowledged by Santa Fe County there was a total of 79 water taps purchased from Eldorado Water Utility and that was related to the recently approved and filed Spirit Wind Subdivision on lot 18.

The Spirit Wind development used 22 of those water taps. The balance of 57 taps

remained with 50 taps being allocated to 8-A. That was further, that 1984 purchase agreement was further documented by district court cause and I've referenced the number here as 97-D-1329-CB-1102.

The other issue that was brought up was related to primary access to the parcel. That was created as an arterial roadway by the Eldorado plat of acreage parcelization on October 15, 1981, Book 107, pages 6 through 6A through 6C. Basically, all of the arterial roads in the area were dedicated by this plat to serve as primary access for the lots created and we understand the neighbors have concerns and we did look at their proposals but it would not utilize the dedicated arterial roadway, would yield a circuitous alignment that's not currently publicly dedicated and it would adversely impact owners in the area and from a planning perspective the use of this previously dedicated arterial roadway created in 1981 would provide safe and orderly traffic circulation and it would mean appropriate design standards and was approved by the Board in expectation of future development of this property.

I don't think that there's anything I could add right now, Mr. Chair and Board of County Commission. If there are any questions we'll try to answer those.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: I have a question. Could you tell me the significance of Exhibit D, which is an August 11th letter from Oralynn Guerrerortiz concerning subdivisions outside of the five-mile.

MR. WILSON: Well, it basically said that they would be exempt from controls that would happen after the date of the moratorium.

COMMISSIONER DURAN: So it states that all final plats shall be recorded within 18 months of the date of final approval by the BCC. And did Mr. Miller, or did this particular subdivision record its final plat.

MR. WILSON: But then it goes on to say, For subdivisions located outside the five-mile, approved prior to July 1, 1996, and this subdivision was 86, there is no filing deadline.

COMMISSIONER DURAN: Oh, okay. Right.

MR. WILSON: So you have to read it conjunctively.

COMMISSIONER DURAN: Right. So then based on this particular letter, your position is that you didn't have to file the final plat. Was the final plat ever filed?

MR. WILSON: It was our understanding from the state of law in New Mexico, and I would probably want to defer to Mr. VanAmberg that we didn't lose our approval and if we complied with all the conditions then it could be filed. And that's what Mr. Miller's attempting to do.

COMMISSIONER DURAN: Is to get the subdivision final. Finalize the plat.

MR. WILSON: By the compliance with the conditions of the 1986 approval.

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

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Wilson, on that same letter, I understand that Mr. Miller believes that this was a prior subdivision and that the master plan submittal that somehow somebody made and was apparently approved, he doesn't feel that that changes the prior approval that he had had earlier of this particular subdivision, which he didn't own at the time. Was that correct? It was owned by somebody else.

MR. WILSON: That's correct.

COMMISSIONER SULLIVAN: Okay. In that same letter that Oralynn Guerrerortiz wrote, it says for subdivisions located outside the five-mile EZ approved prior to July 1, 1996, which this was. It was approved in 86. Is that correct?

MR. WILSON: That is correct.

COMMISSIONER SULLIVAN: There is no filing deadline. Projects which receive final approval after this date must be filed within 24 months. So your position is that the 24 months doesn't apply. The 18 months doesn't apply. Nothing. That this was a subdivision. Staff's position to your understanding is you can't have two active approvals and you have, or someone had an active master plan approval while at the same time there was an active plat approval.

MR. WILSON: I think that's the staff's position.

COMMISSIONER SULLIVAN: If this were submitted in today's conditions under today's codes, how many lots could there be on this property?

MR. WILSON: It would depend on the water availability.

COMMISSIONER SULLIVAN: Based on the current ordinances?

MR. WILSON: If you're talking about Basin Fringe Zone, or -

COMMISSIONER SULLIVAN: Right.

MR. WILSON: Well, 12.5.

COMMISSIONER SULLIVAN: So what would that result in in terms of lots?

MR. WILSON: I don't have a calculator but less than the 50.

COMMISSIONER SULLIVAN: There's 200 acres is there?

MR. WILSON: 260.

COMMISSIONER DURAN: I have a calculator.

COMMISSIONER SULLIVAN: So 20 lots or something like that. Fifteen, 20 lots. Okay. And the engineering - so you've proceeded, and these improvements have already been completed, is that correct?

MR. WILSON: Well, the water, gas and electric, but no roadway improvements have been made.

COMMISSIONER SULLIVAN: No roadway work -

MR. WILSON: The engineering is substantially done by Mr. Martinez' firm.

COMMISSIONER SULLIVAN: Okay. And is Mr. Martinez a registered engineer in New Mexico?

MR. WILSON: His firm is capable of delivering sealed documents. You would have to ask him that question.

COMMISSIONER SULLIVAN: But he's the one who -

MR. WILSON: His firm.

COMMISSIONER SULLIVAN: He's doing the design.

MR. WILSON: The design was previously done. He's done the engineering, the drainage reports and those kinds of things.

COMMISSIONER SULLIVAN: So Mr. Martinez has done the engineering.

MR. WILSON: His firm has done the engineering. That is correct.

COMMISSIONER SULLIVAN: Has that been supervised by Mr. Martinez.

MR. WILSON: He's here. You could ask him those questions.

COMMISSIONER SULLIVAN: Okay. I will get to that later. I think that's all. Is Mr. VanAmberg going to –

MR. WILSON: I'm sure he'll have a few statements.

COMMISSIONER SULLIVAN: Okay. Because I have some questions for him as well. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay. Are we going to have Mr. VanAmberg as part of your presentation? Let's get moving.

MR. WILSON: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you, Mr. Wilson.

RONALD VANAMBERG: I'm Ronald VanAmberg, counsel for Mr. Miller. I just have a brief comment about the legal position that I am understanding the staff to take in this case, and that is that the – and it's not exactly clear, but there may be two positions that they take. One is that because of the passage of time this subdivision approval is no longer valid and the other is that because of a subsequent master plan approval, assuming that it was a valid master plan approval, that somehow results in a forfeiture of the previous approval that was obtained by Mr. Miller.

I'd like to point out that on June 15, 2004 an order on appeal was issued by Judge Hall relating to a position taken by the County which was very similar and that position was that there was a final development plan approval for Monte Alto Homes on a commercial piece of property in Eldorado which was obtained, I believe it was in 83 and that because of the passage of time, the approval had expired and that Monte Alto was not allowed to proceed with the development of that property in accordance with those approvals. Judge Hall informed us all that in order for there to be an expiration of an approval there had to be something in the ordinance that specifically provided that. There was nothing in the ordinance which provided that as far as development plans are concerned. There is nothing in the ordinance which provides that if you obtain master plan approval, even though master plan approval provides you with no rights and gives you no guarantees that any further approvals would be obtained, that there will then be an expiration or forfeiture of the approvals that you had previously obtained.

I am suggesting that the County staff is taking that same position and that is legally, I think, inappropriate, and that there has been a final subdivision approval, at least according to the last word of Judge Hall we should be allowed to proceed under the terms and conditions of that approval. Thank you.

And Commissioner Sullivan, I stand ready for any questions that you have.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: Mr. VanAmberg, I received, and I don't know if this is what the other Commissioners received, a packet that appeared in my office a few days ago dated June 29, 2004, with no return address on the envelope. No letterhead and no signature. Are you aware of where this came from or what this is?

MR. VANAMBERG: I'm counsel for Mr. Miller, but I was not involved in the details of these packages.

COMMISSIONER SULLIVAN: This is an unsigned packet that makes points on behalf of the Tierra Bella Subdivision. You're not aware of -

MR. VANAMBERG: I'm assuming that it was delivered by Mr. Miller or one of his representatives. Without seeing exactly what you have there. But I assume that the documents that you have, Commissioner Sullivan, are similar to those which are contained in the handout that was made this evening by Mr. Miller.

COMMISSIONER SULLIVAN: Some of them appear to be, including one in tab K of your handout. In this packet was a letter from you which I hadn't seen before addressed to the County Attorney dated June 8, 2004 where you attributed some actions and comments to me on page 2, personally. And my question to you is from where and from whom did you get this information?

MR. VANAMBERG: That was from Mr. Danny Martinez who apparently was present at the time some of these comments were made.

COMMISSIONER SULLIVAN: So Mr. Danny Martinez was present when I said some of these comments.

MR. VANAMBERG: That is my understanding but as I say, I was not there.

COMMISSIONER SULLIVAN: Okay, then I'd like to ask Mr. Martinez if there's no other questions for you then about this because I take strong exception to these. So, you didn't indicate that here. You just simply said in this letter that this was what happened. Is that correct?

MR. VANAMBERG: That is the information that I received, Mr. Commissioner.

COMMISSIONER SULLIVAN: Mr. Martinez, I've never talked with you about this project, have I? Mr. Martinez, prior to this day and this hearing, have I ever talked to you personally about this project?

[Duly sworn, Danny Martinez testified as follows:]

DANNY MARTINEZ: Mr. Chair, Commissioner Sullivan, I was in communication with Charlie Gonzales during a frito pie sale that was downstairs. He and I were talking about this project and the fact that the police were going to be sent out there to shut them down. You walked into the conversation and as you walked into the conversation you mentioned to Mr. Gonzales, have they gone out there and shut down that son of a bitch? And again, can I refer to Mr. Miller or his development? I don't know, but I know it was with

reference with the development in particular. And again, the reference to the s.o.b. was based on whether the sheriffs went out there and did anything to shut them down.

COMMISSIONER SULLIVAN: Okay. Well, this is totally a fabrication, Mr. Martinez. I don't know where you've come up with this and I don't know. I had a telephone conversation with Mr. Gonzales, Charlie, our Code Enforcement officer after receiving several inquiries about what was going on out there. I don't know where this comes from. I take umbrage to it.

Let me ask a second question. Have you been designing the engineering improvements on this project?

MR. MARTINEZ: Mr. Chair, Commissioner Sullivan, no, I'm not. I'm the planning coordinator for Mr. Miller. We are working with a firm from Albuquerque that is handling all the engineering. There are all the engineers that are involved in it and I don't see where I should become an issue for this project because we're not talking about engineering, we're just talking about whether we can get this approved or not.

COMMISSIONER SULLIVAN: I'm talking about the engineering. In the minutes of the meeting at the CDRC, you're identified as an engineer for the project. I believe also the staff, you have had some meetings with the staff, Santa Fe County staff at which time you identified yourself as the engineer for the project. The official minutes for the CDRC meeting says, Duly sworn, Danny Martinez, Engineer, indicated there was initially an issue involving a waterline and the owners spent over \$400,000 bringing the waterline to the property. So I assumed from that that you are the engineer for the property.

MR. MARTINEZ: Mr. Chair, Mr. Commissioner, again, I resent the fact that you're accusing me of being an engineer when I've just told you that I'm not the engineer of record. There's engineers of record that are working on the project. I take offense at the fact that you're trying to put me in a position that has to defend myself to misquotes in the previous documentation that you're talking about. Again, I represent myself as the planner coordinating for Mr. Miller. I have been hired to work for various engineering firms that we had worked with including the water design and the subdivision design. So, no, I am not the designer.

CHAIRMAN CAMPOS: But stop. We don't have to get into that issue.

MR. MARTINEZ: Thank you very much sir.

CHAIRMAN CAMPOS: Okay.

MR. MARTINEZ: Appreciate that.

CHAIRMAN CAMPOS: Any other questions. Okay. It's a public hearing.

Anybody out there wants to speak for or against. Sir.

MR. MARTINEZ: May I just briefly tell you what I was involved in?

CHAIRMAN CAMPOS: No. Thank you.

JOHN WENTWIRTH: Mr. Chair, members of the Commission, my name is John Wentwirth. I'm an attorney with the Jones Firm. I'm representing various homeowners in the area pro bono and it's my pleasure to do so. Let me address three things raised by the various proponents in the last 40 minutes. I will take no where near that time and know that time is precious, particularly at this late time. [Exhibit 17]

The first issue which was raised at CDRC is that supposedly Mr. Kopelman gave some kind of blessing to this. If that had happened, which I understand it has not, I think that it would be appropriate for them to present that evidence tonight to this Commission. Secondly, there was an argument made by Mr. VanAmberg about the Monte Alto case and how similar that is to what we're dealing with tonight and how this Commission should pay homage to that and be apprehensive about Judge Hall's ruling. Let me quote from perhaps the most unassailable source, Mr. VanAmberg himself in his pleadings in that case. "The only issue is whether the development approval expired." This is in the Monte Alto case. This is a much different question from the usual one of whether the enactment of an ordinance destroys a prior approval.

A second quote from Mr. VanAmberg, this one appearing immediately above his signature in a pleading submitted as an officer of the court to Judge Hall. "The only issue before this court is whether by the passage of time the final development plan approval for tract G has expired." There is no relation whatsoever, I would submit to this body, between the Monte Alto case and what is before you gentlemen this evening. The third point in response to comments made by proponents is that there has been no roads built. We live on that road. I walk that road six or seven days a week. There are roads built. They have been grubbed. They are drivable by any kind of vehicle, all of which has been done without benefit of any permit.

There is a suggestion that this saga begins in 1986. It actually begins before that. It begins with the plat which they referred you to. This plat bears a recordation date of 1981 and you will see in this plat, and this plat is of some 18,920 acres, lot 8-A and B is right here. At the top of this plat, which is recorded in 1981, it says, Notice. All further subdivisions development a parcel shown hereon must comply with the then current regulations and ordinances of the County of Santa Fe. It is clear and unmistakable that tract 8-A, tract 8-B must comply with the then existing rules, regulations and ordinances.

What does that mean? This Commission, not once, not twice, not three times - eight times since 1996 has adopted one form or another of the Eldorado moratoriums. I have those here if you would like to see them, if you would like me to make them of record, I have them here.

So this development which is now being sought in the year 2004 must comply with the current existing rules, regulations and ordinances. In 1986 there was approval. What was there approval of? A 546-acre tract. Not tract 8-A, not tract 8-B, because that didn't exist. In that condition of approval, 121 acres must be left undisturbed. That's pages 4 and 5 of what is in front of you. Subsequent to that, as shown on pages 6 and 7, there was a letter from the County Land Use Administrator, Mr. Martinez. Condition 4, The water extension must be approved to verify water availability prior to final plat. That has not been done. Subsequent to that, because this dispute, a dispute which ripened into litigation between the then owners of lot 8, what happened then is they petitioned and obtained approval for a division of lot 8. Lot 8 became, at that point lot 8-A and lot 8-B.

This was requested. It was filed. It is of record, filed in 1988. Again, a change to what happened from the original request in 1986. Subsequent to that there was a request by the then

owners of approval of a new master plan. Now we're on the third plan. First we get the 547 acres, then you get the lot split, 8-A, 8-B, then you get the third plan. What do we want now? We want a new master plan. And there was approval. But that approval, and this is at pages 9 and 10 of the packet, subject to the following conditions. They must provide an impact study to demonstrate the current water system is adequate. EDU must demonstrate that adequate water resources are available, subject to review and approval of the County and the State Engineer's Office.

There must also be prepared a detailed traffic report. Has any of that been done? Has there been a detailed traffic report? No. Has there been compliance with proof that the current water system is adequate? No. Has there been compliance with the condition that is subject to the review and approval of the County and the State Engineer's Office? No. Each and every one of those conditions has not been met.

At that time, August 11, 1996, and this is shown at item #11, page number 11, at that time there is a directive pursuant to subdivision regulation 3.3.5, all final plats must be recorded within 18 months of the date of the final approval by the BCC, otherwise, such approval shall become null and void. And that is not only what has happened here, that has been recorded. Subsequent to that, and way before Joe Miller ever purchased this property, which we'll get to in just a moment, in the year 2000, on January 21, 2000 - this is shown at pages 13 and 14 - there is a letter to Joe Miller's predecessor in interest and his counsel. It says you've asked about where we are in this. And let me quote from the County Attorney's letter shown on page 13 and 14. Paragraph 2. Due in part to factors surrounding planning, land use certainty and potential development with insufficient infrastructure, it is the Land Use Department's position that the application for an approval of a succeeding master plan extinguishes any prior land use or subdivision approvals for that property.

The bottom paragraph of that page, the conditions of approval on that plan were never complied with. A specific condition of approval requiring compliance before the plat could be recorded required proof of adequate water supply and infrastructure. That proof was never supplied.

Going to the next page, the 1986 final development plan was never completed and there was never any actual approval. The 1996 application and BCC approval subject to the conditions of the new master plan, evidence Mr. Gibbon's abandonment. Not extinguishment, abandonment of a 1986 plan. So clearly at that point, in the records of the County Commission is this letter, which is not only in the records of the County, I found it and I wasn't the one paying a million and a half or whatever it was, it also was sent to the predecessor in interest of Mr. Miller. Now, this is three years before he buys it.

The next document, page 15, is his warranty deed. The warranty deed reflects that he purchased this in May, 2003. He purchases this with knowledge. He is certainly charged with that knowledge of the contents of the January 21, 2000 letter from the County Attorney. And all through this period of time, beginning in '96 and '97, '98, there is moratorium after moratorium after moratorium. There are eight of them prior to the purchase or right around that time.

Subsequent to that, and there is a question. Mr. Miller suggests that his access should be through what he calls Avenida de Compadres. Avenida de Compadres, according to this County, stops at Avenida Eldorado. There is no road south of Avenida Eldorado called Avenida de Compadres. It doesn't exist. Why doesn't it exist? It is on private property. It is not a County road. It has not been dedicated and it has not been accepted by the County. So what has he done? Mr. Miller told you tonight. He asked for permission to relocate the road, to change the road, to grade the road and to move it where he wanted to, despite the fact that some of our neighbors, one of whom is sitting right behind me, spent in excess of \$1000 to get a survey to show where his property was, and the next day Mr. Miller's tractors rolled it over and destroyed those. So that is gone.

He relocated it without benefit of a permit, without talking to any of the neighbors, without any type of support from the County, because the County had said, No, you can't do that. So why does he claim access this way? Let's look at what Mr. Miller submitted to this County. The next page, page 16 are the covenants which he submitted. Mr. Miller submitted. Look at page 17, paragraph 6.14, access to lots. No lot may be accessed except for roads within the subdivision. No lot may be accessed from Spur Ranch Road or from Avenida de Compadres.

So what he's done, he's represented to the County in writing there will be no access here. He then tells the County, I want to move the road, some 65 feet, according to him, relocate it. The County tells him, No, don't do it and he did. Understanding and knowing that according to the covenants he submitted he has zero access from Avenida de Compadres and he does not.

Then there is a letter, again, this one is on page 19 to Mr. Miller, dated March 31, 2004. Again, explaining and this one is from Roman Abeyta explaining, No, you do not have any rights. No, we will not recognize that plat. It has been abandoned. There is no question about that. And again, they have that document.

On page 22, there are dual violations. There is a notice of violation issued by this County to Mr. Miller, dated April 30, 2004. After he received that, what happened? He continued to do the work. He continued to do the roads. He continued to dig the trenches, he continued to move and relocate the road. It's not even in for a part at all of any property he owns, which is owned by private people such as myself and the people behind me. He relocated it. So there's a second violation. That violation is at the bottom of page 22. They issued it on June 4, 2004. And what happens after he receives that? He continues.

Then there is a letter from Charlie Gonzales, which is at page 23 dated May 20 explaining the waterline installation, as a result of the waterline installation, the proposed road network has been cleared and grubbed. There's representation here tonight that that wasn't done. There's a photograph, which is at page 25 taken by Charlie Gonzales. Clearly there has been numerous violations by Mr. Miller. There has been no intent to comply with the rules and regulations. And finally, the County in a fit of desperation as shown on page 28, filed a lawsuit against Mr. Miller for his failure to comply with the multiple notices of violations.

So what they are seeking is in the interim, one of the many changes I didn't talk about,

is when they had the 98-lot approval. So there are more different approvals and every time there is a new proposal for a new approval the legal effect of that is that they have abandoned the previous request.

A couple of years ago in 2001, the United States Supreme Court very briefly addressed this kind of condition about a change of positions. And our United States Supreme Court, in *New Hampshire v. Maine*, 2001 states that "a party assumes a certain position and succeeds in maintaining that position he may not thereafter, simply because his interests have changed, assume a contrary position." That's the United States Supreme Court.

I would respectfully submit that there is no basis for approval of this request and respectfully request that it be denied. I'm happy to answer any questions of the Commission.

CHAIRMAN CAMPOS: Any questions? Thank you, sir.

MR. WENTWIRTH: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay. Anybody else? Okay, the public hearing is closed. Commission comments, discussion.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: I would like Steve Ross to give me his comments on what he's heard here today.

MR. ROSS: Mr. Chair, Commissioner Anaya, I don't know that it's appropriate for me to comment on things that have been made but I can tell you that when I looked at this matter several months ago with Mr. Abeyta and we studied the letter of Mr. Graeser from 2000, 2001, after studying all the documents and doing the research, the basic research, I found myself agreeing with Mr. Graeser and I still do today. Maybe for me the key is that split that occurred in 1988. In 1986 they approved a 100-lot subdivision, In 1988, they split the property, these are predecessors in interest, obviously. They split the property into two pieces. So we've gone from a 100-lot subdivision to a two lot subdivision at that point. For me that's where the original proposal to develop a 100-lot subdivision was abandoned.

Many, many, many years ago. It's not by operation of the County Code. It's not by forfeiture by the County. It's by an action by the then owner of the property. They split it in two. That to me evidences their intent not to build a 100-lot subdivision they have a two-lot subdivision. So for me it kind of begins and ends right there at that point in 1988. So I ended up agreeing with Mr. Graeser's opinion. Beyond that I'd be happy to answer any other question. That's kind of where I came down on the whole thing.

COMMISSIONER ANAYA: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Steve, what about the letter from Terrence Brennen, which kind of contradicts the Graeser letter seven years prior when he wrote this one.

MR. ROSS: Mr. Chair, Commissioner Montoya, you have to understand that letter was written in connection with a lawsuit concerning who had water taps. I don't know

from – I can't tell –

COMMISSIONER MONTOYA: The Brennen letter?

MR. ROSS: The Brennen letter.

COMMISSIONER MONTOYA: Was concerning a lawsuit?

MR. ROSS: There was a lawsuit concerning who owned water taps out there. I don't know, I can't tell from reading the letter what sort of investigation Mr. Brennen conducted at that time. I think the statements he made at least from me seemed out of context and unnecessary. The chief point of the letter was to discuss the water taps, not to make an evaluation of the condition of the subdivision. If he is talking about the subdivision, I simply disagree with his opinion.

COMMISSIONER MONTOYA: It says that since that approval has never been rescinded, amended or otherwise affected.

MR. ROSS: Right. Now, of course since then we've had the Graeser letter, which is contradictory to that.

COMMISSIONER MONTOYA: Right.

MR. ROSS: And then after that you have the purchase of the property in 2003. All that, and I think Mr. Wentwirth was getting into this. Those contradictory opinions, apparently contradictory opinions, at least created a duty to investigate on somebody's part and maybe that's why we're here today. But I don't read the Brennen letter as broadly as others would read it. I think that's where I come down on it. Just because I know the background of the letter.

COMMISSIONER MONTOYA: Mr. Chair, I have a question for Mr. Miller.

CHAIRMAN CAMPOS: Mr. Miller.

COMMISSIONER MONTOYA: Mr. Miller, when you purchased the property were you lead to believe that it was approved for what you've stated?

MR. MILLER: Well, yes. I had the copy of the approvals that the Board of County Commissioners sent out and said it was approved and I relied on them. Not only on them but we checked in with the County Attorney at the time and he said yes, it was an approved subdivision. And we even talked with Mr. Abeyta at the time and he looked it up too. He says, Yeah, I guess you got it and this is okay.

COMMISSIONER MONTOYA: Who was the attorney at that time?

MR. MILLER: The County Attorney at the time was Steve Kopelman. But he was, I think he had already put in his resignation. He was serving out the time until – Mr. Gonzalez sat in on it with us too. And Mr. VanAmberg was in on it too and can verify the discussions at the meeting.

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

CHAIRMAN CAMPOS: Okay, questions? Is there a motion?

COMMISSIONER SULLIVAN: Mr. Chair, I would move to uphold the decision of the CDRC.

CHAIRMAN CAMPOS: Okay, is there a second.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay, Discussion.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: I just have a question for Steve. In your opinion, how does this apply to the Monte Alto case? I know we talked about it earlier and I had some concern that an applicant might refer to that. What are your thoughts on that?

MR. ROSS: Well, Monte Alto, the Monte Alto situation is a similar fact situation but what's different is that the applicant, after getting a development plan approved did nothing. And the decision of the Land Use Administrator was to consider that plat had expired as a result of the pure passage of time. This is a different sort of situation. This is a situation where the owners of the land took actions that indicated to outsiders that they had abandoned the earlier plan or the earlier approvals.

COMMISSIONER DURAN: What was the plat that you mentioned, that took it back to two lots.

MR. ROSS: To two, right. Then there's also the subsequent master plan, the master planning that occurred. So there's several instances where the original product was changed by voluntary action of the landowner.

COMMISSIONER DURAN: Was the second lot – what happened to the second lot, not the one that Mr. Miller was talking about? Was the second lot subsequently subdivided into smaller parcels?

MR. ROSS: It was master planned and turned into a 50-lot subdivision which is called Tierra Colinas.

COMMISSIONER DURAN: Was that under the planning, say, the approved plan prior to the two-lot subdivision? Or was it actually platted separately?

MR. ROSS: It was redone. I've got the dates here.

COMMISSIONER DURAN: It was redone and the lots were reconfigured?

MR. ROSS: 1995, yes. It was – I don't know how radically reconfigured it was but it was reapproved by this Board in 1995.

COMMISSIONER DURAN: Do you know, Roman?

MR. ABEYTA: It came back to the Board of County Commissioners in 1995.

COMMISSIONER DURAN: But was it a different configuration?

MR. ABEYTA: I don't recall if it was or not.

COMMISSIONER DURAN: Okay. Thank you.

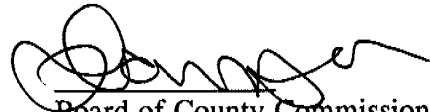
CHAIRMAN CAMPOS: Okay, motion and a second. Discussion?

The motion to uphold the CDRC's decision in CDRC Case #A 04-5151 passed by unanimous [5-0] voice vote.

ADJOURNMENT

Chairman Campos declared this meeting adjourned at approximately 10:15 p.m.

Approved by:




Board of County Commissioners
Paul Campos, Chairman

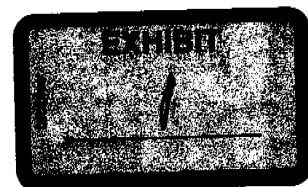
Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK

SFC CLERK RECORDED 09/14/2004



Gross Receipts Tax (GRT) Special Study Session

Santa Fe County
Finance -
Project & Facilities
Management
Departments



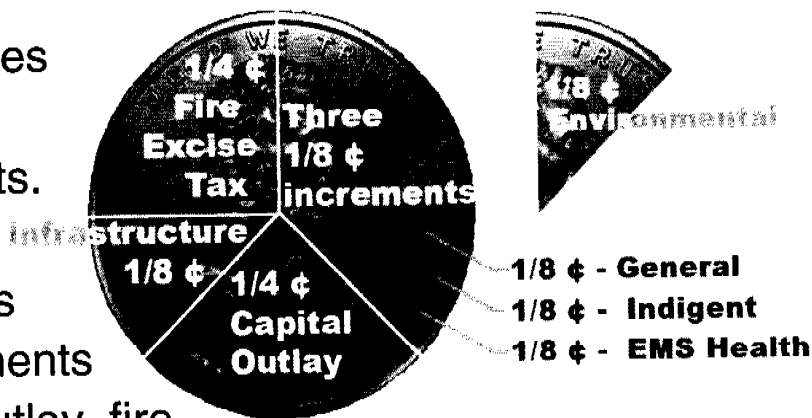
July 14, 2004

SFC CLERK RECORDED 09/14/2004






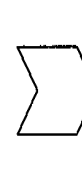




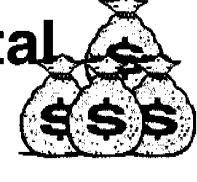
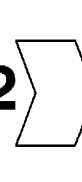
Overview Santa Fe County Gross Receipts Tax

Currently within the incorporated and unincorporated areas of Santa Fe County, seven (7) gross receipts taxes are implemented totaling 1-1/8 cents.

The existing gross receipt tax increments include: capital outlay, fire excise, infrastructure, general, indigent, ems/health and environmental.







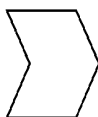
Incorporated & Unincorporated GRT Revenues (FY05)

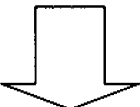
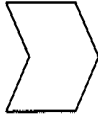
 <p>1/8 General</p>		<p>\$4.1</p>	 <p>General Fund Undedicated</p>
 <p>1/8 Indigent</p>		<p>\$4.1</p>	 <p>Indigent Fund Health Care</p>
 <p>1/8 Health</p>		<p>\$4.1</p>	 <p>EMS Health Care Health, Fire, EMS</p>
 <p>1/8 Capital</p>		<p>\$8.2</p>	 <p>Capital Outlay Fund (75%) Water (15%) Open Space (10%) Infrastructure</p>

Santa Fe County Unincorporated County FY 2005 Gross Receipts Tax Revenue

1/8 Infrastructure  \$0.7  General Fund
Solid Waste

1/4 Fire
Ex Tax   \$1.4  Fire Tax Fund
Fire Capital,
Buildings

1/8 Environ-
mental  \$0.7  General Fund
Solid Waste


Environmental  Water
GRT Fund Enterprise
Wastewater

Capital Outlay Gross Receipt Tax – ¼%

- Adopted March 26, 2002, effective January 1, 2003, to provide revenue for capital outlay projects in three (3) categories:
 - Water & Wastewater
 - Open Space/Parks
 - Roads & Other Permitted Uses
- Formula for distribution set by ordinance:

- Water & Wastewater	75%
- Open Space/Parks	15%
- Roads & Other Permitted Uses	10%
- In addition, distribution is split 50/50 between County and Regional Capital Outlay Projects (RPA)

Specific Regional Projects Set By Ordinance

- Buckman Rio Grande water diversion project and/or alternate Rio Grande water diversion project(s)
- Drinking water and wastewater infrastructure projects Development of return flow, water recharge, storm management and/or aquifer storage and recovery projects
- Development of water quality and quantity improvement projects
- Infrastructure for affordable housing projects
- City Railyard Park
- River restoration and acquisition of trail easements

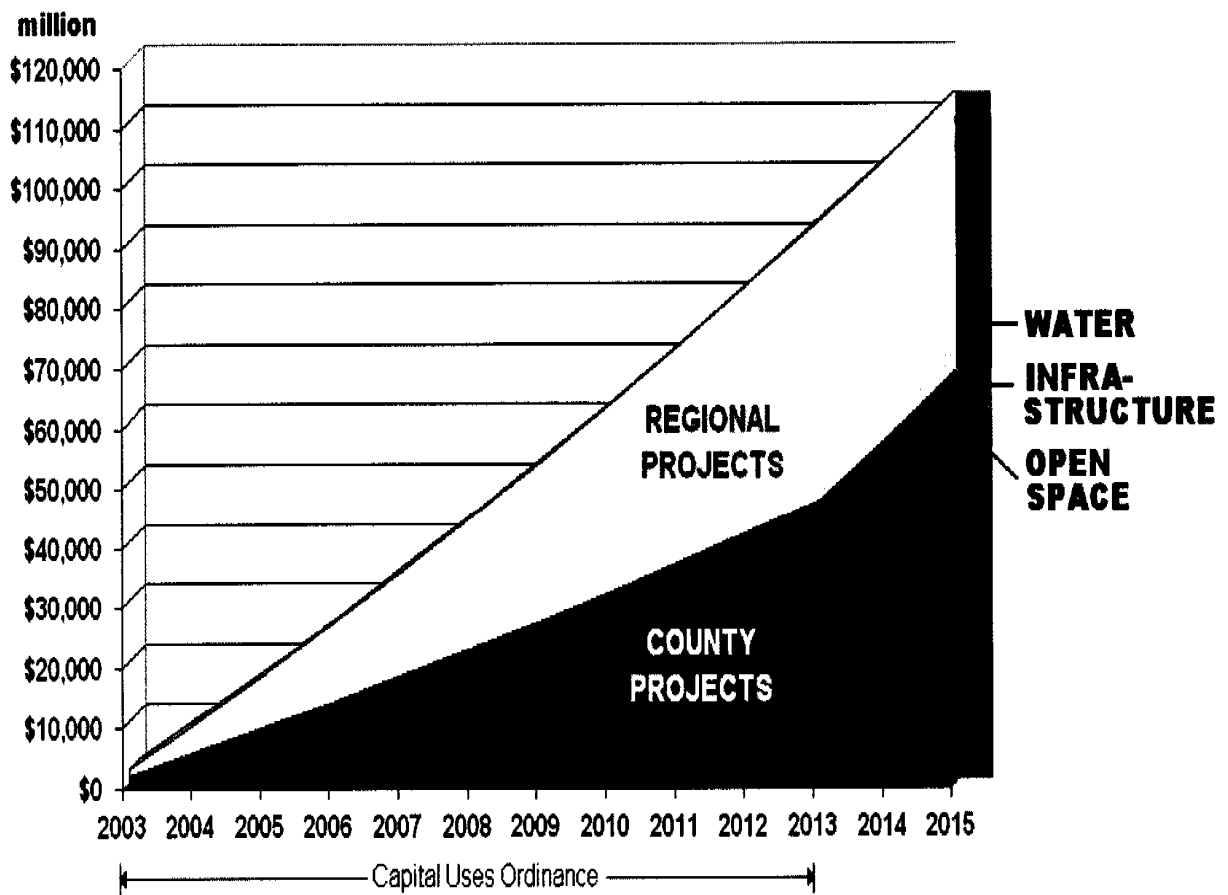
Specific County Projects Set By Ordinance

- Development of new wells and re-drilling or refurbishing existing wells outside the Buckman area
- Water and/or wastewater projects to protect and improve the aquifers in the La Cienega, Agua Fria, Edgewood and Eldorado Areas
- Water and/or wastewater projects in Northern Santa Fe County including communities in the Pojoaque, Tesuque, and Santa Cruz Valleys
- Acquisition of land for Open Space, trail networks and improvement of existing projects
- Santa Fe River Trail
- Santa Fe Rail Trail
- Various projects to enhance the safety of existing roads in Santa Fe County

Capital Outlay Permitted Uses

- Design, construction, acquisition, improvement, equipping, or furnishing of PUBLIC BUILDINGS OR FACILITIES.
- Acquisition, construction, or improvement of WATER, WASTEWATER or SOLID WASTE SYSTEMS OR FACILITIES
- Design, construction, acquisition, improvement or equipping of a COUNTY JAIL, JUVENILE DETENTION FACILITY, or MULTIPURPOSE REGIONAL ADULT OR JUVENILE DETENTION FACILITY.
- Construction, reconstruction, or improvement of ROADS, STREETS or BRIDGES including Rights of Way.
- Design, construction, acquisition, improvement or equipping of AIRPORT FACILITIES.
- Acquisition of LAND for OPEN SPACE, PUBLIC PARKS or PUBLIC RECREATIONAL FACILITIES.
- Payment of GROSS RECEIPTS TAX REVENUE BONDS.

Santa Fe County Capital Outlay GRT Cumulative Revenue



SFC CLERK RECORDED 09/14/2004

1/4 % Total GRT Revenue

- Fiscal Year 2003 (Actual) \$2,142,896
- Fiscal Year 2004 (Actual) \$8,180,596
- Fiscal Year 2005 (Projected) \$8,282,853
- Fiscal Year 2006 (Projected) \$8,386,389
- Fiscal Year 2007 (Projected) \$8,491,219
- Fiscal Year 2008 (Projected) \$8,597,359
- Fiscal Year 2009 (Projected) \$8,704,826
- Fiscal Year 2010 (Projected) \$8,813,636
- Fiscal Year 2011 (Projected) \$8,923,807
- Fiscal Year 2012 (Projected) \$9,035,354

1/4 % GRT Revenues - Water & Wastewater 75%

Regional		County	
FY03	\$1,071,446	FY03	\$535,726
FY04	\$3,067,723	FY04	\$3,067,723
FY05	\$3,106,070	FY05	\$3,106,070
FY06	\$3,144,896	FY06	\$3,144,896
FY07	\$3,184,207	FY07	\$3,184,207
FY08	\$3,224,010	FY08	\$3,224,010
FY09	\$3,264,310	FY09	\$3,264,310
FY10	\$3,305,114	FY10	\$3,305,114
FY11	\$3,346,427	FY11	\$3,346,427
FY12	\$3,388,258	FY12	\$3,388,258

1/4 % GRT Revenues – Open Space/Parks 15%

Regional		County	
FY03	\$0	FY03	\$321,434
FY04	\$613,545	FY04	\$613,545
FY05	\$621,214	FY05	\$621,214
FY06	\$628,979	FY06	\$628,979
FY07	\$636,841	FY07	\$636,841
FY08	\$644,802	FY08	\$644,802
FY09	\$652,862	FY09	\$652,862
FY10	\$661,023	FY10	\$661,023
FY11	\$669,285	FY11	\$669,285
FY12	\$677,652	FY12	\$677,652

1/4 % GRT Revenues – Roads & Other 10%

Regional		County	
FY03	\$0	FY03	\$214,290
FY04	\$409,030	FY04	\$409,030
FY05	\$414,143	FY05	\$414,143
FY06	\$419,319	FY06	\$419,319
FY07	\$424,561	FY07	\$424,561
FY08	\$429,868	FY08	\$429,868
FY09	\$435,241	FY09	\$435,241
FY10	\$440,682	FY10	\$440,682
FY11	\$446,190	FY11	\$446,190
FY12	\$451,768	FY12	\$451,768

Fire Protection Excise Tax - 1/4%

- Proceeds from this tax may be dedicated for the operation expenses, ambulance services or capital outlay costs of independent fire districts or for ambulance services provided by the County.
- Proceeds MAY NOT be used for salaries.
- Estimated FY05' revenue \$1.4 million dollars.

Infrastructure Gross Receipts Tax – 1/8%

- Proceeds from this tax may be used for: general purposes; payment of gross receipts tax revenue bonds; county infrastructure improvements, solid waste and wastewater facilities construction and operation; improving or operating a public transit system; construction and operation of a county jail or juvenile detention facility and inmate services, and implementing economic development plan.
- Currently proceeds dedicated to Solid Waste program.
- Estimated FY05' revenue \$700,000 dollars.

General Gross Receipts Tax – 1/8%

- Proceeds from this tax may be used for general operation expenses including but not limited to the County general fund, county road fund or both, except that 25% of the revenue must be set-aside if a reserve fund.
- Estimated FY05' revenue \$4.1 million dollars.

Indigent Gross Receipts Tax – 1/8%

- Proceeds from this tax are dedicated to the support of indigent patients who are residents of the County, revenue must be deposited in the County indigent hospital claims fund.
- Estimated FY05' revenue \$4.1 million dollars.

EMS/Health Gross Receipts Tax – 1/8%

- Proceeds from this tax may be dedicated for the operation and support of Health Care initiatives, Fire Protection and Emergency Medical Services.
- Estimated FY05' revenue \$4.1 million dollars.

Environmental Services Gross Receipts Tax – 1/8%

- Proceeds from this tax must be dedicated for the construction, operation, and maintenance of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities.
- Currently proceeds are dedicated to the General Fund for Solid Waste and Water Enterprise Fund for Wastewater projects.
- Estimated FY05' revenue \$700,000 dollars.



2004 Legislative Enabled Gross Receipts Tax



As a result of the enactment of Senate Bill 88 (signed 3/9/04), the County of Santa Fe has the enabling legislation necessary to implement/enact two additional gross receipt taxes.



These two additional taxes relate to the Correctional Facility Gross Receipts Tax and a General Purpose Gross Receipt Tax.

Santa Fe County 2004 Legislative Enabled Gross Receipts Taxes

1/8 Corrections
GRT  \$1.2*  Corrections
Fund
FY 2005

 \$4.2  Corrections
Fund
FY 2006

1/16 General
GRT  \$0.6*  General
Fund
FY 2005

 \$2.1  General
Fund
FY 2006

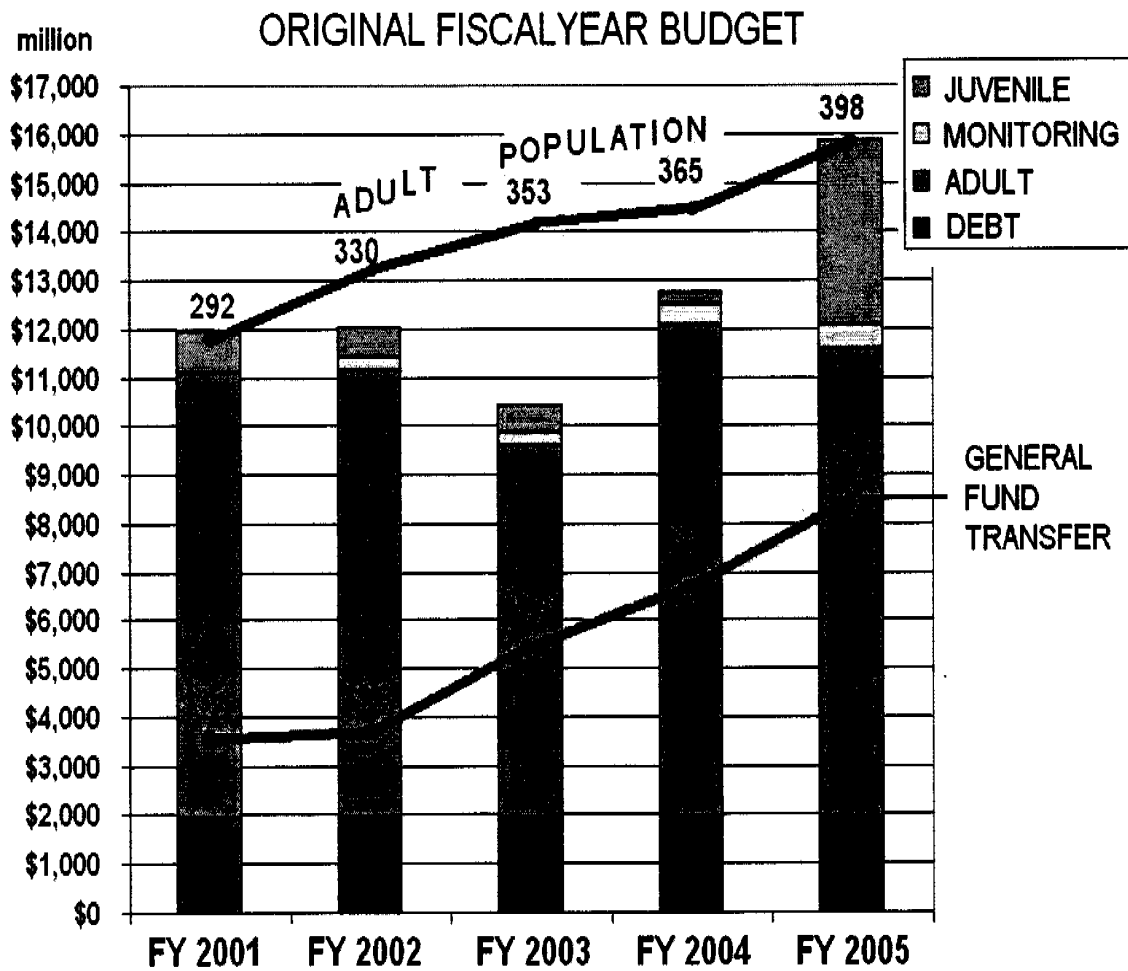
•Ordinance-enabled to be collected starting 1/1/05

If enacted by 7/30/04

Correctional Facility Gross Receipts Tax – 1/8%

- The proceeds from this tax may be used for constructing, operations, maintenance, purchasing, furnishing, equipping, rehabilitating, expanding, or improving a judicial-correctional or County correctional facility or grounds of a judicial-correctional or County correctional facility or to the payment of bonds. In addition, proceeds may also be utilized for expenses related to transporting and extraditing prisoners.
- Once enacted, estimated FY05' revenue \$1.2 million dollars; FY06' \$4.2 million dollars.

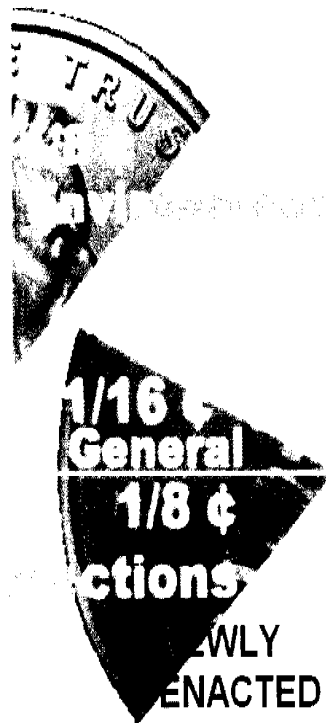
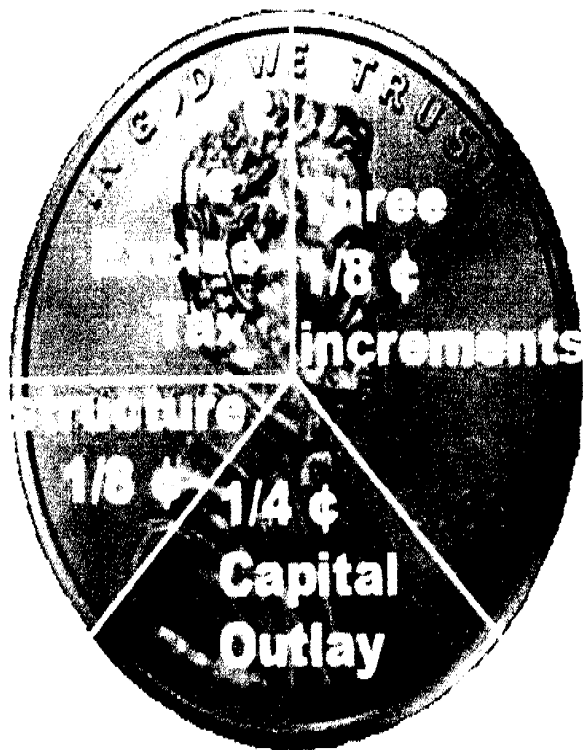
Santa Fe County General Fund Contribution to Corrections



General Purpose Gross Receipts Tax - 1/16%

- The proceeds from this tax are available for general purposes of County operations.
- If enacted, the estimated revenue for FY05' is \$~~2.7~~^{.6} million dollars.

Santa Fe County Gross Receipts Taxes After Enactments



SFC CLERK RECORDED 09/14/2004

GRT Expansion

- If the County enacts one or both of the 2004 enabling gross receipts tax increases, it is recommended that a long-range plan is developed that identifies or plans for, the shifting of the general fund obligations/expenditures.

GRT Expansion Long-Term Objectives:

- Personnel

- FTE Planning

- Facility Needs Assessment related to future growth of County Government to meet growing demands

- Increase in Program Areas & Services

- EMS/Health Care Fund

- New/Additional Programs & Services

- Administrative

- Corrections

- Public Safety

- Public Works

- Open Space & Trails-Parks & Rec.

- Information Technology

- Social Welfare Programs (youth, senior, health, housing, libraries, parks, cultural)

- Retention

- Position & Salary Reclassification Study

- Tenured Personnel in High Risk Work Class

GRT Expansion Long-Term Objectives:

- Infrastructure

- County Consolidated Administration &
Judicial Complex

- Economic Development Business Park

- Lease Management of Existing Facilities

- Solid Waste Transfer Stations – Upgrades,
Program Modifications

- Expansion of County Ancillary Services –
County Health Offices

GRT Expansion Long-Term Objectives:

- Risk Management

- Self Insurance Contingency Reserve

- Building Renovation

- Heavy Equipment Replacement

- Biomass Fuel Reduction

- Debt Management

- Contingency reserve for reconfiguration of
corrections facility and public
safety complex revenue bonds

- Reserve revenue flow for debt service on
consolidated administration/judicial
complex

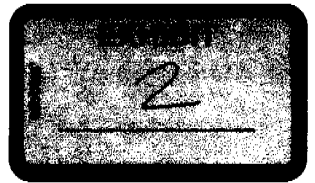
- Replenish and maintain cash reserves



P&F&M


Project & Facilities Management Department

SFC CLERK RECORDED 09/14/2004



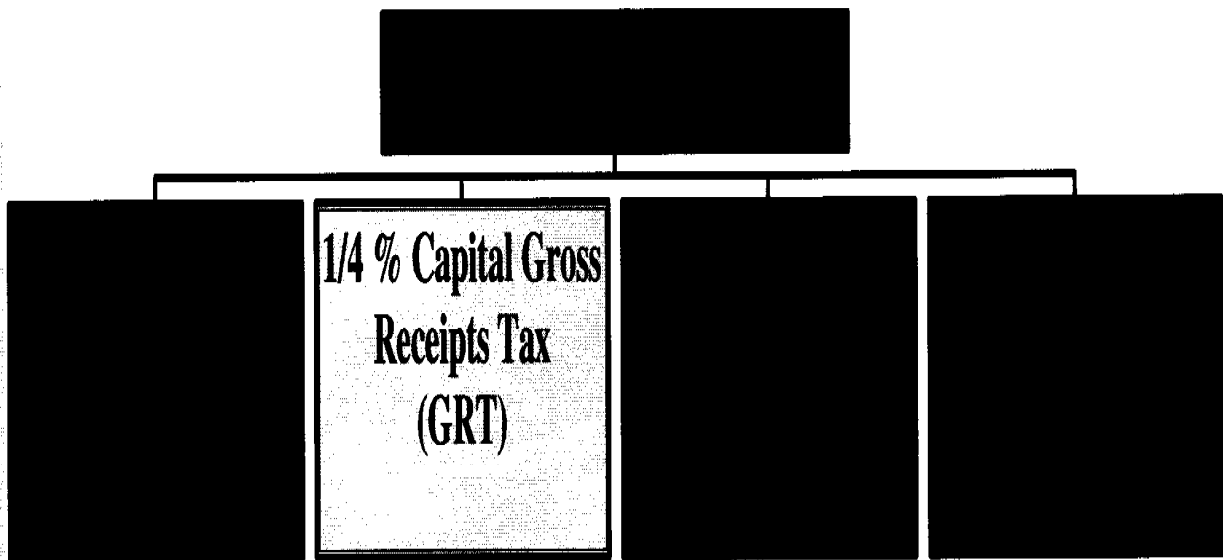
Gross Receipts Tax (GRT) Special Study Session Supplement

Santa Fe County
Finance -
Project & Facilities
Management
Departments


July 14, 2004

SFC CLERK RECORDED 09/14/2004

Capital Outlay Funding Sources:



Capital Outlay Gross Receipt Tax – ¼%

- Adopted March 26, 2002, effective January 1, 2003, to provide revenue for capital outlay projects in three (3) categories:
 - Water & Wastewater
 - Open Space/Parks
 - Roads & Other Permitted Uses
- Formula for distribution set by ordinance:

- Water & Wastewater	75%
- Open Space/Parks	15%
- Roads & Other Permitted Uses	10%
- In addition, distribution is split 50/50 between County and Regional Capital Outlay Projects (RPA)

Specific Regional Projects Set By Ordinance

- Buckman Rio Grande water diversion project and/or alternate Rio Grande water diversion project(s)
- Drinking water and wastewater infrastructure projects Development of return flow, water recharge, storm management and/or aquifer storage and recovery projects
- Development of water quality and quantity improvement projects
- Infrastructure for affordable housing projects
- City Railyard Park
- River restoration and acquisition of trail easements

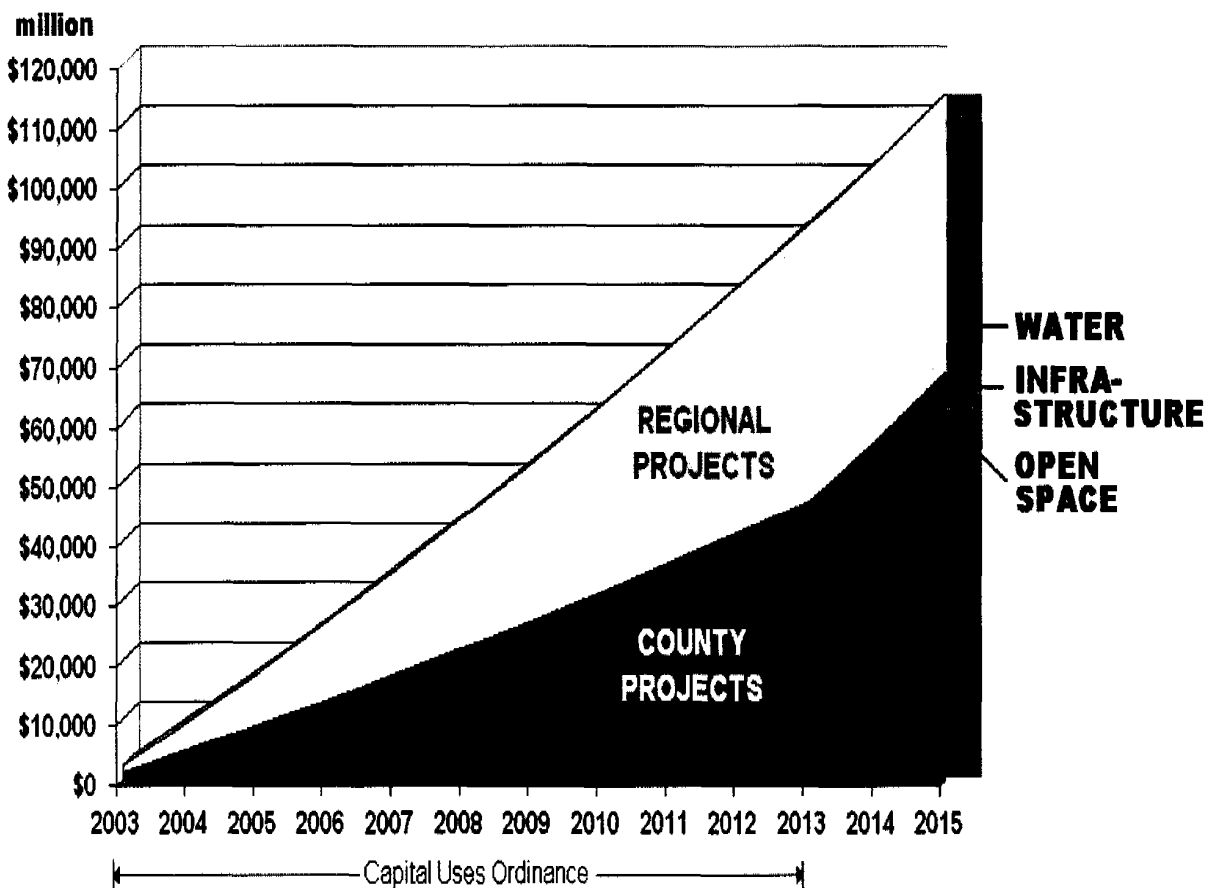
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SFC CLERK RECORDED 09/14/2004

1/4 % GRT Revenues – Open Space/Parks 15%

Regional	County
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SFC CLERK RECORDED 09/14/2004

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FY11 \$446,190	FY11 \$446,190
FY12 \$451,768	FY12 \$451,768

Water & Wastewater – Available Balance (FY04)

	Regional	County
● FY03' Actual	\$1,071,446	\$535,726
● FY04' Actual	<u>\$3,067,723</u>	<u>\$3,067,723</u>
● Total	\$4,139,169	\$3,603,449
● Less Obligated	\$0	(\$3,740,019)
● Fund Balance FY04'	\$4,139,169	(\$136,570)

SFC CLERK RECORDED 09/14/2004

Open Space/Parks – Available Balance (FY04)

	Regional	County
● FY03' Actual	\$0	\$321,434
● FY04' Actual	<u>\$613,545</u>	<u>\$613,545</u>
● Total	\$613,545	\$934,979
● Less Obligated	\$0	(\$729,783)
● Fund Balance FY04'	\$613,545	\$205,196

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Roads & Other – County Available Balance (FY04)

	Regional	County
● FY03' Actual	\$0	\$214,290
● FY04' Actual		
● Total	<u>\$409,030</u>	<u>\$409,030</u>
● Less Obligated	\$389,500	\$623,320
● Fund Balance	\$	(\$526, 254)
FY 04'	\$389,500	\$97,066

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Water – Wastewater Projects Obligated thru FY04'

● Kelly Water Rights	● \$79,741
● San Ildefonso Pilot Project	● \$10,412
● Entrada La Cienega & Paseo Cde Baca	● \$2,000
● Replacement & Install Water Meters	● \$181,980
● Acequia de los Herraras	● \$4,500
● 5 year sustainable water supply	● \$328,308
● Additional Water Lines in La Cienega	● \$300,000
● Water system improvements I-25 and CR54	● \$230,000
● Public Works well	● \$350,000
● Valle Vista Wells	● \$320,000
● Acquisition of water rights	● \$954,535
● Telemetry/upgrades	● \$180,000
● Camino Camino Polvoso	● \$120,000
● Valle Vista Wastewater	● \$250,000
● Pressure filter system	● \$150,000

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Open Space/Parks Projects Obligated thru FY04'

● Spur Trail	● \$2,571
● Stanley Park	● \$1,575
● Rail Trail	● \$3,339
● La Puebla Park	● \$5,887
● Potrero	● \$7,700
● San Ysidro River Crossing & Park	● \$226,315
● Madrid Greenbelt	● \$1,924
● Lamy Historical Park	● \$5,472
● Agua Fria Park	● \$100,000
● La Cienega Park	● \$25,000
● Cerrillos Hills Park	● \$55,000
● Petroglyph Hills	● \$50,000
● Rail Trail	● \$100,000
● Pojoaque Tennis Court	● \$100,000
	● \$45,000

SFC CLERK RECORDED 09/14/2004

Roads & Other Projects Obligated thru FY04'

- CR 73A ● \$80,834
- CR 8 ● \$60,513
- Basecourse Program ● \$125,000 ✓
- Avenida El Dorado Railroad Crossing ● \$22,573
- Coordinated Health Complex ● \$36,500
- Youth Shelters & Family Services PHII ● \$36,443
- Youth Development Facility ● \$36,500
- Vista Grande Senior Center ● \$36,500
- Stanley Youth Agricultural Complex ● \$36,500
- CR 55A ● \$122,391
- CR 74 (Match) ● \$45,000

2004 Capital Outlay Funding Strategy

- In preparation of the legislative strategy, PFMD presented a two (2) part Capital Outlay Plan that included the 2004-2009 ICIP document and the 2004 Capital Outlay Funding Strategy.
- PFMD with the assistance of the PWD identified existing partially funded capital outlay projects and presented those to the Board for appropriation of unbudgeted ¼% Capital Outlay funds.
- This approach allowed the County to leverage the funds and seek total project funding through the 2004 Legislative Session.
- *As a result of this effort, the County has received sufficient funding to remove the partially funded projects from the County's capital project listing.*

2005 Capital Outlay Funding Strategy

- On June 30, 2004, Santa Fe County completed its 2005-2010 Infrastructure Capital Improvement Plan.
- The plan includes projects that remain partially funded and as a result of the efforts of the County during the 2004 session, new capital outlay projects.
- It is anticipated that the 2005 funding strategy will be prepared utilizing the same concept as the 2004 Capital Outlay Funding Strategy.

Current Capital Outlay Projects with existing funding:

- Agua Fria Road PHII
- Youth Development Facility
- Public Works Facility
- \$1,000,000
- \$500,000
- \$4,000,000

Capital Outlay Projects with no existing County funding:

- Arroyo Seco Teen Center PHIII ● \$165,000
- La Cienega Mutual Domestic Water Association ● \$250,000
- City of Moriarty Youth Recreational Complex ● \$100,000
- Chimayo Regional Water-Wastewater Project ● \$1,000,000
- Canoncito Regional Water Project ● \$160,000

1/4 % Capital Outlay Funding Options FY04' Balance – FY05'



Option 1

% of each County project category divided equally between commission districts utilizing ICIP

Option 2

% of each County project category to existing capital outlay projects or new projects utilizing ICIP

% of each County project category divided equally between commission districts utilizing ICIP

Option 3

% of each County project category to existing capital outlay projects or new projects utilizing ICIP

% of each County project category to be utilized as revenue/debt service for capital outlay revenue bonds

% of each County project category divided equally between commission districts, utilizing ICIP

1/4 % Capital Outlay Funding Process

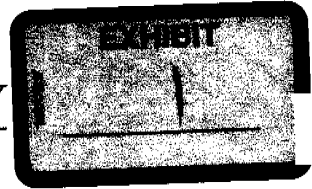


- Determine funding option and percentage of outlay
- Determine amount of funding and identify funding shortfalls (if any)
- Prepare Budget Adjustment Resolution for Board approval
- Complete 2005 Capital Outlay Funding Strategy – October 2004
- Prepare Legislative (State-Federal) Outlay Requests



SANTA FE PUBLIC LIBRARY

145 Washington Avenue, Santa Fe, New Mexico 87501
(505) 955-6789 / FAX (505) 955-6676



June 23, 2004

Gerald Gonzales, County Manager
Santa Fe County
P.O. Box 276
Santa Fe, New Mexico 87504-0276

Dear Mr. Gonzales:

The City of Santa Fe has two positions on its Library Board that are for county residents living outside the city limits. Shelly S. Moore currently occupies one of these positions and her term of office expires July, 2004. She would like to be re-appointed. Sandra Lujan holds the second position. Her term does not expire until July, 2005.

I made inquiries to solicit letters of interest from prospective candidates for this Board vacancy. I received a response from Shelly S. Moore. Her original letter of interest and resume are attached.

The current members of the Library Board have recommended the reappointment of Ms. Moore to fill this vacancy. The Mayor, with the approval of the City Council make appointments to the Library Board. Before I submit the Board's recommendation of Ms. Moore to Mayor Delgado, I would like to submit her name to the County Commission for its endorsement.

Would you please take this matter to the County Commissioners? If the Commissioners endorse the appointment of Shelly S. Moore to the City of Santa Fe Library Board, for a term to expire in July 2007, please send confirmation to me. I will then submit her name to Mayor Delgado for appointment..

If you have any questions, please give me a call at 955-6788. Thank you for your assistance.

Sincerely,

Susie Sonflieth
Interim Library Director

Enclosure

MAIN LIBRARY
145 Washington Ave.
Santa Fe 87501
955-6780

LA FARGE BRANCH
1730 Llano St.
Santa Fe 87505
955-4860

LIBRARY BOOKSTOP
P.O. Box 29778
Villa Linda Mall, Santa Fe 87592
955-2980

SFC CLERK RECORDED 09/14/2004

5 Baya Court
Santa Fe, NM 87508
July 10, 2001

Joanne Werger, Director
Santa Fe Public Library
145 Washington St.
Santa Fe, NM 87501

Dear Joanne,

I was delighted when Jeanette Woodward, Librarian of the Vista Grande Library in Eldorado asked if I would like to be considered for the opening on the Santa Fe Library Board.

As you suggested, I've attached a brief resume of my work history. Unfortunately, the demands of my job left little time for volunteering, none-the-less I have been a member of the 'Friends of the Library' in every community in which I've lived. Libraries have always been an important part in the lives of family and myself.

I'm impressed with the accessibility of the Santa Fe Library. Having branches in the communities as opposed to a single large downtown building, combined with a no-fine policy is unique in my experience.

As a volunteer at the new library (I work the circulation desk on Saturdays and catalog books, assigning call numbers on Wednesdays) I am excited to see this fledgling operation grow. I'd be most interested in assisting the Board in any way I could, especially in the development of new branches that may parallel that of the Vista Grade Library.

I'd be happy to answer any questions you may have. I look forward to hearing from you.

Sincerely,



Shelly S. Moore

SFC CLERK RECORDED 09/14/2004

SHELLY S. MOORE
5 Baya Court
Santa Fe, NM 87508

505.466.9636
ssmoore@aol.com

SUMMARY

A successful career in educational publishing of both print and multimedia materials.

PUBLISHING EXPERIENCE

PC&F Plus, San Mateo, CA President, CEO	1995-1997
International Thomson Publishing Integrated Media Group, Belmont, CA President, CEO	1993-1995
Southwestern Publishing Co., Cincinnati, OH Senior Vice President, General Manager	1990-1993
Addison-Wesley Publishing Co., Menlo Park, CA Vice President, General Manager	1983-1990
Mc-Graw Hill, New York, NY Editor-in Chief Webster Division	1982-1983
Addison-Wesley Publishing Co., Menlo Park, CA Managing Editor	1981-1982
Prindle, Weber Schmidt, Boston, MA Senior Editor	1979-1981
Allyn & Bacon, Boston, MA Editor	1976-1979

PRIOR EXPERIENCE

Over ten years in public education as a classroom teacher, curriculum coordinator and supervisor.

EDUCATION

Tufts University: B.S. Psychology
M.S. Psychology

SFC CLERK RECORDED 09/14/2004

ORDINANCE NO. 1980-41

CITY OF SANTA FE

AN ORDINANCE

REPEALING SECTIONS 15-1 THROUGH 15-10 SFCC 1973 (BEING ORDINANCE NO. 1962-13, SECTIONS 1 THROUGH 10, AS AMENDED BY ORDINANCE NO. 1976-20, SECTION 2, AND AS FURTHER AMENDED BY ORDINANCE NO. 1979-34, SECTIONS 15-1 THROUGH 15-10) RELATING TO THE PUBLIC LIBRARY, AND ENACTING NEW SECTIONS 15-1 THROUGH 15-10 SFCC 1973; AND DECLARING AN EMERGENCY.

~~BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:~~

Section 1. REPEAL.--Sections 15-1 through 15-10 SFCC 1973 (being Ordinance No. 1962-13, Sections 1 through 10, as amended by Ordinance No. 1976-20, Section 2, and as further amended by Ordinance No. 1979-34, Sections 15-1 through 15-10) are repealed.

Section 2. A new Section 15-1 SFCC 1973 is enacted to read:

"15-1. LIBRARY ESTABLISHED.--There hereby is established a free public library to be known as the "Santa Fe Public Library". The library is a proper and legitimate object of municipal expenditures and operation shall be considered as a part of the government of the city."

Section 3. A new Section 15-2 SFCC 1973 is enacted to read:

"15-2. LIBRARY FUND--BUDGET.--There is hereby created within the municipal budget of the city a library fund, and this fund shall be administered as are other funds of the city. All money derived from gifts, bequests or donations to the city for the library shall be placed in the library fund."

Section 4. A new Section 15-3 SFCC 1973 is enacted to read:

"15-3. LIBRARIAN AND OTHER PERSONNEL.--A duly qualified head librarian, other assistant librarians, or other personnel necessary for the operation and maintenance of the library shall be regularly employed by the city."

Section 5. A new Section 15-4 SFCC 1973 is enacted to read:

SFC CLERK RECORDED 09/14/2004

1 "15-4. DUTIES OF LIBRARIAN.--The duties of the librarian shall be
2 such as are usually imposed on persons in like employment. The head
3 librarian shall be considered the executive officer of the library board.
4 serve as the board's secretary, and shall have sole charge of the adminis-
5 tration of the library under the direction and review of the department
6 head and city manager. The head librarian shall be responsible for the
7 direction of the staff, the efficiency of the library service to the
8 public, the operation of the library and the financial condition set forth
9 in the annual budget. The librarian shall attend all library board meet-
10 ings."

11 Section 6. A new Section 15-5 SFCC 1973 is enacted to read:

12 "15-5. VIOLATION OF RULES--PUNISHMENT.--Any person violating any of
13 the provisions of this chapter or any of the rules and regulations of the
14 board posted in the library or carrying away without authority, misusing,
15 cutting, writing on, damaging, defacing, tearing or destroying any book,
16 periodical, map, newspaper or any property devoted to the public library
17 use shall be punished as provided in Section 1-5 SFCC 1973."

18 Section 7. A new Section 15-6 SFCC 1973 is enacted to read:

19 "15-6. LIBRARY BOARD CREATED--DUTIES.--

20 A. There is hereby created a public library board as an advisory
21 board to the city council. The board is hereby charged with setting, in
22 consultation with the head librarian and staff, policies on the use of the
23 library, book selection, acceptance of gifts and bequests; and such other
24 matters as a public library board may properly set policy on. The board
25 shall advise the librarian, professional staff and the city on matters,
26 including but not limited to library site and expansion, personnel and
27 budget.

* 28 B. The board shall also advise the Santa Fe county commission
29 on services provided to public library patrons residing outside the incor-
30 porated boundaries of the city.

31 C. It shall be the duty of the board to meet periodically as
32 necessary to set such policies and to advise the head librarian on

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1 management and operation of the public library."

2 Section 8. A new Section 15-7 SFCC 1973 is enacted to read:

3 "15-7. MANAGEMENT OF THE LIBRARY.--

4 A. The head librarian shall establish and operate the public
5 library and shall have control and management thereof including the powers
6 to:

7 (1) receive gifts, bequests and donations of all kinds,
8 according to the policy set by the board; and

9 (2) make bylaws, rules and regulations for the operation
10 of the public library not in conflict with other ordinances of the city.

11 B. These reasonable rules and regulations established by the
12 head librarian for regulating the public use of the facilities of the public
13 library shall be posted in conspicuous places in the library for public
14 inspection."

15 Section 9. A new Section 15-8 SFCC 1973 is enacted to read:

16 "15-8. MEMBERSHIP--APPOINTMENT--TERMS OF OFFICE--COMPENSATION OF
17 MEMBERS--ELECTION OF OFFICERS.--The board shall consist of seven members,
18 five of whom shall be residents of the city, and two of whom shall be
19 residents of Santa Fe county outside the incorporated boundaries of the
20 city. City resident members shall be appointed by the mayor with the
21 approval of the majority of the city council. County residents shall be
22 appointed by the mayor on advice of the county commission and with approval
23 of a majority of the city council. Members shall serve without compensa-
24 tion. The mayor with consent of the city council shall also designate
25 from the council an ex-officio member of the library board. Library mem-
26 bers shall serve three-year staggered terms. Members shall be appointed
27 to and shall serve no more than two consecutive full terms, provided,
28 however, that such limitation shall not apply to any partial terms to
29 which members may from time to time be appointed on account of vacancies
30 occurring on the board as a result of resignation, death or removal of
31 members who leave the board before completion of their regular terms. Terms
32 of ex-officio members from the city council shall be for two years, with

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1 no regard for terms of office of regular members and with no limitations
2 as to number of consecutive terms an ex-officio member may serve. At the
3 board's first regular meeting in July of each even-numbered year, members
4 shall elect a president, vice-president, and such other officers as may be
5 necessary and proper to carry out the functions of a public library board."

6 Section 10. A new Section 15-9 SFCC 1973 is enacted to read:

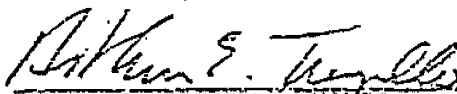
7 "15-9. REMOVAL OF MEMBERS.--Members of the library board shall serve
8 at the pleasure of the city council and may be removed at any time by them."

9 Section 11. A new Section 15-10 SFCC 1973 is enacted to read:

10 ~~"15-10. FILLING OF VACANCIES.--On the death, removal, resignation,~~
11 change of residence from the city or inability of a member of the board to
12 act, a vacancy on the board shall exist. This vacancy shall be filled by
13 appointment by the mayor with the consent and approval of the city council
14 for the unexpired term of such member."

15 Section 12. EMERGENCY.--It is necessary for the public peace, health
16 and safety that this ordinance take effect immediately.

17 PASSED, APPROVED and ADOPTED this 27th day of August, 1980.

18
19 
20 ARTHUR E. TRUJILLO, MAYOR




HELEN D. SZELO, CITY CLERK & TREASURER

SFC CLERK RECORDED 09/14/2004
CITY CLERK RECORDED 09/14/2004

1 "15-4. DUTIES OF LIBRARIAN.--The duties of the librarian shall be
2 such as are usually imposed on persons in like employment. The head
3 librarian shall be considered the executive officer of the library board,
4 serve as the board's secretary, and shall have sole charge of the adminis-
5 tration of the library under the direction and review of the department
6 head and city manager. The head librarian shall be responsible for the
7 direction of the staff, the efficiency of the library service to the
8 public, the operation of the library and the financial condition set forth
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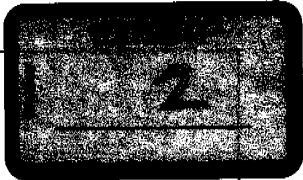
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20 ARTHUR E. TRUJILLO, MAYOR



**County of Santa Fe
North Central Regional Transit District (NCRTD)
Summary Sheet**



**Requested Action: Need formal resolution to join the
North Central Regional Transit District**

1. The proposed members of the North Central Regional Transit District are: **CITY OF ESPAÑOLA, COUNTY OF LOS ALAMOS, PUEBLO OF NAMBÉ, PUEBLO OF POJOAQUE, COUNTY OF RÍO ARRIBA, PUEBLO OF SAN ILDEFONSO, PUEBLO OF SAN JUAN, PUEBLO OF SANTA CLARA, CITY OF SANTA FE, COUNTY OF SANTA FE, AND PUEBLO OF TESUQUE.**

Bold indicates governmental entities which have passed resolutions to join the North Central Regional Transit District as of July 14, 2004.

2. The designated representatives from each governmental unit include:

County of Río Arriba – Ramon Dominguez

City of Española – Leonard Padilla

County of Los Alamos – Tony Sarconi

Pueblo of Pojoaque – James Rivera

Pueblo of San Ildefonso – Sean Hughes

Pueblo of San Juan – Ron Lovato

Pueblo of Santa Clara – Ernestine Naranjo

Pueblo of Santa Clara – Edwin Tafoya

City of Santa Fe – Jon Bulthuis

City of Santa Fe – Tom Williams

County of Santa Fe – Jack Kolkmeier

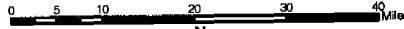
Pueblo of Tesuque – Larry Samuel

3. The District, being a governmental entity, a multimodal public transit district would recognize as its purpose the development, operation, management, and improvement of transportation systems serving residents in the North Central New Mexico Region.
4. There is **no waiver of sovereignty** to become a member of the NCRTD
5. The Chairperson of the Commission shall nominate an individual, elected to a County of Santa Fe office, to serve as a Director on the NCRTD Board of Directors. The governing body of the County of Santa Fe shall approve the Chair's nomination. The Director shall hold such office until removed by the appointing Member, or until s/he no longer holds elective office in the governing body of the appointing Member, or until s/he submits a written resignation to the Chairman. In any event, Directors shall not serve a term longer than 4 years unless re-appointed by their Member governing body.
6. The vote of each Member on the Board shall be weighted to reflect differences in population size among the Members.
7. A Member of the District may withdraw from the District by adopting a resolution to **withdraw at any time**. The Member shall withdraw its representative from the Board of Directors.
8. The NMDOT has committed \$250k to the NCRTD once it is certified by the New Mexico Transportation Commission.

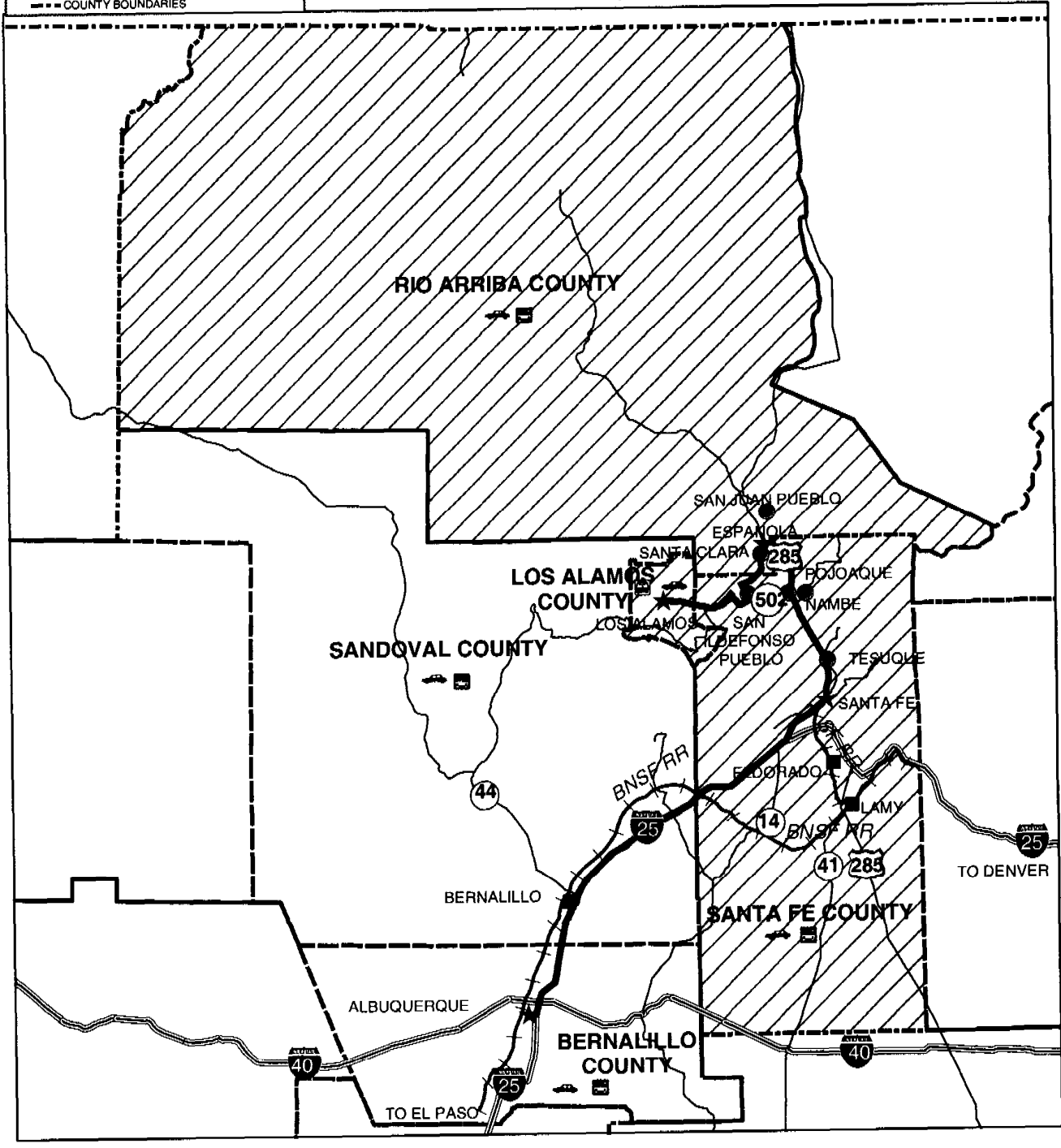
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Regional Transit Mobility Concept for the North Central Regional Transit District

- LEGEND**
- COMMUNITIES
 - ★ CITIES WITH LOCAL TRANSIT SYSTEMS
 - PUEBLOS
 - COUNTY AVAILABLE CARPOOL/
VANPOOL PROGRAMS
 - ▭ PROPOSED TRANSIT DISTRICT
 - EXISTING PARK & RIDE CORRIDORS
 - STATE HIGHWAYS
 - INTERSTATES
 - RAILROADS
 - - - COUNTY BOUNDARIES

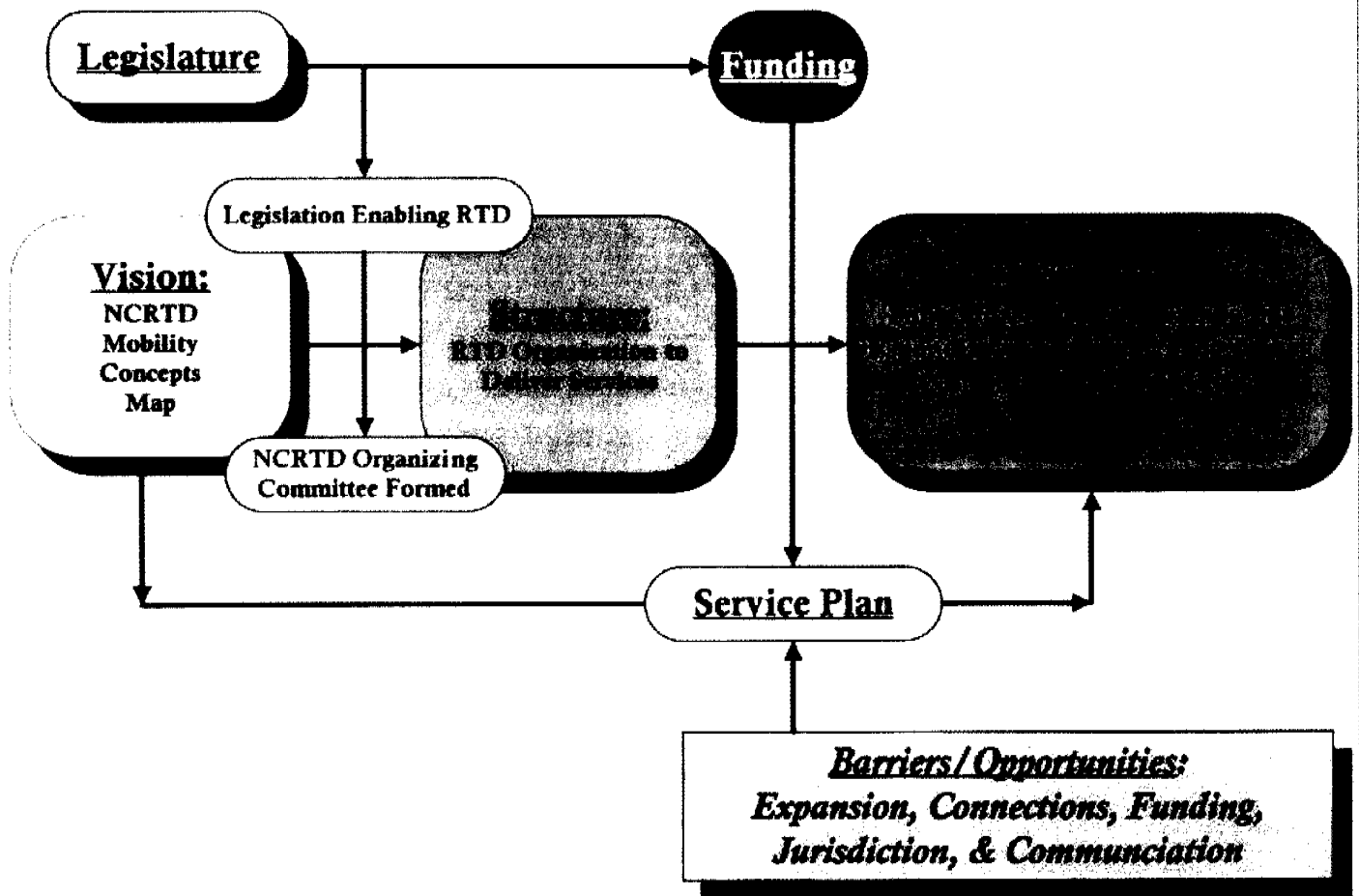


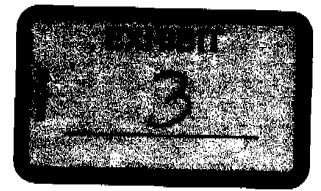
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Santa Fe GIS
February 2004



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MAPPING THE RTD VISION





**SANTA FE COUNTY
LEGAL DEPARTMENT
MEMORANDUM**

To: The Board of County Commissioners

From: Stephen C. Ross, County Attorney

Re: Conflict of Interest Ordinance; New Provisions Affecting Employment Following Government Service

Date: June 2, 2004

Attached is a copy of an amendment to the Elections and Ethics Ordinance (1993-1) that restricts employment following government service on matters in which the person participated personally and substantially. We discussed this last during the meeting of April 27. At that time, the consensus of the Board seemed to be that such restrictions be imposed for a period of one year, and the draft ordinance attached to this memorandum does so. All proposed amendments are underlined. The title and general summary of the proposed amendment were published as required by statute and the amended ordinance is now ready for adoption, if you choose.

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ORDINANCE NO. 2004-

**AN ORDINANCE AMENDING ORDINANCE NO. 1993-1 TO
LIMIT PARTICIPATION WITHIN ONE YEAR AFTER
COMPLETION OF COUNTY GOVERNMENT SERVICE
ON MATTERS IN WHICH A PERSON HAS
PARTICIPATED PERSONALLY AND SUBSTANTIALLY;
REPEALING ORDINANCE NO. 1993-1.**

**BE IT ENACTED BY THE BOARD OF COUNTY
COMMISSIONERS OF SANTA FE COUNTY:**

Section 1. SHORT TITLE.

This ordinance may be cited as the "Elections and Ethics Ordinance".

Section 2. TABLE OF CONTENTS.

- Sec. 1. Short Title.
- Sec. 2. Table of Contents.
- Sec. 3. Purpose of Ordinance.
- Sec. 4. Definitions.
- Sec. 5. Non-Partisanship.
- Sec. 6. Public Trust.
- Sec. 7. Public Interest.
- Sec. 8. Conduct Avoiding Impropriety.
- Sec. 9. Limitations on Employment Following Government Service
- Sec. 10. Conflict of Interest; Disclosure.
- Sec. 11. Confidential Information and misuse of Non-public Information.
- Sec. 12. Procedure for Investigating Complaints.
- Sec. 13. Probable Cause Determination.
- Sec. 14. Appeals.
- Sec. 15. Sanctions.
- Sec. 16. Duty to Report Improper Offers.
- Sec. 17. Misuse of County property and Resources for Private Gain or Personal Advantage.
- Sec. 18. Misuse of County Property and Resources for Political Purposes.
- Sec. 19. Use of Non-Public Information for Private Gain.
- Sec. 20. Misuse of Title or Prestige of Office for Private Gain or Personal Advantage.
- Sec. 21. Proper Uses of Campaign Funds.
- Sec. 22. Prohibited Uses of Campaign Funds.

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- (c) works of art or collectibles;
- (d) stocks, bonds, notes or options;
- (e) an interest in real property;
- (f) contracts or a promise of a future interest in a contract;
- (g) an interest or a promise of a future interest in a business;
- (h) meals, beverages or lodging;
- (i) transportation and related travel expenses;
- (j) services, including loaned employees;
- (k) loans, loan guarantees or co-signing;
- (l) loans at below market interest;
- (m) forgiveness of a debt;
- (n) discounts or rebates not extended to the public generally;
- (o) preferential treatment;
- (p) tickets of admission;
- (q) paid compensation not commensurate with the fair and reasonable value of the services rendered;
- (r) free or discounted use of office equipment and facilities;
- (s) intentional overpayment or knowing duplicate payments for expenses or costs;
- (t) radio or television time which is not paid at fair market value;
- (u) promise or offer of present or future employment;
- (v) use of autos, boats, apartments, or other recreational or lodging facilities;
- (w) intangible rights such as a cause of action;
- (x) licenses, patents, copyrights, or an interest in them; and
- (y) any other item, tangible or intangible, having economic value.

(2) **“Anything of value”, “benefit” or “thing of value”** does not include political endorsements, support in a political campaign or a promise of endorsement or support.

C. **“Appointed Official”** means a person who is appointed by the Board of County Commissioners, who is not a paid County employee or who is appointed to serve on a County Board, Commission, or Committee established by the Board of Commissioners.

- D. **“Board of Commissioners”** means the Board of County Commissioners of Santa Fe County.
- E. **“Candidate”** means a person who has filed a declaration of candidacy as an Elected Official of the County.”
- F. **“Close personal relationship”** means a special relationship between an Elected Official, Appointed Official, or County employee and another person that creates strong bonds of loyalty, friendship or love that could potentially conflict with public duties and the obligation to exercise objective independent judgment, or could create the appearance that the other person may have access to confidential information or otherwise receive favored treatment regarding administrative actions; the term includes relationships with immediate family members, long-term personal friends, former business associates and persons with whom an Elected Official, Appointed Official, or County employee has a significant and continuous romantic relationship.
- G. **“Compensation”** means remuneration for services rendered, including salary, fees, commissions, bonuses, and similar payments, but excluding reimbursement for actual expenses incurred by a person.
- H. **“Confidential information”** means information that has been classified as confidential by law.
- I. **“County Employee”** means a person who is hired and employed by the County of Santa Fe.
- J. **“Earned income”** means income from wages, salaries, professional fees, and compensation received or promised for personal services rendered. “Earned income” does not include:
- (1) any income derived from stocks, bonds, property, or other investments, or from retail or wholesale sales;
 - (2) any amount paid by or on behalf of an Elected Official to a tax-qualified pension, profit-sharing or stock bonus plan received by the Elected official from the plan; or

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- Sec. 23. Disbursement of Surplus Campaign Funds.
- Sec. 24. Coercion.
- Sec. 25. Penalties.
- Sec. 26. Repeal
- Sec. 27. Effective Date.

Section 3. PURPOSE OF ORDINANCE.

- A. The purpose of the Elections and Ethics Ordinance is:
 - (1) to assure the integrity of representative and elective government and to sustain the confidence and trust of the residents of Santa Fe County in their elected and appointed officials, and in the county governmental process; and
 - (2) to provide a comprehensive and unified statement of the ethical principles, considerations and obligations inherent in government service and to establish specific standards of conduct to ensure that those entrusted with public authority avoid conduct that might undermine the people's respect for the County government.

Section 4. DEFINITIONS.

For the purpose of this Ordinance, the following phrases and words, and their derivations have the following meanings. Where appropriate, the singular includes the plural. The word "shall" is always mandatory and not merely directory.

- A. **"Administrative Action"** means conduct related to the application, or interpretation of a County Ordinance or a state statute, or a proceeding involving a license, permit, franchise or development use.
- B. **"Anything of Value", "benefit" or "thing of value"** includes all matters, whether tangible or intangible, that could reasonably be considered to be of advantage or worth, use or service to the person to whom they are conferred.
 - (1) **"Anything of value", "benefit" or "thing of value"** includes:
 - (a) money, which includes campaign contributions or pledges;
 - (b) products or merchandise;

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- (3) community property interest in the income of a spouse.
- K. **“Elected Official”** means an individual elected by popular vote or appointed to fill a vacancy in elective office (i.e., County Commissioner, County Clerk, County Treasurer, County Sheriff, County Assessor, County Surveyor and Probate Judge).
- L. **“Immediate family”** includes spouses, children of siblings, parents, grandparents, grandchildren, like in-laws, and like step-relationships.
- M. **“Non-public information”** means information that:
 - (1) is obtained in the course of an Elected Official’s, Appointed Official’s or a County employee’s governmental duties and is subject to public inspection under state law, but that, because of its nature, is not readily accessible to the public; and
 - (2) if used or disclosed, a personal benefit or advantage is likely to result.
- N. **“Personal benefit”** means the obtaining or the promise of obtaining anything of value.
- O. **“Political action”** means conduct in which Elected Officials or Appointed Officials use their official positions to exercise influence on County employees, Elected Officials or Appointed Officials use their official positions to exercise influence on County employees, Elected Officials or Appointed Officials; the term includes intervention on behalf of constituents with a governmental agency, and endorsement, pledging support, or actively supporting a County governmental matter, a nominee or a candidate for public office.
- P. **“Reasonably should know”** means that, under the circumstances, a reasonable person would know a fact.

Section 5. NON-PARTISANSHIP.

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All actions, decisions and votes on matters relating to the County government shall be made on their merits. Decisions shall be made objectively, and without party or partisanship considerations, or without facts which are not directly and properly related to the matter requiring action.

Section 6. PUBLIC TRUST.

- A. Elected Officials, Appointed Officials, and County Employees shall Act according to the highest principles of representative democracy to ensure that the County government is worthy of public respect, trust and support.
- B. Elected Officials, Appointed Officials, and County employees shall not engage in conduct that they know or reasonably should know is likely to create in the minds of reasonable, objective, fair-minded observers the perception that they have used their public positions improperly or otherwise have not conducted themselves in accordance with the ethical standards of conduct of this Ordinance.

Section 7. PUBLIC INTEREST.

- A. In pursuing the public interest, Elected Officials shall scrupulously observe and abide by the constitutions of the United States and of New Mexico Statutes, County Ordinances, and all applicable laws and democratic and administrative processes.
- B. In pursuing the public interest, Elected Officials shall pursue the broad public good.
- C. Elected Officials shall ensure that County government is conducted efficiently, equitably and honorably.

Section 8. CONDUCT AVOIDING IMPROPRIETY.

- A. Elected Officials, Appointed Officials, and County employees shall avoid conduct that creates the appearance of impropriety or that is otherwise unbecoming a public official.
- B. Elected Officials, Appointed Officials, and County employees shall not knowingly engage in conduct that violates the rights of others to be treated fairly and with dignity and respect.

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- C. Elected Officials, Appointed Officials, and County employees shall refrain from engaging in conduct, even if lawful, where personal gain or advantage is involved in away that creates a reasonable inference that such office has been used for private benefit.
- D. The Board of Commissioners may from time to time adopt a Resolution which approves a Disclosure Statement for use by the County. All Elected Officials and Appointed Officials shall fill out such a Disclosure Statement, once such a form is adopted for use by the Board of Commissioners, and such Disclosure Statement shall be retained in the office of the County Manager for public inspection.

Section 9. LIMITATIONS ON EMPLOYMENT FOLLOWING GOVERNMENT SERVICE.

A former Elected Official, Appointed Official or County employee shall not represent a person in dealings with Santa Fe County government on a matter in which the former Elected Official, Appointed Official or County employee participated personally and substantially while an Elected Official, Appointed Official or County employee, for period of one year following termination of service or employment.

Section 10. CONFLICT OF INTEREST: DISCLOSURE.

- A. Elected Officials and Appointed Officials shall:
 - (1) avoid transactions and relationships that create conflicts of interest and improper influences. Where the interests and influences are unavoidable, Elected Officials shall subordinate their other interests to their public duties; and
 - (2) exercise their powers and prerogatives without prejudice or favoritism to hire, promote, or simply to reward their immediate family, other relatives, friends, or political supporters, or to hinder or punish enemies and opponents. Elected Officials and Appointed Officials shall not vote for or otherwise participate in the negotiation or the making of any contract with any person, business or

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other entity in which the Official has a direct or indirect financial interest.

- B. Elected Officials or Appointed Officials who intervene in an administrative action shall explicitly convey to the County administrator involved judgment and that no advantage or disadvantage to the administrator or the County will result from a favorable or unfavorable disposition.
- C. Elected Officials shall assure that constituents and others who may be affected by their decisions have a fair and reasonable opportunity to express their concerns, grievances, and ideas without regard to their willingness or ability to provide personal benefits or political support to the Elected Official.
- D. Elected Officials, Appointed Officials, and County employees shall not engage in any conduct that could create in the mind of a reasonable observer the belief that persons will receive better or different service if they provide personal benefits or political or charitable contributions shall not be solicited or accepted under circumstances that create a reasonable belief that special access, services, favors, or official or unofficial actions will be provided as a result of the contribution.
- E. No Elected Official, Appointed Official or County employee shall accept anything of value from a person, business, or other entity when the official or employee knows or reasonably shall know that said person, business, or entity does any business with the County or desires to do business with the County.
- F. Elected Officials, Appointed Officials, and County employees who have any private financial interest, direct or indirect, in any contract or matter pending before the County shall disclose such private interest to the County, and shall be disqualified from participating in any debate, decision or vote relating thereto.

Section 11. CONFIDENTIAL INFORMATION AND MISUSE OF NON-PUBLIC INFORMATION.

No Elected Official, Appointed Official or County employee shall disclose or use confidential information maintained

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by the County without proper authorization, and such information shall not be used to advance the financial or other private interests of said person. No Elected Official, Appointed Official, or County employee shall use non-public information for personal benefit.

Section 12. PROCEDURE FOR INVESTIGATING COMPLAINTS.

- A. For any alleged violation of this Ordinance, the filing of a complaint is the first step in the investigatory process.
- B. A complaint may be initiated by any person or by the Board of Commissioners on its own motion.
- C. The Board of Commissioners shall provide a simple form for complaints. A complaint shall include:
 - (1) the name and address of the complainant;
 - (2) a statement of the facts known or believed to be true that form the basis of the complaint, the sources of the information, and the approximate dates of the acts alleged; and
 - (3) a certification that the complainant verifies under penalty of perjury that the facts stated are true to the best of the complainant's knowledge and that the complainant knows that it is a crime under state law to intentionally initiate a false complaint.
- D. Unless the Board of Commissioners concludes that immediate notification would prejudice a preliminary investigation or subject the complainant to an unreasonable risk, a copy of the complaint shall be sent to the person charged with misconduct ("respondent") within fourteen (14) working days. If the matter is to be kept from the respondent for more than fourteen days, a majority of the Board of Commissioners shall approve and indicate the conditions under which the respondent will be informed of the complaint.
- E. Until a preliminary finding that there is probable cause to believe that the allegations set forth in the complaint are true, and constitute a violation of this Ordinance, the existence and substance of a complaint shall be kept confidential, except that all members of the Board of

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Commissioners and necessary staff may be informed about it.

- F. Upon receiving a complaint, the Board of Commissioners shall review it for formal sufficiency within fourteen (14) days of filing. If the complaint is unsigned or otherwise deficient on its face, it shall be returned to the complainant with a statement of the nature of the deficiency.
- G. Once a complaint has been determined to be formally sufficient, the Board of Commissioners shall evaluate the complaint to determine whether it states a valid complaint that should be investigated. The Board of commissioners may appoint an ad hoc board of disinterested persons to make a determination required under this section. To be valid, the complain must allege:
- (1) facts that, if true, establish a violation of a provision of a state ethics statute or this Ordinance for which civil or administrative sanctions are authorized;
 - (2) that the conduct providing the basis of the complaint has occurred:
 - (a) within two (2) years of the filing of the complaint; or
 - (b) if the person charged with misconduct intentionally concealed or otherwise sought to prevent discovery of the relevant facts, within one (1) year of the discovery of the relevant facts; and
 - (3) that the person charged with misconduct is either an Elected Official, Appointed Official or County employee within on (1) year of the filing of the complaint.
- H. Within thirty (30) days after the review set forth in paragraph 11. F. of this Ordinance is completed, a determination shall be made on the substantive validity of the complaint. If the Board of commissioners concludes that the complaint is valid, the Board of Commissioners shall request a hearing on the validity of the complaint at a meeting of the Board of Commissioners.

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- I. If a complaint is dismissed because of invalidity, it shall be returned to the complainant with a notice of dismissal stating in detail the reason for dismissal. If the Board of Commissioners finds that the complaint was frivolous, malicious or filed in bad faith, it shall so state in the notice of dismissal. If the Board of Commissioners finds that the complaint alleges violations outside the scope of the state ethics statute or this Ordinance, it shall so state. If the respondent is a County employee, he or she shall be subject to the disciplinary proceedings set forth in the county Personnel Manual. All others are subject to the penalties of this Ordinance.
- J. If the Board of Commissioners concludes that some or all of the allegations of the complaint, if proved, would constitute a violation of a state ethics statute or this Ordinance, or if the Board of Commissioners has initiated the complaint, the complaint shall be certified and a factual investigation shall commence. The record of certification for further consideration is confidential subject to subsequent actions that may make it part of a public record. Any time after the Board of Commissioners concludes that some or all of the allegations, if proved, would constitute a violation of a state ethics statute or this Ordinance, then the Board of Commissioners may decide to request an investigations by the District Attorney of the First Judicial District and may also decide to either continue its own investigation, or to allow the District Attorney to carry on with the investigation.
- K. Before commencing an investigation, the Board of Commissioners shall define the scope of the investigation, and shall inform the complainant and the respondent, in writing, of the scope of the investigation. If, during the investigation, additional facts are discovered that justify an expansion of the investigation and the possibility of additional charges beyond those alleged in the complaint, the action shall be amended accordingly with copies sent to the complainant and the respondent. The fact that an investigation has been undertaken, shall be kept confidential by the Board of Commissioners except that, upon inquiry, the Board of Commissioners may verify that it is investigating a complaint, along with a statement that no finding of probable cause has been made and that no adverse inference of impropriety or guilt should be drawn from the decision to investigate. Additional facts

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concerning the nature or results of the investigation shall not be revealed except as provided in state law after a determination of probable cause has been made.

- L. An Elected Official or an Appointed Official may request in writing that the Board of Commissioners investigate charges of impropriety made against himself or herself. The request shall state with specificity the nature of the investigation requested. If the Board of Commissioners agrees to undertake an investigation, the investigation is not necessarily limited in scope by the request and, once begun, it shall be handled as any other investigation, with the person requesting the investigation formally treated as a respondent.
- M. A preliminary investigation shall be conducted by the Board of Commissioners, and by independent investigators, if deemed necessary by the Board of Commissioners. The purpose of the preliminary investigation is to determine whether there is probable cause to proceed with a full adjudicatory hearing.
- N. The Board of Commissioners may order a hearing and request witnesses and documents, conduct depositions under oath, require the participation of the respondent, and issue interrogatories to be answered under oath. An oral or written statement whether incriminatory or exculpatory, shall not be considered in the investigator's report unless made under oath. The respondent shall be given an adequate opportunity to provide testimonial and documentary evidence.
- O. Upon the completion of the investigation, a public report summarizing the evidence, evaluating its credibility, and detailing findings on each of the allegations investigated shall be drafted by the Board of Commissioners along with recommendations as to whether the complaint, or a portion of it, should be dismissed or whether the matter should proceed to the full hearing stage. The public report shall be prepared so as to exclude unreliable information and uncorroborated and irresponsible allegations. In order to protect the rights of the respondent, the investigator's notes, records of interviews, and other investigatory matters considered unreliable or unduly prejudicial by the Board of Commissioners shall remain confidential and secure, to be available for consideration upon appeal.

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Section 13. PROBABLE CAUSE DETERMINATION.

- A. The Board of Commissioners shall consider the investigator's report in executive session and determine whether probable cause exists for a determination that a violation of a provision of a state ethics statute or this Ordinance has occurred.
- B. If the Board of Commissioners does not find that probable cause exists to warrant a full adjudicatory hearing, it shall dismiss the complaint and so notify the complainant with a notice of dismissal stating in detail the reason for dismissal. If the Board of Commissioners finds that the charges were frivolous, malicious or made in bad faith or that in its opinion the respondent should be exonerated of the charges, it shall so state in the notice of dismissal. If the Board of Commissioners finds that the evidence supports violations outside the scope of this Ordinance, it shall so state and forward the complaint and its report to the appropriate enforcement body for disposition.
- C. A copy of the notice of dismissal shall be sent to the respondent. The notice of dismissal and the investigator's report containing findings and recommendations, but not the underlying investigatory materials, shall be made public unless the Board of Commissioners determines that this would unfairly prejudice either the respondent or complainant. This subsection does not prevent either the complainant or respondent from making the notice of dismissal and the report public.
- D. If the Board of Commissioners finds that probable cause exists that a violation of a provision of a state ethics statute or this Ordinance has occurred, it shall serve on the respondent, in a manner consistent with the service of summons under the rules of civil procedure, a formal charge stating the specific allegations and a proposed hearing date.
- E. The hearing shall not be scheduled to commence sooner than twenty (20) days after service of the formal charge on the respondent. If the respondent requests an earlier hearing date, the Board of Commissioners may consent. The Board of Commissioners shall, upon request, grant the respondent reasonable additional time to prepare a defense.

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The respondent may file a responsive pleading admitting or denying the various allegations.

- F. The Board of Commissioners may suspend further proceedings if the respondent acknowledges the violation and agrees to corrective actions and sanctions considered appropriate by the Board of Commissioners. If the Board of Commissioners suspends the proceedings or dismisses the charges as a result of a negotiated settlement, the terms and conditions of the settlement and the reasons for entering into the agreement shall be stated in a written report that shall be sent to the complainant and made part of the public record.
- G. Upon determining that probable cause exists to conduct a full adjudicatory hearing, the Board of Commissioners shall make public the investigator's report containing findings and recommendations, but not the underlying investigatory materials.

Section 14. APPEALS.

Any person aggrieved by the decision of the Board of Commissioners pursuant to Section 14 of this Ordinance may appeal such decision to the first Judicial District Court, by filing such action within thirty (30) days of the decision of the Board of Commissioners.

Section 15. SANCTIONS.

- A. When a hearing board considers the appropriate recommended sanctions to be included in its opinion, it shall give due consideration to the purposed of any state ethics statue, this Ordinance, the nature of the violation, and other circumstances that are included in the hearing record. The Board of commissioners may recommend either singly or in combination:
 - (1) divestiture of specified assets or required withdrawal from specified associations;
 - (2) detailed disclosure, with or without additional periodic reporting requirements;
 - (3) in the case of County employees, suspension from County employment, with or without pay;

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suspension of pay until orders are complied with;
placement on probationary employment status;
and/or a written reprimand or suspension or
termination of employment, in compliance with the
County Personnel Rules and Regulations;

- (4) restitution or reimbursements;
- (5) In the case of Appointed Officials, censure, including a recommendation that the person censured shall not serve on a County committee for the remainder of the person's current term.

Section 16. DUTY TO REPORT IMPROPER OFFERS.

- A. Elected Officials, Appointed Officials and County employees who receive an offer of anything of value that reasonably appears to have been intended to improperly influence County governmental action shall firmly and unequivocally reject the offer and caution the person making it about a possible violation of bribery laws.
- B. If the attempt to improperly influence is clear, the person receiving the offer shall report it to law enforcement authorities.

Section 17. MISUSE OF COUNTY PROPERTY AND RESOURCES FOR PRIVATE GAIN OR PERSONAL ADVANTAGE.

- A. No Elected Official, Appointed Official, Appointed Official, or County employee shall use public funds, time, facilities, equipment, mailing lists, computer data, services or any other government asset or resource for a nongovernmental purpose or for the private gain or advantage of said person or another person. This section does not prohibit:
 - (1) the occasional and limited use of County property and resources for personal purposes if:
 - (a) the use does not interfere with the performance of public duties;

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- (b) the cost or value related to the use is so nominal that reimbursement procedures would not be justified; and
 - (c) the use does not create the appearance of improper influence; or
- (2) the use of mailing lists, computer data or other information lawfully obtained from a nongovernmental purpose.
- B. No Elected Official, Appointed Official, or County employee shall seek, accept, use, allocate, grant or award public funds for a purpose other than that authorized by law or make a false statement in connection with a claim, request or application for compensation, reimbursement or travel allowances from public funds.
- C. Unless authorized by the County Personnel Manual, no County employee shall be asked or permitted to perform personal services. An Elected Official or Appointed Official shall not require a County employee to perform personal services or assist in a private activity except in unusual and infrequent situations where the person's service is reasonably necessary to permit the Elected Official Appointed Official to perform official duties.

Section 18. MISUSE OF COUNTY PROPERTY AND RESOURCES FOR POLITICAL PURPOSES.

- A. Public resources, including funds, facilities and personnel, may not be used to further partisan campaign purposes or to influence the outcome of an election.
- B. An Elected Official shall not use or authorize the use of public funds, time, facilities, equipment, mailing lists, computer data, services or other government assets or resources for the purpose of political fundraising, campaigning, or influencing an election. This section does not prohibit the use of mailing lists, computer data or other public information lawfully obtained from a government agency and available to the general public for nongovernmental purposes.
- C. An Elected Official or another person on behalf of the Elected Official or a campaign committee of the Elected

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Official, shall not solicit or accept or authorize the solicitation or acceptance of a campaign contribution in a facility or office ordinarily used to conduct County government business. This provision applies to telephone conversations, personal meetings, and solicitations by mail. If such a contribution is offered, it shall be refused or returned promptly. If an unsolicited contribution is received in the mail, or a lawfully solicited contribution is misdirected to an office ordinarily used to conduct County business, if otherwise lawful, it may be accepted, but it may not be processed in that office, and it shall be delivered promptly to an appropriate location.

- D. An Elected Official, a candidate, or a campaign committee or another person on behalf of the Elected Official or a candidate shall not distribute or post literature, placards, posters, or other communications intended to influence the election of a candidate in an election in a facility or office ordinarily used to conduct County government business.

Section 19. USE OF NON-PUBLIC INFORMATION FOR PRIVATE GAIN.

An Elected Official, Appointed Official or County Employee, or a former Elected Official, Appointed Official or County Employee who terminated County service within one year, shall not use or disclose non-public information to obtain a benefit for the Elected Official, Appointed Official, or County Employee or former Elected Official, Appointed Official or County Employee, or another person, including a person with whom the Elected Official, Appointed Officials, or County Employee or former Elected Official, Appointed Official, or County Employee is associated or has negotiated prospective employment. This section does not allow the disclosure of information made confidential by law.

Section 20. MISUSE OF TITLE OR PRESTIGE OF OFFICE FOR PRIVATE GAIN OR PERSONAL ADVANTAGE.

- A. An Elected Official, Appointed Official or a County employee shall not use, induce, cause, or encourage others to use the authority, title, official letterhead or prestige of the Elected Official's, Appointed Official's or County employee's office for his or her own private gain or personal advantage.

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- B. An Elected Official, Appointed Official or a County employee shall not solicit or solicit or accept anything of value under terms and conditions where the compensation is not commensurate with the services performed or where a reasonable person would believe that the authority, title or prestige of office had been exploited. Nothing in this section prohibits the use of official title of an Elected Official, Appointed Official, or a County employee as a part of a political campaign or political endorsement.

Section 21. PROPER USES OF CAMPAIGN FUNDS.

Campaign funds shall be used only to advance the interests of a campaign. Campaign funds may properly be expended for any otherwise lawful purpose intended to influence voters to elect or reelect the candidate to an elected office, including payment of staff and consultants; rental of space and equipment for a campaign office; purchase of media time and space; printing and distribution of campaign materials; postage; taking polls and interpreting them; advertising and promotional materials; and travel and related expenses for the candidate and members of the candidate's staff or immediate family.

Section 22. PROHIBITED USES OF CAMPAIGN FUNDS.

- A. A candidate shall not:
- (1) use funds raised and designated as campaign funds for the personal benefit of the candidate or for payment of attorneys' fees and other legal expenses arising from civil, criminal, or administrative actions based on conduct not directly related to the campaign or official duties;
 - (2) convert surplus campaign funds or interest earned on campaign funds to personal income;
 - (3) seek or claim a personal tax deduction or other economic benefit for surplus campaign funds disbursed to a charity; or
 - (4) borrow from campaign funds or lend them to another person or group.
- B. A candidate, or another person on behalf of the candidate or a campaign committee of the candidate, shall not

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knowingly pay more than the fair market value for goods or services purchased for the campaign.

- C. Campaign funds shall not be paid to a member of the candidate's immediate family as an employee or for goods or services provided to the campaign unless the amounts paid do not exceed the fair market value of the goods or services provided.
- D. A candidate or a committee controlled by a candidate shall not use campaign funds to make a contribution to another candidate running for office or to a committee supporting an opposing candidate for office.
- E. Campaign funds shall not be used to pay fines or other monetary penalties or costs assessed against a candidate by a court or other body, unless the fine, penalty, or cost is assessed as a result of prescribed actions by a member or employee or a campaign committee or another person acting on behalf of the candidate under circumstances where the candidate did not know of or have reason to know of those actions.

Section 23. DISBURSEMENT OF SURPLUS CAMPAIGN FUNDS.

- A. If a candidate ceases to be a candidate or if there remains a balance in the account of the candidate or a committee controlled by the candidate after the date of the election, unexpended funds in excess of the amount allowed under this section may only be used as provided in this section or to pay for a victory or thank you party. Within sixty (60) days after the end of the candidacy or the election, unexpended funds shall be:
 - (1) used to retire bona fide loans supported by written documentation, including loans made to a campaign by the candidate or a member of the candidate's immediate family provided that all other outstanding loans are paid first;
 - (2) returned on a pro rata basis to those who have made contributions in excess of one hundred dollars (\$100) in the aggregate a year;
 - (3) donated to the County general fund;

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- (4) donated to one or more organizations that qualify as charitable organizations; provided that the charity is not one that is controlled by the candidate or a member of the candidate's immediate family or in which the candidate or a member of the candidate's immediate family is personally involved as a director, trustee, member of the board, officer or other position of responsibility;
- (5) transferred to a an ongoing political account controlled by the candidate or another candidate, but only in the amounts and according to the requirements set out in this section; or

B. Funds carried over under subsection A of this section may be expended for any political purpose for which campaign funds may otherwise be properly used.

Section 24. COERCION.

- A. An Elected Official shall not, directly or by authorizing another to act on his or her behalf, state or imply that the Elected Official's willingness to meet with a person, is dependent on the person making a campaign contribution, donating to a cause favored by the Elected Official or providing a thing of value to the Elected Official.
- B. An Elected Official shall not directly, or by authorizing another to act on the Elected Official's behalf:
 - (1) agree or threaten to take or withhold any County governmental action, as a result of a person's decision to provide or not provide a political contribution;
 - (2) state or imply that the Elected Official will perform or refrain from performing a lawful constituent service as a result of a person's decision to provide or not provide a political contribution;
 - (3) agree to or participate in a scheme or plan intended to evade the requirements of any applicable state ethics statute, this Ordinance, or another financial disclosure provision of state or County law; or knowingly accept a contribution given or offered in

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violation of any applicable state ethics statute or this Ordinance.

Section 25. PENALTIES.

- A. A person who violates this Ordinance is guilty of a misdemeanor and is subject to one or more of the following:
- (1) a fine of up to five hundred dollars (\$500.00) for each separate violation of this Ordinance;
 - (2) a public reprimand;
 - (3) a recommendation to the District Attorney that the violation be pursued in criminal proceedings; and
 - (4) proceedings and penalties pursuant to the Santa Fe County Personnel Manual, where appropriate.

Section 26. REPEAL.

Santa Fe County Ordinance 1993-1 is hereby repealed.

Section 27. EFFECTIVE DATE.

This Ordinance shall become effective as of the date provided by law.

PASSED, APPROVED AND ADOPTED, THIS 8TH DAY OF JUNE, 2004.

THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

By: _____
PAUL D. CAMPOS, CHAIRMAN

ATTEST:

REBECCA BUSTAMANTE, COUNTY CLERK

SFC CLERK RECORDED 09/14/2004

APPROVED AS TO FORM:

STEPHEN C. ROSS, COUNTY ATTORNEY

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US 285 South Highway Corridor Plan

Part II

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Page	Comment or proposed change	Commenter	Response or Discussion (includes crossroad location and specific highway standards)	Recommended Action
	<p>Highway</p> <p>The plan creates a kind of suburban sprawl.</p> <p>The potential development figure of 4 million sf is an unfounded threat of massive development... its effect is persuade the reader that the plan does reduce development</p> <p>Mr. Robens backs into a "maximum plausible projection" if 300,000 sf based on the T model traffic projections.</p>	<p>Bill Robens letter of June 24 (delivered June 30)</p>	<p>Definition of sprawl: inefficient consumption of land that spreads from urban and suburban areas to undeveloped land nearby that results in the inefficient use of infrastructure. Growth Management Plan p. 29</p> <p>By this definition, use of existing zoned lands with the road capacity to handle the traffic is efficient consumption of land and therefore, not sprawl. Any traffic that is captured locally that limits trips into Santa Fe diminishes the impacts of the area, which is sprawl development now, on the regional infrastructure that is over taxed.</p> <p>The plan correctly states that the comparison is between land and sf eligible for non-residential zoning for both the current 4 mil. sf and the plan potential of 720,000sf. The 720,000sf is an estimate at full build out, not a 20-year projection. This estimated potential was analyzed to assess whether it is in a reasonable range for job creation and commercial space relative to the projected population. If built out over the next 20 years (an unlikely event) this could serve 17% of the area's projected employment needs and 27% of its retail needs. (p.62-63)</p> <p>The Tmodel analysis was looked at for this plan to assess overall traffic impacts, not to determine need for an amount of commercial development. The Tmodel currently used by the City and County uses maximum plausible projections of land use to predict network functioning of the road system. Those reports and data were offered to Mr. Robens in Dec. 2002, along with a meeting with our consultant, Al Pitts.</p> <p>The TAZ structure of the Tmodel currently does not include lands east of US 285 or north or south of the Eldorado Census Designated Place for detailed projections. The land use projections of the 2001 Tmodel analysis include 341,482 sf of commercial uses on the west side of the Corridor, 260,918 sf of commercial outside of the Corridor within the Eldorado Subdivision. (total of 611, 082 sf)</p> <p>Several parcels labeled as proposed in the plan were not projected to develop within the 20-year time frame and therefore are not included.</p>	<p>The Tmodel analysis the best tool we currently have for determining overall traffic network impacts; it is now the preferred standard for NMDOT also.</p> <p>Traffic Impact Analyses for each project and Warrant Analyses for general intersection and roadway improvements are the preferred methods for making timely improvements for intersection design and road capacity.</p>



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<p>46-50</p>	<p>The Tmodel analysis is not the appropriate tool for uses in the Corridor. Conclusions reached due to the use of the Tmodel must all be reexamined using hand calculations.</p>		<p>Traffic projections for all other areas in the Corridor are NMDOT estimates of traffic increases based on historic traffic counts for the region. The basis for the projections was communicated to Mr. Robens and the committee in public meetings. (See pp. 46-48, 211-212) Each applicant for development also completes a Traffic Impact Analysis for his/her project in order to determine the specific impacts and improvements that might be needed. The TIA's submitted to date for Vista Grande do not indicate a need for 4 lanes, although they do indicate the need for turning lanes. Mr. Robens evidently met with AIPits sometime in the last two weeks to learn about TModel. It appears that he still does not understand the model and its uses. It is not clear what hand calculations means, but it appears to not meet the standards of Santa Fe County. The solutions suggested in the plan are based on advice by consultants and review by Public Works for best practices in New Mexico. Mr. Robens makes no suggestions for new language. A Warrant Analysis would determine the actual design and construction of specific pedestrian safety improvements. There are 3 maps for each crossroads – an aerial, a “concept” map showing where development and parking should be sited and a thumbnail image of the crossroad from the Recommended Land Use & Zoning Map.</p>	<p>The thumbnail map could be enlarged.</p>
<p>84, 114, 123, 140, 161-162, 164, 167, 193-205</p>	<p>The traffic safety solutions proposed in the plan are inappropriate and will lead to less safe streets. Remove or revise all statements regarding traffic safety.</p>		<p>The information is already included in the text. Staff and the committee feel that is it easier to understand in this format, rather than a technical report format</p>	<p>No amendment is recommended.</p>
<p>131, 146, 157</p>	<p>Include a map of each crossroads in the particular section</p>		<p>The uses for each master plan and intensity are already included for each Crossroads. The Plan is asserting that all commercial/mixed use development that does not have final plan approval should comply with the recommendations of this plan. (p. 104) Where it is physically possible to design in relationship to each other, it is already stated in the plan. (p. 166) See also the Concept Plans for each Crossroads (pp.136, 148, 164)</p>	<p>The thumbnail map could be enlarged.</p>
<p>127 – 192</p>	<p>Show the amounts of development at each crossroads in a table so that readers can easily understand what exists and what is intended. Discuss each master plan including what it is, how it meets the goals of the plan and how they will relate to each other at the “node”</p>			<p>No amendment is recommended.</p>

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	Growth Management Issues		(includes uses, sizes, design standards)	
127 - 192	It could have been planned so that there would have been a fully integrated shopping experience, with true 1 stop shopping.....		That concept was included in the August 2002 draft and was severely criticized by the community and the owner of the Agora. When the concept was reanalyzed - the land ownership, topography, availability of vacant lands and existing zoning - it was determined that making connections and standards to make places rather than just shopping centers was the best that could be done given the lack of cooperation of all commercial land owners and the community values expressed to us. This is not a plan for a vacant or undeveloped area; the major locational decisions were made years ago.	If the BCC desires, an amended concept plan for Vista Grande can be added to the plan.
35	The vision comes from the committee and is vastly different from that presented to the community, which garnered no opposition, in the Aug. 2002 community meeting.		Mr. Robens was one of the major critics of the original vision statement in the SRCC review of the Aug. 2002 draft. Based on that criticism - that the plan and vision were in conflict and that the area is not really a rural area - the committee rewrote the vision.	
54 - 55 62	The potential development figure of 4 million sf is an unfounded threat of massive development... its effect is persuade the reader that the plan does reduce development Mr. Robens backs into a "maximum plausible projection" based on the Tmodel traffic projections.		See response under Highway section	
103 - 126 213	Commercial/ Mixed Use District is a non-zone... it is impossible to know in advance what will be actually developed... there is no requirement for mixed use... small scale industry or arts & crafts is not defined nor the use limited....		Staff and the committee believe that the intent of the zone is clear in the Plan both as a concept and its application at each of the Crossroads in the Corridor. The types of light industry, the limitations or optimum mix of uses are topics more appropriate to the zoning ordinance.	Add a definition of Small scale light industry or arts & crafts to the Glossary, p. 213

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106 – 109	Description of the residential element is missing. Include residential guidelines in Table.		Staff and the committee believe that the intent is clear. The committee intends that the architectural standards for buildings apply to all uses. The definition of mixed use (p. 212) conveys an intent for integration and design, but statements could be added to clarify.	Amendments could be made to P. 106 to specify that residential cannot be the only use in a District. Where developed must be integrated into the overall design of commercial & community services. Amendments could also be added to p. 109 describing that integration and limiting the use of single family subdivision in the Commercial/Mixed Use Districts.
115, 122	Buffering and screening standards should be in the plan.		Staff agrees that specific standards will need to be developed for the zoning ordinance.	Implement detailed standards in the zoning ordinance.
129 – 142	CROSSROADS San Sebastian/Old Las Vegas Crossroads – reduce the amount of commercial potential and add 10 acres identified for residential development.		This is a rural neighborhood and the concept for this Crossroads reflects that character. The adjacent property is all residential/agricultural now. (See pp. 136-142) It is not clear what Mr. Robens' intent is.	
143 – 154	Entryway Crossroads – Leave the master plan for Plaza de Armitad unchanged since it has uses different from other master plans that may fill a need.		Removal of the RV and outdoor storage uses in a most visible area of the Corridor is one of the major recommendations for this Entryway. If self-storage is a need in the future it can be approved as a Conditional or Special Use. Leaving the Master Plan unchanged would increase the potential commercial acreage by over 20 acres.	
155 – 169	Village Crossroads – work with the property owners to revise the master plans to make them more related. There are no recommendations to require that plans relate with each other or change in any way to meet the plan's intent.		The Plan asserts that all commercial/mixed use development that does not have final plan approval should comply with the recommendations of this plan. (p. 104)	
			Commercial/mixed use development in the Village Crossroads should relate to each other and provide opportunities for "park-once" access, clear convenient and safe pedestrian and vehicle access and visibility for the commercial uses to the driving public. (p. 166) See also the Concept Plan. (p. 164)	

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<p>181 - 185</p>	<p>Spur Ranch Crossroads - Mr. Robens disagrees with the premise for this Crossroads and recommends that the entire lot be zoned residential or at the most a 1 acre commercial site.</p> <p>The recommendation for Spur Ranch Road is 5 units per acre.</p>	<p>Many of the detailed recommendations involve Mr. Robens redesigning the development master plans for the already zoned properties, including a total concept change for the Village at Eldorado, which has final plan approval and cursory recommendations for the other 3 properties.</p> <p>The plan recommends that this Crossroads be allowed Commercial/Mixed Use development but limited to neighborhood scale and that it should be in balance with growth as it occurs west of US 285. (p. 184) If the denser master planned subdivisions are developed at 12.5 acre or larger lots, then demand for this type of use at this location will be less and this will be considered by the BCC if and when an application for zoning and development is submitted.</p>	<p>If the BCC would like staff to redesign the approved master plans, that is a level of detail beyond the scope of the plan and can only be accomplished with the cooperation of the property owners. Mr. Robens appears to be more experienced in an arena where "top down" planning was the norm, rather than citizen-based planning using a consensus model.</p> <p>Delete the reference to 5 units per acre on p. 185; it conflicts with p. 106.</p>
<p>44, 80</p>	<p>Water Issues</p> <p>Completely rewrite the section on water.</p>	<p>See comments in prior matrix.</p>	<p>No amendments are recommended</p>
<p>Other</p> <p>It is likely that the substantial increase in permitted commercial and industrial land use... will increase crime and decrease fire safety. Add a public safety element to the plan.</p>	<p>There is no evidence that crime increases with commercial uses; local statistics seem to indicate that crime is associated more with residential areas. We were unable to get local statistics for the area from the Sheriff's Office.</p> <p>There is also no evidence that fire protection will suffer because of commercial development. The County Fire Department reviews every development application for fire safety and no plating or building is allowed unless their conditions are met. In addition each applicant pays a Fire Impact Fee that goes to the specific Fire District for capital improvements.</p>	<p>There is no evidence that crime increases with commercial uses; local statistics seem to indicate that crime is associated more with residential areas. We were unable to get local statistics for the area from the Sheriff's Office.</p> <p>There is also no evidence that fire protection will suffer because of commercial development. The County Fire Department reviews every development application for fire safety and no plating or building is allowed unless their conditions are met. In addition each applicant pays a Fire Impact Fee that goes to the specific Fire District for capital improvements.</p>	<p>No amendments are recommended</p>

79	<p>The plan recommends that a development review committee be appointed consisting of 13 "stakeholders" from the US 285 Service Area and further recommends that a majority of the members not represent a single subdivision.</p> <p>There should be a 6-member committee comprised of 3 persons from Eldorado and 3 from other subdivisions.</p>	<p>The plan does not recommend a specific number of committee members, but assumes that the BCC will appoint a committee consistent with the rules set forth in the County Code, as amended.</p> <p>County committees are not subject to geographic boundaries, except for the EZC whose membership is set forth by Statute. Board members are free to appoint committee members from their own districts or elsewhere within a "jurisdiction" for each Review Committee.</p>	<p>No amendment is recommended.</p>
209 et seq.	<p>Rewrite to change many of the "shoulds" to "shalls".</p> <p>Include in the appendix, the pertinent sections of the Land Development Code referred to in various sections.</p>	<p>This is a Plan, not the zoning ordinance. Changing "shoulds" to "shalls" will not make them any more enforceable. The Plan will still be a recommendation.</p> <p>Staff understands that the Code is difficult to use. Sections could be added as appendix but that could be misleading as it implies some permanence to specific Code sections during a time when the Code is being reorganized and amended.</p>	<p>This is an ordinance issue, not a plan issue.</p> <p>If the BCC desires, sections of the current Land Development Code could be added as an appendix.</p>
120	<p>Limit 2 story buildings to a 30% maximum floor area in any one development.</p>	<p>This sentence has been carefully worded because of litigation.</p>	<p>This is a recommendation that can be considered in development of the zoning ordinance.</p> <p>If the County Attorney would like it reworded, staff is open to suggestions from him.</p>
167	<p>Rewrite the recommendation on P. 167 that development rights for Cinnamon II be transferred.</p>	<p>This sentence has been carefully worded because of litigation.</p>	<p>If the County Attorney would like it reworded, staff is open to suggestions from him.</p>

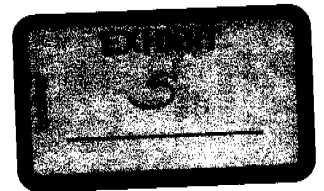
OK
OK

List of US 285 South Corridor Planning Committee Meetings

Year	Regular Meetings	Special Meetings
1999		Informal meetings to set up request for Planning Authority
2000	9	
2001	15	1 joint meeting w/SRCC 1 all day design charrette
2002	16	2 community wide meetings 3 joint meetings w/SRCC
2003 *	15	
2004 to date *	6	
Total public meetings 2000 to date	61	7

* These meetings were focused on reanalyzing plan issues, adding data and rewriting the plan in response to comments and suggestions received to the Review Draft of August 2002.

SFC CLERK RECORDED 09/14/2004



Recommended amendments to the US 285 South Highway Corridor Plan

(Recommended for approval by CDRC on May 20, 2004)

Page 15 Correct dates as shown:

Marcos Trujillo, District 1, 1999 – 2002

Javier Gonzales, District 3, 1999 – 2001

Jose Varela Lopez, District 3, 2001- 2002

The staff is requesting authorization to make minor corrections to fix grammar, typos, dates, spelling and illustrations such as the example above.

Page 44 Existing Conditions, Water: See attached page, which adds information on the Eldorado Area Water and Sanitation District. Further corrections of the text are shown as interlineated or underlined.

Page 80 Water Recommendations: See attached page

Page 82 Natural Environment Recommendations: Add phrase as shown below:

Ridge Tops

- In addition to supporting the County Terrain Management Regulations, no structures should be permitted on ridge tops or crests identified on the **US 285 South Corridor Recommended Land Use and Zoning Map** (page 77) or on slopes greater than 30%.
- Ridge tops should be defined as all land at elevations above the 20 percent slope break.
- In the Lamy Crest area, on land below the 20% slope break, buildings should be placed on the land sloping away from or not visible from the highway; be restricted to one-story and the color and reflectivity of walls, roofs and windows should blend with the tree cover and earth tones of the soils and exposed rock.

Amendments recommended from the June 8 public hearing and review of comments:

Page 77 (recommended Land Use Map) and page 150, Entryway Crossroads

Amend the Recommended Land Use and Zoning Map to include the Ramsey property at the NE corner of US 285 and Camino Valle as eligible for Neighborhood Commercial/Mixed Use District zoning. Amend the text of the section on the Entryway Crossroads to include this property as meeting the criteria for this District provided that it meets all of the Plan standards and the total area and intensity of the District does not expand.

Pages 107-108 Commercial/Mixed Use Zoning Districts

Delete the Use Size lists for Village Commercial/ Mixed Use Zoning Districts (p. 107 bottom) and for Neighborhood Commercial/ Mixed Use Zoning Districts (p, 108 top)

Pages 119 Design Standards and Guidelines Table

Delete the section of the table listing use size guidelines.

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Recommended amendments to the US 285 South Highway Corridor Plan (continued)

Amendments recommended from the review of comments from Bill Robens:

Pages 131, 146, 157, 170, 179, 185, 188, 190 Community Crossroads

Enlarge or add thumbnails of recommended Land Use Map for each Crossroads, including Alma Drive, Community Facilities, Spur Ranch, the Rail Trail Head, and the Cultural Crossroads

Commercial/ Mixed Use Development and Zoning

Page 106

Add language to specify that residential must be mixed in a development and cannot be the only use in a Commercial/ Mixed Use District.

Page 109

Add language to describe integration of residential with commercial and service uses in Commercial/ Mixed Use Districts and limiting the use of single family subdivisions.

Page 185 Spur Ranch Crossroads

Delete language as follows:

Patio homes or live/work units ~~up to 5 units per acre...~~

Page 212 Glossary & Resources

Add a definition as follows:

7. Small scale light industry: means enterprises engaged in the manufacture or distribution of materials and products from processed or previously manufactured materials and may include retail sales on site of such products. Such uses are capable of operating in a manner to control the external effects of the manufacturing process. Crafts manufacture such as furniture or ceramics, artists' studios, contractor offices and yards are examples of light industry that might be appropriate within Commercial/ Mixed Use Districts. The appropriateness of such uses at a particular location would be reviewed as part of a development application.

SFC CLERK RECORDED 09/14/2004

Page 44 Section II Existing Conditions – Service Area - Water should be amended to include the following information on the Eldorado Area Water and Sanitation District:

The Eldorado Utility Company is currently in condemnation proceedings and may be taken over by the Eldorado Area Water and Sanitation District. The District was created in 1997 in an election by property owners of the District for the purpose of providing the residents of the District a voice in their water future. This is one of many special districts in the state and is considered a quasi-municipal entity. Oversight of the District's budget is provided by the New Mexico Department of Finance and Administration.

On August 20, 2002 the citizens of the Eldorado area within the EAWSD voted overwhelmingly in favor of a resolution authorizing the Eldorado Area Water & Sanitation District to issue general obligation bonds to fund the purchase of the water utility serving the Eldorado community.

Some 21 subdivisions along US 285 are included in the District, the largest of which is Eldorado. However, not all the Corridor Plan Area or of Eldorado is included. The original boundaries of the District specifically excluded the welled area in the northwest sector of Eldorado because that area, with certain exceptions, is not serviced by the water company. The state statutes specify that areas included within a W/S District must be in a position to benefit from their inclusion in the District. Only residents of the District can vote in District elections and only property included within District boundaries can be taxed by the District.

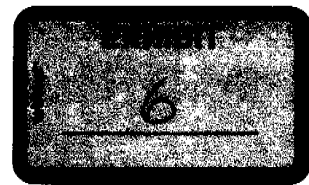


Water

The 285 Service Area is currently in a drought, which may have lasting effects on the area (see **Section II: Existing Conditions- Water and Section II: Issues and Opportunities**) Statewide many people agree that we must change our policies in regard to water resource development and use. The plan supports the Santa Fe County 40 Year Water Plan, which lays out a potential method for providing needed supply to the Service Area, and the County's initiative toward regional water planning and management. The following recommendations are responsible development standards that should be part of a larger regional water policy.

In addition to supporting current water regulations in the County Code (100 years of water availability), the following conditions should be placed on approved and proposed Commercial/mixed-use development and community facilities:

- New development should process wastewater (gray and black water) into gray water for internal gray water use and outdoor irrigation.
- Outdoor irrigation should come from storm water harvested from impermeable surfaces or reuse of gray water.
 - The indoor and outdoor use of **gray water** or **black water** is regulated by the New Mexico Environmental Department (NMED) to ensure protection of public health and water quality. Different regulations will apply depending on the volume measured in gallons per day, discharged on to a single lot.
 - Any type of water that has undergone tertiary treatment is considered **reclaimed water** and is regulated by the New Mexico Construction Industries Division (NMCID)



Subject: Support for Approval of US Highway 285 South Corridor Plan
From: "RoseMarie Bagioni" <simply_rosie@earthlink.net>
Date: Mon, 12 Jul 2004 00:12:09 -0600
To: "Commissioner Paul Campos" <pcampos@co.santa-fe.nm.us>, "Commissioner Paul Duran" <pduran@co.santa-fe.nm.us>, "Commissioner Mike Anaya" <manaya@co.santa-fe.nm.us>, "Commissioner Harry Montoya" <hmontoya@co.santa-fe.nm.us>, "Commissioner Jack Sullivan" <jsullivan@co.santa-fe.nm.us>
CC: "Judy McGowan" <jmcgowan@co.santa-fe.nm.us>

Dear Board of County Commissioners:

The US Highway 285 South Corridor Plan (with amendments) presented to you on June 8th significantly reduces the opportunity under current county code for strip development. It very conscientiously focuses on neighborhood and village scale development to serve the needs of the residents from the traditional villages, historic communities, and 20 plus contemporary subdivisions along the designated 7 mile stretch of a major connector highway.

The issue of water needs and supply was thoroughly discussed and the committee recognized that this issue is not isolated to the corridor area but extends community-wide, county-wide and regionally. Specific conservation measures were within the purview of the corridor plan and are incorporated with acknowledgment that county and state water related laws and ordinances apply to all development.

Every effort was made throughout the 4 plus year planning process to be inclusive and seek participatory input. During the course of several other planning efforts in the area over the past 8 years, at the last minute a small group of residents only from the subdivision of Eldorado came out with a vehement misinformation campaign. Some of these same individuals were repeatedly encouraged to participate in the corridor planning process and chose not to. I urge you to look beyond this last minute negative misinformation campaign.

Your approval of the US Highway 285 South Corridor Plan on July 13 will put in place an opportunity to foster a vision that acknowledges the connectiveness of the historic community of San Sebastian, the multiple contemporary subdivisions, and the traditional village of Lamy. Residents from these diverse areas have come together for 4 plus years to develop a document that recognizes the history, as well as the current and future needs of area residents with due consideration of the natural resources in the corridor area.

RoseMarie Bagioni
Tierra de Casta Subdivision

SFC CLERK RECORDED 09/14/2004

Subject: 285 South Corridor Plan Support - inaccurate campaign

From: "Thomas Brooks" <tomke1r@earthlink.net>

Date: Sun, 11 Jul 2004 23:49:53 -0600

To: Hmontoya@co.santa-fe.nm.us, Manaya@co.santa-fe.nm.us, pduran@frenchx2.com, pcampos@co.santa-fe.nm.us, jsullivan@co.santa-fe.nm.us

CC: jmcgowan@co.santa-fe.nm.us

Santa Fe County Commissioners Anaya, Campos, Duran, Montoya, Sullivan;

The U.S. 285 South Corridor Plan is on the Board of County Commissioners' agenda for July 13th for a final approval vote. Shown below is a copy of the flyer that is being handed out to people at the Agora shopping center during the last few days. Once again a small group of people is throwing out inaccurate and misleading information to the public. Please read the flyer and make your own assessment of its accuracy.

Many people I have spoken with do not want more meetings and more attempts to work with a few obnoxious people who want to derail any planning efforts. This plan has already cost a great deal of money, staff time, community time and effort. If it is sent back to the community it is likely to die just as the Simpson Ranch plan died because the community is tired of hearing from a few obnoxious people..

Please support and pass the U.S. South Corridor Plan on July 13, 2004.

Thomas W. Brooks
28 Camino Caballos
Lamy, NM 87540

Thomas W. Brooks - tomke1r@earthlink.net
Pixel Purrfect - Building a bridge around the world one pixel at a time
(505) 466-0755 (H) - (505) 660-2758 (C)

SFC CLERK RECORDED 09/14/2004

Sunday 7/11 Handout

Citizens of Eldorado:

URGENT- ACTION NEEDED

The Highway 285 South Corridor Plan will change our community forever.

The Board of County Commissioners can approve the plan Tuesday, July 13 at 6 p.m. and change the County Land Development Code to suit.

IT'S OUR PROBLEM

- The plan embraces 700,000 sq. ft. or 20 Acres
- The plan calls for commercial, light industry, and residence at every intersection of 125 from here to Lamy.
- *Enormous water needs are deliberately ignored in the plan.*
- A dramatic increase in population density is inevitable.
- Risks include increase in traffic, crime, firefighting, accidents, school crowding and light glare
- The plan violates the County General Plan re water zoning and land use
- The model is a strip mall, not an integrated commercial plan
- There is no need, or business plan, for this enormous development
- Community input has been minimized.

WHAT YOU CAN DO

1. Above all, show up at the Santa Fe County Commissioners' meeting, Tuesday, July 13 at 102 Grant Avenue, Santa Fe at 6 p.m. and show your disapproval
2. Email each County Commissioner with the message, "I am opposed to approving the Highway 285 South Corridor plan for the following reason(s)..." and cc jjwils@unsc.com.

LET'S STOP IT AND PLAN SOMETHING BETTER!

Thanks for your help, Citizens of the Greater Eldorado Citizens Committee

* County Commissioners:
 Mike Anaya mianaya@co.santa-fe.nm.us
 Paul Campos pcampos@co.santa-fe.nm.us
 Paul Duran pduran@co.santa-fe.nm.us

Harry Montoya hmontoya@co.santa-fe.nm.us
 Jack Sullivan jsullivan@co.santa-fe.nm.us

SFC CLERK RECORDED 09/14/2004

Subject: 285 Plan

From: 2perk@comcast.net

Date: Sat, 10 Jul 2004 00:09:50 +0000

To: Hmontoya@co.santa-fe.nm.us, jsullivan@co.santa-fe.nm.us,
pcampos@co.santa-fe.nm.us, pduran@frenchx2.com, Manaya@co.santa-fe.nm.us

CC: jmcgowan@co.santa-fe.nm.us

Dear Commissioners:

I urge you to adopt the 285 Highway Corridor Plan at your next meeting. This plan has been years in development, has had the input of all parties involved, compromises have been reached and the plan has received sufficient comment from the general public during public meetings. Are there objections which have not already been heard? Probably not. Are there persons who have not had the opportunity to provide input? Probably not. It's time to take a deep breath and do it.

Richard Perkins and Alice Darilek

Eldorado

SFC CLERK RECORDED 09/14/2004

Subject: U S 285 South Corridor Plan

Date: Thu, 8 Jul 2004 16:46:02 -0600

From: "Patricia Lavengood" <plavengood@earthlink.net>

To: hmontoya@co.santa-fe.nm.us, manaya@co.santa-fe.nm.us, pduran@co.santa-fe.nm.us, pcampos@co.santa-fe.nm.us, jsullivan@co.santa-fe.nm.us

Gentlemen:

Concerning the subject matter I would like to urge your positive vote on approving the Plan which will be once again before you at the July 13th Commission meeting.

This plan has been in the process for the past four years. The plan has been worked on by all of the 22 communities which border 285 South. This plan has had several open meetings for any input from residents of this area who may not have had the time to attend the monthly planning meetings for the plan. Two of the open meetings were County sponsored.

The plan has really been very well thought out. The plan reduces the size, scale and locations of any commercial endeavors which may be proposed for this area. Overall the plan would eliminate the possibility of 285 South becoming another Cerrillos Road.

I strongly urge you to approve this plan at the July 13th Commission meeting. Thank you.

Pat Lavengood
Eldorado Resident

Patricia Lavengood
plavengood@earthlink.net
Why Wait? Move to EarthLink.

SFC CLERK RECORDED 09/14/2004

Subject: 285 corridor plan

From: Forbeslux@aol.com

Date: Wed, 7 Jul 2004 19:30:47 EDT

To: hmontoya@co.santa-fe.nm.us, manaya@co.santa-fe.nm.us,
pduran@frenchx2.com, pcampos@co.santa-fe.nm.us,
jsullivan@co.santa-fe.nm.us, jmcgowan@co.santa-fe.nm.us

gentlemen...we are residents on the 285 corridor, in galisteo, who would like you all to approve the plan as it stands on the 13th...the latest plan is a good one, has been discussed at numerous public meetings and will more than meet all our communities' needs. I am in favor of the current size, scale and location of proposed commercial development as are many of my neighbors.

thank you for you effort and please approve this current plan.

thank you ...cynthia and frank lux, 52 las tres, galisteo

SFC CLERK RECORDED 09/14/2004

Subject: PROBABLY SPAM285 Corridor Plan

From: BarbaraColman@aol.com

Date: Wed, 7 Jul 2004 18:18:15 EDT

To: Hmontoya@co.santa-fe.nm.us, Manaya@co.santa-fe.nm.us,
pduran@frenchx2.com, pcampos@co.santa-fe.nm.us,
jsullivan@co.santa-fe.nm.us

CC: jmcgowan@co.santa-fe.nm.us

This is a request to pass the 285 corridor plan as submitted. Many hours of thought and deliberation have gone into it and it has been widely circulated. It enjoys general support in the community.

Thank you
Barbara C. Colman
18 Camino Caballos
Lamy 87540

SFC CLERK RECORDED 09/14/2004

Subject: 285 South Highway Corridor Plan

Date: Wed, 7 Jul 2004 13:50:52 -0600 (Mountain Daylight Time)

From: "Walt Pilnock" <WK-Pilnock-2@worldnet.att.net>

To: "BCC Anaya" <Manaya@co.santa-fe.nm.us>,
"BCC Compos" <pcampos@co.santa-fe.nm.us>, "BCC Duran" <pduran@frenchx2.com>,
"BCC Montoya" <Hmontoya@co.santa-fe.nm.us>,
"BCC Sullivan" <jsullivan@co.santa-fe.nm.us>


Dear Commissioners,

The Santa Fe County Land Use Plan is based on water availability. If the current regulations are insufficient to protect our aquifers, then I respectfully suggest that those regulations be changed to protect all aquifers in the county.

The Corridor Plan does not allow developers to sidestep current water availability requirements. It merely outlines what type of development could occur should the county's water availability requirements be met.

The Corridor Plan was never intended to be a water plan and was never advertised as such. Please don't hold the Corridor Plan hostage to what would no doubt be a lengthy process, involving much debate, should the Corridor plan attempt to change current water availability requirements.

Kathy Pilnock

 *Incredimail* - Email has finally evolved - [Click Here](#)

SFC CLERK RECORDED 09/14/2004

Subject: US Highway 285 South Corridor Plan

Date: Wed, 7 Jul 2004 13:28:32 -0600 (Mountain Daylight Time)

From: "Walt Pilnock" <WK-Pilnock-2@worldnet.att.net>

To: "BCC Anaya" <Manaya@co.santa-fe.nm.us>,
"BCC Compos" <pcampos@co.santa-fe.nm.us>, "BCC Duran" <pduran@frenchx2.com>,
"BCC Montoya" <Hmontoya@co.santa-fe.nm.us>,
"BCC Sullivan" <jsullivan@co.santa-fe.nm.us>

US Highway 285 South Citizen's Coalition

Gentlemen:

The US 285 South Citizen's Coalition consists of voting delegates from 13 area subdivision along US 285 South of Santa Fe including Alteza, Belicia, Dos Griegos, East Ranch, the ECIA, the ERA, the Village of Lamy, La Paz, Los Vaqueros, Old Road Ranch, The Ridges, Tierra Colinas, and Tierra de Casta. These delegates are chosen by their respective Homeowner Associations to represent that association in the Coalition.

Six non-voting delegates also participate to represent Cielo Colorado, the Village of Galisteo, Las Nubes, Ranchitos de Santa Fe, and Rancho Mirador as individuals. Rancho San Lucas and the Eldorado Area Water and Sanitation District are also represented.

The Coalition has discussed the progress of the Corridor Plan at it's monthly meetings for the past four years. In turn, the voting delegates reported to their member associations. Coalition delegates reported that the plan had been viewed favorably by their communities. Some communities, such as the Village of Lamy and the ERA voted to formally endorse the Corridor Plan at public meetings and I believe you have received letters of support from those associations. The board of directors of Tierra Colinas Homeowners Association and residents of Tierra de Casta have also sent letters of support.

When the 285 Coalition voted unanimously to endorse the plan, it was done by people who were well informed about the plan and who had sought feedback from the communities they had been chosen to represent.

We urge that you not delay the adoption of the US Highway 285 South Corridor Plan. Homeowner association membership meetings, Two public Corridor Plan meetings, and countless advertised Corridor Planning Committee meetings have given area residents numerous opportunities to discuss the plan and make recommendations.

Kathy Pilnock,
Chairman, US Highway 285 South Citizen's Coalition

 **IncrediMail** - Email has finally evolved - [Click Here](#)

SFC CLERK RECORDED 09/14/2004

Subject: Support for New Corridor Plan

Date: Wed, 7 Jul 2004 08:58:21 -0600

From: "patricia matthews" <pam@nmmatthews.com>

To: <Hmontoya@co.santa-fe.nm.us>, <Manaya@co.santa-fe.nm.us>, <pduran@frenchx2.com>, <pcampos@co.santa-fe.nm.us>, <jsullivan@co.santa-fe.nm.us>

CC: <jmcgowan@co.santa-fe.nm.us>

Dear County Commissioners:

My husband and I are asking all of you to support the Corridor Plan that limits commercial development along the 285 corridor. I am a resident of one of the subdivisions along the corridor and do not want to experience another Cerrillos Road in this already too quickly developing area.

I do not believe additional meetings or further discussions are necessary. The plan has been extensively discussed at previous meetings and is ready to be adopted. This plan reduces the size, scale and locations of future commercial development, which is very important to me as a resident of this **rural** area. I made a conscious choice to move to the "country" and do not want the city moving to me. Please adopt the plan at the next meeting of the commission on July 13, without further discussions or meetings.

Patricia Matthews

Patricia Matthews, P.C.

460 St. Michael's Dr., Bldg. 300

Santa Fe, NM 87505

O: (505) 989-9437

F: (505) 986-1367

THIS MESSAGE IS PROTECTED BY THE ELECTRONIC COMMUNICATIONS PRIVACY ACT,

18 USCS SECTIONS 2510 ET SEQ., AND MAY NOT BE OPENED OR FORWARDED

SFC CLERK RECORDED 09/14/2004

(no subject)

Subject: (no subject)

From: GDOVEN@aol.com

Date: Wed, 7 Jul 2004 17:16:46 EDT

To: Hmontoya@co.santa-fe.nm.us, Manaya@co.santa-fe.nm.us,
pduran@frenchx2.com, pcampos@co.santa-fe.nm.us,
jsullivan@co.santa-fe.nm.us

CC: jmcgowan@co.santa-fe.nm.us

To: County Board of Commissioners
Harry Montoya Hmontoya@co.santa-fe.nm.us
Mike Anaya Manaya@co.santa-fe.nm.us
Paul Duran pduran@frenchx2.com
Paul Campos pcampos@co.santa-fe.nm.us
Jack Sullivan jsullivan@co.santa-fe.nm.us

Re: 285 Corridor Plan

Gentlemen,

I was involved for several years in the 285 Corridor planning operation during 2000 and 2001. I'm aware of the extent of planning, public meetings, and private contacts and concessions that have been made over the years.

It almost seems to me that at this time, some dark force is blocking approval of a plan that has been discussed and publicly reviewed ad nauseam. I have no clue if there is or is not some special interest group behind this force.

There comes a time to move or get off the pot. I feel we are way past that time. With all the development currently underway, if this plan is not approved I foresee fairly prompt encroachment on the provisions of the plan because of the financial pressures on developers. These will be difficult if not impossible to reverse.

Please, approve the plan as currently presented as so many of our citizens, experts, and developers have done before it's too late.

Respectfully

George Dovenmuehle
Ex-285 Representative for Tierra Colinas.

cc jmcgowan@co.santa-fe.um.us

SFC CLERK RECORDED 09/14/2004

July 7, 2004

County Development Review Committee Members
Santa Fe County
P.O. Box 909
Santa Fe, NM 87504-0909

RE: US 285 South Highway Corridor Plan; Proposed Amendment

Dear Committee Members,

This letter is written to reiterate a request by Dean Alexis for deleting storage units from the list of Inappropriate Use in the proposed US 285 South Corridor Plan, and to suggest an amendment to the Plan. The attached letter from Mr. Alexis previously provided to the Committee specifically sets forth the reasons for requesting this amendment.

As you may recall, Dean Alexis is the owner of property located east of US 285 across from the Avenida Vista Grande entrance to Eldorado, south of the gas station and barbeque restaurant. Commercial development has been approved for this parcel, and it has been included as part of the Avenida Vista Grande Village Crossroads.

In discussions with County staff regarding this amendment, it was stated that the US 285 Corridor Plan Committee was considering including self storage units in the Plan under some other category than Inappropriate Use, but wanted time to develop design standards by which they could be developed. These design standards would be adopted as part of standards implementing the Plan as such time as the Plan was adopted.

Mr. Alexis is in agreement with the idea of developing designs standards, and has offered to assist in preparing them. However, at this time, he would like to see an amendment made to the Plan setting forth the Committee's position. **To do so, he is suggesting the following amendment to the list of Inappropriate Use.** Note that self storage units are **still** listed as Inappropriate Uses if the setback, screening, and other design standards are not met:

- **Self storage[,if not set back from the property line 350 feet, screened from US 285 by the slope of the land and natural vegetation or by other land uses, or meeting other design standards as recommended by the US 285 Committee,] or outside storage. (Underlined language indicates additional material.)**

As stated in a letter earlier provided to you, Mr. Alexis is supporting an easing of restrictions on storage units because he believes that as a land use, they meet the goals of the Corridor Plan. They serve a community need by allowing people with smaller houses or larger families a place to safely store their items at a nearby location. This gives residents an opportunity to stay in homes that might otherwise seem too small, resisting

SFC CLERK RECORDED 09/14/2004

pressures to move to a larger space, and with ready access to their stored items. Storage units have an advantage over other land use in that they have limited impact on surrounding area with very low water use and traffic generation.

Self storage units also satisfy a community need. The only existing self storage in the area is at the end of Avenida Vista Grande. Allowing self storage units would accommodate the current and future demand for the Eldorado area.

The amendment Mr. Alexis offers would ensure that storage units were not visually obtrusive by requiring them to be set back from the road at least 350 feet and to be screened by the slope of the land and natural vegetation or by other buildings. In addition, the impact would be mitigated with other design standards as developed by the US 285 Corridor Committee

He feels that a test of this amendment is that he is able to recommend it both as an owner of commercially zoned property on US 285 and as a resident living on land immediately east of the commercial property. That is, if the amendment was approved, the storage units could be located on land next to and visible from his house, but not from the highway. He would find this acceptable.

Thank you for your attention to this matter.

Sincerely,

Linda Tigges
Tigges Planning Consultants
Representative for Dean Alexis

Alexis 285 let 7 7 04

SFC CLERK RECORDED 09/14/2004

Subject: 285 Corridor Plan

Date: Wed, 7 Jul 2004 10:10:23 EDT

From: JGAMTMANN2@aol.com

To: hmontoya@co.santa-fe.nm.us, Manaya@co.santa-fe.nm.us, Pduran@frenchx2.com,
pcampos@co.santa-fe.nm.us, jsullivan@co.santa-fe.nm.us

Dear County Commissioners:

The Eldorado Residents Association held a special Board Meeting last week on June 30th. At that time the board voted to communicate to you its desire for the commission to vote for adoption of the 285 Corridor Plan in its present form without further public meetings.

Over the last 3 years, the ERA has had a board member representative on the working committee for the 285 Corridor Plan, and progress reports were presented at each of our 12 quarterly meetings. We also devoted at least one meeting each year to an indepth report of the committee's work culminating with a powerpoint presentation most recently at the 2004 April Annual meeting.

Since the beginning of the working committee on the 285 Corridor Plan, there has been an ERA Board member or members present at the nearly 50 public meetings that have occurred in various venues during the past three years.

We do not believe that further public meetings on the 285 Corridor Plan are necessary, as the public has had more than ample time to read the final report at the Vista Grande Library, attend meetings, query the county planning board and others experts.

We hope you will vote to adopt the 285 Corridor plan, as presented to you, at your next meeting on July 13th.

Sincerely,

The Eldorado Residents Association Board

Jerry, Bradley, Pres.; Therese Janowski, Vice Pres.; Jerry Cooper, Treas.; Janet Amtmann, Sec.; Dolores Brock, member; Pat Kuhlhoff, member, Joe Auburg, member.

SFC CLERK RECORDED 09/14/2004

Subject: 285 Corridor Plan

Date: Wed, 07 Jul 2004 13:27:00 +0000

From: lamarques@comcast.net

To: Hmontoya@co.santa-fe.nm.us, Manaya@co.santa-fe.nm.us, pduran@frenchx2.com,
pcampos@co.santa-fe.nm.us, jsullivan@co.santa-fe.nm.us

CC: jmcgowan@co.santa-fe.nm.us

Dear Sirs:

We have been following the work of the 285 Corridor Plan Committee for several years, and we applaud the hard work of this committee.

While we accept that some development will occur, we support the recommendation of the committee to limit such development to 720,000 square feet. No one wants our beautiful 285 to become another Cerrillos Road. The 720,000 square feet will permit a more controlled development of businesses and services that will become necessary as the area grows, but not destroy the character of the highway.

We hope that you, as members of the Board of County Commissioners, will approve the recommendations of the 285 Corridor Plan Committee.

Joan and Ruben Lamarque

Eldorado Residents

SFC CLERK RECORDED 09/14/2004

Subject: 285 South Corridor Plan Support

Date: Tue, 6 Jul 2004 21:55:28 -0600

From: "Thomas Brooks" <tomke1r@earthlink.net>

To: Hmontoya@co.santa-fe.nm.us, Manaya@co.santa-fe.nm.us, pduran@frenchx2.com,
pcampos@co.santa-fe.nm.us, jsullivan@co.santa-fe.nm.us

CC: jmcgowan@co.santa-fe.nm.us

Santa Fe County Commissioners Anaya, Campos, Duran, Montoya, Sullivan:

The U.S. 285 South Corridor Plan is on the Board of County Commissioners' agenda for July 13th for a final approval vote. This is after 4 plus years of countless meetings in the community. These meetings have involved residents from area subdivisions, developers, owners of large undeveloped lots, and others.

Members of the community and county planning staff have already expended a great deal of time and effort on this comprehensive, well thought out, undertaking. It is high time to approve the U.S. Highway 285 South Corridor Plan as presented by the County Planning Staff and Committee and move onward. This plan should not be derailed or delayed by a small group of people, lead by Gary Boyle and followers, the same people who caused the Simpson Ranch Plan to be stopped and now want this plan delayed with more unnecessary meetings after 4 plus years of community involvement. Further delay and meetings will accomplish nothing but make the County Commissioners look like they are not listening to the majority of the community and what is clearly best for the 285 Corridor community.

Let's show some vision, approve this plan on July 13th, and move on with other County activities.

Thomas W. Brooks
28 Camino Caballos
Lamy, NM 87540

Thomas W. Brooks - tomke1r@earthlink.net
Pixel Purrfect - Building a bridge around the world one pixel at a time

(505) 466-0755 (H) - (505) 660-2758 (C)

SFC CLERK RECORDED 09/14/2004

Subject: 285 South Corridor Plan

Date: Tue, 06 Jul 2004 15:26:14 -0700

From: Charles Koenig <chaskoenig@att.net>

To: Harry Montoya <hmontoya@co.santa-fe.nm.us>

Dear Sir,

We approve of the U.S. 285 South corridor plan and hope that you approve the plan without any further delay at the July 13th hearing.

Respectfully submitted,

Charles Koenig
Linda Milbourn
13 Bishop Lamy Rd.
Lamy, NM 87540

SFC CLERK RECORDED 09/14/2004

Subject: 285 South Corridor Plan

Date: Mon, 5 Jul 2004 20:35:11 -0600

From: Wayne Gibson <darawayne@cybermesa.com>

To: pduran@frenchx2.com

CC: pcampos@co.santa-fe.nm.us, manaya@co.santa-fe.nm.us, hmontoya@co.santa-fe.nm.us,
jsullivan@co.santa-fe.nm.us

Dear Commissioner:

As residents of the 285 South Corridor area (Old Road Ranch Subdivision), we ask that you please approve the Corridor Plan at your upcoming hearing.

Dara Mark and Wayne Gibson
37-B Old Road
Lamy, NM 87540

SFC CLERK RECORDED 09/14/2004

Subject: 285 South Corridor Plan

Date: Mon, 5 Jul 2004 20:02:17 -0600

From: Wayne Gibson <darawayne@cybermesa.com>

To: pduran@frenchxz.com

CC: pcampos@co.santa-fe.nm.us, manaya@co.santa-fe.nm.us, jsullivan@co.santa-fe.nm.us,
hmontoya@co.santa-fe.nm.us

Dear Commissioner:

As residents of the Corridor (Old Road Ranch Subdivision), we ask you to approve the Corridor Plan without delay.

Dara Mark and Wayne Gibson

SFC CLERK RECORDED 09/14/2004

Subject: 285 South Corridor Plan

Date: Mon, 5 Jul 2004 11:01:15 EDT

From: BvArmstrn@aol.com

To: manaya@co.santa-fe.nm.us

My husband and I are residents of the Old Road Ranch Development and we encourage you to approve the Highway 285 South Corridor Plan at the July 13th hearing. Thank You, Beverly and Richard Armstrong

SFC CLERK RECORDED 09/14/2004

APPROVE the corridor plan now!

Subject: APPROVE the corridor plan now!

Date: Sat, 3 Jul 2004 12:18:08 -0600

From: Tom Hyland <majortom@newmexico.com>

To: manaya@co.santa-fe.nm.us

Begin forwarded message:

From: Tom Hyland <majortom@newmexico.com>

Date: July 3, 2004 9:46:21 AM MDT

To: manaya@co.santa/fe.nm.us

Subject: APPROVE the corridor plan now!

Mr. Anaya, I am Tom Hyland and I live at Old Road Ranch. Paul Duran recently suggested that the county commissioners should meet with the public once again to discuss the U.S. 285 Corridor Plan. I am speaking on my own behalf but I know that many others in this neighborhood share the same point of view..... we want you to approve this plan NOW and stop wasting everybody's time and efforts! The plan is totally acceptable as is and there is no need for further deliberation. I appreciate your service to the community and there is no finer gift you could offer than to approve this plan now and stop dragging us through this thing any further. Sincerely, Tom Hyland

SFC CLERK RECORDED 09/14/2004

July 13th meeting

Subject: July 13th meeting

Date: Sat, 03 Jul 2004 10:20:20 -0600

From: Lynn Larsen <ripley@newmexico.com>

To: manaya@co.santa-fe.nm.us

I live in the Old Road Ranch subdivision and wanted to encourage you to approve the US 285 SW corridor plan on July 13th without further delay.

Thank you

lynn larsen

SFC CLERK RECORDED 09/14/2004

Subject: 285 South Corridor Plan

Date: Fri, 02 Jul 2004 11:12:21 -0600

From: Daniel Drobnis <drobnisd@spsc.edu>

To: Manaya@co.santa-fe.nm.us

To the Honorable Michael Anaya--

I strongly favor the Board of County Commissioners accepting the 285 South Corridor Plan as soon as possible. Many people have put time into this endeavor for as long as 4 years. Meetings were well advertised and over the years many did anyone attend, participate actively, and comment upon the plan development. There were many community meetings sponsored by both the County and by interested citizens to explain and comment upon the plan, and copies of the plan have been available in all its draft versions. The 285 planning committee has addressed every comment it received.

Some people are insisting on more community meetings, which at this point would just elicit the same responses, both positive and negative. Individuals who are still opposed have been able to comment at open meetings and in writing to the BCC members.

I believe it is time to recognize the considerable effort made by community members all along the 285 South Corridor, and the county planning department and bring the plan to a vote.

Best regards--

Daniel Drobnis
Eldorado at Santa Fe
17 Sabroso Road
Santa Fe, New Mexico 87508

SFC CLERK RECORDED 09/14/2004

Subject: Fwd: Support for the Highway 285 Corridor Plan

Date: Fri, 2 Jul 2004 11:22:54 EDT

From: StacyCrossingham@aol.com

To: Manaya@co.santa-fe.nm.us

Subject: Support for the Highway 285 Corridor Plan

Date: Fri, 2 Jul 2004 11:20:13 EDT

From: StacyCrossingham@aol.com

To: Hmontoya@co.santa-fe.nm.us

CC: Manaya@co.santa-fe.nm.us;pduran@frenchx2.com;pcampos@co.santa-fe.nm.us;jsullivan@co

Dear Commissioners:

I am a local resident of Eldorado for the past 10 years as well as the developer for the Village at Eldorado development. Having gone through the process of getting approvals for my development forced me to work with the community and all the different groups, including the Highway 285 Corridor group. Having heard all the backstabbing and name calling that goes on in this community with the varied interests and desires residents of this area have, you could imagine how reluctant I was to participate at first. However, as a new developer, I felt it necessary to be part of what was happening in my neighborhood and be open to what people had to say. Several years ago, I joined the Highway 285 Corridor planning committee and started to contribute and listen to the plan. I was so glad that I did participate because I realized that all the bickering that goes on here is really only a matter of people believing what they want to believe and not really listening to the facts.

This continues with the opponents of the Highway 285 Corridor plan. They don't want to believe that the plan is a good plan nor do they care to understand it. It is **NOT** a development plan supporting development, it is **NOT** a water plan, providing jurisdiction over water, it is **GUIDELINES AND STANDARDS FOR DESIGN** of the Corridor, so that should development occur, when and if developers can prove water, there would be standards to be met so that we don't have a hodge podge community corridor. That is it. In fact, quite the opposite has occurred through planning in regards to development. It actually reduced massive amounts of square footage that could be build.

I urge you to support all the hard work and effort that has gone into this plan which was done with a major representation of the various communities along the corridor and not give in to the ludicrous comments made by Gary Boyle and his clan opposing the plan. Their main argument is water and this is, once again, **NOT A WATER PLAN**. (As a footnote, I find it quite entertaining to hear Gary Boyle stand before the CDRC requesting expansion for his Agora Shopping Center, unwilling to spend the money for water conservation, when he is out there opposing this plan for the very same reason. If it doesn't suit him, it shouldn't apply to him? Oh well. You will experience that hearing in the next month.

I do not feel delaying the approval of the plan is in anyone's best interest except Gary Boyle's. He is trying to get his expansion through prior to the approval to the plan so that he would not be required to adhere to them. I do hope you can rise above the politics of this issue and support what is right.

I thank you in advance.

Sincerely,

Stacy L. Crossingham
Village at Eldorado
Resident of Eldorado

SFC CLERK RECORDED 09/14/2004

approve 285S corridor plan

Subject: approve 285S corridor plan

Date: Thu, 01 Jul 2004 20:29:34 -0600

From: Pam Henline <phenline@mindspring.com>

To: Manaya@co.santa-fe.nm.us

Dear Mr. Anaya

I am strongly in favor of the Board of County Commissioners accepting the 285S Corridor Plan as soon as possible. Many people have put time into this endeavor for as long as 4 years. Meetings were advertised and anyone could attend during the plan development. There were many community meetings to explain the plan to the community at large and copies of the plan were available. The 285 planning committee has addressed every comment it received.

More community meetings would just elicit the same responses, both positive and negative. Individuals who are still opposed have been able to comment at open meetings and in writing to the BCC members.

It seems that any additional public comment should be made to the entire BCC at a formal meeting in county chambers, but I do not feel that this is necessary. It is time to recognize the considerable effort made by the community members and the county planning department.

Pamela Henline
17 Sabroso Rd
Santa Fe NM 87508

SFC CLERK RECORDED 09/14/2004

Subject: 285 Corridor Plan

Date: Thu, 1 Jul 2004 16:32:45 -0600

From: "Patricia Kuhlhoff" <pglk@earthlink.net>

To: Manaya@co.santa-fe.nm.us

July 1,2004

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Dear Commissioner Anaya,

I am a 6 year resident of El Dorado and have been very community active since moving here, I have served on the Eldorado Residents Assoc. Board, the 285 Corridor committee, and the Simpson Ranch committee.

I am writing to urge you to vote on the 285 Corridor plan at the July 13th meeting and NOT to have a 3rd BCC meeting or another community meeting. The latter would be more of the same, which we out here know is pointless, as the same issues have been repeated for many months now and though the 285 committee has addressed the issues brought up by those against the plan and have made changers where appropriate those opposed do not recognize that this has been done.

To date there have been many (somewhere between 75 and 100) open meetings regarding the 285 Corridor Plan; the corridor plan meetings themselves, at least monthly for over 4 years. Also the 285 plan has been on the agenda at 285 Coalition meetings (monthly) and also at the quarterly meetings of the Eldorado Residents Assoc. with at least one meeting a year devoted solely the 285 Corridor Plan. There was also discussion at the Simpson Ranch meetings as well as the meetings that took place when the survey was done out here. I certainly believe that there has been sufficient opportunity for public input.

This is a well thought out plan with a review process built into it, and though it should have been done many years ago, better late than never. So again, I request that a vote be taken on this plan on July 13th and that you vote in favor of the 285 Corridor Plan.

Thank you for your time and attention to this matter.

Sincerely,

Pat Kuhlhoff

466-4877

Patricia Kuhlhoff
pglk@earthlink.net
Why Wait? Move to EarthLink.

SFC CLERK RECORDED 09/14/2004

Subject: 285 Corridor Plan

Date: Wed, 30 Jun 2004 07:49:34 -0600

From: AK/WJRobens <therobens@comcast.net>

To: manaya@co.santa-fe.nm.us

Commissioner Anaya,

I live in Eldorado. Because of job commitments, then family commitments, I have been only sporadically involved in the 285 plan.

I have, however, completed a time-consuming review of the plan, and dropped of my comments to Judy McGowan at the land use office today. I also dropped off a packet for each commissioner in the County Manager's office.

My comments are specific and substantive, and are based upon many years in engineering and land use planning, most of it at the executive level, in both the public and private sectors. My understanding is that staff will respond to each recommendation. I have tried to make that easy to do.

I respectfully request that you take the time to read them and consider them in your decision making. They are clearly too voluminous to make at a public hearing, and this is the only way I know to get them to you.

I would like about 10 minutes or so at the public hearing in July. Hopefully that will not be asking too much.

Thank you for your consideration.

Bill Robens

SFC CLERK RECORDED 09/14/2004

Subject: 285 Corridor Plan

Date: Tue, 29 Jun 2004 14:58:21 -0600

From: "blakan" <blakan@earthlink.net>

To: <Hmontoya@co.santa-fe.nm.us>, <Manaya@co.santa-fe.nm.us>, <pduran@frenchx2.com>, <pcampos@co.santa-fe.nm.us>, <jsullivan@co.santa-fe.nm.us>

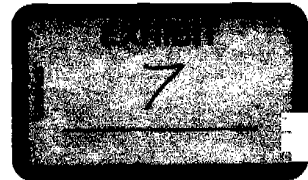
Dear Commissioner,

We the undersigned urge you to vote for adoption of the 285 Corridor Plan at the July 13, 2004 hearing. The Plan was developed with broad community representation and participation, and there has been ample opportunity for community input. After more then four years of work and careful consideration of residents' concerns, it is time to move forward with the Plan so that it can achieve the goals our community has developed. Many area residents, including the undersigned, will not attend a third public hearing because of the negativity expected from opponents of the Plan.

Sincerely yours,

Hazel Campbell, Belicia
Joan Christopher, Dos Griegos,
Frances Lumbers, Dos Griegos

SFC CLERK RECORDED 09/14/2004



COMMENTS TO THE BCC - 13 JULY 2004

I would like to make a few brief comments to the Commissioners on the 285 Plan now up for approval. Although I have done so before, I will make it official.

I am completely in favor of planning, and indeed, have participated in a great deal of it in the course of my professional life, I am opposed to this Plan as it has been formulated. I am convinced the area **does need a plan - it does not need this plan.**

I am on record concerning many aspects of the Plan as being flawed. I recently e-mailed some additional comments to the Commissioners. I submit these comments for the record.

On water, enactment of this plan will establish dangerous zoning precedents for the entire County. It is my understanding that, in order to get this plan into ordinance, the existing hydrology zoning law will have to be changed for the 285 Plan area. This putting the "cart before the horse", i.e. establishing a level of development - desirable or not - before ascertaining whether there are resources available to provide to serve it. If this is done for the 285 area, how can the County say no when the next so-called plan is produced? On this count alone, the 285 Plan should be rejected. I do not wish to see any more of my tax dollars wasted in law suits than have already been spent on inappropriate planning.

On another aspect of the Plan, I have recently prepared some rough drawings on the effect 285 Plan design standards could have on the community. By the way, although the Plan refers to itself as a Corridor Plan, if one reads the document, it talks about Community and the effect it will have on Community well over 100 times - if my memory serves me correctly it is 130 +/- . This should put to rest the notion this is a Corridor Plan.

To judge the effect, one has to review the standards critically and then put down in a graphic representation. Then the logical outcome of what could be built if these standards were exercised with no more constraints than are listed can be seen. The result could be to change what is now what most residents think of semi-rural to a setting more appropriate to an urban environment. Indeed, with the buildings heights and areas shown, the mixed architectural styles, the accent colors permitted, signs allowed to be wall mounted as high as buildings and street lighting more appropriate to the highway, could give a good approximation of Cerrillos Road. I doubt if even the proponents of this Plan have any idea what could be built.

SFC CLERK RECORDED 09/14/2004

COMMENTS TO THE BCC - 13 JULY 2004 / 2

I feel compelled to make another observation. The Commissioners were given a packet of briefing documents in preparation for this meeting. I obtained a copy last night, and have thus not had an opportunity to thoroughly review them. However, a cursory review reveals a number of serious misrepresentations as well as a number of instances where an critical issue, particularly water, appear to be evaded (how can a Plan be considered when critical issues are not addressed ?).

One item in particular (on page 6) struck me. I guess I wasn't supposed to see this. At the bottom of the page under "Response or Discussion", it states, "The Staff has repeatedly asked Mr Hale to share his architectural expertise with the committee if he had specific issues with the standards. He declined". This is a pure falsehood. Now I may be getting a little old, but I think I would have remembered repeated requests. As a matter of fact Staff has interrupted my comments and finally terminated my observations on at least one occasion in a public forum with hundreds of witnesses. This statement also impugns the hours and years I have devoted "pro bono" to this community.

That Staff would make this sort of comment to the Commissioners in the manner in which it was done, raises serious questions as to Staff objectivity as well as the veracity of their other reporting to the Commissioners. As a citizen whose taxes pay for all this, it is felt a thorough investigation of procedures and practices such as this must be implemented. This sort of thing can not be allowed to continue.

Alexander Hale

SFC CLERK RECORDED 09/14/2004

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Subj: **285 Plan Provisions**
Date: 7/12/2004 4:37:28 PM Mountain Daylight Time
From: AHALEAIA
To: manaya@co.santa-fe.nm.us, pcampos@co.santa-fe.nm.us, pduran@co.santa-fe.nm.us, hmontoya@co.santa-fe.nm.us, jsullivan@co.santa-fe.nm.us, ggonzalez@co.santa-fe.nm.us, rabeyta@co.santa-fe.nm.us, sross@co.santa-fe.nm.us
CC: dr.dalejenkins@msn.com
BCC: Warpossum, JBHale2, callenchap613@yahoo.com, RobertwClarke@cs.com, scoston@yahoo.com, mcurran@nets.com, mdripima@lewallencontemporary., dkelehan@hotmail.com, Robbie@DouglasArts.com, Amiarlette, RangerDutton, edandcary@cybermesa.com, Eldoradosunset, memmerton@cnsf.com, randyfalk@earthlink.net, eldo.esthe@earthlink.net, aurora@newmexico.com, clay.companions@verizon.net, jannyheitman@cnsf, Zeoguy, mary.g.james@att.net, jjwil2@msn.com, brucek@sfnewmexican.com, gnlane71@comcast.net, Ziti1@Juno.com, lynnmpherson@hotmail.com, Helensanfe, NMELC@NMELC.org, nateockman@comcast.net, PREIK@cyfd.state.NM.US, Tetonrap, rprocter@msn.com, sachapw@msn.com, Ed1977Gretchen@earthlink.com, MRaynard@tudmusgroup.com, RRaynard@comcast.net, RACERMANSO@mindspring.com, RobbArtsSF, therobens@comcast.net, Russtree, Kathleencraig@mail.utexas.edu, gsalazar@abqjournal.com, fschober@att.net, MSeckler, alexstango@comcast.net, tuerstig@juno.com, Pharmstew

Dear Commissioner:

A number of 285 area residents would like to review some aspects of the 285 Plan which is now being considered for approval. There are ramifications to the Plan proposals which have far reaching implications, not just for the 285 area, but for the entire County.

As you are no doubt aware, the 285 Plan proposes to drastically increase the density of commercial, industrial and which is called mixed - use along the Corridor. As you should be aware, the entire area is dependent on ground water from the same aquifer, and that the aquifer supply is dwindling seriously. Adopting Plan proposals will endanger the water supply for the entire area. The 285 Plan further admits that supplemental water will be required sooner than expected (page 43), but offers no real solution. It seems extremely unlikely that an expenditure of millions of dollars in public funds to supply additional water will be authorized in time to prevent serious consequences.

What should be known, and is perhaps not as well known, is that the Plan violates the current County hydrological zoning code -dating from 1980, and reaffirmed in the County General Plan in 1989. (Note: most of the 285 area was subdivided before 1980 and is thus "grandfathered" in.) This code establishes that part of the 285 Plan lies in what is designated as the Basin Fringe Zone, the remainder, but more densely to be developed portion lies in the Mountain Zone. That code stipulates that there be no more than one residence or the equivalent commercial) per 12.5 acres. In the Mountain Zone, the density is reduced to one residence per 20 acres. Therefore Plan proposals are illegal. However, the Final Draft makes no mention of that fact as it should have if it were an honest, above board document.

As things stand, there is only one way that this Plan could be approved. That is to change the code to make it legal. As we understand it, this is proposed to be done, not for the entire County, but for the 285 area alone. We feel this is extremely unwise for a number of reasons. First, it discriminates in favor of those wishing to develop a specific area. Secondly, it sets a precedent for the entire County. Where will be the developer pressure come next? And more importantly, if this precedent is established, how will the County be able to respond? Finally, any change of this sort totally ignores the realities of water and density not only in the 285 area, but the entire County.

One additional comment. Any proposal of this sort puts the proverbial "cart before the horse". Let's assume some sort of new development were desirable and fulfilled a need of the community. Then, for the sake of argument, let us also assume new and reliable water sources could be found which could supply some of that development. Would it not be wise to first ascertain how much of new development could be supplied with water before creating a plan for that development? That should be a County wide policy. Unfortunately, that is not what is being done in this. Considering these circumstances, you are urged to reject this Plan as is currently conceived. It is suggested the horse be put behind the cart where it belongs.

SFC CLERK RECORDED 09/14/2004

Chari Chapman, Bob Clarke, Ed Rau, Gretchen Rau, Rhoda Shery, Howard Shery, Alexander Hale, Mary Ann Hale, Elizabeth Martin, Elizabeth Clarke, Jerry Williams, Judy Williams, Susan Kingsley-Rowe, Nicholas Martin, Pat Martin, Dann Kelehan, Paul Eik

SFC CLERK RECORDED 09/14/2004

Subj: 285 Plan Design Standards
Date: 7/12/2004 9:56:02 AM Mountain Daylight Time
From: AHALEAIA
To: manaya@co.santa-fe.nm.us, pcampos@co.santa-fe.nm.us, pduran@co.santa-fe.nm.us, hmontoya@co.santa-fe.nm.us, jsullivan@co.santa-fe.nm.us
BCC: Warpossum, Quick-Link@cybermesa.com, callenchap613@yahoo.com, mcurran@nets.com, scoston@yahoo.com, dkelehan@hotmail.com, Robbie@DouglasArts.com, Amiarlette, RangerDutton, edand_cary@cybermesa.com, Eldoradosunset, memmerton@cnsf.com, randyfalk@earthlink.net, eldo.esthe@earthlink.net, aurora@newmexico.com, clay.companions@verizon.net, Zeoguy, mary.g.james@att.net, JBHale2, dr.dalejenkins@msn.com, jjwil2@msn.com, brucek@sfnewmexican.com, gnlane71@comcast.net, Ziti1@Juno.com, lynnmcpherson@hotmail.com, Helensanfe, NMELC@NMELC.org, nateockman@comcast.net, PREIK@cyfd.state.NM.US, Tetonrap, rprocter@msn.com, sachapw@msn.com, Ed1977Gretchen@earthlink.com, MRaynard@cuemusgroup.com, RRaynard@comcast.net, RACERMANSO@mindspring.com, RobbArtsSF, therobens@comcast.net, Russtree, Kathleencraig@mail.utexas.edu, gsalazar@abqjournal.com, fschober@att.net, MSeckler, alexstango@comcast.net, Pharmstew, pwirth@swbpc.com

Dear Commissioner:

By now you should have read Bill Roben's comprehensive letter on the methods used in preparing the 285 Plan, together with recommendations on preferable ways of proceeding. One of the Plan aspects he did not discuss was the design standards written into the Plan and the impact they could have on both the individual resident as well as the community as a whole. I would like to review those Standards to give you a visual idea on what they could look like as well as some additional ideas of the way they could affect both the lifestyle and the ambiance of the community if constructed in accordance with Plan provisions.

Before discussing, would like to very briefly review my experience. I am an honors graduate of the University of Illinois with both a BS and MS in Architecture with over 40 years experience, 20 of which has been with my own firm. While doing graduate work, worked with City of Chicago Planning department. I have won awards on 5 buildings I have designed. One was selected to go to Didacta in Brussels and on a USIA worldwide traveling exhibit. Thus, I have perhaps unique qualifications to evaluate the design aspects of this Plan as well their community impact.

I have prepared some rough sketches to show you what could be built utilizing the published design criteria. But, before getting into them, There are a few general features of this plan you should know about since they profoundly affect what your understanding of what this is all about:

- The Plan has no "shalls", no mandatory requirements. It only has "shoulds". In other words, there is very real possibility that desirable features you would want to see will not be there in the final ordinance. Staff takes the position that you should spend hours and days down at the County Building while the ordinance is being written to attempt to retain the features glowingly implied in the Plan. This is a totally unreasonable expectation of resident expertise and available time.
- Another feature you should know is that there are no incentives built into this Plan to insure the features described will be realized. Usually one finds things such as impact fees to help pay for desirable features. Also not found are any developer incentives to create such things plazas, open spaces, easements for trail connections and the like. Verbiage can only be described as vague and wishy-washy. In most instances, the community is expected to attempt to persuade developers to spend money on features that will subtract from the developer's bottom line. Assume for a minute that some features are desirable (although most are arguable). You can expect to see them vanish as final developer plans are submitted.
- You should realize that, unless a feature, practice or type of construction is specifically forbidden, it will happen if it proves financially beneficial to the developer.
- This may have been mentioned before, but deserves reiteration. Authors of this Plan have insured that the majority of residents cannot the control design decisions which will occur in their community. I.E. In accordance with this Plan, Eldorado residents can not be a majority of the Design Review Committee. This is particularly unfair since a major portion of Plan development will impact Eldorado majority directly. Also, Eldorado compromises 80% of the population of the 285 area.
- Most of both the amount of development and features of this Plan were emphatically rejected (by a 13 to 1 majority) by residents when they responded to a \$ 25,000 Community Survey in 2003. Results of this Survey have, apparently deliberately, been ignored by the County Staff and the developers in preparing this Plan. A

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petition signed by over 2000 residents has also been ignored by County Staff..

Before discussing the design standards being proposed by this Plan, it would be well to see what these standards are intended to achieve. The plan recommends policies that when implemented, will locate commercial, residential and community uses in places that are *"designed to fit the character, scale and needs of the local neighborhoods"*; provide safe and well designed connections; and protect the natural environment and landscape that dominates between these places."(page 5). Operative words here are character, scale and needs of local neighborhoods. Next, we shall see how well the standards fulfill the stated criteria. It will be obvious how natural environment and landscape will be impacted.

First, two non - visual items. The recommended noise setbacks won't work - most houses are already built; and even if they weren't, increasing distance will only minimally decrease noise. Nor will foliage. I have worked with acoustical engineers on a problem similar to these circumstances. The only thing that will work to significantly reduce noise is mass, i.e. noise fences, berms or the equivalent which will destroy any open views left.

Another item is traffic and trails. If the Village Crossroads Plans on page 164 is examined closely, one will find two stop signs on Vista Grande and one on Colima to "accommodate" trails and pedestrians. Not only do they create more safety problems than they solve, but they received severe criticism when first proposed in 2002 due to the impact on the thousands who commute on Vista Grande each day. Result: the problem is not solved, just sort of hidden until accidents and / or fatalities occur and the stop signs appear. The Plan vaguely predicts similar conditions will occur at Avenida Amistad (page 147), but offers no solutions.

I have prepared and attached two drawings which unfortunately have to be reduced in size for transmission (use the graphic scales shown). These are accurate insofar as it is possible to tell from the Plan. Cars / vans are shown to scale; figures represent a 6' high person. To give a further idea of scale, for purposes of comparison and hopefully aid visualization existing building parapet heights of the Agora are shown dotted since it is a feature which is familiar to residents. You may use your imagination to show what is proposed as compared to the existing. The scale of the Agora is familiar to and apparently acceptable to most residents.

First, look at drawing **A**. It has two sections, representing the solutions proposed on pages 111, 112 and 113 of the Plan. They may look nice in plan, but when considered in the 3rd dimension, they simply do not work. These indicate a character that purports to be suitable for local neighborhoods. With the allowed 2 story buildings and lighting heights shown, the plaza and pedestrian streets detailed are more appropriate for a downtown urban environment. There is no ambiance. They are out of character with the existing community. They are not *"designed to fit the character, scale and needs of the local neighborhoods."* For example, in the drawing showing a suggested 285 plaza, compare the Agora's 15 feet high portal (with covered walking space underneath) to a slab sided building (with no sheltered walkway) almost twice (27feet) as high. Notwithstanding the fact there is no incentive (as noted above) for developer to provide them, it would be difficult to imagine any one who would enjoy sitting in the plaza shown or walking down the pedestrian oriented street indicated. Would you go to lunch at Casa Sena if it looked like this ?

Drawing **B** shows some potential buildings which could built under the guidelines. The top elevation shows a 35,000 sq ft "big box" which could be built. It approximates the size of Baillos. Its floor area is only slightly larger than the Agora, but it is not grouped around a courtyard, it is a box, and it is over 30 % higher! A pier or wall offset can not disguise that. One of the most egregious features is that 30 % of an elevation can be an accent color. This could be shocking pink or day glow orange. So the visual impact and scale can be both be totally out keeping with the 285 community as we know it. You will also note that signs can be mounted level with the top of that 27' high building which is totally out of character. Lighting fixtures can be higher than the Agora itself is now, will presumably match what is now out on Rt 285, and being sodium vapor, be in the sulphurous color range. And, of course, security will necessitate they be on all night.

The lower drawing shows mixed use and mixed architectural styles. It can range from Northern New Mexico to Territorial to Pueblo, all within a few feet of one another. It is visual chaos. It encourages architectural style as advertising - very similar to what one sees along Cerrillos Road (which this Plan advertizes it avoids). With signs that can be 27' in the air, it is Roadtown USA. In other words, look at me, patronize me, I shout louder than the next building. It certainly does not encourage a sense of community, continuity with the surroundings or visual harmony.

The potential mixed use feature also shows offices next to stores with apartments above next to a light industrial structure. Could this be a relay station, or a trucking depot, or what ? With the vagueness of this Plan, let your imagination run rampant. It might just well be permitted. There is no way that this sort of development can create

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a sense of community. What is needed is a Plan that is truly "designed to fit the character, scale and needs of the local neighborhoods." This Plan needs to be thoroughly rethought and redesigned with true community input instead of the current exclusion.

However, this Plan is an attempt to force what is a now "semi-rural" low key community into an urban strip-node development. I don't think any County Commissioner would like to see what is proposed here happen to their neighborhood. I urge you to reject this proposal. I will be willing to discuss any of this by phone or in person.


Alexander Hale AIA (466-0610)

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The 285 "Corridor Plan"




- ◆ The Plan being proposed by Staff is contrary to policies that have been in the County General Plan for the past 25 years and is illegal under today's County Code.
- ◆ What this body is being asked to do today is to begin to make it legal by making it an amendment to the County General Plan.
- ◆ Thereby setting the stage for future Code changes that would make it legal.



In other words,

"If the 285 Plan is illegal under the law, lets change the law."




This raises the question:

"Is changing the law justified?"

We don't think so.


Our goal today is to explore that question.



In Summary:


The Plan is Proposing . . .

"640,000 Square Feet of New Commercial & Mixed Use Development on 285"



If developed as "Commercial", it will:


- ▶ Equal the building of 20 New Agora Centers on the 5-mile stretch between I-25 and Lamy.
- ▶ Equal the size of the DeVargas Mall & Zafarano's new "Big Box" Center, combined.
- ▶ Result in higher commercial density per capita than even Albuquerque.




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If developed as "Mixed Use", it would:

- ▶ Allow developers to substitute residential units for commercial density.
- ▶ It would allow 3+ housing units per acre to be substituted for commercial development, and there could be as many as 250 new high-density residential units built along 285 (equal to all the homes presently on the east side of 285).
- ▶ 3 housing units per acre compares to the present average for all of Greater Eldorado of 2 acres per residence. A dramatic increase in density.




This plan doesn't make Common Sense
Or
Code sense.



In terms of Code Sense. . .

It is a fact that, today, this plan is not in compliance with either:

- The present Land Development Code
- Or the objectives of the 1980 & 1999 General Plans.




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(Page 18):


It stated:

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The scarcity of local water resources is the dominant influence on the location, amount and intensity of future urbanization in Santa Fe County."



◆ **As a Result, the General Plan of 1980 had 2 Primary Policies.**


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2. "Work actively to transition from 100-year hydrology to sustainable water usage".



Clearly,
Controlling development density in relation to water consumption have been key policies of the County General Plan.


&
They are also key issues for the Eldorado community.




These General Plan policies occupy a very key Section of the Land Development Code, also!

Article III, Section 10
"Relationship of Lot Size to Water Policies".

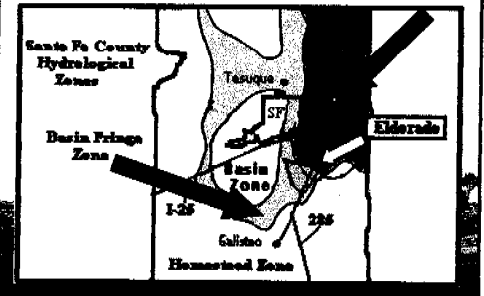
- The Four Hydrological Zones provision, and their required densities in relation to water use, continue today unchanged from the original 1980 Code.
- So does the 100-year proof of supply as a part of this Section.




Let's look at
The Eldorado Area & Hydrological Zones.



Eldorado & The County Hydrological Zones



How do the Code's Hydrological Zone requirements apply to the Eldorado Area?




Here's How the Code's Density & Water Use Formulas Work in Our Hydrological Zones

■ If the water use on a lot is to be:

| | |
|---|--|
| .25 AFY
<small>(typical residential)</small> | 1.0 AFY
<small>(typical commercial/10,000 SF)</small> |
| Min. Lot Size is: | Min. Lot Size is: |
| Basin Fringe Zone Area 12.5 Acs. | 50 Acs. |
| Mountain Zone Area 20.0 Acs. | 80 Acs. |


The Zones Where Eldorado is Located



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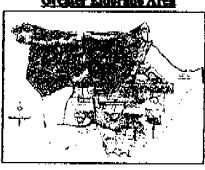
These are very large lot-size standards when you consider that today the average developed lot size in Greater Eldorado is approximately 2 acres.

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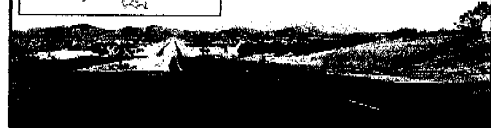


Hypothetical Application of the Hydrological Zone Formula to the Greater Eldorado Area.

Greater Eldorado Area Greater Eldorado Land State




1. 15,000 acres total.
2. 12,000± acres in the Basin Fringe Zone.
3. 3,000 ± acres in the Mountain Zone.




Given:

- A total of 15,000 acres existing in the two hydrological zones.




- And, assuming the use of the least amount of water at a quarter acre-foot per year consumption level.



■ Here's a calculation of the density and the amount of water this community SHOULD be using based on Code:


Given That:

| Part of Eldorado is in: | Number of acres | Divided by 12.5 Ac. For Basin/FZ
20 Ac. For MtnZ | =S Water Use@1/4 AFY/Lot |
|-------------------------|-----------------|---|--------------------------|
| Basin Fringe Zone: | 12,000 | 960 lots | 240 AFY |
| Mountain Zone: | 3,000 | 150 lots | 40 AFY |
| Totals | 15,000 | 1,110 lots | 280 AFY |



How does this compare to CURRENT Eldorado densities and water use?


| Current Eldorado: (As of Year 2003) | ASIXA 15,000 | # of Lots 3,891 lots | Current Water Use 582 AFY |
|---|--------------|----------------------|---------------------------|
| If Developed according To Our 1980-2004 Code: | ASIXA 15,000 | # of Lots 1,110 lots | Water Use 280 AFY |
| From Prev. pg. | | # of Lots +3X's | Water + 2X's |
| Density/Water Use Diff: | | | |



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As we stand today. . .

We already have land-use that's *3 X's more dense* than Code standard
and
We're using *2 times the Code-determined* water.




As we stand today. . .


Furthermore,

Our water supply is totally reliant on pumping groundwater
and
our community water system cannot prove a 100-year supply as
required by the County Code.

(or even a 20 or 40-year supply which is the ordinary Municipal Standard)




That's why there's been a County imposed
moratorium in Eldorado since 1996



TODAY,


Eldorado is NOT in conformance with the Code in regard to
the 3 key elements of land use administration:

- ◆ land use density,
- ◆ water consumption,
- ◆ and the 100-year water supply requirement.




What about Tomorrow?

If the 285 Plan is approved?




■ It would allow an 8 times increase in density *versus what presently exists.*

To the 80,000 square feet of present commercial development, the plan would allow the building of a minimum of 640,000 NEW square feet.



What is the impact of this?


Let's first look at:
"Population Growth vs. Commercial Growth"



■ **Expected population growth in the Greater Eldorado Area**
 Will be from 7,200 in the year 2000


To: 8,900 (low side) By Year 2020 +20%
 vs. 285 Plan's
 To: 10,000 (high side) By Year 2020 +40%

800% increase in commercial development.




■ **Looking at population growth estimates over the next 20 years, common sense would say this level of development is:**

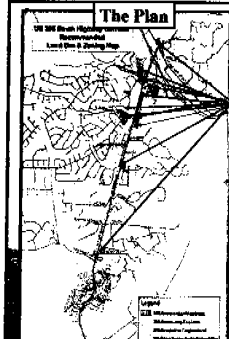
Out of proportion



Let's look more closely at
285 Plan specifics




The Plan




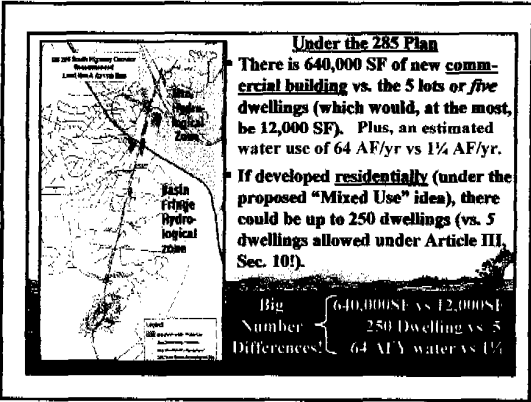
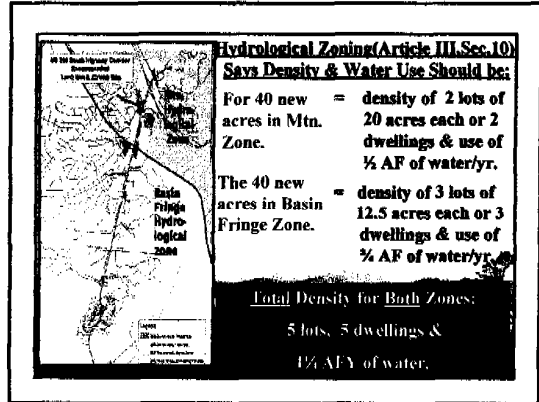
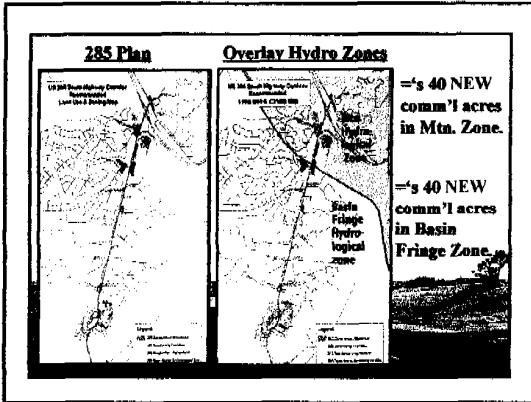
The Plan calls for development in 10 locations.
 The lots at the end of the red arrows are the commercial/mixed-use lots.

They equal a total of 104 acres:
 -24 acres already built on.
 -80 acres of new development.



New Let's Look at the Plan with Hydrological Zones Overlaid





And, it proposes to add this new density and water usage to a community that's already:

- ◆ 3 times more dense than it should be under the Code
- ◆ using 2X's more water than it should under Code
- ◆ unable to meet the Code's 100-year supply requirement for its water supply.
- ◆ and a community without a plan or resources in place to fix any of these problems.

The 285 Plan doesn't make *Common Sense* . . .


Nor, Code sense .

- The 285 Plan has been fashioned using Article III, Section 4, which details the specific standards for commercial development (how to plan for "Commercial and Industrial Non-Residential Districts").
The problem is . . .
- It is in conflict with Article III, Section 10, which sets the standards for land-use density and water use by Hydrological Zones.

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A. If one follows Article III, Section 10: "Hydrological Zones"

- The 80 new development acres identified in the 285 Plan should use 1¼ AFY of water and have approximately 12,000+ square feet of building.




B. If one follows Article III, Section 4: "Comm'l Districts"

- The development of the same 80 acres can go up to 640,000+ square feet of building and water use of 64 AFY, which is what the 285 Plan calls for.




If one follows the present Code, which provision would control?

Article III, Section 4
Or
Article III, Section 10?




Article I, Section 10
"Conflicting Provisions"

Provides the answer...




Article I, Section 10, "Conflicting Provisions"

"Where there exists a conflict between any limitation or requirement in the Code and any applicable limitation or requirement contained elsewhere in this Code or in any other ordinance, regulation, or law, the *more restrictive* limitation or requirement *shall* prevail."



By today's Code, the more limiting standards set by "Hydrological Zones" must prevail.

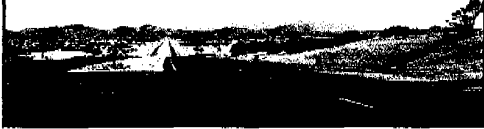
Under Article III, Section 10
The 285 Plan does not conform to Code.



Discussion of the "Mixed Use" Issue.

- ◆ The title of Code Article III, Section 4 is specifically labeled:
"Commercial and Industrial Non-Residential Districts".

It would seem clear by the words "Non-Residential" that the intention of the Code is to NOT include residential development within such districts.



In Conclusion

- ◆ The 285 Plan, in its present form, is not in conformance with current Code, or the objectives of the General Plan.

However, that's not the real issue here.



In Conclusion

- ◆ The real issue here is should the General Plan be amended to bring the General Plan and, subsequently, the Code in line with the proposed 285 plan?

In other words,

"If it is illegal, should we change the law?"



To answer that question, these questions need to be asked:

- ◆ Have there been compelling reasons offered in this Plan for changing 25 years of General Plan policy and Code regulation in order to get this single Plan approved and through the "system"??? (or, is this "developer" driven?)
- ◆ Has community desire for high-density residential stock been shown?



- ◆ Or, studies done that clearly demonstrate pent-up community desire and demand for more commercial and industrial development on 285?

- ◆ Or, community polls or surveys that show that the community-majority supports and understands the IMPACTS such forms of development will have.

The answer is NO! To the contrary.




And , the final question. . .

- ◆ If projected community growth is to be somewhere between 20% and 40% over the next 20 years (as outlined in the Plan), why does the Plan allow an 800% increase in development?




If today's Code is strictly enforced, instead of this Plan. . .

- A potential 250 new high-density apartment and condo units along 285 would not be built. . . and would not put an end to the cherished semi-rural environment of the community.
- Would **NOT** allow a potential of 640,000 square feet of new retail, or office, or industrial, or mixed use at a total of 9 locations on that very short stretch of 4 1/2 miles.
- Water consumption would be a **TINY** fraction of the 64+ AFY that would occur under the proposed Plan.



And all this would NOT be added to a community already:


- ◆ 3 times more dense than it should be under the Code
- ◆ using 2X's more water than it should under Code
- ◆ unable to meet the Code's 100-year supply requirement for its water supply.
- ◆ and a community without the resources in place to fix any of these problems.



We would not approve this Plan.


We would "not change the law".

We would just enforce the Code.



We thank the BCC for your consideration.

Concerned Citizens



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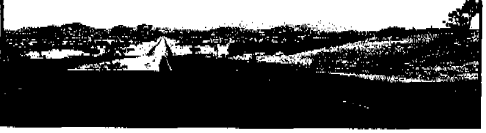


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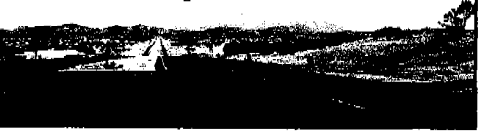
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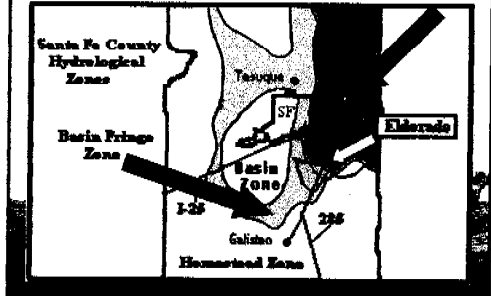
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Here's How the Code's Density & Water Use Formulas Work in Our Hydrological Zones

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| From Prev. use: | | # of Lots
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| Density/Water Use Diff: | | | |



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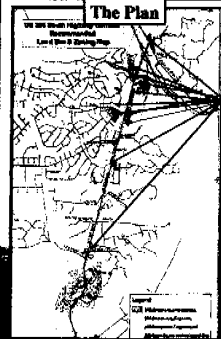
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The Plan

The Plan calls for development in 10 locations.


The lots at the end of the red arrows are the commercial/mixed-use lots.

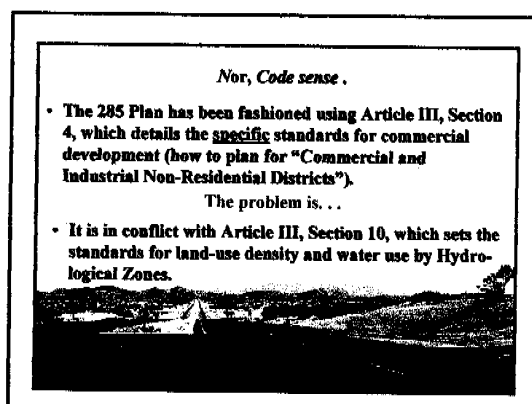
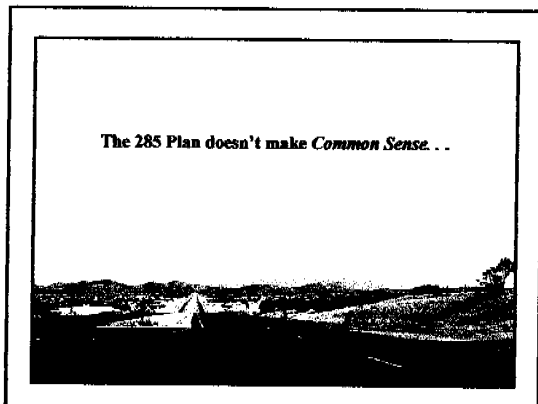
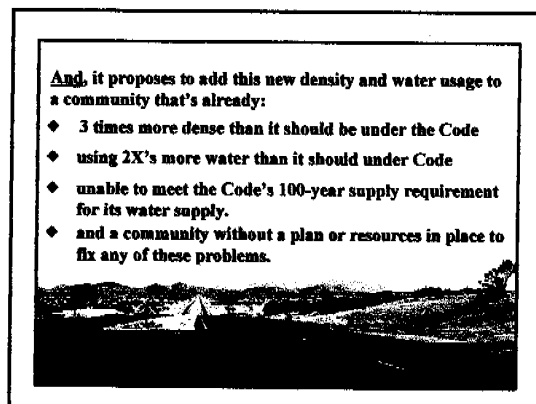
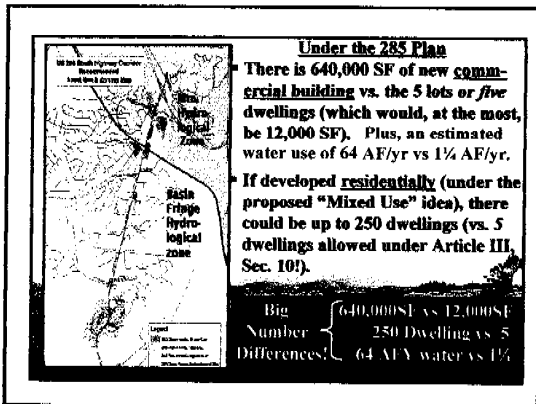
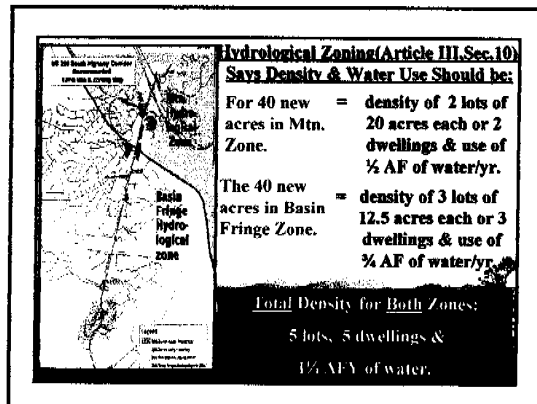
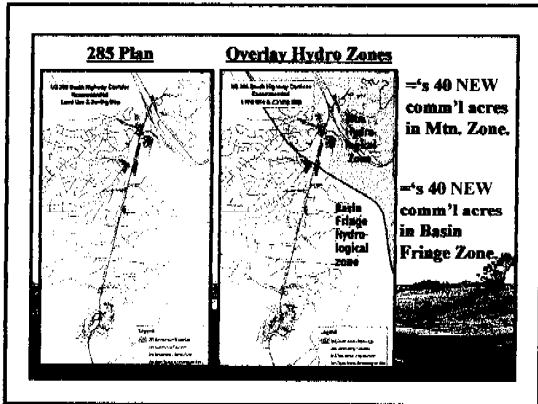
They equal a total of 104 acres:

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Now Let's Look at the Plan
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A. If one follows Article III, Section 10: "Hydrological Zones"

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If one follows the present Code, which provision would control?

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Discussion of the "Mixed Use" Issue.

- ◆ The title of Code Article III, Section 4 is specifically labeled:

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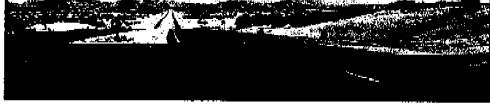
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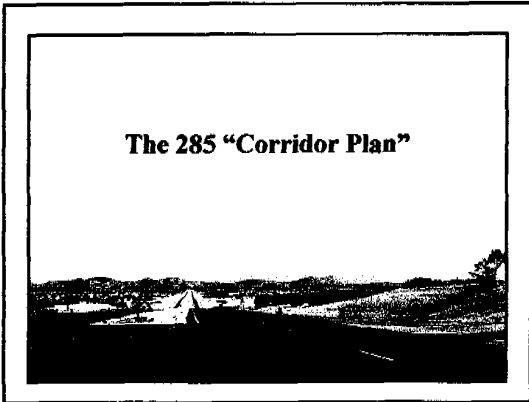


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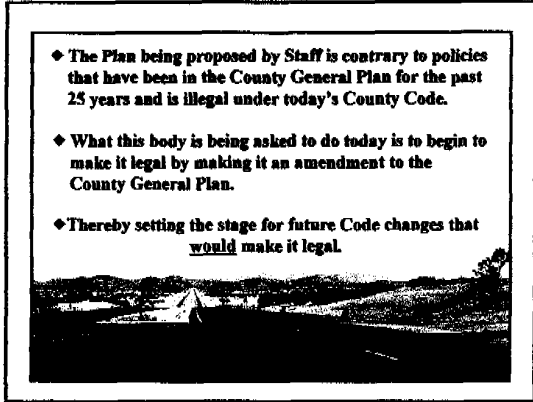
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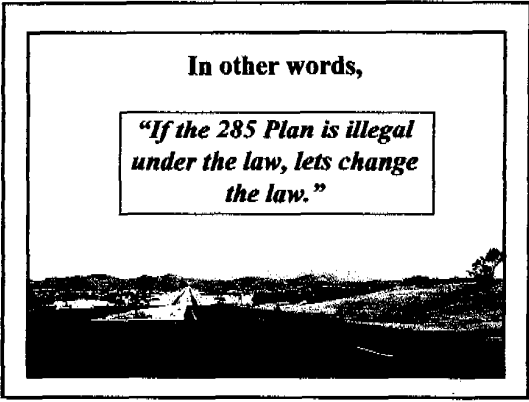
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The 285 "Corridor Plan"

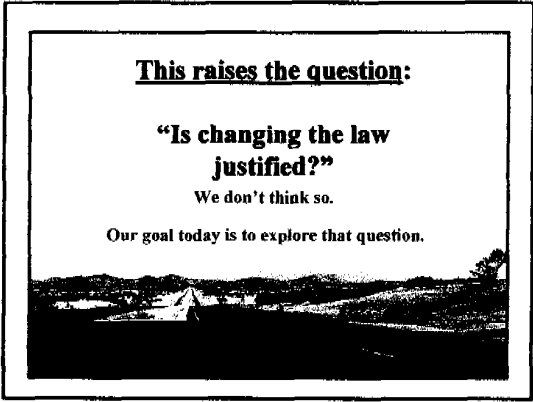


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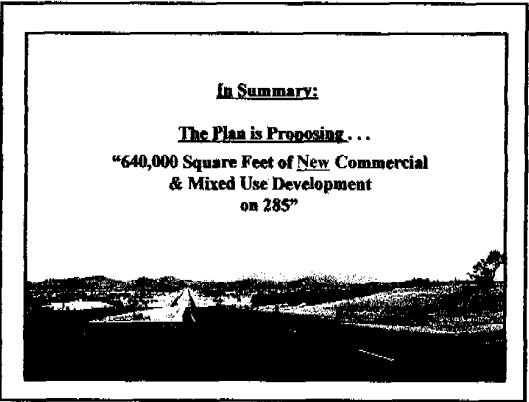


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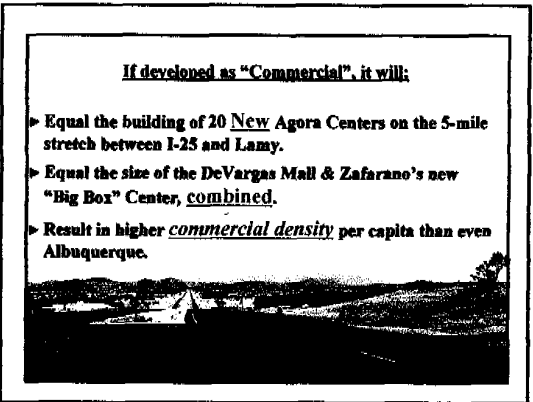
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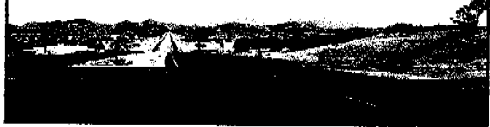
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Clearly,
Controlling development density in relation to water consumption have been key policies of the County General Plan.


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These General Plan policies occupy a very key Section of the Land Development Code, also!

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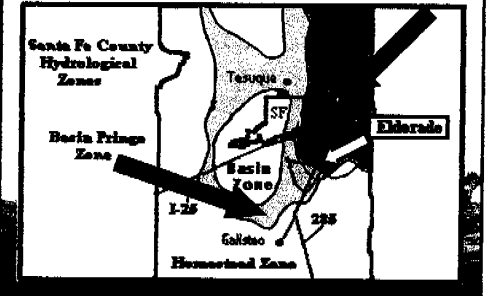
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Here's How the Code's Density & Water Use Formulas Work in Our Hydrological Zones

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| | |
|---|--|
| .25 APY
<small>(typical residential)</small> | 1.0 APY
<small>(typical commercial/10,000 SF)</small> |
| Min. Lot Size is: | Min. Lot Size is: |

| | | |
|------------------------|-----------|---------|
| Basin Fringe Zone Area | 12.5 Acs. | 50 Acs. |
| Mountain Zone Area | 20.0 Acs. | 80 Acs. |


The Zones Where Eldorado is Located



SFC CLERK RECORDED 09/14/2004


These are very large lot-size standards when you consider that today the average developed lot size in Greater Eldorado is approximately 2 acres.

This is because most of the Eldorado Subdivision (which is 80% of all the homes in Greater Eldorado) was platted before the first Land Use Code of 1980.




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1. 15,000 acres total.
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Given:

- A total of 15,000 acres existing in the two hydrological zones.




- And, assuming the use of the least amount of water at a quarter acre-foot per year consumption level.




- Here's a calculation of the density and the amount of water this community SHOULD be using based on Code:

| | |
|---------------------------|---|
| Given That: | $\frac{\text{Number of acres}}{\text{Divided by}} = \text{Water Use@1/4}$ |
| Part of Eldorado is in: | 12.5 Ac. For Basin/FZ $\frac{\Delta \text{EYLot}}{\Delta \text{EYLot}}$ |
| Basin Fringe Zone: 12,000 | 960 lots 240 AFY |
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| Totals | 15,000 1,110 lots 288 AFY |



How does this compare to CURRENT Eldorado densities and water use?


| | | | |
|--|-----------------|---------------------------|---------------------------------|
| Current Eldorado:
(As of Year 2003) | Acres
15,000 | # of Lots
3,891 lots | Current
Water Use
582 AFY |
| If Developed according
To Our 1980-2004 Code: | Acres
15,000 | # of Lots
1,110 lots | Water Use
288 AFY |
| | From Prev. pg. | # of Lots
<u>+3X's</u> | Water
<u>+2X's</u> |
| Density/Water Use Diff: | | | |



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As we stand today...

We already have land-use that's 3 X's more dense than Code standard
and
We're using 2 times the Code-determined water.




As we stand today...


Furthermore,

Our water supply is totally reliant on pumping groundwater
and
our community water system cannot prove a 100-year supply as
required by the County Code.

(or even a 20 or 40-year supply which is the ordinary Municipal Standard)




That's why there's been a County imposed
moratorium in Eldorado since 1996



TODAY,


Eldorado is NOT in conformance with the Code in regard to
the 3 key elements of land use administration:

- ◆ land use density,
- ◆ water consumption,
- ◆ and the 100-year water supply requirement.




What about Tomorrow?

If the 285 Plan is approved?




■ It would allow an 8 times increase in density *versus what presently exists.*

To the 80,000 square feet of present commercial
development, the plan would allow
the building of a minimum of
640,000 *NEW* square feet.



What is the impact of this?


Let's first look at:
**"Population Growth
 vs.
 Commercial Growth"**



■ Expected population growth in the Greater Eldorado Area
 Will be from 7,200 in the year 2000


To: 8,800 (low side) By Year 2020 +20%
 vs. 285 Plan's
 To: 10,000 (high side) By Year 2020 +40%

**800%
 increase in commercial development.**




■ Looking at population growth estimates over the next 20 years, common sense would say this level of development is:

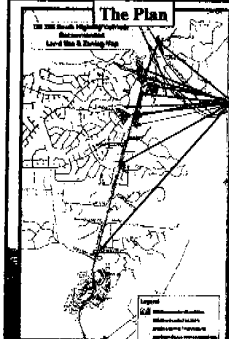
Out of proportion



Let's look more closely at
 285 Plan specifics




The Plan




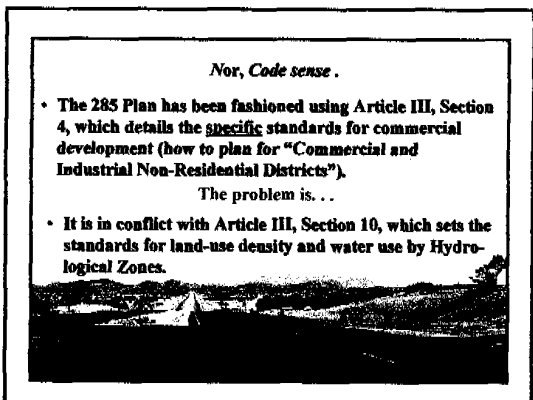
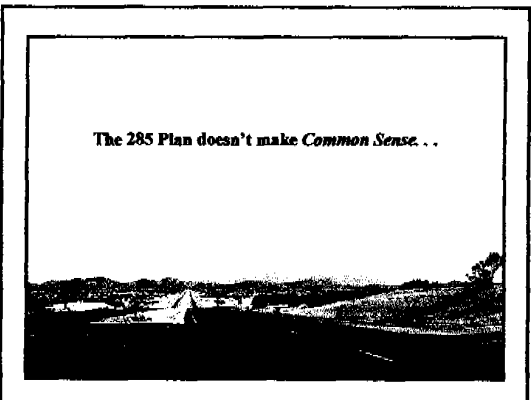
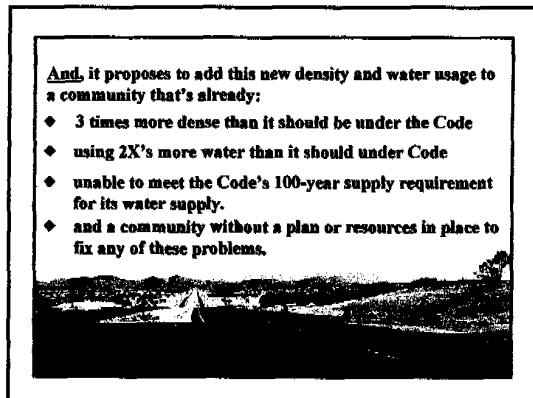
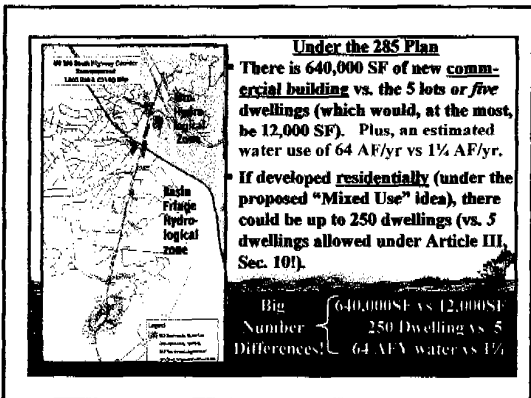
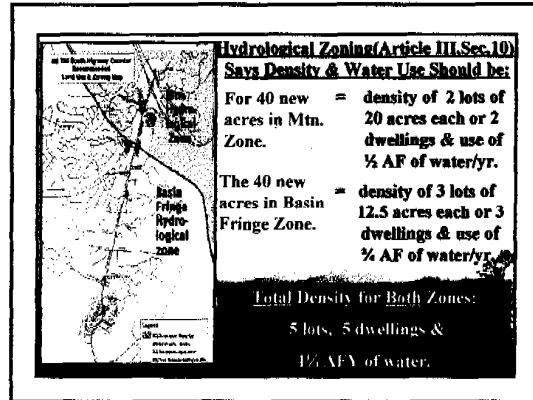
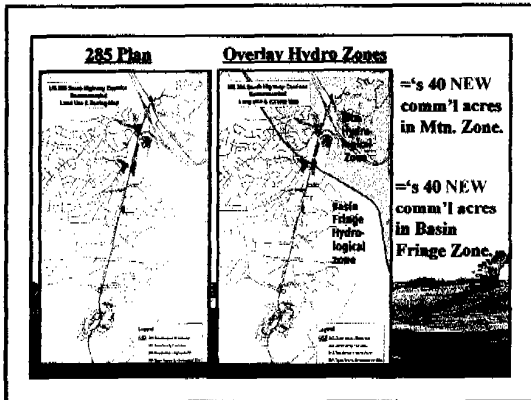
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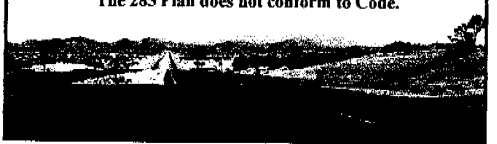
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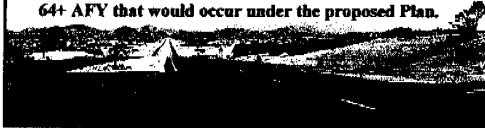
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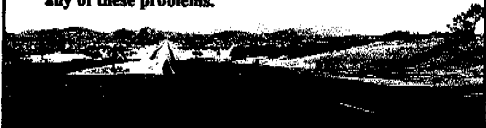
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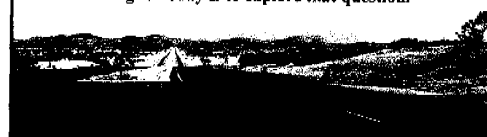


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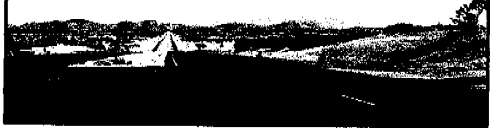


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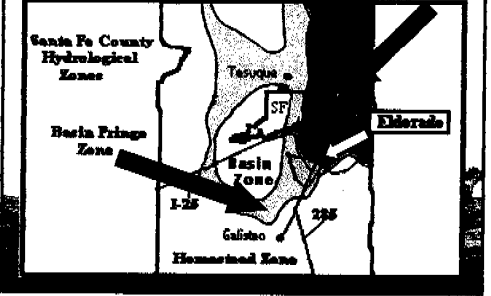
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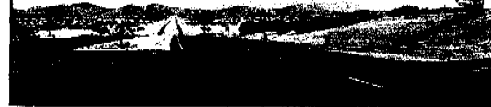


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| | | | | |
|--------------------------------|-------------------------|------------------------------|------------------|-----------------|
| Given That: | $\frac{\uparrow}{\div}$ | Divided by | = ¹ S | Water |
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| Totals | 15,000 | 1,110 lots | | |




How does this compare to CURRENT Eldorado densities and water use?

| | | | |
|--|-----------------------|------------------|--------------------------|
| Current Eldorado:
(As of Year 2003) | Acres | # of Lots | Current Water Use |
| | 15,000 | 3,391 lots | 582 APY |
| If Developed according To Our 1980-2004 Code: | Acres | # of Lots | Water Use |
| | 15,000 | 1,110 lots | 280 APY |
| | From Prev. pg. | # of Lots | Water |
| Density/Water Use Diff: | | +3X's | + 2X's |



As we stand today...

We already have land-use that's *3 X's more dense* than Code standard
and
We're using *2 times the Code-determined* water.




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Our water supply is totally reliant on pumping groundwater
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TODAY,


Eldorado is NOT in conformance with the Code in regard to
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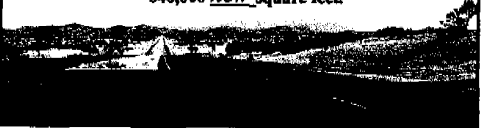
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■ It would allow an 8 times increase in density *versus what presently exists.*


To the 80,000 square feet of present commercial
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the building of a minimum of
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SFC CLERK RECORDED 09/14/2004

What is the impact of this?


Let's first look at:
"Population Growth vs. Commercial Growth"



■ Expected population growth in the Greater Eldorado Area
 Will be from 7,200 in the year 2000


| | | |
|----------------------|------------|------------------------|
| To: 8,800 (low side) | vs. | To: 10,000 (high side) |
| By Year 2020 | 285 Plan's | By Year 2020 |
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increase in commercial development.




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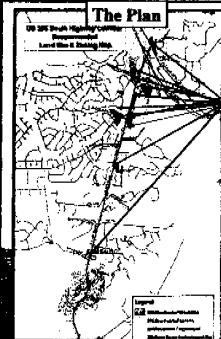
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The lots at the end of the red arrows are the commercial/mixed-use lots.

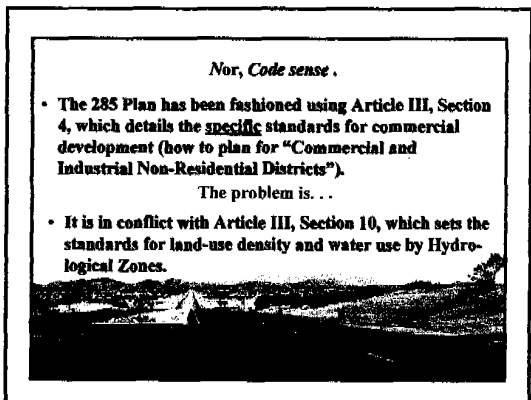
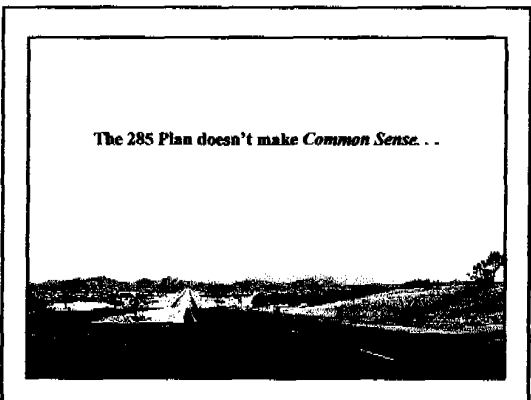
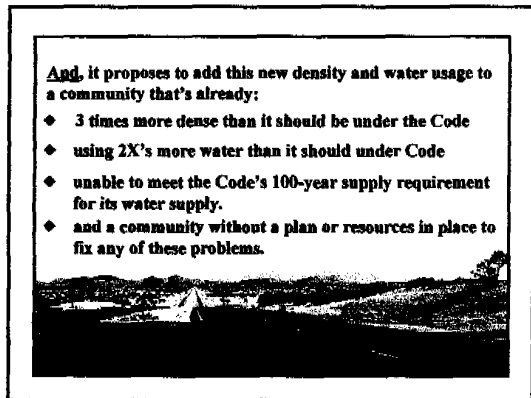
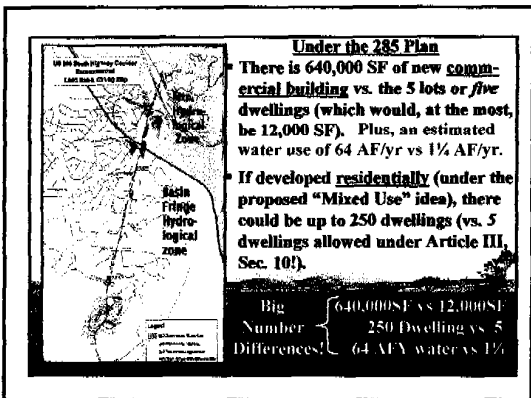
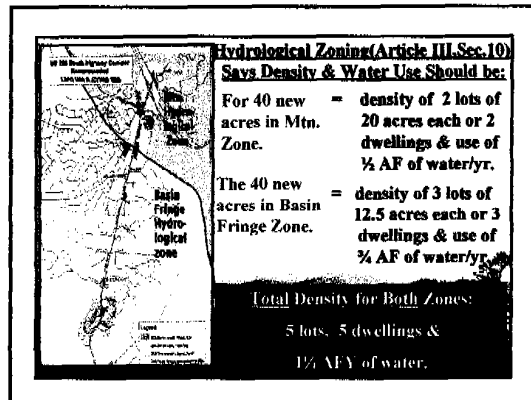
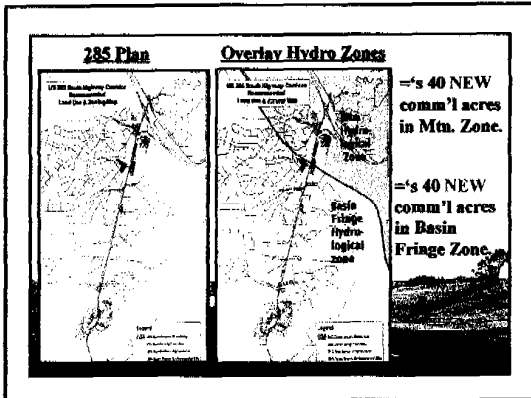
They equal a total of 104 acres:

- 24 acres already built on.
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 Hydrological Zones Overlaid






A. If one follows Article III, Section 10: "Hydrological Zones"

- The 80 new development acres identified in the 285 Plan should use 1/4 AFY of water and have approximately 12,000+ square feet of building.




B. If one follows Article III, Section 4: "Comm'l Districts"

- The development of the same 80 acres can go up to 640,000+ square feet of building and water use of 64 AFY, which is what the 285 Plan calls for.




If one follows the present Code, which provision would control?

Article III, Section 4
Or
Article III, Section 10?




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Provides the answer. . .



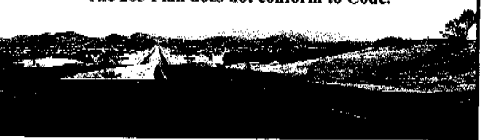
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Under Article III, Section 10
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"Commercial and Industrial Non-Residential Districts".

It would seem clear by the words "Non-Residential" that the intention of the Code is to NOT include residential development within such districts.



In Conclusion

- ◆ The 285 Plan, in its present form, is not in conformance with current Code, or the objectives of the General Plan.

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To answer that question, these questions need to be asked:

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- ◆ Or, studies done that clearly demonstrate pent-up community desire and demand for more commercial and industrial development on 285?

- ◆ Or, community polls or surveys that show that the community-majority supports and understands the IMPACTS such forms of development will have.

The answer is NO! To the contrary.




And , the final question. . .

- ◆ If projected community growth is to be somewhere between 20% and 40% over the next 20 years (as outlined in the Plan), why does the Plan allow an 800% increase in development?




If today's Code is strictly enforced, instead of this Plan . . .

- A potential 250 new high-density apartment and condo units along 285 would not be built. . .and would not put an end to the cherished semi-rural environment of the community.
- Would **NOT** allow a potential of 640,000 square feet of new retail, or office, or industrial, or mixed use at a total of 9 locations on that very short stretch of 4 1/2 miles.
- Water consumption would be a **TINY** fraction of the 64+ AFY that would occur under the proposed Plan.



And all this would NOT be added to a community already:


- ◆ 3 times more dense than it should be under the Code
- ◆ using 2X's more water than it should under Code
- ◆ unable to meet the Code's 100-year supply requirement for its water supply.
- ◆ and a community without the resources in place to fix any of these problems.



We would not approve this Plan.


We would "not change the law".

We would just enforce the Code.



We thank the BCC for your consideration.

Concerned Citizens



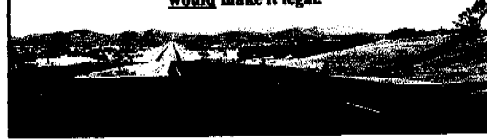
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This raises the question:

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We don't think so.

Our goal today is to explore that question.



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The Plan is Proposing...

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If developed as "Commercial", it will:

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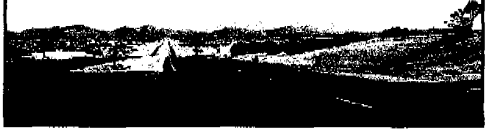
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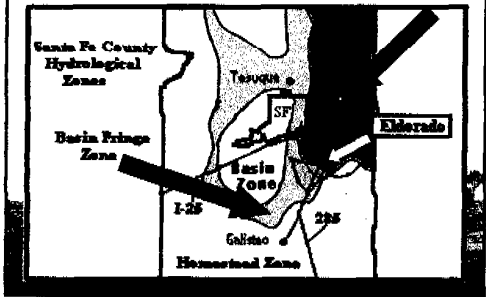
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How do the Code's Hydrological Zone requirements apply to the Eldorado Area?

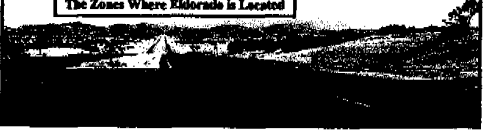


Here's How the Code's Density & Water Use Formulas Work in Our Hydrological Zones

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- And, assuming the use of the least amount of water at a quarter acre-foot per year consumption level.



■ Here's a calculation of the density and the amount of water this community SHOULD be using based on Code:


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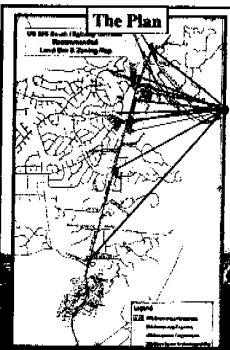



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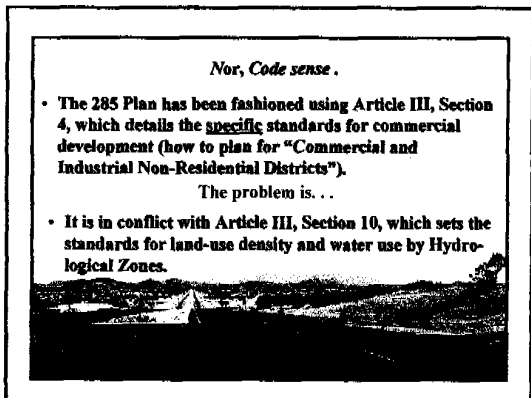
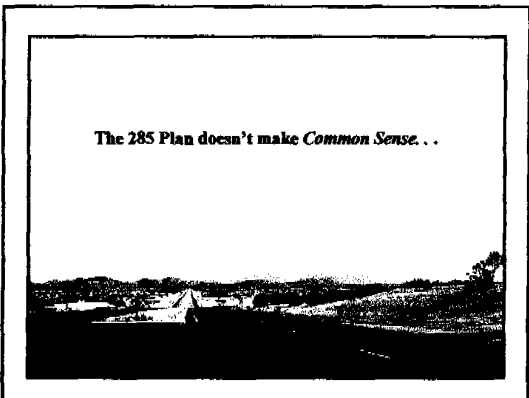
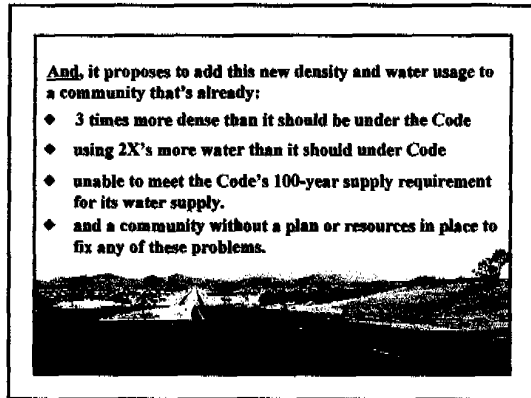
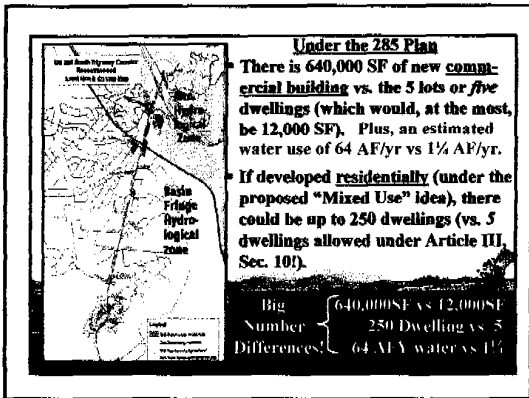
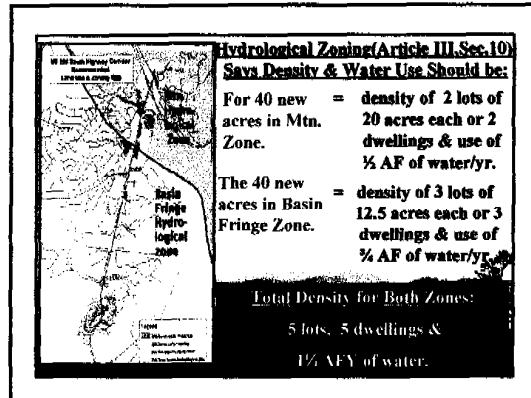
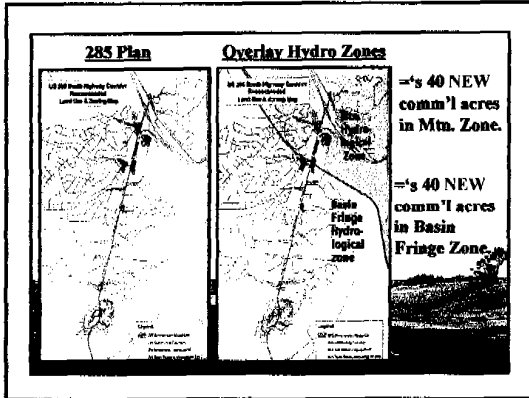
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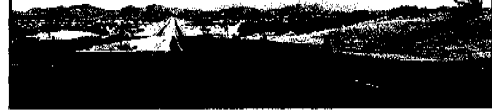
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If developed as "Mixed Use", it would:

- ▶ Allow developers to substitute residential units for commercial density.
- ▶ It would allow 3+housing units per acre to be substituted for commercial development, and there could be as many as 250 new high-density residential units built along 285(equal to all the homes presently on the east side of 285).
- ▶ 3 housing units per acre compares to the present average for all of Greater Eldorado of 2 acres per residence. A dramatic increase in density.




**This plan doesn't make Common Sense
Or
Code sense.**



In terms of Code Sense, . . .

It is a fact that, today, this plan is not in compliance with either:

- The present Land Development Code
- Or the objectives of the 1980 & 1999 General Plans.




◆ **In the Summation of the 1st County General Plan of 1980.**

(Page 18):

It stated:


"IV. Summation

The scarcity of local water resources is the dominant influence on the location, amount and intensity of future urbanization in Santa Fe County."



◆ **As a Result, the General Plan of 1980 had 2 Primary Policies.**

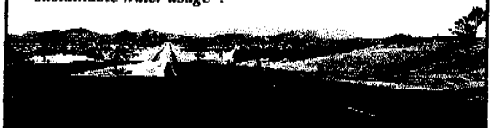
1. (Page 27): Use Hydrological Zones to control development density:
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◆ **In the County General Plan of 1999,**


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1. "Continue use of the hydrological zone system". And,
2. "Work actively to transition from 100-year hydrology to sustainable water usage".



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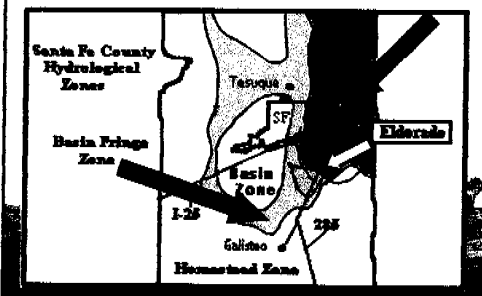
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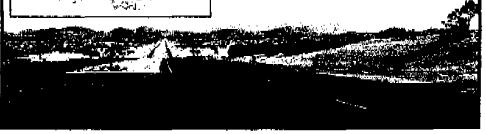


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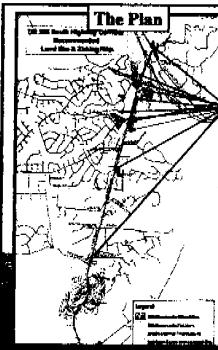



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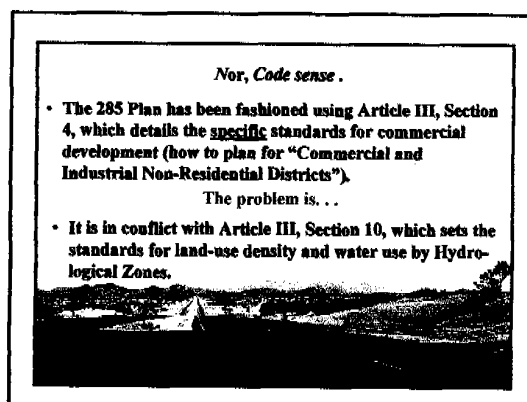
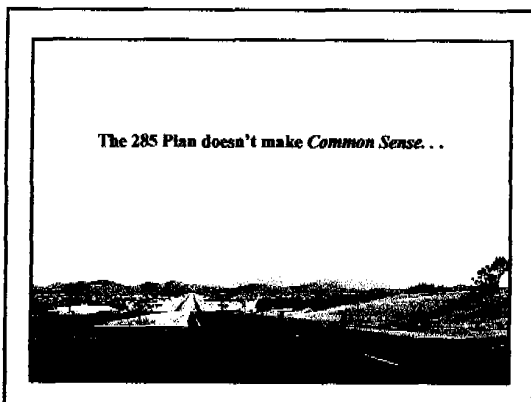
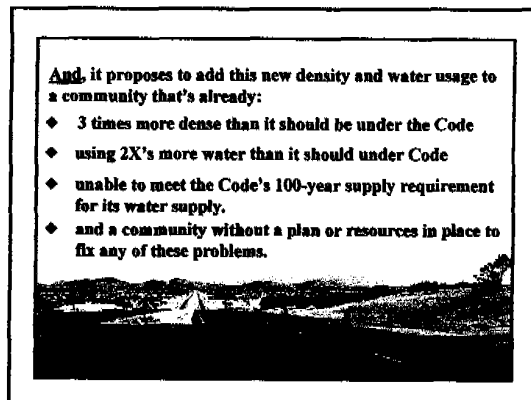
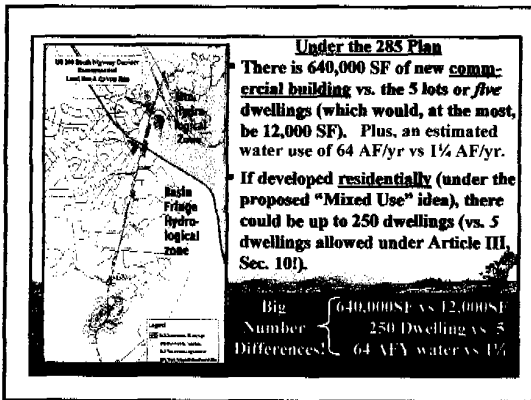
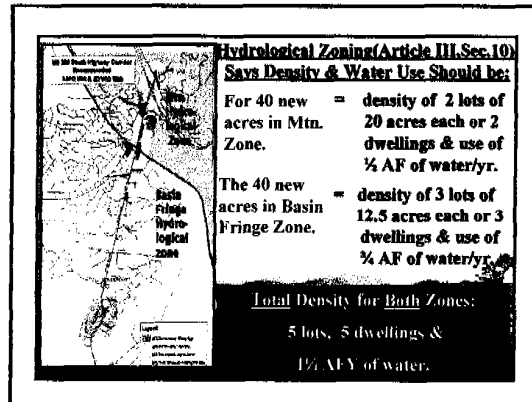
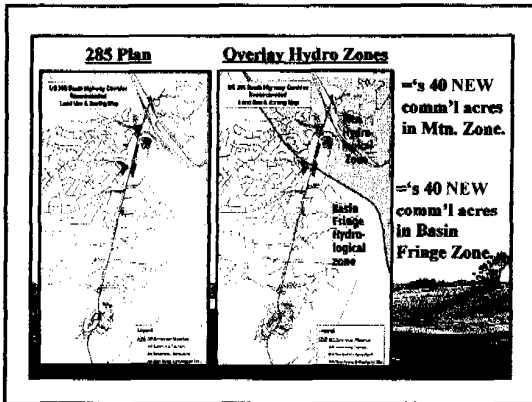
The lots at the end of the red arrows are the commercial/mixed-use lots.

They equal a total of 104 acres:
-24 acres already built on.
-80 acres of new development.

Now Let's Look at the Plan
with
Hydrological Zones Overlaid






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A. If one follows Article III, Section 10; "Hydrological Zones"

- The 80 new development acres identified in the 285 Plan should use 1½ AFY of water and have approximately 12,000± square feet of building.




B. If one follows Article III, Section 4; "Comm'l Districts"

- The development of the same 80 acres can go up to 640,000+ square feet of building and water use of 64 AFY, which is what the 285 Plan calls for.




If one follows the present Code, which provision would control?

Article III, Section 4
Or
Article III, Section 10?




Article I, Section 10
"Conflicting Provisions"

Provides the answer. . .



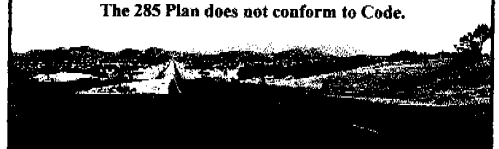
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By today's Code, the more limiting standards set by "Hydrological Zones" must prevail.

Under Article III, Section 10
The 285 Plan does not conform to Code.



Discussion of the "Mixed Use" Issue.

- ◆ The title of Code Article III, Section 4 is specifically labeled:
"Commercial and Industrial Non-Residential Districts".

It would seem clear by the words "Non-Residential" that the intention of the Code is to NOT include residential development within such districts.



In Conclusion

- ◆ The 285 Plan, in its present form, is not in conformance with current Code, or the objectives of the General Plan.

However, that's not the real issue here.



In Conclusion

- ◆ The real issue here is should the General Plan be amended to bring the General Plan and, subsequently, the Code in line with the proposed 285 plan?

In other words,

"If it is illegal, should we change the law?"



To answer that question, these questions need to be asked:

- ◆ Have there been compelling reasons offered in this Plan for changing 25 years of General Plan policy and Code regulation in order to get this single Plan approved and through the "system"??? (or, is this "developer" driven?)
- ◆ Has community desire for high-density residential stock been shown?



- ◆ Or, studies done that clearly demonstrate pent-up community desire and demand for more commercial and industrial development on 285?

- ◆ Or, community polls or surveys that show that the community-majority supports and understands the IMPACTS such forms of development will have.

The answer is NO! To the contrary.



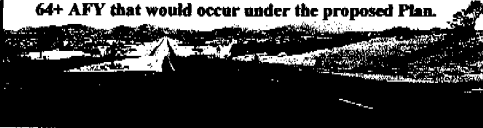
And , the final question. . .

- ◆ If projected community growth is to be somewhere between 20% and 40% over the next 20 years (as outlined in the Plan), why does the Plan allow an 800% increase in development?




If today's Code is strictly enforced, instead of this Plan . . .

- A potential 250 new high-density apartment and condo units along 285 would not be built. . .and would not put an end to the cherished semi-rural environment of the community.
- Would NOT allow a potential of 640,000 square feet of new retail, or office, or industrial, or mixed use at a total of 9 locations on that very short stretch of 4 1/2 miles.
- Water consumption would be a TINY fraction of the 64+ AFY that would occur under the proposed Plan.



And all this would NOT be added to a community already:


- ◆ 3 times more dense than it should be under the Code
- ◆ using 2X's more water than it should under Code
- ◆ unable to meet the Code's 100-year supply requirement for its water supply.
- ◆ and a community without the resources in place to fix any of these problems.



We would not approve this Plan.


We would "not change the law".

We would just enforce the Code.

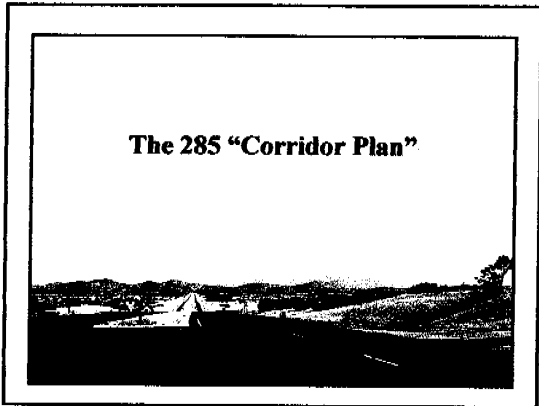


We thank the BCC for your consideration.

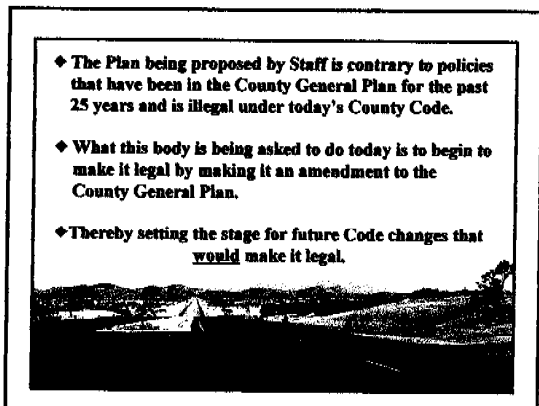
Concerned Citizens



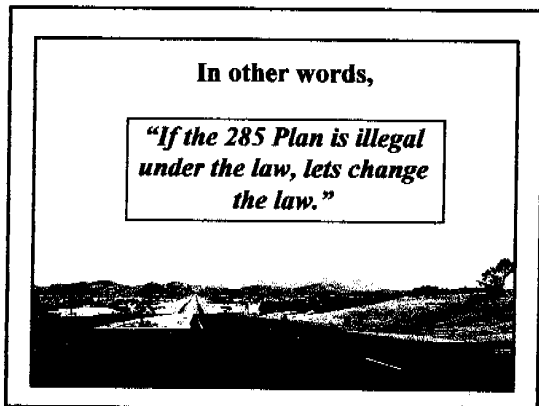
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The 285 "Corridor Plan"

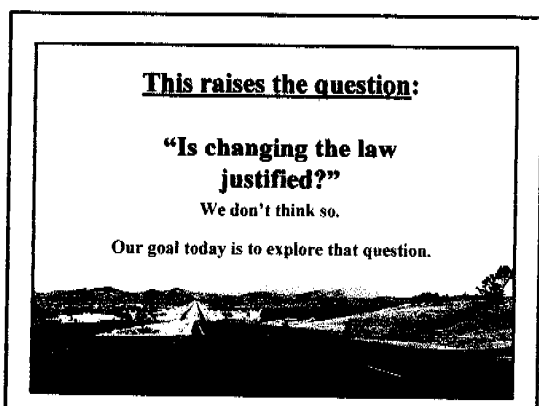


- ◆ The Plan being proposed by Staff is contrary to policies that have been in the County General Plan for the past 25 years and is illegal under today's County Code.
- ◆ What this body is being asked to do today is to begin to make it legal by making it an amendment to the County General Plan.
- ◆ Thereby setting the stage for future Code changes that would make it legal.



In other words,

"If the 285 Plan is illegal under the law, lets change the law."

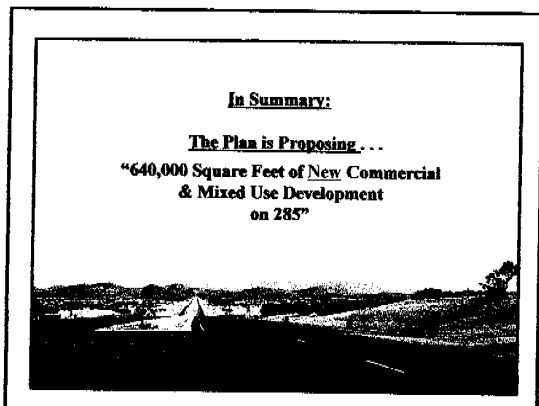


This raises the question:

"Is changing the law justified?"

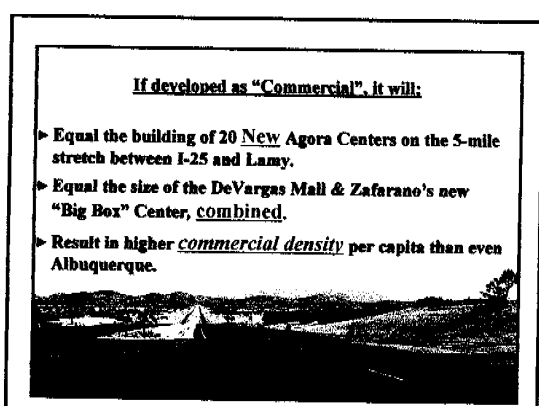
We don't think so.

Our goal today is to explore that question.



In Summary:

The Plan is Proposing...
"640,000 Square Feet of New Commercial & Mixed Use Development on 285"




If developed as "Commercial", it will:


- ▶ Equal the building of 20 New Agora Centers on the 5-mile stretch between I-25 and Lamy.
- ▶ Equal the size of the DeVargas Mall & Zafarano's new "Big Box" Center, combined.
- ▶ Result in higher *commercial density* per capita than even Albuquerque.

If developed as "Mixed Use", it would:

- ▶ Allow developers to substitute residential units for commercial density.
- ▶ It would allow 3+ housing units per acre to be substituted for commercial development, and there could be as many as 250 new high-density residential units built along 285 (equal to all the homes presently on the east side of 285).
- ▶ 3 housing units per acre compares to the present average for all of Greater Eldorado of 2 acres per residence. A dramatic increase in density.




**This plan doesn't make Common Sense
Or
Code sense.**



In terms of Code Sense. . .

It is a fact that, today, this plan is not in compliance with either:

- The present Land Development Code
- Or the objectives of the 1980 & 1999 General Plans.




◆ In the Summation of the 1st County General Plan of 1980.

(Page 18):


It stated:

"IV. Summation
The scarcity of local water resources is the dominant influence on the location, amount and intensity of future urbanization in Santa Fe County."



◆ As a Result, the General Plan of 1980 had 2 Primary Policies.


1. (Page 27): Use Hydrological Zones to control development density:
2. (Page 28): Require proof that water resources will last over a long time horizon: "A 100-year period."



◆ In the County General Plan of 1999.

On page 22, it reaffirmed and extended those 1980 policies: stating: "This plan will". . .

1. "Continue use of the hydrological zone system". And,
2. "Work actively to transition from 100-year hydrology to sustainable water usage".




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Clearly,
Controlling development density in relation to water consumption have been key policies of the County General Plan.

&


They are also key issues for the Eldorado community.




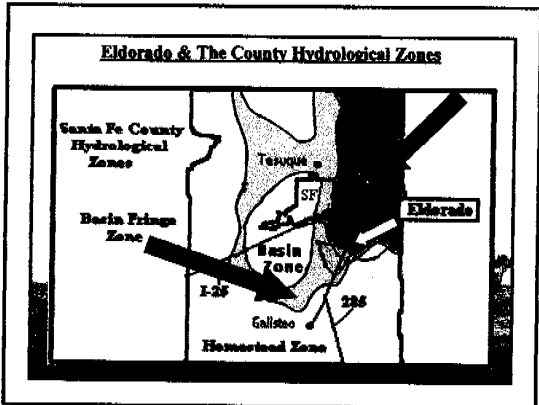
These General Plan policies occupy a very key Section of the Land Development Code, also!

Article III, Section 10
"Relationship of Lot Size to Water Policies".


- The Four Hydrological Zones provision, and their required densities in relation to water use, continue today unchanged from the original 1980 Code.
- So does the 100-year proof of supply as a part of this Section.



Let's look at
The Eldorado Area & Hydrological Zones.

How do the Code's Hydrological Zone requirements apply to the Eldorado Area?




Here's How the Code's Density & Water Use Formulas Work in Our Hydrological Zones

■ If the water use on a lot is to be:

| | |
|---|--|
| .25 AFY
<small>(typical residential)</small> | 1.0 AFY
<small>(typical commercial/10,000 SF)</small> |
| Min. Lot Size is: | Min. Lot Size is: |
| Basin Fringe Zone Area 12.5 Acs. | 50 Acs. |
| Mountain Zone Area 20.0 Acs. | 80 Acs. |

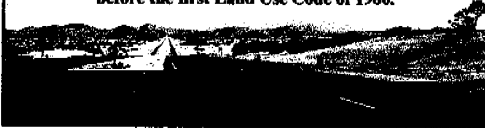
The Zones Where Eldorado is Located



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These are very large lot-size standards when you consider that today the average developed lot size in Greater Eldorado is approximately 2 acres.

This is because most of the Eldorado Subdivision (which is 80% of all the homes in Greater Eldorado) was platted before the first Land Use Code of 1980.




Hypothetical Application of the Hydrological Zone Formula to the Greater Eldorado Area.

Greater Eldorado Area **Greater Eldorado Land Stats**




1. 15,000 acres total.
2. 12,000± acres in the Basin Fringe Zone.
3. 3,000 ± acres in the Mountain Zone.




Given:

- A total of 15,000 acres existing in the two hydrological zones.




- And, assuming the use of the least amount of water at a quarter acre-foot per year consumption level.



■ Here's a calculation of the density and the amount of water this community SHOULD be using based on Code:


Given That:

| | | | | | |
|--------------------------------|--|--------|-------------------------|---------------|----------------|
| | $\frac{\text{Number of acres}}{12.5 \text{ Ac. For Basin/FZ}}$ | \div | Divided by | $\frac{1}{4}$ | Water Use@1/4 |
| Part of Eldorado is in: | | | 20 Ac. For Mtn/Z | | AFY/Lot |
| Basin Fringe Zone: | 12,000 | | 960 lots | | 240 AFY |
| Mountain Zone: | 3,000 | | 150 lots | | 48 AFY |
| Totals | 15,000 | | 1,110 lots | | 288 AFY |



How does this compare to CURRENT Eldorado density and water use?


| | | | |
|--|--------------|------------------------|--------------------------|
| Current Eldorado:
(As of Year 2003) | Acres | # of Lots | Current Water Use |
| | 15,000 | 3,891 lots | 582 AFY |
| If Developed according To Our 1980-2004 Code: | Acres | # of Lots | Water Use |
| | 15,000 | 1,110 lots | 288 AFY |
| | | From Prev. pg. | |
| Density/Water Use Diff: | | # of Lots +3X's | Water + 2 X's |



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As we stand today...

We already have land-use that's *3 X's more dense* than Code standard
and
We're using *2 times the Code-determined* water.




As we stand today...


Furthermore,

Our water supply is totally reliant on pumping groundwater
and
our community water system cannot prove a 100-year supply as
required by the County Code.

(or even a 20 or 40-year supply which is the ordinary Municipal Standard)




That's why there's been a County imposed
moratorium in Eldorado since 1996



TODAY,


Eldorado is NOT in conformance with the Code in regard to
the 3 key elements of land use administration:

- ◆ land use density,
- ◆ water consumption,
- ◆ and the 100-year water supply requirement.




What about Tomorrow?

If the 285 Plan is approved?




■ It would allow an **8 times** increase in density *versus what presently exists.*

To the 80,000 square feet of present commercial
development, the plan would allow
the building of a minimum of
640,000 *NEW* square feet.



What is the impact of this?


Let's first look at:
**"Population Growth
 vs.
 Commercial Growth"**



■ **Expected population growth in the Greater Eldorado Area**
 Will be from 7,200 in the year 2000


| | | |
|--|---------------------------|--|
| To: 8,800 (low side)
By Year 2020
+20% | vs.
285 Plan's
800% | To: 10,000 (high side)
By Year 2020
+40% |
|--|---------------------------|--|

increase in commercial development.




■ **Looking at population growth estimates over the next 20 years, common sense would say this level of development is:**

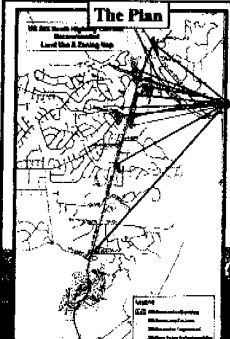
Out of proportion



Let's look more closely at
285 Plan specifics




The Plan



The Plan calls for development in 10 locations.

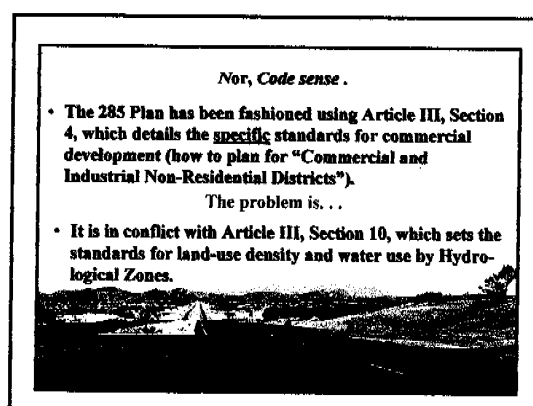
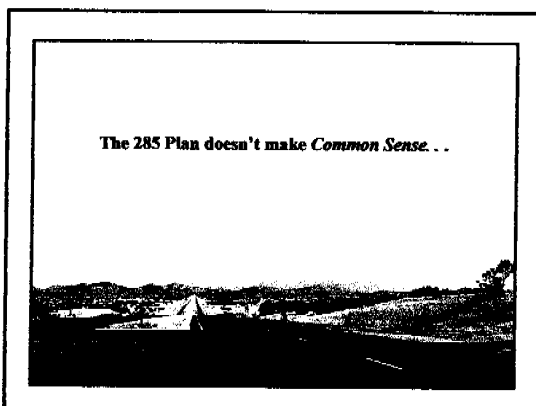
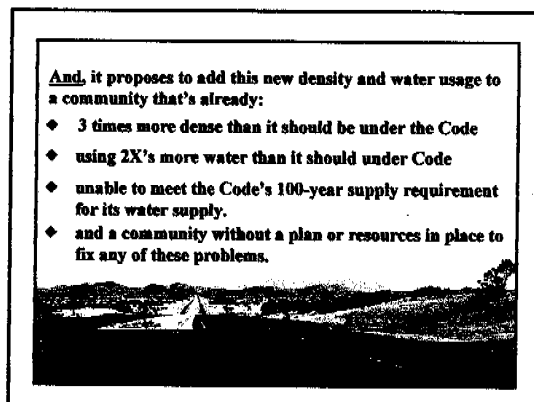
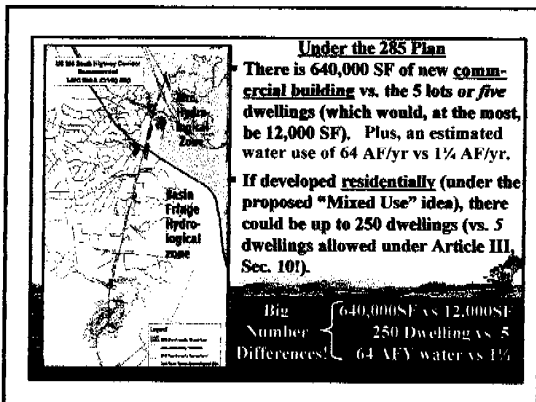
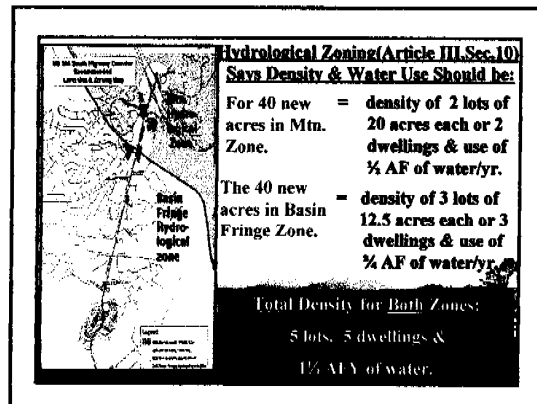
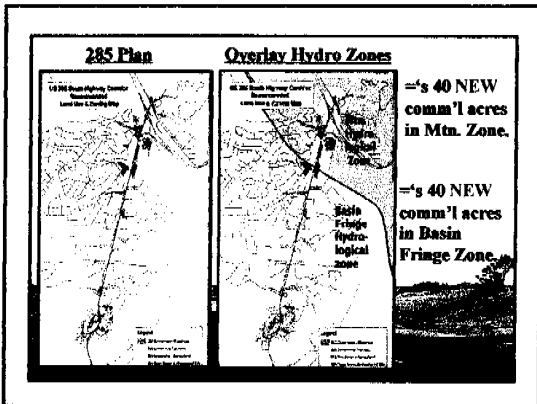
The lots at the end of the red arrows are the commercial/mixed-use lots.

They equal a total of 104 acres:
 -24 acres already built on.
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Now Let's Look at the Plan
 with
Hydrological Zones Overlaid






A. If one follows Article III, Section 10: "Hydrological Zones"

- The 80 new development acres identified in the 285 Plan should use 1¼ AFY of water and have approximately 12,000± square feet of building.



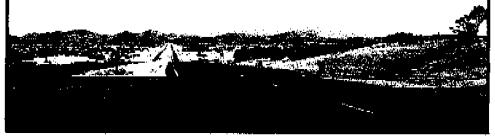
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Or
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By today's Code, the more limiting standards set by "Hydrological Zones" **must** prevail.


Under Article III, Section 10
The 285 Plan does not conform to Code.



Discussion of the "Mixed Use" Issue.

- ◆ The title of Code Article III, Section 4 is specifically labeled:
"Commercial and Industrial Non-Residential Districts".


It would seem clear by the words "Non-Residential" that the intention of the Code is to *NOT* include residential development within such districts.



In Conclusion

- ◆ The 285 Plan, in its present form, is not in conformance with current Code, or the objectives of the General Plan.

However, that's not the real issue here.




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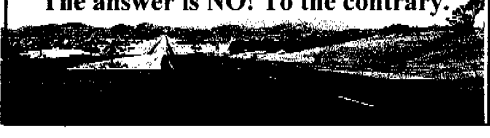
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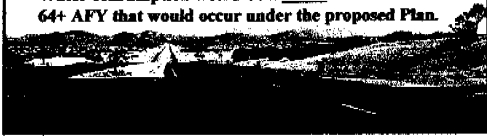
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- Water consumption would be a TINY fraction of the 64+ AFY that would occur under the proposed Plan.



And all this would NOT be added to a community already:

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- ◆ using 2X's more water than it should under Code
- ◆ unable to meet the Code's 100-year supply requirement for its water supply.
- ◆ and a community without the resources in place to fix any of these problems.



We would not approve this Plan.

We would "not change the law".

We would just enforce the Code.



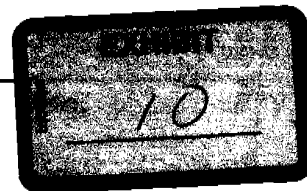
We thank the BCC for your consideration.

Concerned Citizens



JERRY WILLIAMS

From: "tim2" <citizentim@comcast.net>
To: <jjwil2@msn.com>
Sent: Sunday, July 11, 2004 8:48 PM
Attach: ATT00104.html
Subject: FW: highway 285 developement



FYI--Good luck

From: tim2 <citizentim@comcast.net>
Date: Sun, 11 Jul 2004 20:29:38 -0600
To: <jsullivan@co.santa-fe.nm.us>
Cc: <manaya@co.santa-fe.nm.us>, <pcampos@co.santa-fe.nm.us>, <pduran@co.santa-fe.nm.us>, <hmontoya@co.santa-fe.nm.us>
Subject: highway 285 developement

Dear commissioners,

I am opposed to the development of the 285 south corridor. I have recently purchased land here in the Ridges subdivision and hope to break ground in next month. I chose this area because of it's country feel. I think that development of the area would give it the feel of another centerless suburban development that are a blight on the landscape of this country from coast to coast.

If the locals are against the development , who does it serve other than the business owners?

I will spend in excess of \$5,000 for water catchment and my house is below the 2,500 square feet that demands catchment. I am sensitive to the water needs of the area and am doing my best to be of as little impact as possible. I truly doubt if the businesses that will be "sharing" this water with me will act as conscientiously. I strongly urge you to vote no on this plan. Thank you, Tim Haggerty 12 Duende Rd Santa Fe NM 87508 466-0985

PS Mr Sullivan, I voted for you in this past election. Make me proud.

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JERRY WILLIAMS

From: "Diann" <diannsullivan@comcast.net>
To: <jsullivan@co.santa-fe.nm.us>
Cc: <manaya@co.santa-fe.nm.us>; <pcampos@co.santa-fe.nm.us>; <pduran@co.santa-fe.nm.us>;
<hmontoya@co.santa-fe.nm.us>; <jjwil2@msn.com>
Sent: Sunday, July 11, 2004 9:08 PM
Subject: 285 corridor plan

Dear Commissioners:

I am opposed to the Highway 285 plan because I am a property owner in the area who is making every human effort to conserve water for the future of our community. I am fully aware of the burden a corridor of 700,000 Sq. Ft. of business usage will put on our available water! Furthermore, I have chosen this area for the very reason that it is a quiet, peaceful, rural-feeling community. Development in this area has nothing to do with the citizens who live here and chose this way of life, and everything to do with money and business interests.

I am a voter and I will be paying attention to your decisions on this matter. Please act in the interests of the Eldorado and 285 corridor area citizens, and preserve not only our resources but our way of life.

Thank you,

Diann Sullivan
12 Duende Rd
Santa Fe, NM 87508

SFC CLERK RECORDED 09/14/2004

7/12/2004

JERRY WILLIAMS

From: "JERRY WILLIAMS" <jjwil2@msn.com>
To: "Jack Sullivan" <jssantafe@earthlink.net>
Sent: Sunday, July 11, 2004 10:03 PM
Attach: ATT00094.html; TEMPLATE- letter to Commissioner Sullivan.doc

SFC CLERK RECORDED 09/14/2004

7/12/2004

Dear Santa Fe County Commissioner Sullivan:

My wife and I are residents and homeowners in Eldorado, and we are very concerned about maintaining and protecting our community and our quality of life.

You **can** approve the Highway 285 South Plan, even over valid and reasonable objections; and even if the vast majority of the property owners support these objections. But, **should** you? Let's stop and reason together. Everyone's goal should be to have a plan that works for everyone, and protects the fragile resources of the greater Eldorado community.

I am **strongly opposed** to your approval of the Highway 285 South Corridor Plan for the following reasons:

1. THE PLAN IS ILLEGAL UNDER THE GENERAL PLAN OF 1980

- See page 18, "IV. Summation: *The scarcity of local water resources is the dominant influence on the location, amount and intensity of future urbanization of Santa Fe County.*"
- See page 27, "Use of Hydrological zones to control development density."
- See page 28, "Require proof that resources will last over a long-time horizon." and can prove the availability of a 100-year water supply.

2. THE PLAN IS ILLEGAL UNDER THE GENERAL PLAN OF 1999

- See page 22, where the 1980 Plan policies were reaffirmed and extended:
 1. "This plan will continue use of the (4) hydrological zone water administration system..." and
 2. "This plan will work actively to transition from 100-year hydrology to sustainable water usage."

3. **WATER.** The most important reason for my opposition to the Plan is that it **does not address the water issue.** I have heard the planning department staff state that this is not a water plan. However, if a plan addresses development, it must address the increased demand on our very limited water resources that the Plan allows. **The Plan does not include any method of either measure of water usage or control of water usage.** The Plan is therefore irresponsible and negligent in its present form. Especially, as experts are stating, this area is in the midst of a prolonged, serious drought cycle. And, it violates the codes noted in items 2 and 3 above.

4. **DEVELOPMENT** on the tremendous scale that is possible under this Plan, **an 800% increase**, is unprecedented, irresponsible, and violates the codes noted in items 2 and 3 above.

Once again, you **can** approve the Plan as proposed, but **should** you? Together, we can build a plan that allows for development to continue, and that also protects the community's fragile resources and quality of life. Let's try working together. Let's do the right thing.

Jerry Williams
8 Redondo Ct.
Santa Fe, NM 87508

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JERRY WILLIAMS

From: "JERRY WILLIAMS" <jjwil2@msn.com>
To: "hmontoya" <hmontoya@co.santa-fe.nm.us>
Sent: Sunday, July 11, 2004 10:02 PM
Attach: ATT00064.html; TEMPLATE- letter to Commissioner Montoya.doc

SFC CLERK RECORDED 09/14/2004

Dear Santa Fe County Commissioner Montoya

My wife and I are residents and homeowners in Eldorado, and we are very concerned about maintaining and protecting our community and our quality of life.

You **can** approve the Highway 285 South Plan, even over valid and reasonable objections; and even if the vast majority of the property owners support these objections. But, **should** you? Let's stop and reason together. Everyone's goal should be to have a plan that works for everyone, and protects the fragile resources of the greater Eldorado community.

I am **strongly opposed** to your approval of the Highway 285 South Corridor Plan for the following reasons:

1. THE PLAN IS ILLEGAL UNDER THE GENERAL PLAN OF 1980

- See page 18, "IV. Summation: *The scarcity of local water resources is the dominant influence on the location, amount and intensity of future urbanization of Santa Fe County.*"
- See page 27, "Use of Hydrological zones to control development density."
- See page 28, "Require proof that resources will last over a long-time horizon." and can prove the availability of a 100-year water supply.

2. THE PLAN IS ILLEGAL UNDER THE GENERAL PLAN OF 1999

- See page 22, where the 1980 Plan policies were reaffirmed and extended:
 1. "This plan will continue use of the (4) hydrological zone water administration system..." and
 2. "This plan will work actively to transition from 100-year hydrology to sustainable water usage."

3. **WATER.** The most important reason for my opposition to the Plan is that **it does not address the water issue.** I have heard the planning department staff state that this is not a water plan. However, if a plan addresses development, it must address the increased demand on our very limited water resources that the Plan allows. **The Plan does not include any method of either measure of water usage or control of water usage.** The Plan is therefore irresponsible and negligent in its present form. Especially, as experts are stating, this area is in the midst of a prolonged, serious drought cycle. And, it violates the codes noted in items 2 and 3 above.

4. **DEVELOPMENT** on the tremendous scale that is possible under this Plan, **an 800% increase**, is unprecedented, irresponsible, and violates the codes noted in items 2 and 3 above.

Once again, you **can** approve the Plan as proposed, but **should** you? Together, we can build a plan that allows for development to continue, and that also protects the community's fragile resources and quality of life. Let's try working together. Let's do the right thing.

Jerry Williams
8 Redondo Ct.
Santa Fe, NM 87508

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "JERRY WILLIAMS" <jjwil2@msn.com>
To: "pcampos" <pcampos@co.santa-fe.nm.us>
Sent: Sunday, July 11, 2004 10:05 PM
Attach: ATT00026.html; TEMPLATE- letter to Commissioner Campos.doc

SFC CLERK RECORDED 09/14/2004

Dear Santa Fe County Commissioner Campos:

My wife and I are residents and homeowners in Eldorado, and we are very concerned about maintaining and protecting our community and our quality of life.

You **can** approve the Highway 285 South Plan, even over valid and reasonable objections; and even if the vast majority of the property owners support these objections. But, **should** you? Let's stop and reason together. Everyone's goal should be to have a plan that works for everyone, and protects the fragile resources of the greater Eldorado community.

I am **strongly opposed** to your approval of the Highway 285 South Corridor Plan for the following reasons:

1. THE PLAN IS ILLEGAL UNDER THE GENERAL PLAN OF 1980

- See page 18, "IV. Summation: *The scarcity of local water resources is the dominant influence on the location, amount and intensity of future urbanization of Santa Fe County.*"
- See page 27, "Use of Hydrological zones to control development density."
- See page 28, "Require proof that resources will last over a long-time horizon." and can prove the availability of a 100-year water supply.

2. THE PLAN IS ILLEGAL UNDER THE GENERAL PLAN OF 1999

- See page 22, where the 1980 Plan policies were reaffirmed and extended:
 1. "This plan will continue use of the (4) hydrological zone water administration system..." and
 2. "This plan will work actively to transition from 100-year hydrology to sustainable water usage."
- 3. **WATER.** The most important reason for my opposition to the Plan is that it **does not address the water issue.** I have heard the planning department staff state that this is not a water plan. However, if a plan addresses development, it must address the increased demand on our very limited water resources that the Plan allows. **The Plan does not include any method of either measure of water usage or control of water usage.** The Plan is therefore irresponsible and negligent in its present form. Especially, as experts are stating, this area is in the midst of a prolonged, serious drought cycle. And, it violates the codes noted in items 2 and 3 above.
- 4. **DEVELOPMENT** on the tremendous scale that is possible under this Plan, **an 800% increase**, is unprecedented, irresponsible, and violates the codes noted in items 2 and 3 above.

Once again, you **can** approve the Plan as proposed, but **should** you? Together, we can build a plan that allows for development to continue, and that also protects the community's fragile resources and quality of life. Let's try working together. Let's do the right thing.

Jerry Williams
8 Redondo Ct.
Santa Fe, NM 87508

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "JERRY WILLIAMS" <jjwil2@msn.com>
To: "manaya" <manaya@co.santa-fe.nm.us>
Sent: Sunday, July 11, 2004 10:04 PM
Attach: ATT00045.html; TEMPLATE- letter to Commissioner Anaya.doc

SFC CLERK RECORDED 09/14/2004

7/12/2004

Dear Santa Fe County Commissioner Anaya:

My wife and I are residents and homeowners in Eldorado, and we are very concerned about maintaining and protecting our community and our quality of life.

You **can** approve the Highway 285 South Plan, even over valid and reasonable objections; and even if the vast majority of the property owners support these objections. But, **should** you? Let's stop and reason together. Everyone's goal should be to have a plan that works for everyone, and protects the fragile resources of the greater Eldorado community.

I am **strongly opposed** to your approval of the Highway 285 South Corridor Plan for the following reasons:

1. THE PLAN IS ILLEGAL UNDER THE GENERAL PLAN OF 1980

- See page 18, "IV. *Summation: The scarcity of local water resources is the dominant influence on the location, amount and intensity of future urbanization of Santa Fe County.*"
- See page 27, "Use of Hydrological zones to control development density."
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- See page 22, where the 1980 Plan policies were reaffirmed and extended:
 1. "This plan will continue use of the (4) hydrological zone water administration system..." and
 2. "This plan will work actively to transition from 100-year hydrology to sustainable water usage."

3. **WATER.** The most important reason for my opposition to the Plan is that it **does not address the water issue.** I have heard the planning department staff state that this is not a water plan. However, if a plan addresses development, it must address the increased demand on our very limited water resources that the Plan allows. **The Plan does not include any method of either measure of water usage or control of water usage.** The Plan is therefore irresponsible and negligent in its present form. Especially, as experts are stating, this area is in the midst of a prolonged, serious drought cycle. And, it violates the codes noted in items 2 and 3 above.

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Once again, you **can** approve the Plan as proposed, but **should** you? Together, we can build a plan that allows for development to continue, and that also protects the community's fragile resources and quality of life. Let's try working together. Let's do the right thing.

Jerry Williams
8 Redondo Ct.
Santa Fe, NM 87508

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "JERRY WILLIAMS" <jjwil2@msn.com>
To: "pduran" <pduran@co.santa-fe.nm.us>
Sent: Sunday, July 11, 2004 10:06 PM
Attach: ATT00018.html; TEMPLATE- letter to Commissioner Duran.doc

SFC CLERK RECORDED 09/14/2004

7/12/2004

JERRY WILLIAMS

From: <AnthArnld@cs.com>
To: <manaya@co.santa-fe.nm.us>; <pcampos@co.santa-fe.nm.us>; <pduran@co.santa-fe.nm.us>;
<hmontoya@co.santa-fe.nm.us>; <jsullivan@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Sunday, July 11, 2004 8:18 AM
Attach: ATT00049.html
Subject: Hwy 285 South Corridor

Gentlemen:

I am concerned about the Highway 285 South Corridor plan. There are a number of points which need modification before finalization and approval.

Water. Various experts have claimed that we are at the beginning of a prolonged drought cycle. whether or not they are correct, it is clear that we live in an arid region in which ever increasing demands have been made on existing water resources. This is an extremely difficult issue. Nevertheless, water usage needs to be specifically dealt with in any long range planning. Please see that water usage is given careful consideration in the final plan.

Size and Zoning. These problems are linked. A vague category of mixed use has been applied at almost every intersection along this corridor. This approach cannot really be called "planning." It is more "carte blanche."

There is no need for a mall or light industry to be allowed at each major intersection. We, the residents of this area enjoy limited commercial development. But, the size needs to be limited, and the zoning for each intersection needs to be more specific.

Lighting. We in Eldorado and adjacent areas have preserved the rural and peaceful nature of the region by limiting the amount and direction of lighting. This may be unusual in New Mexico. But across the nation, there is an increasing awareness of the healthful and beautifying effect of more care about night lighting. I appeal to the County to lead the way in New Mexico in preserving night skies.

The planning committee has worked long and hard to produce this plan. I ask that the plan be open now to review and modification by residents and citizens who will be directly affected in their daily lives.

Thank you for your consideration.

Yours truly,
Anthony P Arnold
5 Balde Road

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Mary Raynard" <mraynard@cadmusgroup.com>
To: <manaya@co.santa-fe.nm.us>; <pcampos@co.santa-fe.nm.us>; <pduran@co.santa-fe.nm.us>;
<hmontoya@co.santa-fe.nm.us>; <jsullivan@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Saturday, July 10, 2004 3:08 PM
Attach: ATT00064.html
Subject: Highway 285 South Corridor Plan

Dear Commissioners:

I am opposed to approving the Highway 285 South Corridor Plan for the following reasons:

1. The water resources available are insufficient to support this level of growth. It simply does not make sense to develop an area that does not have sufficient water available to support growth.
2. The commercial development proposed is neither necessary nor desirable. Residents in the Eldorado area, where I live, have easy access to retail stores both at the Agora and a short drive away in Santa Fe. I am not aware of any pent up demand to increase commercial development here
3. The amount of development proposed, and the character of that development, will alter the character of this community in a negative way forever. I am very opposed to the increase in traffic and population density that this plan proposes, and all the attendant problems that come with it --crime, taxing our education, safety and firefighting resources, to name a few.
4. I live in Eldorado because I enjoy the peace and quiet, the beautiful night sky, and the space. Your plan will destroy all that I value about this area.

I urge you in the strongest way NOT to approve this plan.

Sincerely,
Mary Raynard
15 Moya Loop
Eldorado, NM 87508
466-6325
mraynard@cadmusgroup.com

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: <AHALEAIA@aol.com>
To: <manaya@co.santa-fe.nm.us>; <pcampos@co.santa-fe.nm.us>; <pduran@co.santa-fe.nm.us>; <hmontoya@co.santa-fe.nm.us>; <jsullivan@co.santa-fe.nm.us>
Sent: Monday, July 12, 2004 9:56 AM
Attach: ATT00343.html; 2nd Page.doc; Page 1.doc
Subject: 285 Plan Design Standards

Dear Commissioner:

By now you should have read Bill Roben's comprehensive letter on the methods used in preparing the 285 Plan, together with recommendations on preferable ways of proceeding. One of the Plan aspects he did not discuss was the design standards written into the Plan and the impact they could have on both the individual resident as well as the community as a whole. I would like to review those Standards to give you a visual idea on what they could look like as well as some additional ideas of the way they could affect both the lifestyle and the ambiance of the community if constructed in accordance with Plan provisions.

Before discussing, would like to very briefly review my experience. I am an honors graduate of the University of Illinois with both a BS and MS in Architecture with over 40 years experience, 20 of which has been with my own firm. While doing graduate work, worked with City of Chicago Planning department. I have won awards on 5 buildings I have designed. One was selected to go to Didacta in Brussels and on a USIA worldwide traveling exhibit. Thus, I have perhaps unique qualifications to evaluate the design aspects of this Plan as well their community impact.

I have prepared some rough sketches to show you what could be built utilizing the published design criteria. But, before getting into them, There are a few general features of this plan you should know about since they profoundly affect what your understanding of what this is all about:

The Plan has no "shalls", no mandatory requirements. It only has "shoulds". In other words, there is very real possibility that desirable features you would want to see will not be there in the final ordinance. Staff takes the position that you should spend hours and days down at the County Building while the ordinance is being written to attempt to retain the features glowingly implied in the Plan. This is a totally unreasonable expectation of resident expertise and available time.

Another feature you should know is that there are no incentives built into this Plan to insure the features described will be realized. Usually one finds things such as impact fees to help pay for desirable features. Also not found are any developer incentives to create such things plazas, open spaces, easements for trail connections and the like. Verbiage can only be described as vague and wishy-washy. In most instances, the community is expected to attempt to persuade developers to spend money on features that will subtract from the developer's bottom line. Assume for a minute that some features are desirable (although most are arguable). You can expect to see them vanish as final developer plans are submitted.

You should realize that, unless a feature, practice or type of construction is specifically forbidden, it will happen if it proves financially

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beneficial to the developer.

This may have been mentioned before, but deserves reiteration.

Authors of this Plan have insured that the majority of residents cannot the control design decisions which will occur in their community. I.E. In accordance with this Plan, Eldorado residents can not be a majority of the Design Review Committee. This is particularly unfair since a major portion of Plan development will impact Eldorado majority directly. Also, Eldorado comprises 80% of the population of the 285 area.

Most of both the amount of development and features of this Plan were emphatically rejected (by a 13 to 1 majority) by residents when they responded to a \$ 25,000 Community Survey in 2003. Results of this Survey have, apparently deliberately, been ignored by the County Staff and the developers in preparing this Plan. A petition signed by over 2000 residents has also been ignored by County Staff.

Before discussing the design standards being proposed by this Plan, it would be well to see what these standards are intended to achieve. The plan recommends policies that when implemented, will locate commercial, residential and community uses in places that are "designed to fit the character, scale and needs of the local neighborhoods; provide safe and well designed connections; and protect the natural environment and landscape that dominates between these places."(page 5). Operative words here are character, scale and needs of local neighborhoods. Next, we shall see how well the standards fulfill the stated criteria. It will be obvious how natural environment and landscape will be impacted.

First, two non - visual items. The recommended noise setbacks won't work - most houses are already built; and even if they weren't, increasing distance will only minimally decrease noise. Nor will foliage. I have worked with acoustical engineers on a problem similar to these circumstances. The only thing that will work to significantly reduce noise is mass, i.e. noise fences, berms or the equivalent which will destroy any open views left.

Another item is traffic and trails. If the Village Crossroads Plans on page 164 is examined closely, one will find two stop signs on Vista Grande and one on Colima to "accommodate" trails and pedestrians. Not only do they create more safety problems than they solve, but they received severe criticism when first proposed in 2002 due to the impact on the thousands who commute on Vista Grande each day. Result: the problem is not solved, just sort of hidden until accidents and / or fatalities occur and the stop signs appear. The Plan vaguely predicts similar conditions will occur at Avenida Amistad (page 147), but offers no solutions.

I have prepared and attached two drawings which unfortunately have to be reduced in size for transmission (use the graphic scales shown). These are accurate insofar as it is possible to tell from the Plan. Cars / vans are shown to scale; figures represent a 6' high person. To give a further idea of scale, for purposes of comparison and hopefully aid visualization existing building parapet heights of the Agora are shown dotted since it is a feature which is familiar to residents.. You may use your imagination to show what is proposed as compared to the existing. The scale of the Agora is familiar to and apparently acceptable to most residents.

First, look at drawing A. It has two sections, representing the solutions proposed on pages 111, 112 and 113 of the Plan. They may look nice in plan, but

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when considered in the 3rd dimension, they simply do not work. These indicate a character that purports to be suitable for local neighborhoods. With the allowed 2 story buildings and lighting heights shown, the plaza and pedestrian streets detailed are more appropriate for a downtown urban environment. There is no ambiance. They are out of character with the existing community. They are not "designed to fit the character, scale and needs of the local neighborhoods." For example, in the drawing showing a suggested 285 plaza, compare the Agora's 15 feet high portal (with covered walking space underneath) to a slab sided building (with no sheltered walkway) almost twice (27feet) as high. Notwithstanding the fact there is no incentive (as noted above) for developer to provide them, it would be difficult to imagine any one who would enjoy sitting in the plaza shown or walking down the pedestrian oriented street indicated. Would you go to lunch at Casa Sena if it looked like this ?

Drawing B shows some potential buildings which could be built under the guidelines. The top elevation shows a 35,000 sq ft "big box" which could be built. It approximates the size of Baillos. Its floor area is only slightly larger than the Agora, but it is not grouped around a courtyard, it is a box, and it is over 30 % higher! A pier or wall offset can not disguise that. One of the most egregious features is that 30 % of an elevation can be an accent color. This could be shocking pink or day glow orange. So the visual impact and scale can be both be totally out keeping with the 285 community as we know it. You will also note that signs can be mounted level with the top of that 27' high building which is totally out of character. Lighting fixtures can be higher than the Agora itself is now, will presumably match what is now out on Rt 285, and being sodium vapor, be in the sulphurous color range. And, of course, security will necessitate they be on all night.

The lower drawing shows mixed use and mixed architectural styles. It can range from Northern New Mexico to Territorial to Pueblo, all within a few feet of one another. It is visual chaos. It encourages architectural style as advertising - very similar to what one sees along Cerrillos Road (which this Plan advertizes it avoids). With signs that can be 27' in the air, it is Roadtown USA. In other words, look at me, patronize me, I shout louder than the next building. It certainly does not encourage a sense of community, continuity with the surroundings or visual harmony.

The potential mixed use feature also shows offices next to stores with apartments above next to a light industrial structure. Could this be a relay station, or a trucking depot, or what ? With the vagueness of this Plan, let your imagination run rampant. It might just well be permitted. There is no way that this sort of development can create a sense of community. What is needed is a Plan that is truly "designed to fit the character, scale and needs of the local neighborhoods." This Plan needs to be thoroughly rethought and redesigned with true community input instead of the current exclusion.

However, this Plan is an attempt to force what is a now "semi-rural" low key community into an urban strip-node development. I don't think any County Commissioner would like to see what is proposed here happen to their neighborhood. I urge you to reject this proposal. I will be willing to discuss any of this by phone or in person.

Alexander Hale AIA (466-0610)

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: <AHALEAIA@aol.com>
To: <manaya@co.santa-fe.nm.us>; <pcampos@co.santa-fe.nm.us>; <pduran@co.santa-fe.nm.us>;
 <hmontoya@co.santa-fe.nm.us>; <jsullivan@co.santa-fe.nm.us>; <ggonzalez@co.santa-fe.nm.us>;
 <rabeysa@co.santa-fe.nm.us>; <gross@co.santa-fe.nm.us>
Cc: <dr.dalejenkins@msn.com>
Sent: Monday, July 12, 2004 4:37 PM
Attach: ATT00312.html
Subject: 285 Plan Provisions

Dear Commissioner:

A number of 285 area residents would like to review some aspects of the 285 Plan which is now being considered for approval. There are ramifications to the Plan proposals which have far reaching implications, not just for the 285 area, but for the entire County.

As you are no doubt aware, the 285 Plan proposes to drastically increase the density of commercial, industrial and which is called mixed - use along the Corridor. As you should be aware, the entire area is dependent on ground water from the same aquifer, and that the aquifer supply is dwindling seriously. Adopting Plan proposals will endanger the water supply for the entire area. The 285 Plan further admits that supplemental water will be required sooner than expected (page 43), but offers no real solution. It seems extremely unlikely that an expenditure of millions of dollars in public funds to supply additional water will be authorized in time to prevent serious consequences.

What should be known, and is perhaps not as well known, is that the Plan violates the current County hydrological zoning code -dating from 1980, and reaffirmed in the County General Plan in 1989. (Note: most of the 285 area was subdivided before 1980 and is thus "grandfathered" in.) This code establishes that part of the 285 Plan lies in what is designated as the Basin Fringe Zone, the remainder, but more densely to be developed portion lies in the Mountain Zone. That code stipulates that there be no more than one residence or the equivalent commercial) per 12.5 acres. In the Mountain Zone, the density is reduced to one residence per 20 acres. Therefore Plan proposals are illegal. However, the Final Draft makes no mention of that fact as it should have if it were an honest, above board document.

As things stand, there is only one way that this Plan could be approved. That is to change the code to make it legal. As we understand it, this is proposed to be done, not for the entire County, but for the 285 area alone. We feel this is extremely unwise for a number of reasons. First, it discriminates in favor of those wishing to develop a specific area. Secondly, it sets a precedent for the entire County. Where will the developer pressure come next? And more importantly, if this precedent is established, how will the County be able to respond? Finally, any change of this sort totally ignores the realities of water and density not only in the 285 area, but the entire County.

One additional comment. Any proposal of this sort puts the proverbial "cart before the horse". Let's assume some sort of new development were desirable and fulfilled a need of the community. Then, for the sake of argument, let us also assume new and reliable water sources could be found which could supply some of that development. Would it not be wise to first ascertain how much

SFC CLERK RECORDED 09/14/2004

7/12/2004

7/12/2004

JERRY WILLIAMS

From: "Shannon M. Ratcliff" <shannon.ratcliff@comcast.net>
To: <manaya@co.santa-fe.nm.us>; <pcampos@co.santa-fe.nm.us>; <pduran@co.santa-fe.nm.us>; <hmontoya@co.santa-fe.nm.us>; <jsullivan@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 7:49 AM
Attach: ATT00072.html
Subject: Highway 285 South Corridor Plan

Dear County Commissioners,

I am opposed to approving the Highway 285 South Corridor Plan for the following reasons:

- * Enormous water needs are deliberately ignored in the plan;
- * A dramatic increase in population density is probable (see objection above);
- * Light glare will increase dramatically - the lack of which is one reason why I live in Eldorado;
- * The plan violates the County General Plan re: water zoning and land use;
- * There is no need or business plan to support this enormous development - we do not need this much light industry and commercial development in this area;
- * Sufficient community input has not been solicited; and,
- * This seems a very irresponsible development!

Please vote against this plan on Tuesday.

Sincerely,
Shannon Ratcliff

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "charlotteberryman" <charlotteberryman@comcast.net>
To: <hmontoya@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 2:31 PM
Attach: ATT00062.html
Subject: Opposition to the Highway 285 South Corridor Plan

Dear Mr. Montoya -

I am adamantly opposed to the current Highway 285 Corridor Plan as it is currently proposed for the following reasons:

- * The negative impact that increased high density growth will have on the quality of life in the El Dorado Community (i.e., crime, traffic, noise, pollution, etc.)
- * I moved to this area to escape exactly what is being proposed
- * The additional drain on our very limited water resources
- * The lack of a plan that addresses the above concerns

Sincerely,

Charlotte Berryman

505-466-3227

charlotteberryman@comcast.net

SFC CLERK RECORDED 09/14/2004

7/12/2004

JERRY WILLIAMS

From: "charlotteberryman" <charlotteberryman@comcast.net>
To: <manaya@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 2:33 PM
Attach: ATT00054.html
Subject: Opposition to the 285 South Corredor Plan

Dear Mr Anaya

I am adamantly opposed to the current Highway 285 Corridor Plan as it is currently proposed for the following reasons:

- * The negative impact that increased high density growth will have on the quality of life in the El Dorado Community (i.e., crime, traffic, noise, pollution, etc.)
- * I moved to this area to escape exactly what is being proposed
- * The additional drain on our very limited water resources
- * The lack of a plan that addresses the above concerns

Sincerely,

Charlotte Berryman

505-466-3227

charlotteberryman@comcast.net

SFC CLERK RECORDED 09/14/2004

7/12/2004

JERRY WILLIAMS

From: "charlotteberryman" <charlotteberryman@comcast.net>
To: <pduran@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 2:36 PM
Attach: ATT00039.html
Subject: Opposition to Highway 285 South Corridor Plan

Dear Mr. Duran -

I am adamantly opposed to the current Highway 285 Corridor Plan as it is currently proposed for the following reasons:

- * The negative impact that increased high density growth will have on the quality of life in the El Dorado Community (i.e., crime, traffic, noise, pollution, etc.)
- * I moved to this area to escape exactly what is being proposed
- * The additional drain on our very limited water resources
- * The lack of a plan that addresses the above concerns

Charlotte Berryman

505-466-3227

charlotteberryman@comcast.net

SFC CLERK RECORDED 09/14/2004

7/12/2004

JERRY WILLIAMS

From: "Smith, Vivian F" <Vivian.Smith@nmshtd.state.nm.us>
To: <manaya@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 1:54 PM
Subject: Highway 285 South Corridor Plan

I am opposed to your approval of the Highway 285 South Corridor Plan for the following reasons:

- * It will allow 700,000 square feet of development or 20 NEW Agora Shopping Centers;
- * It will allow commercial, light industry and "mixed use residential" development at almost every intersection on Highway 285 from I-25 to Lamy;
- * It will allow increased risks in traffic, crime, fire fighting, accidents, and school crowding;
- * This Plan violates the County General Plan re: water zoning and land use;
- * It will endanger our dark skies and our quality of life;
- * There is no need and no business plan for this enormous development;
- * Full community input has been minimized; and
- * The Plan mission statement was re-written AFTER the Plan was completed.

Vivian F. Smith
 9 Esquina Road
 Santa Fe, NM 87508-9172

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7/12/2004

JERRY WILLIAMS

From: "Smith, Vivian F" <Vivian.Smith@nmshtd.state.nm.us>
To: <jsullivan@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 2:04 PM
Subject: Highway 285 South Corridor Plan

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- * It will allow commercial, light industry and "mixed use residential" development at almost every intersection on Highway 285 from I-25 to Lamy;
- * It will allow increased risks in traffic, crime, fire fighting, accidents, and school crowding;
- * This Plan violates the County General Plan re: water zoning and land use;
- * It will endanger our dark skies and our quality of life;
- * There is no need and no business plan for this enormous development;
- * Full community input has been minimized; and
- * The Plan mission statement was re-written AFTER the Plan was completed.

Vivian F. Smith
9 Esquina Road
Santa Fe, NM 87508-9172

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SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Smith, Vivian F" <Vivian.Smith@nmshtd.state.nm.us>
To: <hmontoya@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 1:59 PM
Subject: Highway 285 South Corridor Plan

I am opposed to your approval of the Highway 285 South Corridor Plan for the following reasons:

- * It will allow 700,000 square feet of development or 20 NEW Agora Shopping Centers;
- * It will allow commercial, light industry and "mixed use residential" development at almost every intersection on Highway 285 from I-25 to Lamy;
- * It will allow increased risks in traffic, crime, fire fighting, accidents, and school crowding;
- * This Plan violates the County General Plan re: water zoning and land use;
- * It will endanger our dark skies and our quality of life;
- * There is no need and no business plan for this enormous development;
- * Full community input has been minimized; and
- * The Plan mission statement was re-written AFTER the Plan was completed.

Vivian F. Smith
9 Esquina Road
Santa Fe, NM 87508-9172

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SFC CLERK RECORDED 09/14/2004

7/12/2004

JERRY WILLIAMS

From: "Smith, Vivian F" <Vivian.Smith@nmshtd.state.nm.us>
To: <pcampos@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 2:01 PM
Subject: Highway 285 South Corridor Plan

I am opposed to your approval of the Highway 285 South Corridor Plan for the following reasons:

- * It will allow 700,000 square feet of development or 20 NEW Agora Shopping Centers;
- * It will allow commercial, light industry and "mixed use residential" development at almost every intersection on Highway 285 from I-25 to Lamy;
- * It will allow increased risks in traffic, crime, fire fighting, accidents, and school crowding;
- * This Plan violates the County General Plan re: water zoning and land use;
- * It will endanger our dark skies and our quality of life;
- * There is no need and no business plan for this enormous development;
- * Full community input has been minimized; and
- * The Plan mission statement was re-written AFTER the Plan was completed.

Vivian F. Smith
9 Esquina Road
Santa Fe, NM 87508-9172

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SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Smith, Vivian F" <Vivian.Smith@nmshtd.state.nm.us>
To: <pduran@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 2:08 PM
Subject: Highway 285 South Corridor Plan

I am opposed to your approval of the Highway 285 South Corridor Plan for the following reasons:

- * It will allow 700,000 square feet of development or 20 NEW Agora Shopping Centers;
- * It will allow commercial, light industry and "mixed use residential" development at almost every intersection on Highway 285 from I-25 to Lamy;
- * It will allow increased risks in traffic, crime, fire fighting, accidents, and school crowding;
- * This Plan violates the County General Plan re: water zoning and land use;
- * It will endanger our dark skies and our quality of life;
- * There is no need and no business plan for this enormous development;
- * Full community input has been minimized; and
- * The Plan mission statement was re-written AFTER the Plan was completed.

Vivian F. Smith
9 Esquina Road
Santa Fe, NM 87508-9172

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SFC CLERK RECORDED 09/14/2004

7/12/2004

JERRY WILLIAMS

From: "Kathleen Rowe" <kathycraig@mail.utexas.edu>
To: <manaya@co.santa-fe.nm.us>; <pcampos@co.santa-fe.nm.us>; <pduran@co.santa-fe.nm.us>;
<hmontoya@co.santa-fe.nm.us>; <jsullivan@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 9:33 AM
Attach: ATT00050.txt
Subject: Opposed to 285 Corridor Plan

Dear County Commissioners,

I am opposed to your approval of the Highway 285 South Corridor Plan for the following reasons:

The current plan does not address water shortage issues, a serious and inexcusable omission. Nor does the plan adequately address pedestrian safety and traffic management issues.

Another serious omission is one that violates current public health recommendations for community planning--to develop public spaces that promote walking. Current public health research suggests that the built environment--that is, the recent practice of building residential and commercial spaces that encourage driving and discourage walking--is one of the main contributors to the obesity epidemic in this country. The current plan does not address this issue.

Please re-evaluate the 285 Corridor Plan and recommend that a new plan be developed that addresses all the relevant issues and is done with broad public input and consensus.

Thank you for your time and attention.

Kathleen Rowe, M.P.H., M.S.N., R.N.
10 Bluebell Ct.
Santa Fe, NM 87508
(505)466-2373

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "charl chapman" <callenchap613@yahoo.com>
To: "JERRY WILLIAMS" <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 12:41 AM
Subject: Fwd: 285 corridor plan--

--- charl chapman <callenchap613@yahoo.com> wrote:

> Date: Mon, 12 Jul 2004 23:36:38 -0700 (PDT)
 > From: charl chapman <callenchap613@yahoo.com>
 > Subject: 285 corridor plan---
 > To: jack sullivan <jsullivan@co.santa-fe.nm.us>,
 > montoya <hmontoya@co.santa-fe.nm.us>, anaya
 > <manaya@co.santa-fe.nm.us>,
 > campos <pcampos@co.santa-fe.nm.us>
 >
 > Dear Sirs: Am requesting that this plan, in its
 > current format, not be adopted. Specifically, the
 > plan
 > needs to be, at the very least, "tweaked" to give
 > more
 > consideration to these 3 items: lighting, AS IT
 > WILL
 > IMPACT ON our NIGHT SKIES, due to build-out
 > (regardless of whether lights are downward
 > directed),
 > BUILDING HEIGHTS, AND, FINALLY, WATER. Also,
 > changing of the code relative to the corridor ONLY
 > is
 > cynical and it is opening "Pandora's Box" for
 > substantial legitimate argument of unequal
 > protection
 > and treatment, relative both to what will be allowed
 > along the corridor only and what others will want
 > to
 > develop in other parts of the county. You may be
 > assured this argument will be used legally and will
 > lead the county into a quagmire of unfair and
 > unequal/discrimanatory treatment issues. The
 > commission is allowing itself to be blindsided by the
 > "hard work" argument of some on the committee.
 > There
 > are ELEMENTS OF THEIR WORK WHICH CAN BE
 > MEANINGFULLY
 > USED, but to adopt the entire plan-----as is----is
 > poor public policy and poor planning policy. c.
 > allen chapman
 >
 >
 >
 >
 > _____
 > Do you Yahoo!?
 > Yahoo! Mail is new and improved - Check it out!
 > http://promotions.yahoo.com/new_mail
 >

SFC CLERK RECORDED 09/14/2004

7/13/2004

JERRY WILLIAMS

From: "spiritwerks" <spiritwerks@mindspring.com>
To: <manaya@co.santa-fe.nm.us>; <hmontoya@co.santa-fe.nm.us>; <pcampos@co.santa-fe.nm.us>; <jsullivan@co.santa-fe.nm.us>; <pduran@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 10:45 AM
Attach: ATT00014.html
Subject: Opposition to the 285 South Corridor Plan

I am opposed to your approval of the Highway 285 South Corridor Plan for the following reasons:

There is no need for this sort of development in our area!

We do not have the water resources now for all the home building that's going on in the Eldorado area much less this type of unregulated sprawl.

We live in this area for the very reason that it remains mostly natural and unspoiled by commerce.

I am very upset and shocked that you my county commissioners, would approve this commercial development of the South 285 Corridor that will effect our quiet community so severely.

I can only assume that a great deal of money stands to be made by the few developers who have pushed this plan through against the wishes of the Eldorado and surrounding communities.

I am one voice very much opposed to the Highway 285 South Corridor Plan.

Melissa Poole
Eldorado resident since 1986

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Stephanie Thomas" <stephthomas@mindspring.com>
To: <pduran@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 11:05 AM
Subject: Opposition to 285 South Corridor Plan

Dear Commissioner Duran,

As as homeowner and resident in Eldorado, I am **OPPOSED TO APPROVING** the Highway 285 South Corridor plan. The intended use of this open space between Eldorado and Lamy would destroy the very character of the area where we live. Strip mall mentality, industry and more residences would have a **DISASTROUS EFFECT** on our **WATER SUPPLY**, an issue that has not been given adequate consideration in the 285 Corridor plans. As it stands, the proposed plan is in **VIOLATION OF THE COUNTY GENERAL PLAN** insofar as water zoning and land use. These oversights must be addressed.

In addition, our area cannot handle the **INCREASED TRAFFIC AND POPULATION** that will **OVERBURDEN** our **SCHOOL** system and our **SHERIFF** and **FIREFIGHTING** services. As for aesthetic consideration, the beauty of our **NEW MEXICO NIGHT SKY** would be lost with the light glare from these commercial businesses.

I ask you to **OPPOSE** the 285 South Corridor **PLAN** in its present form. There is no need or business plan for this development. I ask you to work to with our community to **PROMOTE DIALOGUE TO DEVELOP AN INTEGRATED PLAN** rather than bring in industry and more residences along with haphazard strip malls that will be twenty (20) times larger than our Agora shopping center.

Thank you for your serious consideration of this issue.

Sincerely,

Stephanie Thomas
5 Monte Alto Rd.

SFC CLERK RECORDED 09/14/2004

7/13/2004

JERRY WILLIAMS

From: "Stephanie Thomas" <stephthomas@mindspring.com>
To: <manaya@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 11:05 AM
Subject: Opposition to Highway 285 South Corridor Plan

Dear Commissioner Anaya,

As as homeowner and resident in Eldorado, I am **OPPOSED TO APPROVING** the Highway 285 South Corridor plan. The intended use of this open space between Eldorado and Lamy would destroy the very character of the area where we live. Strip mall mentality, industry and more residences would have a **DISASTROUS EFFECT** on our **WATER SUPPLY**, an issue that has not been given adequate consideration in the 285 Corridor plans. As it stands, the proposed plan is in **VIOLATION OF THE COUNTY GENERAL PLAN** insofar as water zoning and land use. These oversights must be addressed.

In addition, our area cannot handle the **INCREASED TRAFFIC AND POPULATION** that will **OVERBURDEN** our **SCHOOL** system and our **SHERIFF** and **FIREFIGHTING** services. As for aesthetic consideration, the beauty of our **NEW MEXICO NIGHT SKY** would be lost with the light glare from these commercial businesses.

I ask you to **OPPOSE** the 285 South Corridor **PLAN** in its present form. There is no need or business plan for this development. I ask you to work to with our community to **PROMOTE DIALOGUE TO DEVELOP AN INTEGRATED PLAN** rather than bring in industry and more residences along with haphazard strip malls that will be twenty (20) times larger than our Agora shopping center.

Thank you for your serious consideration of this issue.

Sincerely,

Stephanie Thomas
5 Monte Alto Rd.

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Stephanie Thomas" <stephthomas@mindspring.com>
To: <hmontoya@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 11:05 AM
Subject: Opposition to 285 South Corridor Plan

Dear Commissioner Montoya,

As as homeowner and resident in Eldorado, I am **OPPOSED TO APPROVING** the Highway 285 South Corridor plan. The intended use of this open space between Eldorado and Lamy would destroy the very character of the area where we live. Strip mall mentality, industry and more residences would have a **DISASTROUS EFFECT** on our **WATER SUPPLY**, an issue that has not been given adequate consideration in the 285 Corridor plans. As it stands, the proposed plan is in **VIOLATION OF THE COUNTY GENERAL PLAN** insofar as water zoning and land use. These oversights must be addressed.

In addition, our area cannot handle the **INCREASED TRAFFIC AND POPULATION** that will **OVERBURDEN** our **SCHOOL** system and our **SHERIFF** and **FIREFIGHTING** services. As for aesthetic consideration, the beauty of our **NEW MEXICO NIGHT SKY** would be lost with the light glare from these commercial businesses.

I ask you to **OPPOSE** the 285 South Corridor **PLAN** in its present form. There is no need or business plan for this development. I ask you to work to with our community to **PROMOTE DIALOGUE TO DEVELOP AN INTEGRATED PLAN** rather than bring in industry and more residences along with haphazard strip malls that will be twenty (20) times larger than our Agora shopping center.

Thank you for your serious consideration of this issue.

Sincerely,

Stephanie Thomas
5 Monte Alto Rd.

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Stephanie Thomas" <stephthomas@mindspring.com>
To: <pcampos@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 11:05 AM
Subject: Opposition to 285 South Corridor Plan

Dear Commissioner Campos,

As as homeowner and resident in Eldorado, I am **OPPOSED TO APPROVING** the Highway 285 South Corridor plan. The intended use of this open space between Eldorado and Lamy would destroy the very character of the area where we live. Strip mall mentality, industry and more residences would have a **DISASTROUS EFFECT** on our **WATER SUPPLY**, an issue that has not been given adequate consideration in the 285 Corridor plans. As it stands, the proposed plan is in **VIOLATION OF THE COUNTY GENERAL PLAN** insofar as water zoning and land use. These oversights must be addressed.

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I ask you to **OPPOSE** the 285 South Corridor **PLAN** in its present form. There is no need or business plan for this development. I ask you to work to with our community to **PROMOTE DIALOGUE TO DEVELOP AN INTEGRATED PLAN** rather than bring in industry and more residences along with haphazard strip malls that will be twenty (20) times larger than our Agora shopping center.

Thank you for your serious consideration of this issue.

Sincerely,

Stephanie Thomas
5 Monte Alto Rd.

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Stephanie Thomas" <stephthomas@mindspring.com>
To: <jsullivan@co.santa-fe.nm.us.>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 11:05 AM
Subject: Opposition to 285 South Corridor Plan

Dear Commissioner Sullivan,

As as homeowner and resident in Eldorado, I am **OPPOSED TO APPROVING** the Highway 285 South Corridor plan. The intended use of this open space between Eldorado and Lamy would destroy the very character of the area where we live. Strip mall mentality, industry and more residences would have a **DISASTROUS EFFECT** on our **WATER SUPPLY**, an issue that has not been given adequate consideration in the 285 Corridor plans. As it stands, the proposed plan is in **VIOLATION OF THE COUNTY GENERAL PLAN** insofar as water zoning and land use. These oversights must be addressed.

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Thank you for your serious consideration of this issue.

Sincerely,

Stephanie Thomas
5 Monte Alto Rd.

SFC CLERK RECORDED 09/14/2004

7/13/2004

JERRY WILLIAMS

From: "Bradley Whorton" <bradwhorton@hotmail.com>
To: <manaya@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 9:31 AM
Subject: Please vote AGAINST the Highway 285 South Corridor Plan

Mike Anaya-

I am writing to urge you to oppose the Highway 285 South Corridor Plan. I live in Eldorado and think the plan would have a highly negative effect on the quality of life in the area. I oppose the plan for the following reasons:

- 1) The plan calls for way too much commercial/light industry space, and it has the potential to turn 285 into another Cerrillos Road with strip malls located at every itnersection.
- 2) The plan ignores the enormous water needs to support such development. This is risky especially with falling water table levels due to the prolonged drought.
- 3) The plan would increase density, traffic, noise, crime, and light glare.
- 4) the plan violates the County's own County General Plan with regard to water zoning and land use.

Please vote against this Plan. I'll be watching.

Brad Whorton
12 Monte Alto Place
Santa Fe, NM 87508
505-992-8601

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Bradley Whorton" <bradwhorton@hotmail.com>
To: <pduran@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 9:33 AM
Subject: Please vote AGAINST the 285 South Corridor Plan

Paul Duran-

I am writing to urge you to oppose the Highway 285 South Corridor Plan. I live in Eldorado and think the plan would have a highly negative effect on the quality of life in the area. I oppose the plan for the following reasons:

- 1) The plan calls for way too much commercial/light industry space, and it has the potential to turn 285 into another Cerrillos Road with strip malls located at every itnersection.
- 2) The plan ignores the enormous water needs to support such development. This is risky especially with falling water table levels due to the prolonged drought.
- 3) The plan would increase density, traffic, noise, crime, and light glare.
- 4) the plan violates the County's own County General Plan with regard to water zoning and land use.

Please vote against this Plan. I'll be watching.

Brad Whorton
12 Monte Alto Place
Santa Fe, NM 87508
505-992-8601

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Bradley Whorton" <bradwhorton@hotmail.com>
To: <hmontoya@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 9:34 AM
Subject: Please vote AGAINST the Highway 285 South Corridor Plan

Harry Montoya-

I am writing to urge you to oppose the Highway 285 South Corridor Plan. I live in Eldorado and think the plan would have a highly negative effect on the quality of life in the area. I oppose the plan for the following reasons:

- 1) The plan calls for way too much commercial/light industry space, and it has the potential to turn 285 into another Cerrillos Road with strip malls located at every itnersection.
- 2) The plan ignores the enormous water needs to support such development. This is risky especially with falling water table levels due to the prolonged drought.
- 3) The plan would increase density, traffic, noise, crime, and light glare.
- 4) the plan violates the County's own County General Plan with regard to water zoning and land use.

Please vote against this Plan. I'll be watching.

Brad Whorton
12 Monte Alto Place
Santa Fe, NM 87508
505-992-8601

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Bradley Whorton" <bradwhorton@hotmail.com>
To: <jsullivan@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 9:35 AM
Subject: Please vote AGAINST the Highway 285 South Corridor Plan

Jack Sullivan-

I am writing to urge you to oppose the Highway 285 South Corridor Plan. I live in Eldorado and think the plan would have a highly negative effect on the quality of life in the area. I oppose the plan for the following reasons:

- 1) The plan calls for way too much commercial/light industry space, and it has the potential to turn 285 into another Cerrillos Road with strip malls located at every itnersection.
- 2) The plan ignores the enormous water needs to support such development. This is risky especially with falling water table levels due to the prolonged drought.
- 3) The plan would increase density, traffic, noise, crime, and light glare.
- 4) the plan violates the County's own County General Plan with regard to water zoning and land use.

Please vote against this Plan. I'll be watching.

Brad Whorton
12 Monte Alto Place
Santa Fe, NM 87508
505-992-8601

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Robert Douglas" <santafeumber@yahoo.com>
To: <hmontoya@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 11:42 PM
Attach: ATT00122.html; Santa Fe save her final draft to editor.doc
Subject: I am opposed to your approval of the Highway 285 South Corridor Plan for the following reasons

Dear Mr Montoya - please see the attached file concerning my very strong thoughts against the proposed pending 285 corridor project: thank you and I hope that you will take this information into consideration.

Sincerely,
rob douglas
31 bishop lamy road lamy NM 87540
robbie@douglasarts.com

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SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Robert Douglas" <santafeumber@yahoo.com>
To: <jsullivan@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 11:56 PM
Attach: ATT00108.html
Subject: I am opposed to your approval of the Highway 285 South Corridor Plan for the following reasons

Dear Mr Sullivan - please see the attached file concerning my very strong thoughts against the proposed pending 285 corridor project: This is a copy of a letter I have recently sent to the editor of the New Mexican for print. (please interpolate accordingly). thank you and I hope that you will take this information into consideration.

Sincerely,
rob douglas
31 bishop lamy road lamy NM 87540
robbie@douglasarts.com

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SFC CLERK RECORDED 09/14/2004

7/13/2004

JERRY WILLIAMS

From: "Robert Douglas" <santafeumber@yahoo.com>
To: <pcampos@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 11:45 PM
Attach: ATT00100.html; Santa Fe save her final draft to editor.doc
Subject: I am opposed to your approval of the Highway 285 South Corridor Plan for the following reasons

Dear Mr Campos - please see the attached file concerning my very strong thoughts against the proposed pending 285 corridor project: thank you and I hope that you will take this information into consideration.

Sincerely,
rob douglas
31 bishop lamy road lamy NM 87540
robbie@douglasarts.com

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SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Robert Douglas" <santafeumber@yahoo.com>
To: <pduran@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Tuesday, July 13, 2004 12:05 AM
Attach: ATT00079.html; Santa Fe save her final draft to editor.doc
Subject: I am opposed to your approval of the Highway 285 South Corridor Plan for the following reasons

Dear Mr Duran - please see the attached file concerning my very strong thoughts against the proposed pending 285 corridor project: this is actually a copy of the letter I have recently sent to the Editor of the New Mexican for print- (please interpolate). thank you and I hope that you will take this information into consideration.

Sincerely,
rob douglas
31 bishop lamy road lamy NM 87540
robbie@douglasarts.com

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SFC CLERK RECORDED 09/14/2004

Santa Fe – Save her!

Concerning the proposed 285 corridor rezoning and master building plan:

I have strong feelings concerning the future of our “holy city of Faith”, and also the oldest city in the country.

If we are going to build, preserve, and even name ourselves the “city different” then let’s Honestly and with integrity stand behind the concept and not use it as some meaningless catch phrase to allure folks here. The hypocrisy is too much to bare these days and whom are we trying to fool?

In particular, I am deeply concerned about the proposed commercial building project along the 285 and the proposed amendments to our already established codes designed to enforce restrictions on growth and water usage in Santa Fe County.

I am looking at this entire situation through the eyes of an artist. I live and work in my studio, which is situated along the 285 corridor. I chose this area for its pristine wide-open spaces and vistas of the mountains as you approach Santa Fe. I have traveled this route many times home from trips to Texas and other places. One of the things that struck me about this particular entrance into Santa fe is the magic of the vast Galisteo Basin and its effects it has on its approaching visitors. From my heart I say that this incredible vast open panoramic view of the southern tip of Santa fe, the basin and the looming mountains, subtly prepares one heading toward our beautiful city of Santa fe as a destination point. This particular portal prepares the soul for those long distance travelers from afar, this experience lures them right into her heart and allows the mystique of what is to come to gradually open up to them on the remaining few miles into this unique and very old city.

How many of you are aware that Santa Fe, NM happens to be the 3rd largest art market in the entire country? The entire country! This is one hell of a major accomplishment for a city so small in terms of population. It is neck and neck with NY with a population of over 12 million people for god’s sake!! I do not know all the statistics of this amount of revenue that traveling tourists from all over the world bring in to this city just to shop for art and find that which feeds their spirit here. While they are visiting this place will they not buy other things, will they not fill up our hotels? Will they not eat in our world-class restaurants? Will they not shop for real estate? Will they not also patronize our many unique opportunities for body, mind and spirit rejuvenation? Just how much money do these folks bring into this city every year???

Can the already existing and established businesses in this city not see beyond their own daily life’s to understand the impact of allowing this 285 proposed project happen will do to our economy in the long term? Just because this proposed massive project happens to be taking place out of sight on the south end of the city, does not mean it is not going to have an effect of those of you in Santa Fe proper.

In reality, the 285 corridor is one of the very last pristine, unspoiled gateways into Santa Fe and especially to the wealthy Texans who spend an enormous amount of money here every year. Do you honestly believe, can anyone here tell me and honestly believe that people that come here from the two biggest strip mall cities in the world, namely Dallas and Houston, people who purchase our art work, real estate and food,

SFC CLERK RECORDED 09/14/2004

want to be greeted into our unique town by a bunch of looming and cheap, possibly tasteless commercial strip shopping? They come here to experience and take home a piece of the essence of what makes this city so unique and to enrichen their own lives. Is this going to make it worth their drive? Is this the first impression of our city we wish to invite them into? How about another Wal-Mart, they certainly can't be use to seeing those? They don't have those in Houston or Dallas. A great number of Texas folks drive to our city as a destination because of its proximity. I know, I see Texas license plates on cars traveling in convoys up 285 all the time. I am quite certain they don't want to see more commercial and strip shopping! They have all of that they ever want and the reason they come here to get away from it. Now I am only referring to the Texans, I am not even

Including the rest of the country or the world that chooses to arrive here for a rich cultural experience. In a place so amazingly unique and unlike the rest.

If we, the people of the Holy City of Faith, allow this to happen, we are peeling away one more giant layer of our culturally rich soul of this city. If we allow this to happen, we may as well form our next meeting to discuss what we are going to change the name of our city to next. It certainly won't be able to be referred to any longer as the City Different, we are already rapidly moving away from that concept, and we already have Cerillos road and other commercial strips to prove that. I am thinking of more appropriate titles such as SANTAQUERQUE or the "CITY COMMON", better yet, how about ALBU-FE? Is our ultimate goal here to homogenize like the rest of the country or remain completely intact and preserve the rich essence of our state's capital?

We need to stop the madness and stop allowing big money developers to determine how the face of our city will be changed forever with their limited vision plans. Many of them have no vision except for how they can fill up their own pocketbooks. Many of them are here to literally rape this city of her rich heritage and take their money elsewhere. Their greedy planning to deceive its citizens into believing we need more of this type of thing polluting our environment and destroying our reputation is outrageous! We need to stop the growth as well to save our water and mostly we need to stop these folks from thinking that with their big money they have a right to bulldoze their own way into our established book of codes designed to protect our city from damage, overuse of our limited water supply and thinking they can change whatever they want with their amendments. What would our founding fathers that wrote these codes with the idea of preserving our city think if they were to know all that they worked long and hard on was literally wiped away by a handful of those with greedy intentions? Let's leave this kind of debilitating growth to Albuquerque, they already have it down. We have to stop allowing a handful of people to control us.

I was raised in Santa Fe and I recall the days when I would tell people from afar where I am from and I was once proud to say Santa Fe, mostly to see them come alive and look at me with awe. It saddens me to say that for years now, I hear this no more. What I mostly hear are others; immediate response to my being from Santa fe, is just how much of an uncontrolled Disney land this place has turned into and that they really don't make this their destination point either at all or only on occasion. Is this what we want folks? I have many friends in Denver who once made this their destination point on an annual basis as they found it close enough to drive and a place they could come for the weekend to replenish their spirit – even they have stopped coming to visit our incredible city except on rare occasions.

SFC CLERK RECORDED 09/14/2004

Folks, you all need to stop and examine in yourselves the vast impact allowing such a thoughtless

Project to go through will have on all of us. A plan that will virtually spoil our last frontier, our last entryway into Santa Fe and the effects it ultimately will have on you, your family, your business, and the entire economy of the city. This will ultimately have an effect on our entire city! We are the third largest art market in the country, that took hundreds of years for us to evolve into this leadership with great leaders like Georgia and others pioneering the way – are we going to risk such cheap and shoddy development along the 285 to scare off and turn away visitors and make this the “city same” instead? We are running out of water here folks – do we need to worsen the problem even more with thoughtless plans such as the proposed 285 growth project and amendments to the established codes to protect our most precious and scarce commodity?

Give this some serious thought and attend the town meeting this Tuesday evening to voice out against this initiative.

This is not just about the residence along 285 having their pristine views of the basin, mountains and their dark desert skies at night spoiled– this is more about the effects that this project shall have on the entire future of every person that lives and works and visits in this city.

Do we want to greet our visiting friends who support our local economy with RV storage lots, strip malls and the likes? I should think not!

This Impacts each and every one of our future generations and also us in Santa Fe.

City different?

To the editor: I am attaching some statistics I have found online to support the facts that Santa fe is the third largest art market in the country:

1. We're the 3rd-largest art market in the nation behind Los Angeles and New York. Our many art galleries, museums, and live performances are influenced by our fascinating cultural history. It was here that evidence of early man (12,000 BC) was found and here that many agrarian-based societies of ancestral people were established by 1000 AD. Arcas where those groups made their homes are preserved and honored to this day, as are the multi-story adobe pueblos that the

SFC CLERK RECORDED 09/14/2004

Spanish stumbled upon when they arrived in the 1500s. The Indian, Spanish, and Anglo peoples who have been co-existing here for the last 400 years have come to weave their traditions and views, though they maintain respectful distinctions. Each of our twenty-two pueblos and tribes has their own sovereign lands and governments and 38% of the population is Hispanic.

2. Government is the largest employer in Santa Fe followed by the hospitality industry. There are a growing number of technology based businesses locating in the city as well. Santa Fe is considered the third largest art market in the U.S. based on sales with 250 art galleries and dealers in town.

3. Art is a constant that runs throughout Santa Fe. It is an integral part of the city's history and is celebrated everywhere; on the streets, in the restaurants and hotels, in the parks, on the grounds of the capitol and in the many beautiful art galleries that are spread throughout the city. With over 250 art galleries and dealers in Santa Fe representing art and artists of every

SFC CLERK RECORDED 09/14/2004

kind, there are few places in America that offer the depth of quality and breadth of variety in fine art that Santa Fe does. In fact, Santa Fe is considered the third largest art market in the U.S. which means there is something for everyone to enjoy, regardless of taste or budget.

SFC CLERK RECORDED 09/14/2004

JERRY WILLIAMS

From: "Sandy Edelman" <kaiturner@cybermesa.com>
To: <hmontoya@co.santa-fe.nm.us>
Cc: <jjwil2@msn.com>
Sent: Monday, July 12, 2004 9:53 PM
Attach: ATT00443.html
Subject: tomorrow's vote

I join with those opposing approval of the HWY 285 South Corridor plan, which as set forth represents a massive attack on the quiet rural environment which drew us to this area, unable to afford the astronomical prices of an acre or so elsewhere around Santa Fe. The "plan" ignores our near-catastrophic water problem, the County General Plan for water zoning and land use, the problems always attendant to high density, lighting restrictions, traffic issues--and the dreams of area homeowners seeking peace, quiet, and a more natural environment. We urge you to vote against approval--vote for the people, not the developers. Sandra Edelman, 7 Caliente Place, Santa Fe 87508

SFC CLERK RECORDED 09/14/2004

7/12/2004

JERRY WILLIAMS

From: <AHALEAIA@aol.com>
To: <smartin31@comcast.net>
Cc: <callenchap613@yahoo.com>; <RobertwClarke@cs.com>; <mcurran@nets.com>; <dkelehan@hotmail.com>; <Amiarlette@aol.com>; <edandcary@cybermesa.com>; <Eldoradosunset@aol.com>; <memmerton@cnsf.com>; <aurora@newmexico.com>; <clay.companions@verizon.net>; <Zeoguy@aol.com>; <mary.g.james@att.net>; <Ziti1@Juno.com>; <lynnmcperson@hotmail.com>; <Helensanfe@aol.com>; <nateockman@comcast.net>; <PREIK@cyfd.state.NM.US>; <Ed1977Gretchen@earthlink.com>; <RobbArtsSF@aol.com>; <therobens@comcast.net>; <Russtree@aol.com>; <fschober@att.net>; <MSeckler@aol.com>; <pwirth@swbpc.com>; <jjwil2@msn.com>
Sent: Saturday, July 10, 2004 9:36 PM
Attach: ATT00009.html
Subject: 285 Plan Provisions

Hi Susan -

There are some recent developments in this unfolding drama which you should know about and in which the Sierra Club should take more than a passing interest.

When I first e-mailed you in June, I mentioned the fact that this 285 Plan proposed to drastically increase density of commercial and mixed use residential far beyond what is presently here and for which there is no water (nor is there any possibility of obtaining any in the foreseeable future). I don't know if we discussed the fact that the proposed 285 Plan is more than slightly illegal under current County hydrological zoning Code (dating from 1980). It is a gross violation of that code which stipulates one residence per 12.5 acres in the Basin Fringe Zone and one residence per 20 acres in the Mountain Zone. Realizing that the 285 Plan is now illegal, the County is proposing to revise the law to permit enactment of the Plan. Needless to say, this will endanger water supply for the area. In short, if something is illegal, and not in the public interest, but rather serves development interests, just change the law to accommodate it.

What makes this proposal even more egregious, is that it is apparently being proposed to change the code for the 285 Plan area only, not the rest of the County. Not only is this discriminatory as far as concerns the 285 Plan area, but it also sets an extremely dangerous precedent for the entire County. When the next development scheme comes up, there is then on the books a precedent established for changing the code in the next area, regardless of the actual water or other ecological circumstances of that area.

We feel the current County proposals have far reaching negative consequences for the future of Santa Fe County. Any participation by the Sierra Club in opposing this ill-advised action would not only be welcome, but in keeping with their local objectives for northern New Mexico.

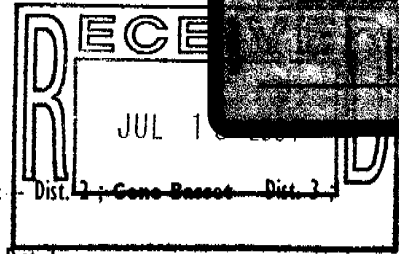
As you may be aware, time for considering a position is short, and it is not felt that any stand which is not fully evaluated would be advantageous. A statement by the Club which urges that, due to the grave repercussions of the proposed resolutions, no action be taken now until the consequences can be evaluated, would seem to be in order. The 2nd BCC hearing is on Tuesday, 13 July 04, approximately 5 PM.

Please let me know of your feelings on this matter at your earliest possible

SFC CLERK RECORDED 09/14/2004

7/11/2004

SANTA FE COUNTY CDRC, BCC, AND STAFF
 P O BOX 276
 SANTA FE, NM 87504-0276
 July 11, 2004



:: CDRC ::
 Louis Gonzales -- Dist. 4 -- Chairperson ; Jon Paul Romero -- Dist. 1 ; Jose Varela Lopez -- Dist. 2 ; Gene Bassett -- Dist. 3 ;
 Juan Jose Gonzales -- Dist. 3 ;
 Kathleen S. Holian -- Dist. 4 ; Donald Dayton -- Dist. 5

:: BCC ::
 Paul Campos -- Dist 4 -- Chairperson ; Harry Montoya -- Dist. 1 ; Paul Duran -- Dist. 2 ; Mike D. Anaya -- Dist. 3 ; Jack Sullivan -- Dist. 5

Gerald T. E. Gonzalez -- County Manager ; Stephen Ross -- County Attorney
 And
 Santa Fe County Staff

This is formal notification that : as residents and property owners in the **San Sebastian Ranch Neighborhood**, we the undersigned, concur with and support the implementation and passage of the **US 285 South Highway Corridor Plan**, as it currently stands.
 This agreement and support of this Plan is our consensus, even in the light of completing its final form through fine-tuning; via typographical corrections, brief clarifications and through minimal modifications that are strictly legal. No more public-hearings, other than those numerous meetings(101+) that have already occurred over the last 4.5 yrs. are required. If any more public-hearings are to happen, these hearings should be minimal in number, and should be held formally only in SF County BCC Chambers and on-the-record, with the onus on the SF County BCC.

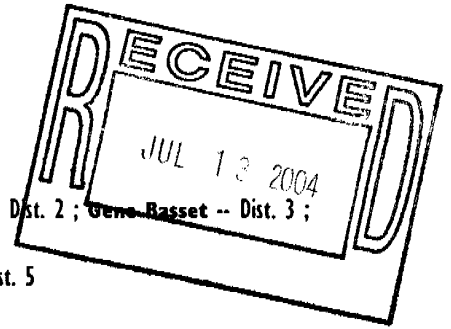
Note : regarding the residents and property owners in San Sebastian De La Luz, Dan Haft -- President, has stated : "There is strong sentiment from members of the **San Sebastian De La Luz Homeowners Association**, in support of the **US 285 South Highway Corridor Plan**, and a more formal endorsement of this Plan by this Association, will be considered and voted upon at its annual meeting this autumn."

Sincerely,

| | | |
|--------------------------|--|--|
| Catherine Allen | 5 San Sebastian Rd., SF, NM 87505
505 466 6139 | <i>Catherine A. Allen</i> |
| Bill & Debora Barrett | 18 Ellis Ranch Rd., SF, NM 87505
505 466 1192 | <i>Debora Barrett
Bill Barrett</i> |
| Randy Bell | 314 Garcia St., SF, NM 87501
505 988 8926 | <i>Randy Bell</i> |
| Frederick & Bonnie Ellis | P O Box 342, SF, NM 87504-0342
505 466 1537 | <i>Frederick Ellis
Bonnie Ellis</i> |
| Fremont F Ellis II | P O Box 342, SF, NM 87504-0342
505 466 0055 | <i>Fremont F. Ellis II</i> |
| Dan Haft | 60 San Sebastian Rd., SF, NM 87505
505 466 1575 | SEE ATTACHED E-MAIL |
| Rob Earle & Jeff Pierce | P O Box 9629, SF, NM 87504
505 466 3808 | <i>Jeff Pierce
Rob Earle</i> |
| Willow & Bob Powers | 45 Ellis Ranch Rd., SF, NM 87505
505 466 0560 | <i>Willow Powers
Robert P. Powers by proxy</i> |
| Barry & Arlette Richmond | 8 San Sebastian Rd., SF, NM 87505
505 466 6776 | <i>Barry Richmond
Arlette Richmond</i> |

SFC CLERK RECORDED 09/14/2004

SANTA FE COUNTY CDRC, BCC, AND STAFF
P O BOX 276
SANTA FE, NM 87504-0276
July 11, 2004



:: CDRC ::

Louis Gonzales -- Dist. 4 -- Chairperson ; Jon Paul Romero -- Dist. 1 ; Jose Varela Lopez -- Dist. 2 ; Gene Basset -- Dist. 3 ;
Juan Jose Gonzales -- Dist. 3 ;
Kathleen S. Hollan -- Dist. 4 ; Donald Dayton -- Dist. 5

:: BCC ::

Paul Campos -- Dist 4 -- Chairperson ; Harry Montoya -- Dist. 1 ; Paul Duran -- Dist. 2 ; Mike D. Anaya -- Dist. 3 ; Jack Sullivan -- Dist. 5

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And
Santa Fe County Staff

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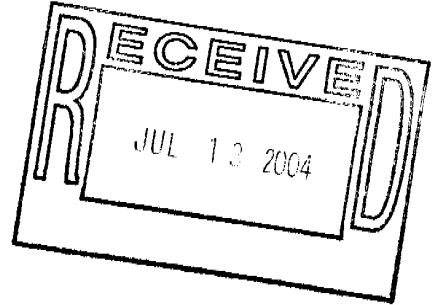
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Sincerely,

| | | |
|--------------------------------------|---|--------------------------------------|
| Inge Allen & Bob Rohwer | 57 Ellis Ranch Rd., SF, NM 87505
505 466 1582 | Inge Allen
Bob Rohwer I.A. |
| Angie Salazar | 44 Ellis Ranch Rd., SF, NM 87505
505 466 7820 | Angie Salazar |
| Russell Thurston & Gretchen Reynolds | 18 Ellis Ranch Rd., SF, NM 87505
505 466 1168 | Russell Thurston |
| Mindy & Gregg Turner | 60 B & C, Ellis Ranch Rd., SF, NM 87505
505 466 9384 | Mindy Turner
Gregg Turner |
| Peter Weiss | 30 Ellis Ranch Rd., SF, NM 87505
505 466 1486 | Peter Weiss |
| Michael Wilding & Brooke Palance | 34 Ellis Ranch Rd., SF, NM 87505
505 466 0507 | Michael Wilding
Brooke Palance |
| Lynn Cline & Kyle Langen | 29 Ellis Ranch Loop, SF, NM 87505
505 438 0505
505 466 6277 | Lynn Cline & Kyle Langen
by proxy |
| Katrin Smithback & Sherie Land | 39 Ellis Ranch Rd., SF, NM 87505
505 466 3168 | |
| CeCe & John Kurzweg | 41 San Sebastian Rd., SF, NM 87505
505 466 2328 | John Kurzweg
(proxy husband) |

SFC CLERK RECORDED 09/14/2004

X-Originating-IP: [64.12.137.1]
From: Haftdhaft@aol.com
Date: Fri, 2 Jul 2004 10:40:25 EDT
Subject: endorsing the 285 plan
To: feb.2@att.net, eb.fa@att.net
X-Mailer: 9.0 for Windows sub 5112



hi fremont,

following up on our conversation from yesterday, i think it would be more effective for me to put this issue on the agenda for our annual homeowners' assoc. meeting (sept. hopefully), ask everyone well in advance to be boned up on the plan and have a position, and then invite you (if you're willing) to attend the meeting at an appropriate time to respond to any questions. that way, we can truly get the consensus if not the unanimity you would like to present to the commission. upon further reflection, and knowing the mindset of people up here, i am afraid that if i go about it the way we discussed yesterday we will get little if any response (several key people are away right now), and any response we do get would likely be uninformed.

in the meantime, i feel you can accurately represent the sentiment of the homeowners up here at the july 14th meeting by saying that "there is strong sentiment from members of the "San Sebastian de la luz Homeowners' Assoc. in support of the 285 corridor plan, and that a formal endorsement of the plan by the Assoc. will be considered and voted upon at their annual meeting this Fall."

i hope this helps. i feel it's the best and most effective approach to take at this time.

i'm out of town (and away from my computer) until tues. or wed. of next week, but let me know what you think.

happy july 4th!

regards,
dan

SFC CLERK RECORDED 09/14/2004

Harry B. Montoya
Commissioner, District 1

Paul Duran
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3



Jack Sullivan
Commissioner, District 5
Gerald T. E. González
County Manager

Santa Fe County Fire Department

Office of the Fire Marshal

Official Submittal Review

Project Name George Porter

Project Location within sec 20 T17N, R9E, NMPM Santa Fe County, NM

Commercial Residential Sprinklers Wildland Hydrant Acceptance

Description Family Transfer Case Manager Victoria Reyes

Applicant Name George F. Porter Jr. County Case # E2C #VAR/LDFT 04-4290

Applicant Address off 599 East of Aldea Fire District AFFR

Santa Fe, NM

Applicant Phone 982-3592

Review Master Plan Preliminary Final Inspection Lot Split

Fee due \$25.00 Date 6/10/2004

The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated:

Fire Department Access

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

• Fire Access Lanes

Section 901.4.2 Fire Apparatus Access Roads. (1997 UFC) *When required by the chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or by*

Curbs or signage adjacent to the building, fire hydrant, entrances and landscape medians in traffic flow areas shall be appropriately marked in red with 6" white lettering reading "FIRE LANE - NO PARKING" as determined by the Fire Marshal prior to occupancy. Assistance in details and information are available through the Fire Prevention Division.

SFC CLERK RECORDED 06/17/2004

▪ **Roadways/Driveways**

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

This driveway shall be a minimum of 15 feet wide with a turn out at the beginning of the road and one at the proposed new building sight at the end of the property. The turnaround at the end of the road may be a K-turn or a 50 foot radius turn. The driveway shall also be widened at the existing house as the lot line will allow.

▪ **Street Signs/Rural Address**

Section 901.4.4 Premises Identification (1997 UFC) *Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.*

Section 901.4.5 Street or Road Signs. (1997 UFC) *When required by the Chief, streets and roads shall be identified with approved signs.*

Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot or building site within 72 hours of the commencement of the development process for each building.

▪ **Slope/Road Grade**

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

Slope shall not exceed 11%.

▪ **Restricted Access/Gates/Security Systems**

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

All gates on a public way shall be operable by means of a key or switch, which is located in a Knox Lock entry system bonded to the Santa Fe County system. Details, information and forms are available from the Fire Prevention Division

A final inspection by this office will be necessary to determine the applicability of the installation of the Knox Lock access system in regards to emergency entrance into the fenced area. Should it be found suitable for such, the developer shall install the system.

SFC CLERK RECORDED 09/14/2004

Automatic Fire Protection/Suppression

Automatic Fire Protection sprinkler systems shall be required as per 1997 Uniform Fire, Article 10 Section 1003.2 in accordance with the Building Code as adopted by the State of New Mexico and/or the County of Santa Fe.

All Automatic Fire Protection systems shall be developed by a firm certified to perform and design such systems. Copies of sprinkler system design shall be submitted to the Fire Prevention Division for review and acceptance prior to construction. Systems will not be approved unless tested by the Santa Fe County Fire Department. Fire sprinklers systems shall meet all requirements of NFPA 13 and 13-D Standard for the Installation of Sprinkler Systems.

The required system riser shall meet the requirements of the NFPA 13 1996, but not less than 1-1/2 inches.

All sprinkler and alarm systems as required shall be tested and approved by the Santa Fe County Fire Department prior to allowing any occupancy to take place. It shall be the responsibility of the installer and/or developer to notify the Fire Prevention Division when the system is ready for testing.

The requirement for residential fire protection sprinkler systems shall be recorded on the plat at the time of filing or as otherwise directed by the County Fire or Land Use Department.

Fire Alarm/Notification Systems

Automatic Fire Protection Alarm systems may be required as per 1997 Uniform Fire Code, Article 10 Section 1007.1 and the Building Code as adopted by the State of New Mexico and/or the County of Santa Fe. Required Fire Alarm systems shall be in accordance with NFPA 72, National Fire Alarm Code, for given type of structure and/or occupancy use. Said requirements will be applicable as more project information becomes available to this office during the following approval process.

▪ **Fire Extinguishers**

Article 10, Section 1002.1 General (1997 UFC) *Portable fire extinguishers shall be installed in occupancies and locations as set forth in this code and as required by the chief. Portable fire extinguishers shall be in accordance with UFC Standard 10-1.*

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

Life Safety

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

SFC CLERK RECORDED 09/14/2004

General Requirements & Comments

Inspections/Acceptance Tests

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

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

▪ **Permits**

As required

Final Status

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

Buster Patty, Captain



Code Enforcement Official

6-10-04

Date

Through: Hank Blackwell, Fire Marshal/Asst. Chief

File: Buster/Landuse/GeorgePorter/06-10-04

CC: District Chief
Regional Crews

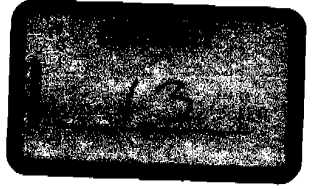
SFC CLERK RECORDED 09/14/2004

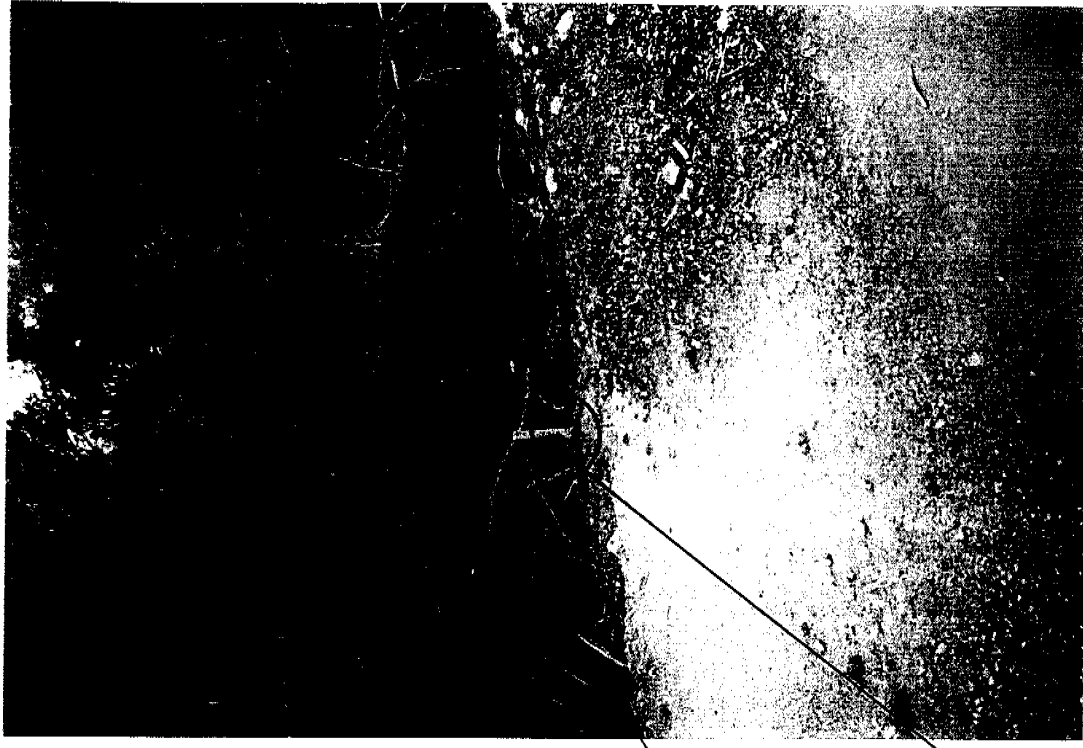


Location of the corner of the house.

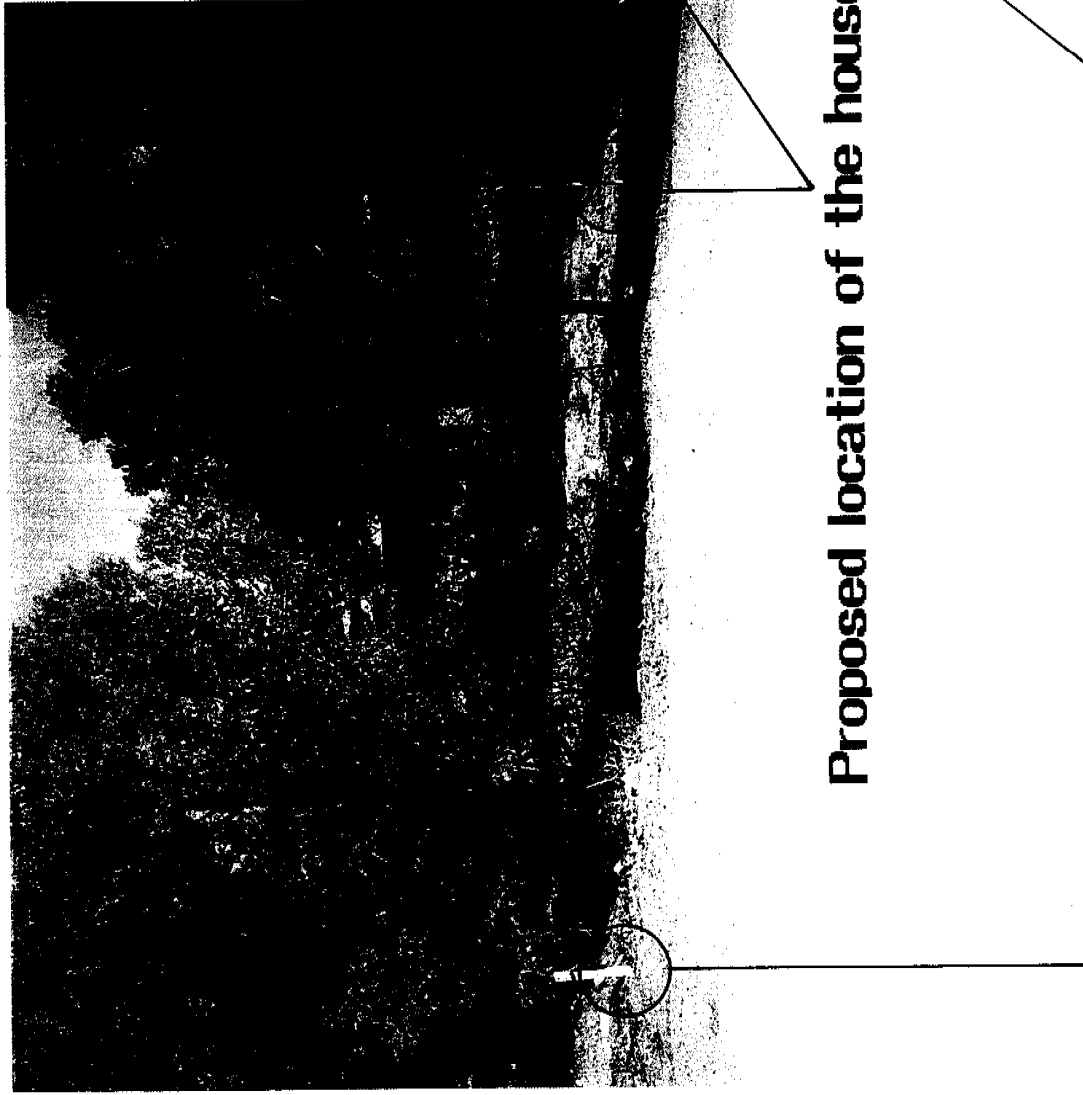


Proposed location of the house..

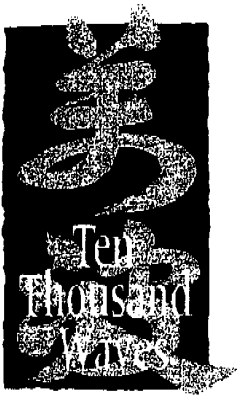
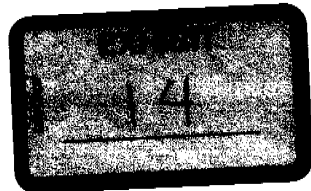




Proposed location of the house.



Location of the corner of the house.



www.tenthousandwaves.com

July 13, 2004

Vicki Lucero
County Land Use
via fax

Dear Vicki

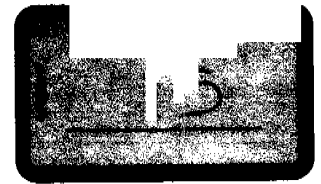
I notice that a lot in Summit North off Bent Hill Dr. is requesting a variance to build in the 175' setback along Hyde Park Road. Their yellow notice sign is visible only to Summit homeowners (behind a gate). Seems like these notices are required to be visible to the neighborhood--probably on Hyde Park Road. I believe this issue is to be heard this week.

For the sake of fairness, I would suggest that this matter be tabled until the notification is posted properly.

Sincerely,

Duke Klauck

SFC CLERK RECORDED 09/14/2004



Date: 07/12/04
To: Board of County Commissioners
From: Joe Miller
Re: CDRC Case # APP 04-5150

Tierra Bella, a 50 lot subdivision, also known as Lot 8A, the western portion of Lot 8 Eldorado at Santa Fe Plat of Acreage Parcelization, 1986.

Summary of development activity related to the above noted property.

Lot 8A, once known as Tierra Dorado, Tierra Colinas and Sun Ranch East, is located at the northeast corner of the intersection of Spur Ranch Road and Avenida de Compadres. It comprises approximately 263 acres and is a portion of the original Lot 8 of the Eldorado "Plat of Acreage Parcelization" area created by Am Rep. On May 12, 1986, the entire Lot 8 consisting of 547.4 acres was granted preliminary and final subdivision development plat approval by the County for a 100 lot subdivision then known as Tierra Colinas/ Tierra Dorado. (Exhibits A&B)

On April 29, 1988, the County approved the division of Lot 8 into Lot 8A and Lot 8B, assigning 50 lots to Lot 8A and 50 lots to Lot 8B. The property division was approved in 1988 with virtually no increase in density and no changes of lots of any type. (Exhibit Q)

Lot 8B, then known as the "Tierra Colinas Subdivision", comprised the eastern half of the subdivision. The subdivision plat for Lot 8B was thereafter filed with the Santa Fe County Clerk's Office on September 8, 1995, after installation of utilities and infrastructure. Lot 8B began selling lots to the public.

On January 23, 1996, Santa Fe Partners I applied for and received final master plan approval from the County which contemplated additional development rights to increase the density and lots in Lot 8A from 50 lots to 98 lots. Santa Fe Partners I did not forego the vested 1986 subdivision rights relating to Lot 8A. Further, County policy was that there was no "sunset" on final approvals obtained prior to July 1, 1996.

The previously approved subdivision known as Lot8A with 50 lots has an average lot size that exceeds 5 acres, which is more than double the average lot size in most of the Eldorado Subdivision.

Prior to purchasing the property, Joe Miller reviewed a letter from Terence Brennan to Pat Coughlan setting forth the status of the approval for Lot 8. It clearly indicates that there was final approval and that water taps were reserved for the subdivision. This means that water, if it was a condition, had been satisfied. A copy of the letter is enclosed. (Exhibit C)

Also prior to purchasing the property, Joe Miller and Ron VanAmburg met with Steve Kopelman and Gerald Gonzales concerning an issue as to whether a subsequent

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master plan destroyed the final approval. Our assurance from the county was that the approvals were still valid. Based upon those assurances, the letter from Mr. Brennan to Mr. Coughlan and Mr. Miller's examination of the record, Mr. Miller purchased the subdivision.

Subsequently, Danny Martinez, Mr. Miller's planner/ engineer met with county staff on a variety of occasions. All acknowledged that the subdivision had valid approvals and that the only items needed were engineering drawings. Specifically, on instructions from Joe Catanach in the presence of Roman Abeyta, Danny Martinez was instructed to prepare engineering drawings. He did so at a cost of approximately \$40,000 to Mr. Miller.

Mr. Miller continued with the project, and there was no problem expressed by the county until some time later when Joe Catanach found some old minutes, where there were efforts on the part of an individual, who claimed an interest in Lot 8B to adjust the number of lots in that parcel. Apparently there was some thought that this action somehow affected the approval on Lot 8A. Mr. Miller provided to the county documentation and other information clearly demonstrating that nothing which happened as related to Lot 8B affected Lot 8A.

At the meeting between Stephen Ross, Ron VanAmburg, Joe Miller, Roman Abeyta and Joe Catanach, the issues raised in Mr. Abeyta's letter were not raised at the meeting. In fact, it was admitted by Mr. Abeyta and Mr. Catanach that the moratorium would not affect Lot 8A as the approval predated the moratorium.

Mr. Miller has now installed approximately \$440,000 worth of water lines (Exhibits H&N) in the property, has spent approximately \$40,000 in engineering fees, installed electrical and gas utilities at a cost of approximately \$178,000 and spent over \$1.0 million on the purchase of the property. Total expenditures to date are approximately \$1,658,000. The noted expenditures do not even account for the considerable amount of time and effort put into this project by Mr. Miller.

In addition to the original water taps that were allocated to Lot 8 and acknowledged by Santa Fe County, a total of 79 water taps were purchased from Eldorado Water Utility related to the recently approved and filed Spirit Wind Subdivision on Lot 18. The Spirit Wind development used 22 water taps. The balance of 57 taps remain, with 50 taps being allocated to lot 8A. The SFC Attorney Terry Brennan acknowledgement of water availability amounts to a double allocation of water to this particular parcel of property. Exhibit C

Further documentation of water availability is contained in a 1984 purchase agreement between Mr. Miller and the Livingstons, wherein water ownership was transferred and is available for allocation. This agreement was upheld and referenced in a Thirteenth Judicial District Court Cause, No. 97-D-1329-CV-1102.

The issue of primary access to this parcel has been raised by neighbors in an attempt to

call into question the validity of the use of Avenida de Compadres. This arterial roadway was created by the Eldorado Plat of Acreage Parcelization on October 15, 1981 Book 107, Page 6,6a-6c. All of the arterial roads in this area were dedicated by this plat to serve as primary access for the lots created. Consideration of the neighbors concerns and evaluation of the proposal by the neighbors, yields a circuitous alignment that is not currently dedicated and would adversely impact other owners in the area. The use of previously dedicated public arterials to provide safe and orderly traffic circulation, meets appropriate design standards and was approved by the SFBCC in expectation of their future development and use.

Under New Mexico State Law, Subdivision and Zoning (Masterplan) are two very separate and distinct actions. Subdivision approval is treated differently as to vested rights that accrue upon approval and very clear direction as to abandonment. Abandonment of a final subdivision approval takes a specific action upon request of the owner and requires public notice, public hearing and vote by the Commission. No such request has been made and no such required actions have been carried out.

It is our position that the County's issues raised to this point constitute at best, arbitrary and capricious action, and at the worst prejudicial treatment and selective enforcement against Mr. Miller. Mr. Miller has filed an appeal to the SFCBCC and will exhaust his administrative remedies as appropriate.

We request that you reconsider the County's previous position and grant approval of this subdivision, based on the noted facts and State Law.

Attachments Submitted Under Separate Cover:

CDRC Approval, 04/25/86, Exhibit A
Board of County Commissioners (BCC) Approval, 05/14/86, Exhibit B
Santa Fe County Attorney Letter, 11/18/93, Exhibit C
Development Review Director Letter, 08/11/96, Exhibit D
Deeds and Purchase Agreements, Lot 8A, Exhibit E
Master Plan Ordinance, Exhibit F
Exhibit G
Eldorado Utility (EDU) Letter, Line Extension Agreement, Settlement Agreement and Memorandum of Agreement, Exhibit H
Exhibit I
Exhibit J
VanAmberg/ Ross Letters (3), Exhibit K
Exhibit L
Exhibit M
Contract with EDU, Exhibit N
Location Map, Tierra Bella, Exhibit O
Subdivision Plat, Tierra Colinas, Lot 8, Exhibit P
Subdivision Split, Lots 8A & 8B, Exhibit Q
Subdivision Plat, Tierra Bella, Exhibit R

SFC CLERK RECORDED 09/14/2004

Gas Service Contract, Exhibit S
Electric Service Contract, Exhibit T
Receipts for Utility Service Payments, Exhibit U
Master Plan 1996, Exhibit V
Plat of Acreage Parcelization, 1981, Exhibit W
District Court Decree, Kinsel, Exhibit X
Abeyta Letter, 03/31/04, Exhibit Y
Water Service Payments, 01/28/04 and 03/15/04, Exhibit AA
Electric Service Letter, PNM, 05/05/04, Exhibit BB
Gas Service Receipt, PNM, 05/05/04, Exhibit CC

SFC CLERK RECORDED 09/14/2004

EXHIBIT

16

SFC CLERK RECORDED 09/14/2004

④
SANTA FE COUNTY

BOARD OF COUNTY COMISSIONERS

Bennie J. Chavez
DISTRICT NO. 1

Patricio C. Larragoite
DISTRICT NO. 2

Jerome D. Block
DISTRICT NO. 3

Nancy E. Rodriguez
COUNTY MANAGER

April 25, 1986

Santa Fe Planning
PO Box 1072
Santa Fe, NM 98501

Re: Case #SUB 1986-6. Request preliminary and final plat approval of a 100 lot subdivision known as Tierra Dorado, located 1.5 miles west of U.S. Highway 285.

To whom it may concern:

The County Development Review Committee at its regularly scheduled meeting of April 24, 1986, met and acted upon the above referenced case.

The decision of the Committee was to approve your request with the following conditions:

1. That positive comments from all State Agencies be received by the Land Use Office prior to final plat review by the Board of County Commissioners.
2. That Fire Chief recommendations be included in submittals for final plat review by the Board of County Commissioners.
3. That a buffer strip of at least 100 ft. in depth be provided for the lots adjacent to A.T. & S.F. railroad right-of-way.
4. That the easement providing access to the subdivision be improved to county standard A-4.
5. That an estimated cost of infrastructure improvements be submitted prior to final plat review by the Board of County Commissioners.

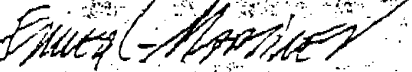


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Santa Fe Planning
April 25, 1985
Page two

If you have any questions regarding this matter, please do not
hesitate to contact this office.

Sincerely,



ERNEST L. MARTINEZ
Land Use Administrator

ELM:mlj

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SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

Bennie J. Chavez
DISTRICT NO. 1

Patricio C. Larragoite
DISTRICT NO. 2

Jerome D. Block
DISTRICT NO. 3

Nancy E. Rodriguez
COUNTY MANAGER

May 14, 1986

Mr. David Schutz
Santa Fe Planning & Associates
PO Box 1072
Santa Fe, NM 87504

Re: Request final plat approval of a 100 lot residential subdivision known as Tierra Colinas.

Dear Mr. Schutz:

The Board of County Commissioners at their regularly scheduled meeting of May 12, 1986, met and acted upon the above referenced case.

The decision of the Commissioners was to approve your request with the following conditions:

- 1) That a buffer strip of at least 100 feet in depth be provided for the lots adjacent to the A.T. & S.F. Railroad right-of-way.
- 2) That the easement providing access to the subdivision be improved to meet county road standards for type A-3 construction (32 ft. wide driving surface).
- 3) That a bond or letter of credit for the various types of improvements, be submitted to the Land Use office to reflect the estimated improvement costs, prior to recording of final plat.
- 4) That the water extension be approved by appropriate agencies to verify water availability prior to filing of final plat.

EXHIBIT

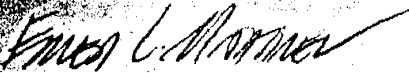
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David Schutz
Page two
May 14, 1986

If you have any questions regarding this matter, please do not
hesitate to contact this office.

Sincerely,



ERNEST L. MARTINEZ
Land Use Administrator

ELM:mlj

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Regular Meeting
Board of County Commission
May 12, 1986
Page 14

- c. Request approval of Transfer of ownership of Liquor License D236 from Robert De Vargas to Alicia Matzinger. This item was presented by Ernest Martinez. Land Use Staff has reviewed the case from a land use concern and there is no proposed expansion of the project. Commissioner Chavez moved for approval. Commissioner Block seconded. Motion passed.
- d. Request approval of County-City Ordinance #1986-5 Extension of Regional Water Service area Boundary-La Mariposa Subdivision. Request made by Tierra Engineering, Inc., for Storhard Partnership, Limited. Discussion ensued. Approval Ordinance #1986-5 was made by Commissioner Chavez. Commissioner Block seconded.

ROLL CALL VOTE:

| | | |
|------------------------------|---|-----|
| Chairman Patricio Larragoite | - | Yes |
| Commissioner Bennie Chavez | - | Yes |
| Commissioner Jerome Block | - | Yes |

Motion passed.

- e. Final Plat Approval of 100 lot - Tierra Colinas. Mr. Martinez stated it's a 100 lot single family subdivision proposed which is located in Canada de Los Alamos Grant. Average lot proposed is 5.47 acres with 7.445 acres being the largest lot. 121 acres will be left undisturbed and will be utilized as a Community Open Space. Will be designated as not to be subdivided and will be maintained by the Homeowner's Association. It is recommended by the County Development Committee that the Board of County Commission grant final plat approval and recommends imposing the following two conditions:
 - 1) That a buffer strip of at least 100 feet in depth be provided for the lots adjacent to the Atchikon Topeka Santa Fe railroad right of way.

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B-1

- 2) That the easement providing access to the subdivision be improved to meet county road standards for Type A-3 construction. This is a 32 foot wide driving surface. In addition, to these conditions, staff asks that the Board consider placing the third condition which is not included in the County Development Review Committee recommendation. Condition 3 would read that a bond or letter of credit for the various types of improvement be submitted to the Land use office to reflect the estimated improvement costs prior to recording of final plat.

David Schutz representing applicant-Tierra Colinas had no statement. Charles Hagerman Geologist stated the importance of water availability in Eldorado.

In re-memorandum dated 4/10/78 State Engineer's Office which was head of water rights division from Peter White, Chief Counsel. The memo states that the water that Eldorado had was called "inchoate rights". Commissioner Block moved to approve final plat contingent on all recommendations by staff and all requirements including water extension approved by proper agencies. Commissioner Chavez seconded. Motion passed.

13. MATTERS FROM COUNTY MANAGER. None

14. MATTERS FROM COUNTY ATTORNEY

Involving Land Use department in a court settlement in appeal to the District Court. This has been pending since 1983. Proposed Settlement Agreement which is subject to the Board's (Board of County Commission) approval. Mr. Earl Potter represents Plaintiff. Lot 13, Kaplan Subdivision is the concern. East of race track. In 1983, the applicants requested a mobile home use. Phase I, 4 units, Phase II, 5 units.

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BOARD OF
COUNTY
COMMISSIONERS

Raymond M. Chavez
District No. 1

Nancy Rodriguez
District No. 2

Linda Grill
District No. 3

Richard D. Anaya
District No. 4

Betty Platts
District No. 5

Gil D. Tercero
County Manager

NOVEMBER 18, 1993

Santa Fe Primero Limited Partnership
c/o Patrick Coughlin, General Partner
3815 Embank NE
Albuquerque, NM 87111

RE: Terra Colina Subdivision

Dear Mr. Coughlin:

Santa Fe County is aware of issues regarding the ownership of certain water tabs issued by Eldorado Water Utilities and being claimed by Mike Rector as part of the Sun Ranch Master Approval. Since Terra Colina was approved by Santa Fe County as a subdivision in 1986, and since that approval has never been rescinded, amended, or otherwise affected, Santa Fe County recognizes Terra Colina, and the water tabs allocated to it, as a prior subdivision.

Regarding Sun Ranch, that master plan was submitted and approved to Santa Fe County in 1989. Although it included Terra Colina, Mike Rector never acquired Terra Colina and, therefore, the water tabs which were allocated originally to Terra Colina remained with Terra Colina and were not acquired by Sun Ranch.

If you have any questions, feel free to contact this office.

Sincerely,

A handwritten signature in black ink, appearing to read "Terrence P. Brennan".

Terrence P. Brennan,
SANTA FE COUNTY ATTORNEY

xc: Mike Rector

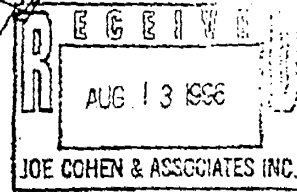


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Marcos P. Trujillo
Commissioner, District 1

Nancy Rodriguez
Commissioner, District 2

Janier M. Gonzalez
Commissioner, District 3



Betty Platts
Commissioner, District 5
Domingo Sánchez, III
County Manager

August 11, 1996

Joe Cohen and Associates, Inc.
224 Otero Street
Santa Fe, NM 87591

Attn: Joe Cohen, President

Dear Mr. Cohen:

With regards to your letter of August 1, 1996, please refer to the EZ Subdivision Regulations page 26, Section 3.3.5 - "All final plats shall be recorded within 18 months of the date of final approval by the BCC; otherwise such approval shall become null and void unless an extension of time is applied for in writing by the subdivider and granted by the Board for good cause shown."

For subdivisions located outside of the 5-mile EZ approved prior to July 1, 1996, there is no filing deadline. Projects which receive final approval after this date must be filed within 24 months.

If you have any questions, please contact me at 986-6223.

Sincerely,

Orallynn Guerterortiz, P.E.
Development Review Division Director

SFC CLERK RECORDED

09/14/2004



REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is made and executed on the date it bears below by and between **BUENA VISTA, LTD.**, a New Mexico limited partnership, by and through Ronald D. Miziker, General Partner (hereafter, "Seller") and **JOSEPH F. MILLER and ALMA M. MILLER, Trustees of the JOSEPH F. MILLER AND ALMA M. MILLER REVOCABLE TRUST** (hereafter, "Purchasers").

RECITALS:

A. Seller is the sole owner of the real property described hereinbelow, located in Santa Fe County, New Mexico, and comprising One Hundred Thirty-two (132) acres, more or less, of undeveloped, uninhabited and unimproved land (hereinafter, the "Property").

B. Purchasers have extensive experience in the investment in and acquisition and development of real property in northern New Mexico. Purchasers are fully aware of the nature, condition and value of the Property. Purchasers wish to purchase and acquire the Property from Seller for the purchase price and under the terms and conditions set forth in this Agreement.

D. Seller shall sell, and Purchasers shall buy, the subject Property for the price and under the terms and conditions set forth herein. The parties wish to memorialize their understanding and agreement relating thereto by the execution of this Real Estate Purchase Agreement.

NOW, THEREFORE, in consideration of the payment by Purchasers of the purchase price for the Property which is the subject of this Agreement, as described hereinbelow, the parties agree as follows:

1. Sale of Property to Purchasers. Seller agrees to sell, and Purchasers agree to buy, in "as is" condition and upon the terms and conditions set forth herein, all of Seller's right, title and interest in and to the Property located in Santa Fe County, New Mexico, and more particularly described as follows:

The North (N) portion of Lot 8 A of land, lying and being situate within Lot 8-A of Eldorado at Santa Fe, a portion of Canada de Los Alamos Grant, T15N, R9E, NMPM, County of Santa Fe, State of New Mexico, as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth herein.

SUBJECT TO all reservations, restrictions, easements, and other matters of record and taxes for 2003 and subsequent years.

With Warranty Covenants.



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2. Deed of Conveyance. The transfer and sale of the Property from Seller to Purchasers shall be evidenced by a Warranty Deed in standard form under New Mexico law, conveying full fee simple title from Seller to Purchasers, free and clear of all mortgages, claims, liens and encumbrances whatsoever. Seller shall provide for the issuance of a standard policy of title insurance in favor of Purchasers at closing, insuring such title in the amount of the purchase price.

3. Purchase price; earnest money deposit. The purchase price to be paid for the Property by Purchasers shall be the sum of Five Hundred Fifty Thousand and no/100 Dollars (\$550,000), which sum shall be paid as follows:

a) Twenty-five Thousand Dollars (\$25,000) shall be placed by Purchasers in escrow with Santa Fe Abstract Company, at 123 Grant Avenue, Santa Fe, New Mexico 87501, as escrow agent, upon execution of this Agreement, as an earnest money deposit to bind this transaction. In the event that this transaction is closed as provided herein, such earnest money deposit shall be applied toward the balance of the purchase price at Closing. In the event Seller fails to close upon this transaction for any reason unrelated to the fault of Purchasers, such earnest money deposit shall be thereupon returned to Purchasers, without interest. In the event Purchasers fail to close this transaction for any reason unrelated to the fault of Seller or the unsatisfactory condition of title to the Property, then such earnest money deposit shall be forfeited and disbursed to Seller, without interest, as liquidated damages. The parties, respectively, shall have all rights and remedies available at law or in equity to enforce the provisions of this Agreement.

b) The balance of the purchase price, after application of the aforesaid earnest money deposit, being Five Hundred Twenty-five Thousand Dollars (\$525,000) plus or minus prorations and plus Purchasers' share of closing costs, shall be paid by Purchasers in cash at Closing by depositing such amount with Santa Fe Abstract Company (the Title Company designated to serve as the closing agent for this transaction) in immediate, same-day federal funds wired or placed directly for credit into the account established and designated by the Title Company for this purpose.

c) Purchasers may provide all or part of the purchase price through the proceeds of an exchange of like-kind property pursuant to § 1031 of the Internal Revenue Code of 1986. In such event, such exchange shall be accomplished without cost or inconvenience to Seller, and in a manner that will not delay the Closing hereof.

4. Contingencies.

a) Title Commitment. Within ten (10) days before Closing, Seller shall cause to be delivered to Purchasers a Title Commitment from the Title Company, together with good, legible copies of all documents constituting exceptions or conditions to Seller's title as reflected in the Title Commitment and any other instruments referred to in such documents. Exceptions numbered 1 and 4 listed in Schedule "B" of the standard form of Title Commitment shall be deleted.

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b) Survey. Purchasers hereby waive any requirement of Seller to provide a survey in connection with this transaction.

c) Defects in title. Purchasers shall not be required to close on this transaction in the event of the existence of any lien, encumbrance, exception or other matter unacceptable to Purchasers ("Defect") shown on the Title Commitment and of which Purchasers provide written notice to Seller, in the event any such Defect is not or cannot be cured by Seller prior to Closing. In such event, the earnest money deposit aforesaid shall be promptly returned to Purchasers and this Agreement shall thereupon be deemed to be null, void and of no further force or effect.

d) FIRPTA. Section 1445 of the Internal Revenue Code (the "Code") does not apply to this transaction in that Seller is not a nonresident alien, foreign corporation, foreign partnership, foreign trust or foreign estate, as such terms are defined in the Code and Income Tax Regulations. On or before the Closing Date, Seller shall provide to Purchasers an affidavit of compliance with Section 1445, as set forth in the appropriate Code and Regulation provisions. If Seller fails to provide such affidavit and/or documentation of exemption from FIRPTA on or before the closing date, Purchasers shall have the right to proceed with the withholding provisions as set forth in Section 1445 of the Code.

5. Acceptance of Property. At Closing, Purchasers agree to purchase and accept the Property in "as is, where is" condition, including as to environmental problems and hazards whether known or unknown, and to indemnify and hold harmless Seller from and against any and all claims, issues, controversies, obligations and liabilities whatsoever arising in connection with any present or future condition of or upon the Property, whether latent or obvious. Purchasers have made their own independent determination, due diligence and assessment of the size, location, configuration, condition, value and utility of the Property, and all related environmental, zoning and use components, and all title and survey matters, and have not relied upon any representation or warranty of Seller with respect thereto. Seller is aware of no environmental problems or hazards relating to the Property, but has never conducted an environmental site analysis or other investigation in that regard.

6. Closing. The closing of this transaction (the "Closing") will be held at the offices of Santa Fe Abstract Company, at 123 Grant Avenue, Santa Fe, New Mexico 87501, on May 9, 2003. However, the Warranty Deed to the Property shall be executed by Seller on the earlier date of the closing of the related sale by Seller to Purchasers of the South (S) portion of Lot 8-A of land, lying and being situate within Lot 8-A of Eldorado at Santa Fe, which is being accomplished pursuant to a separate but related Purchase Agreement of even date herewith. Such Warranty Deed to the Property will be thereupon placed in escrow with Santa Fe Abstract Company, ~~together with Purchasers' funds representing the purchase price for the Property,~~ and held pending Closing on May 9, 2003. The parties agree that this escrow provision is necessary to insure that Purchasers will be able to effect their desire and intent to acquire both the North and the South portions of said Lot 8-A.

7. Closing costs. The sales commission to be paid to the realtors assisting with this transaction, as set forth hereinbelow, and the cost of the policy of title insurance, shall be borne exclusively by Seller. All other closing costs, including document preparation costs and fees for

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recording of the deed of conveyance, shall be borne equally (50/50) by Seller and Purchasers. Property taxes upon the Property for the year 2003 shall be prorated between the parties as of the date of closing.

8. Seller's reservation of rights.

a) Seller has sustained losses and damages, including for diminution of the value of the Property, by reason of certain actions, inactions, errors, omissions, breaches of contract and/or wrongful conduct of the County of Santa Fe, the State of New Mexico, Amrep Corporation, Eldorado at Santa Fe, Inc., Eldorado Utilities, Inc., and others presently unknown which resulted in the imposition of a moratorium on residential subdivision development at the Property. The basis for such claims is generally set forth in that certain pending lawsuit entitled Alto Eldorado Partnership, et al., vs. Eldorado Utilities, Inc., et al., Sandoval County District Court Cause No. D-1329-CV-97-01102. Notwithstanding the sale and conveyance of the Property to Purchasers hereunder, Seller herein shall reserve and retain all claims for, and rights to recover, losses and damages resulting to Seller (including prior and pending claims of Steven V. Gibbens in such litigation, whose interests Seller acquired in connection with Seller's original acquisition of the Property) from the events and circumstances generally set forth in such pending litigation, to the extent that such losses and damages have occurred prior to and as of the date of Closing of this transaction. Purchasers shall be entitled to claim against such defendants and others and to recover and retain any and all damages and losses which they may incur and sustain following the date of Closing, including continuing diminution of value of the Property, as a result of such conduct, events and circumstances.

b) Seller has obtained Judgment against Steven V. Gibbens, the former owner of the Property, entered in Santa Fe County District Court Cause No. D-0101-CV-2000-02240 on November 13, 2002, which Judgment relates to the circumstances under which the Property was acquired by Seller. Such Judgment provides that Seller will afford Gibbens a credit, in the amount of the purchase price for the Property under the instant Agreement, against the amount otherwise due upon such Judgment. Such credit will nonetheless leave a net amount then remaining due from Gibbens to Seller upon such Judgment. Seller shall retain all right, title and interest as judgment creditor under the Judgment, and shall be entitled to pursue all rights and remedies available at law or equity to collect upon the Judgment and shall retain all proceeds of collection. No part of such Judgment, and no rights or remedies thereunder, and no proceeds of collection thereof, are hereby conveyed or intended to be conveyed to or acquired by Purchasers. Purchasers have no knowledge about or interest or involvement in such Judgment or the underlying litigation giving rise thereto, and Seller shall save, defend, indemnify and hold harmless Purchasers from and against all claims, issues, liabilities and consequences relating to such Judgment.

9. Authority. Each party warrants and represents that it has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement, consummate or cause to be consummated the sale described herein and make or cause to be made the transfers and assignments contemplated herein. The signatures of the parties, respectively, hereinbelow constitute the valid and binding obligations of the parties and are enforceable in accordance with the terms hereof.

SFC CLERK RECORDED 09/14/2004

10. Notices. All notices given hereunder shall be in writing, and addressed to the parties as follows:

To Seller:

Ronald D. Miziker, General Partner
Buena Vista, Ltd.
4110 Riverside Drive
Burbank, CA 91505

With a copy to:

Robert N. Singer, Esq.
The New Mexico Law Group, P.C.
P.O. Box 25565
Albuquerque, NM 87125-5565

To Purchasers:

Joseph F. Miller and Alma M. Miller
HC-75, Box 406
Lamy, NM 87540

With a copy to:

John DeVito
1000 Paseo de Peralta
Santa Fe, NM 87501

11. Miscellaneous provisions.

a) Seller's real estate agent in connection with this transaction is Patrick Coughlin. Purchasers' real estate agent in connection herewith is John DeVito. Seller agrees to pay, at Closing, a real estate commission to Mr. Coughlin and Mr. DeVito for their assistance in this transaction in the amount of Six (6%) per cent of the total purchase price, that is, Thirty-three Thousand Dollars (\$33,000), plus New Mexico gross receipts tax upon such commission, to be divided equally between such agents. Seller shall not be responsible for any further realtors' commissions in connection with this transaction.

b) This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof, and may not be modified or amended except in writing.

c) This Agreement shall be construed and enforced in accordance with the laws of the State of New Mexico.

SHC CLERK RECORDED 09/14/2004

d) This Agreement shall be specifically enforceable, in addition to all other rights and remedies provided at law or in equity in the event either party fails to close as required herein.

e) Time is of the essence in the performance of each and every term, condition and covenant contained in this Agreement.

f) Should either party be required to employ attorneys to enforce any of the provisions hereof, the prevailing party in such action shall be entitled to an award of reasonable attorneys' fees and costs incurred therein.

g) This Agreement may be executed in multiple originals and/or in counterparts.

SFC CLERK RECORDED 09/14/2004

IN WITNESS WHEREOF, the parties have executed this Agreement effective upon the date of the last signature hereinbelow.

SELLER:

PURCHASERS:

BUENA VISTA, LTD.

JOSEPH F. MILLER and ALMA M. MILLER, Trustees of the JOSEPH F. MILLER AND ALMA M. MILLER REVOCABLE TRUST Dated _____.

By: _____
RONALD D. MIZIKER
General Partner

By: _____
JOSEPH F. MILLER, Trustee

By: _____
ALMA M. MILLER, Trustee

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

The foregoing instrument was acknowledged before me this ____ day of March, 2003, by Ronald D. Miziker, General Partner of and on behalf of Buena Vista, Ltd., a New Mexico limited partnership, as Seller herein.

(Seal)

NOTARY PUBLIC

My commission expires:

STATE OF NEW MEXICO)
COUNTY OF SANTA FE) ss.

The foregoing instrument was acknowledged before me this ____ day of March, 2003, by Joseph F. Miller and Alma M. Miller, husband and wife, as Trustees of the Joseph F. Miller and Alma M. Miller Revocable Trust dated _____, as Purchasers herein.

(Seal)

NOTARY PUBLIC

My commission expires:

SEC CLERK RECORDED 09/14/2004

REAL ESTATE PURCHASE AGREEMENT

THIS AGREEMENT is made and executed on the date it bears below by and between **BUENA VISTA, LTD.**, a New Mexico limited partnership, by and through Ronald D. Miziker, General Partner (hereafter, "Seller") and **JOSEPH F. MILLER and ALMA M. MILLER, Trustees of the JOSEPH F. MILLER AND ALMA M. MILLER REVOCABLE TRUST** (hereinafter, "Purchasers").

RECITALS:

A. Seller is the sole owner of the real property described hereinbelow, located in Santa Fe County, New Mexico, and comprising One Hundred Thirty-two (132) acres, more or less, of undeveloped, uninhabited and unimproved land (hereinafter, the "Property").

B. Purchasers have extensive experience in the investment in and acquisition and development of real property in northern New Mexico. Purchasers are fully aware of the nature, condition and value of the Property. Purchasers wish to purchase and acquire the Property from Seller for the purchase price and under the terms and conditions set forth in this Agreement.

D. Seller shall sell, and Purchasers shall buy, the subject Property for the price and under the terms and conditions set forth herein. The parties wish to memorialize their understanding and agreement relating thereto by the execution of this Real Estate Purchase Agreement.

NOW, THEREFORE, in consideration of the payment by Purchasers of the purchase price for the Property which is the subject of this Agreement, as described hereinbelow, the parties agree as follows:

1. Sale of Property to Purchasers. Seller agrees to sell, and Purchasers agree to buy, in "as is" condition and upon the terms and conditions set forth herein, all of Seller's right, title and interest in and to the Property located in Santa Fe County, New Mexico, and more particularly described as follows:

The South (S) portion of Lot 8 A of land, lying and being situate within Lot 8-A of Eldorado at Santa Fe, a portion of Canada de Los Alamos Grant, T15N, R9E, NMPM, County of Santa Fe, State of New Mexico, as more particularly described on Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth herein.

SUBJECT TO all reservations, restrictions, easements, and other matters of record and taxes for 2003 and subsequent years.

With Warranty Covenants.

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2. Deed of Conveyance. The transfer and sale of the Property from Seller to Purchasers shall be evidenced by a Warranty Deed in standard form under New Mexico law, conveying full fee simple title from Seller to Purchasers, free and clear of all mortgages, claims, liens and encumbrances whatsoever. Seller shall provide for the issuance of a standard policy of title insurance in favor of Purchasers at closing, insuring such title in the amount of the purchase price.

3. Purchase price; earnest money deposit. The purchase price to be paid for the Property by Purchasers shall be the sum of Six Hundred Thousand and no/100 Dollars (\$600,000), which sum shall be paid as follows:

a) Twenty-five Thousand Dollars (\$25,000) shall be placed by Purchasers in escrow with Santa Fe Abstract Company, at 123 Grant Avenue, Santa Fe, New Mexico 87501, as escrow agent, upon execution of this Agreement, as an earnest money deposit to bind this transaction. In the event that this transaction is closed as provided herein, such earnest money deposit shall be applied toward the balance of the purchase price at Closing. In the event Seller fails to close upon this transaction for any reason unrelated to the fault of Purchasers, such earnest money deposit shall be thereupon returned to Purchasers, without interest. In the event Purchasers fail to close this transaction for any reason unrelated to the fault of Seller or the unsatisfactory condition of title to the Property, then such earnest money deposit shall be forfeited and disbursed to Seller, without interest, as liquidated damages. The parties, respectively, shall have all rights and remedies at law or in equity to enforce this Agreement.

b) The balance of the purchase price, after application of the aforesaid earnest money deposit, being Five Hundred Seventy-five Thousand Dollars (\$575,000) plus or minus prorations and plus Purchasers' share of closing costs, shall be paid by Purchasers in cash at Closing by depositing such amount with Santa Fe Abstract Company (the Title Company designated to serve as the closing agent for this transaction) in immediate, same-day federal funds wired or placed directly for credit into the account established and designated by the Title Company for this purpose.

c) Purchasers may provide all or part of the purchase price through the proceeds of an exchange of like-kind property pursuant to § 1031 of the Internal Revenue Code of 1986. In such event, such exchange shall be accomplished without cost or inconvenience to Seller, and in a manner that will not delay the Closing hereof.

4. Contingencies.

a) Title Commitment. Within ten (10) days before Closing, Seller shall cause to be delivered to Purchasers a Title Commitment from the Title Company, together with good, legible copies of all documents constituting exceptions or conditions to Seller's title as reflected in the Title Commitment and any other instruments referred to in such documents. Exceptions numbered 1 and 4 listed in Schedule "B" of the standard form of Title Commitment shall be deleted at Seller's cost.

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b) Survey. Purchasers hereby waive any requirement of Seller to provide a survey in connection with this transaction.

c) Defects in title. Purchasers shall not be required to close on this transaction in the event of the existence of any lien, encumbrance, exception or other matter unacceptable to Purchasers ("Defect") shown on the Title Commitment and of which Purchasers provide written notice to Seller, in the event any such Defect is not or cannot be cured by Seller prior to Closing. In such event, the earnest money deposit aforesaid shall be promptly returned to Purchasers and this Agreement shall thereupon be deemed to be null, void and of no further force or effect.

d) FIRPTA. Section 1445 of the Internal Revenue Code (the "Code") does not apply to this transaction in that Seller is not a nonresident alien, foreign corporation, foreign partnership, foreign trust or foreign estate, as such terms are defined in the Code and Income Tax Regulations. On or before the Closing Date, Seller shall provide to Purchasers an affidavit of compliance with Section 1445, as set forth in the appropriate Code and Regulation provisions. If Seller fails to provide such affidavit and/or documentation of exemption from FIRPTA on or before the closing date, Purchasers shall have the right to proceed with the withholding provisions as set forth in Section 1445 of the Code.

5. Acceptance of Property. At Closing, Purchasers agree to purchase and accept the Property in "as is, where is" condition, including as to environmental problems and hazards whether known or unknown, and to indemnify and hold harmless Seller from and against any and all claims, issues, controversies, obligations and liabilities whatsoever arising in connection with any present or future condition of or upon the Property, whether latent or obvious. Purchasers have made their own independent determination, due diligence and assessment of the size, location, configuration, condition, value and utility of the Property, and all related environmental, zoning and use components, and all title and survey matters, and have not relied upon any representation or warranty of Seller with respect thereto. Seller is aware of no environmental problems or hazards relating to the Property, but has never conducted an environmental site analysis or other investigation in that regard.

6. Closing. The closing of this transaction (the "Closing") will be held at the offices of Santa Fe Abstract Company, at 123 Grant Avenue, Santa Fe, New Mexico 87501, ten (10) days following receipt by Purchasers of the Title Commitment aforesaid, but not later than April 17, 2003. However, as Purchasers are also purchasing from Seller, contemporaneously herewith, the parcel adjacent to the Property known as the North (N) portion of Lot 8-A of land, lying and being situate within Lot 8-A of Eldorado at Santa Fe, pursuant to a separate but related Purchase Agreement of even date herewith, Seller shall execute a Warranty Deed in favor of Purchasers over such North portion at the time of Closing herewith, and such Warranty Deed to the North portion shall be thereupon placed in escrow with Santa Fe Abstract Company ~~along with the purchase price from Purchasers for the North portion~~. Such Warranty Deed to the North portion shall be recorded, and the proceeds of such sale will be disbursed, at the closing of the sale of such North portion on May 9, 2003. The parties agree that this escrow provision is necessary to insure that Purchasers will be able to effect their desire and intent to acquire both the North and the South portions of said Lot 8-A.

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7. Closing costs. The sales commission to be paid to the realtors assisting with this transaction, as set forth hereinbelow, and the cost of title insurance, shall be borne exclusively by Seller. All other closing costs, including document preparation costs and fees for recording of the deed of conveyance, shall be borne equally (50/50) by Seller and Purchasers. Property taxes upon the Property for the year 2003 shall be prorated between the parties as of the date of closing.

8. Seller's reservation of rights. Seller has sustained losses and damages, including for diminution of the value of the Property, by reason of certain actions, inactions, errors, omissions, breaches of contract and/or wrongful conduct of the County of Santa Fe, the State of New Mexico, Amrep Corporation, Eldorado at Santa Fe, Inc., Eldorado Utilities, Inc., and others presently unknown which resulted in the imposition of a moratorium on residential subdivision development at the Property. The basis for such claims is generally set forth in that certain pending lawsuit entitled Alto Eldorado Partnership, et al., vs. Eldorado Utilities, Inc., et al., Sandoval County District Court Cause No. D-1329-CV-97-01102. Notwithstanding the sale and conveyance of the Property to Purchasers hereunder, Seller herein shall reserve and retain all claims for, and rights to recover, losses and damages resulting to Seller (including prior and pending claims of Steven V. Gibbens in such litigation, whose interests Seller acquired in connection with Seller's original acquisition of the Property) from the events and circumstances generally set forth in such pending litigation, to the extent that such losses and damages have occurred prior to and as of the date of Closing of this transaction. Purchasers shall be entitled to claim against such defendants and others and to recover and retain any and all damages and losses which they may incur and sustain following the date of Closing, including continuing diminution of value of the Property, as a result of such conduct, events and circumstances.

9. Authority. Each party warrants and represents that it has the full right and authority and has obtained any and all consents required therefor to enter into this Agreement, consummate or cause to be consummated the sale described herein and make or cause to be made the transfers and assignments contemplated herein. The signatures of the parties, respectively, hereinbelow constitute the valid and binding obligations of the parties and are enforceable in accordance with the terms hereof.

10. Notices. All notices given hereunder shall be in writing, and addressed to the parties as follows:

To Seller:

Ronald D. Miziker, General Partner
Buena Vista, Ltd.
4110 Riverside Drive
Burbank, CA 91505

*With a copy to:

Robert N. Singer, Esq.
The New Mexico Law Group, P.C.
P.O. Box 25565
Albuquerque, NM 87125-5565

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To Purchasers:

Joseph F. Miller and Alma M. Miller
HC 75, Box 406
Lamy, NM 87540

With a copy to:

John DeVito
1000 Paseo de Peralta
Santa Fe, NM 87501

11. Miscellaneous provisions.

a) Seller's real estate agent in connection with this transaction is Patrick Coughlin. Purchasers' real estate agent in connection herewith is John DeVito. Seller agrees to pay, at Closing, a real estate commission to Mr. Coughlin and Mr. DeVito for their assistance in this transaction in the amount of Six (6%) per cent of the total purchase price, that is, Thirty-six Thousand Dollars (\$36,000), plus New Mexico gross receipts tax upon such commission, to be divided equally between such agents. Seller shall not be responsible for any further realtors' commissions in connection with this transaction.

b) This Agreement constitutes the entire understanding of the parties with respect to the subject matter hereof, and may not be modified or amended except in writing.

c) This Agreement shall be construed and enforced in accordance with the laws of the State of New Mexico.

d) This Agreement shall be specifically enforceable, in addition to all other rights and remedies provided at law or in equity in the event either party fails to close as required herein.

e) Time is of the essence in the performance of each and every term, condition and covenant contained in this Agreement.

f) Should either party be required to employ attorneys to enforce any of the provisions hereof, the prevailing party in such action shall be entitled to an award of reasonable attorneys' fees and costs incurred therein.

g) This Agreement may be executed in multiple originals and/or in counterparts.

IN WITNESS WHEREOF, the parties have executed this Agreement effective upon the date of the last signature hereinbelow.

SFC CLERK RECORDED 09/14/2004

SELLER:

BUENA VISTA, LTD.

PURCHASERS:

JOSEPH F. MILLER and ALMA M. MILLER, Trustees of the JOSEPH F. MILLER AND ALMA M. MILLER REVOCABLE TRUST Dated _____.

By: _____
RONALD D. MIZIKER
General Partner

By: _____
JOSEPH F. MILLER, Trustee

By: _____
ALMA M. MILLER, Trustee

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.

The foregoing instrument was acknowledged before me this ____ day of March, 2003, by Ronald D. Miziker, General Partner of and on behalf of Buena Vista, Ltd., a New Mexico limited partnership, as Seller herein.

(Seal)

NOTARY PUBLIC

My commission expires:

STATE OF NEW MEXICO)
COUNTY OF SANTA FE) ss.

The foregoing instrument was acknowledged before me this ____ day of March, 2003, by Joseph F. Miller and Alma M. Miller, husband and wife, as Trustees of the Joseph F. Miller and Alma M. Miller Revocable Trust dated _____, as Purchasers herein.

(Seal)

NOTARY PUBLIC

My commission expires:

SFC CLERK RECORDED 09/14/2004

See Exhibit "A" for Legible Film copy

WARRANTY DEED

2484564

BUENA VISTA, LTD.

for consideration paid, grant(s) to

JOSEPH F. MILLER AND ALMA M. MILLER, Trustees of the Joseph F. Miller and Alma M. Miller Revocable Trust

whose address is: HC 75 Box 406, Lamy NM

the following described real estate in Santa Fe County, New Mexico:

The south portion of Lot 8-A of land, lying and being situate within Lot 8-A of Eldorado at Santa Fe, a portion of Canada de Los Alamos Grant, T. 15 N., R. 9 E., N.M.P.M., County of Santa Fe, State of New Mexico, more particularly described as follows, to wit:

Commencing at a U.S.C. & G.S. Triangulation Station "VARGAS" a computed tie of S. 13° 54' 01" W., a distance 26,304.25 feet; thence S. 09° 00' 17" E., a distance of 666.18 feet thence S. 67° 37' 12" W., a distance of 252.16 feet; thence along a curve to the right having a radius of 1022.04 feet, central angle of 10° 08' 45", curve length 180.98 feet, Chord bearing of S. 72° 41' 35" W., Chord distance of 180.75 feet; thence S. 16° 51' 18" W., a distance 561.71 feet; thence S. 51° 23' 20" E., a distance of 101.43 feet; thence along a curve to the left having a radius 634.19 feet, central angle of 17° 13' 49", curve length of 190.72 feet, Chord bearing of S. 60° 00' 13" W., Chord distance of 190.00 feet; thence S. 16° 49' 19" W., a distance of 423.87 feet to the true point of beginning of the herein being described; thence S. 71° 10' 31" E., a distance of 74.87 feet; thence along a curve to the left having a radius of 659.60 feet, central angle of 39° 25' 41", curve length of 453.90 feet, Chord bearing of N. 89° 37' E., Chord distance of 445.00 feet; thence S. 24° 47' 05" E., a distance of 740.86 feet; thence S. 06° 00' 00" E distance of 829.56 feet; thence N. 84° 00' 00" W., a distance of 3225.42 feet; thence N. 07° 15' 00" E., a distance of 2789.99 feet; thence S. 69° 20' 12" E., a distance of 489.39 feet; thence S. 89° 00' 00" E., a distance of 249.18 feet; thence S. 34° 15' 29" W., a distance of 371.06 feet; thence S. 68° 17' 23" E., a distance of 248.83 feet; thence S. 68° 20' 55" E., a distance of 211.32 feet; thence along a curve to the left having a radius of 176.57 feet, central angle of 51° 09' 43", curve length of 152.48 feet; thence S. 33° 15' 16" E., a distance of 44.73 feet; thence along a curve to the left having a radius of 735.45 feet, central angle of 23° 03' 20", curve length of 295. feet, Chord bearing of S. 44° 46' 56" E., Chord distance of 293.95 feet; thence S. 56° 18' 36" E., a distance of 200 feet; thence along a curve to the right having a radius of 2160.11 feet, central angle of 05° 18' 04", curve length of 199.86 feet, Chord bearing of S. 53° 39' 33" E., Chord distance of 199.79 feet; thence S. 51° 00' 32" E., a distance of 340.37 feet; thence along a curve to the left having a radius of 562.35 feet, central angle of 20° 59"; curve length of 197.93 feet, Chord bearing of S. 61° 05' 32" E., Chord distance of 196.91 feet to the true point and place of beginning of the lot herein described.

Subject to: Reservations, restrictions, easements of record and taxes for the year 2003 and subsequent years.

with warranty covenants.

Executed this 31st day of March 2003

[Signature] BUENA VISTA, LTD.



ACKNOWLEDGEMENT FOR NATURAL PERSONS

X STATE OF CALIFORNIA)
X COUNTY OF LOS ANGELES) SS.

The foregoing instrument was acknowledged before me on this by BUENA VISTA, LTD..

[Signature]
Notary Public

SFC CLERK RECORDED 09/14/2004

178

SPA30 30335JZ

See Attached for legible Film Copy

2522651

WARRANTY DEED

BUENA VISTA, LTD.

for consideration paid, grant(s) to

JOSEPH F. MILLER AND ALMA M. MILLER, Trustees of the Joseph F. Miller and Alma M. Miller Revocable Trust

whose address is: HC 75, Box 406, Lamy, Nm 87540

the following described real estate in Santa Fe County, New Mexico:

The north portion of Lot 8-A of land, lying and being situate within Lot 8-A of Eldorado at Santa Fe, a portion of Canada de Los Alamos Grant, T. 15 N., R. 9 E., N.M.P.M., County of Santa Fe, State of New Mexico, more particularly described as follows, to wit:

Commencing at a U.S.C. & G.S. Triangulation Station "VARGAS" a computed tie of S. 13° 54' 01" W., a distance of 26,304.25 feet to the true point and place of beginning of the lot herein being described; thence S. 09° 00' 17" E., a distance of 666.18 feet; thence S. 67° 37' 12" W., a distance of 252.16 feet; thence along a curve to the right having a radius of 1022.04 feet, central angle of 10° 08' 45", curve length of 180.98 feet, Chord bearing of S. 72° 41' 35" W., Chord distance of feet; thence S. 16° 51' 18" W., a distance of 561.71 feet; thence S. 23° 20' E., a distance of 101.43 feet; thence along a curve to the left having a radius of 634.19 feet, central angle of 17° 13' 49", curve length of 190.72 feet, Chord bearing of S. 60° 00' 13" W., Chord distance of 190.00 feet; thence S. 16° 49' 19" W., a distance of 423.87 feet; thence along a curve to the right having a radius of 562.35 feet, central angle of 20° 09' 59", curve length of 197.93 feet, Chord bearing of N. 61° 05' 32" W., Chord distance of 196.91 feet; thence N. 51° 00' 32" W., a distance of 340.37 feet; thence along a curve to the left having a radius of 2160.11 feet, central angle of 05° 18' 04", curve length of 199.86 feet, Chord bearing of N. 53° 39' 33" W., Chord distance of 199.79 feet; thence N. 56° 18' 36" W., a distance of 200.69 feet; thence along a curve to right having a radius of 735.45 feet, central angle of 23° 03' 20", curve length of 295.94 feet, Chord bearing of N. 44° 56' W., Chord distance of 293.95 feet; thence N. 33° 15' 16" W., a distance of 44.73 feet; thence along a curve to right having a radius of 176.57 feet, central angle of 51° 09' 43", curve length of 157.67 feet, Chord bearing of N. 07° 24' W., Chord distance of 152.48 feet; thence N. 68° 20' 55" W., a distance of 211.32 feet; thence N. 68° 17' 23" W., a distance of 248.83 feet; thence N. 34° 15' 29" E., a distance of 371.06 feet; thence N. 89° 00' 00" W., a distance of 249 feet; thence N. 69° 20' 12" W., a distance of 489.33 feet; thence N. 07° 15' 00" E., a distance of 1628.70 feet; thence along a curve to the right having a radius of 1909.86 feet, central angle of 27° 15' 00", curve length of 908.33 feet, Chord bearing of N. 20° 52' 30" E., Chord distance of 899.80 feet; thence N. 34° 30' 00" E., a distance of 723.65 feet; thence S. 23° 36' 48" E., a distance of 2970.93 feet; thence S. 85° 58' 42" E., a distance of 160.00 feet to the true point and place of beginning.

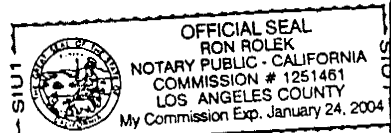
Subject to: Reservations, restrictions, easements of record and taxes for the year 2003 and subsequent years.

with warranty covenants.

Executed this 31st day of March, 2003

[Signature] BUENA VISTA, LTD.

SFC CLERK RECORDED 09/14/2004



ACKNOWLEDGEMENT

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES)

The foregoing instrument was acknowledged before me on this by BUENA VISTA, LTD..

[Signature] Notary Public

WARRANTY DEED

2522652

BUENA VISTA, LTD.

for consideration paid, grant(s) to

JOSEPH F. MILLER AND ALMA M. MILLER , Trustees of the Joseph F. Miller and Alma M. Miller Revocable Trust

whose address is: , ,

the following described real estate in Santa Fe County, New Mexico:

The north portion of Lot 8-A of land, lying and being situate within Lot 8-A of Eldorado at Santa Fe, a portion of Canada de Los Alamos Grant, T. 15 N., R. 9 E., N.M.P.M., County of Santa Fe, State of New Mexico, more particularly described as follows, to wit:

Commencing at a U.S.C. & G.S. Triangulation Station "VARGAS" a computed tie of S. 13° 54' 01" W., a distance of 26,304.25 feet to the true point and place of beginning of the lot herein being described; thence S. 09° 00' 17" E., a distance of 666.18 feet; thence S. 67° 37' 12" W., a distance of 252.16 feet; thence along a curve to the right having a radius of 1022.04 feet, central angle of 10° 08' 45", curve length of 180.98 feet, Chord bearing of S. 72° 41' 35" W., Chord distance of feet; thence S. 16° 51' 18" W., a distance of 561.71 feet; thence S. 23° 20' E., a distance of 101.43 feet; thence along a curve to the left having a radius of 634.19 feet, central angle of 17° 13' 49", curve length of 190.72 feet, Chord bearing of S. 60° 00' 13" W., Chord distance of 190.00 feet; thence S. 16° 49' 19" W., a distance of 423.87 feet; thence along a curve to the right having a radius of 562.35 feet, central angle of 20° 09' 59", curve length of 197.93 feet, Chord bearing of N. 61° 05' 32" W., Chord distance of 196.91 feet; thence N. 51° 00' 32" W., a distance of 340.37 feet; thence along a curve to the left having a radius of 2160.11 feet, central angle of 05° 18' 04", curve length of 199.86 feet, Chord bearing of N. 53° 39' 33" W., Chord distance of 199.79 feet; thence N. 56° 18' 36" W., a distance of 200.69 feet; thence along a curve to right having a radius of 735.45 feet, central angle of 23° 03' 20", curve length of 295.94 feet, Chord bearing of N. 44° 56' W., Chord distance of 293.95 feet; thence N. 33° 15' 16" W., a distance of 44.73 feet; thence along a curve to right having a radius of 176.57 feet, central angle of 51° 09' 43", curve length of 157.67 feet, Chord bearing of N. 07° 24" W., Chord distance of 152.48 feet; thence N. 68° 20' 55" W., a distance of 211.32 feet; thence N. 68° 17' 23" W., a distance of 248.83 feet; thence N. 34° 15' 29" E., a distance of 371.06 feet; thence N. 89° 00' 00" W., a distance of 249 feet; thence N. 69° 20' 12" W., a distance of 489.33 feet; thence N. 07° 15' 00" E., a distance of 1628.70 feet; thence along a curve to the right having a radius of 1909.86 feet, central angle of 27° 15' 00", curve length of 908.33 feet, Chord bearing of N. 20° 52' 30" E., Chord distance of 899.80 feet; thence N. 34° 30' 00" E., a distance of 723.65 feet; thence S. 23° 36' 48" E., a distance of 2970.93 feet; thence S. 85° 58' 42" E., a distance of 160.00 feet to the true point and place of beginning.

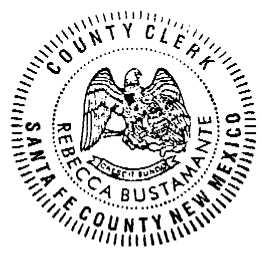
Subject to: Reservations, restrictions, easements of record and taxes for the year 2003 and subsequent years.

with warranty covenants.

Executed this _____ day of _____, 200_.

X BUENA VISTA, LTD.

1205-298
COUNTY OF SANTA FE } ss
STATE OF NEW MEXICO
I HEREBY CERTIFY THAT THE INSTRUMENT WAS FILED
FOR RECORD ON THE 13 DAY OF APRIL A.D.
20 03 11-08 CLOCK 4:52 P.M.
AND WAS ONLY RECORDED IN BOOK 522
PAGE 091-05 OF THE RECORDS OF
SANTA FE COUNTY
WITNESS MY HAND AND SEAL OF OFFICE
REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.
DEPUTY



ACKNOWLEDGEMENT

X STATE OF _____ }
X COUNTY OF _____ }
SS.

The foregoing instrument was acknowledged before me on this by BUENA VISTA, LTD..

X Notary Public

SFC CLERK RECORDED 09/14/2004

1
2 **SANTA FE COUNTY**
3 *Ordinance No. 2003-02*
4

2341424

5
6 An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land
7 Development Code, Article V, Section 5.2 Master Plan Procedures
8

9
10
11 **BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
12 **SANTA FE COUNTY THAT THE SANTA FE COUNTY LAND DEVELOPMENT**
13 **CODE IS HEREBY AMENDED AS FOLLOWS:**
14

15 SECTION 5.2.1.c: The master plan submittal will consist of both plans and written
16 reports which will include the information required in 5.2.2 below. A typical
17 submittal would include a vicinity map, a plan showing existing site data, a
18 conceptual environmental plan with written documentation, a master plan map, a
19 master plan report, a schematic utilities plan, including water and liquid waste, and
20 the phasing schedule. Maps and reports may be combined or expanded upon at the
21 discretion of the applicant to fit the particular development proposal as long as the
22 relevant information is included.
23

24 SECTION 5.2.2.g: Master Plan report which includes the following:

- 25
- 26 1) A general description of the project, existing development of
27 the parcel, location, adjacent properties, acreage, lot coverage,
28 access, traffic impacts, terrain management, soils, landscaping,
29 outside lighting, parking, signage, solid waste, archaeological
30 sites, fire protection measures, and any proposed water
31 harvesting techniques;
32
 - 33 2) A preliminary water supply plan and liquid waste disposal plan.
34 This analysis will identify one or more sources of water to
35 supply the proposed development, i.e. County or other utility,
36 wells, water rights transfers, point of diversion, etc. The
37 analysis will also include estimated water budget (demand) by
38 phase, total demand at full build-out, including commercial
39 uses, if applicable, and a water conservation plan.
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The liquid waste disposal plan will identify one or more
methods of addressing liquid waste, i.e. individual sept
systems, community treatment system, utilization of a



SFC CLERK RECORDED 09/14/2004



2341425

other municipal wastewater system, constructed wetlands, etc. The plan will also address estimated discharge (annual) by phase, and total discharge at full build-out, including commercial uses, if applicable.

9) In addition to the requirements listed above, for all non-residential developments proposing to use more than 1.0 acre ft. of water per year, and all Type I, II, and IV subdivisions, the applicant must submit a water supply plan and water permits as required by Article VII, Section 6 of the Code for the first sustainable phase of development.

SECTION 5.2.4: Master Plan Approval
c. Master Plan approval does not confer a vested development right to the applicant or future assignee, given that said approval is solely predicated on a preliminary determination with respect to viability and conceptual integrity.

PASSED, APPROVED, and ADOPTED this 11 day of Feb, 2003, by the Santa Fe County Board of County Commissioners.

Jack Sullivan

JACK SULLIVAN, CHAIRMAN

ATTEST: *Rebecca Bustamante*

REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



APPROVED AS TO LEGAL FORM AND SUFFICIENCY:
[Signature]

COUNTY ATTORNEY

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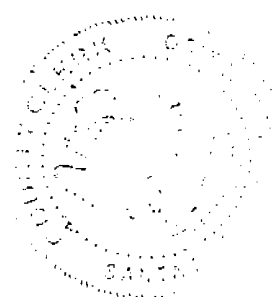
2341426

CERTIFICATE OF FILING

I, Rebecca Bustamante, County Clerk, do hereby certify that the foregoing ordinance, designated as Ordinance No. 2003 - 02, was filed in my office on the 17 day of Feb, 2003, in book Number 2341 at Page 424-427

SANTA FE COUNTY CLERK

Rebecca Bustamante



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COUNTY OF SANTA FE
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El Dorado Utilities, Inc.

OPERATIONS:

1 CALIENTE ROAD
SANTA FE, NM 87508

Tel. 505-466-1085
Fax. 505-466-2631

BILLING:

333 RIO RANCHO DR.
RIO RANCHO, NM 87124

Tel. 505-988-1918
Fax. 505-896-9010

24/7 Emergency Telephone: 466-4749

May 18, 2004

Mr. Joe Miller
286 Riverbank Road
Lamy, NM 87540

Re: Water service to 50 lots within the Tierra
Bello Subdivision

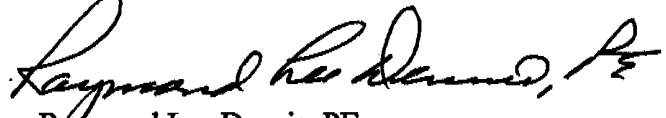
Dear Mr. Miller:

Pursuant to your request, please accept this letter as my certification that all required water mains, fire hydrants, service lines, etc. needed to provide water service to the Tierra Bello Subdivision have been installed, pressure tested, and chlorinated. The only work remaining is the flushing of the chlorine from the main lines, installation of the concrete collars around the fire hydrant base and the valve boxes, and final cleanup.

As you are aware our service to your subdivision is subject to all the Rules, Regulations, and Tariffs applicable to the Utility on file with the NM Public Regulation Commission now or in the future.

Thank you for your cooperation and assistance in getting these new lines and related facilities installed in a timely manner. I will prepare the final cost figures in the next few days. Please call me if you have questions or if you need additional information.

Sincerely,



Raymond Lee Dennis, PE
General Manager

Cc: File

REC CLERK RECORDED 09/14/2004



EL DORADO Utilities, Inc.

ACCOUNTING OFFICE
333 RIO RANCHO DR., N.E.
RIO RANCHO, NEW MEXICO 87124
TELEPHONE: (505) 892-9200

January 19, 2004

Mr. Joseph Miller
HC 75, Box 34
Lamy, New Mexico 87540

Re: Sun Ranch East consisting of 50 residential lots and more particularly described as Lot 8-A, Eldorado at Santa Fe as said lot is shown and described on the Replat thereof filed in the Office of the County Clerk of Santa Fe County, New Mexico, on April 29, 1988, in Book 186, Page 029, as Document No. 648,148 (hereinafter referred to as "Lot 8-A").

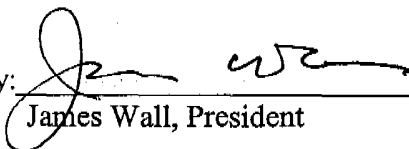
Dear Mr. Miller:

El Dorado Utilities, Inc. (the "Utility") is willing and able to serve Lot 8-A as described above with water service; provided that you will be responsible for the extension of the water lines to and throughout Lot 8-A pursuant to a Line Extension Agreement in accordance with the Utility's Line Extension policy on file with the New Mexico Public Regulation Commission (the "PRC"), as clarified by the Agreement between you and the Utility dated January 19, 2004. Furthermore your construction and use of the Utility's facilities will be subject to all the Rules, Regulations and Tariffs applicable to the Utility on file with the PRC now and in the future. This letter will expire if a Line Extension Agreement is not executed between you and the Utility and water lines constructed to and throughout Lot 8-A within one (1) year after the date of this letter.

If we can be of further service to you, please feel free to contact us.

Sincerely,

EL DORADO UTILITIES, INC.,
a New Mexico corporation,

By: 
James Wall, President

JW/pdh
Cc: Mr. Bill McLean

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EL DORADO UTILITIES, INC.

WATER LINE EXTENSION AGREEMENT

THIS AGREEMENT is made by and between **EL DORADO UTILITIES, INC.**, a New Mexico corporation (hereinafter called the "**COMPANY**") and **JOSEPH F. MILLER and ALMA MILLER**, husband and wife (hereinafter called the "**CUSTOMER**").

WHEREAS, the Customer desires the Company to extend its water lines generally to that certain real estate known as the Tierra Bello subdivision, Eldorado at Santa Fe, Santa Fe County, New Mexico as approximately shown on Exhibit A attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, in order to provide water services to the Property for the Customer, the Company will be required to extend its lines and facilities as shown and described on Exhibit A attached hereto and incorporated herein by reference (the "Requested Extension"); and

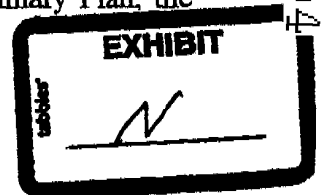
WHEREAS, the parties estimate there will be fifty (50) customers using domestic water who will be served by the Requested Extension; and

WHEREAS, the total estimated installed cost of the Requested Extension is estimated to be Four Hundred Forty-one Thousand Six Hundred Ninety-four and 26/100ths Dollars (\$441,694.26); and

WHEREAS, the Company and the Customer desire to enter into an Agreement for the construction of and payment for the Requested Extension.

NOW, THEREFORE, in consideration of the foregoing and for other valuable and mutual consideration, it is agreed as follows:

1. The Customer has supplied the preliminary plan of the Requested Extension attached hereto as Exhibit A (the "Preliminary Plan"). Based upon the Preliminary Plan, the



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Company estimates that the cost of the Requested Extension including surveying, engineering, construction costs and applicable gross receipts tax, will be the sum of Four Hundred Forty-one Thousand Six Hundred Ninety-four and 26/100ths Dollars (\$441,694.26) (the "Preliminary Estimate"). The Company has informed the Customer that neither the Preliminary Estimate nor the Preliminary Contribution (as defined below) include any estimated cost for rock excavation. In the event the Company encounters rock during the construction of the Requested Extension, the Customer will pay to the Company the Company's actual cost of rock excavation which is currently estimated to be Sixty-five Dollars (\$65.00) per cubic yard of rock excavation. In addition, the Company has informed the Customer that neither the Preliminary Estimate nor the Preliminary Contribution (as defined below) include any estimated cost for water meters. The Customer, prior to the installation of any water meters, shall pay to the Company the sum of Two Hundred Fifty (\$250.00) Dollars per meter. The Customer also understands and agrees that the Preliminary Contribution does not include an Advance for Construction rebate due to the owner of land adjacent to the Property in the amount of Thirty Thousand Six Hundred Nine and 92/100ths Dollars (\$30,609.92) (the "Rebate"). Concurrent with the Customer's payment of the Preliminary Contribution required hereinbelow, the Customer shall pay the Rebate to the Company in full. The Rebate is in addition to the Preliminary Contribution and is wholly nonrefundable.

2. Within ten (10) days after the mutual execution of this Agreement by the Company and the Customer, the Customer shall deliver to the Company a sum equal to ten percent (10%) of the Preliminary Estimate (the "Deposit"). Upon receipt of the Deposit, the Company shall have prepared detailed plans, specifications and cost estimates of the Requested Extension ("Final Plans"). The Company shall complete the Final Plans within a reasonable time

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after its receipt of the Deposit. Upon completion of the Final Plans, the Company shall deliver a copy of the Final Plans to the Customer. If after receipt of the Final Plans, the Customer requests any changes to the Final Plans, the Customer shall pay any and all costs incurred by the Company to revise the Final Plans and such additional payment shall not be subject to any refund.

3. Within sixty (60) days after its receipt of the Final Plans, the Customer shall pay to the Company the full cost of the Requested Extension as determined by the cost estimate in the Final Plans (the "Preliminary Contribution"). If the Customer pays the Preliminary Contribution within sixty (60) days after its receipt of the Final Plans, the Deposit shall be credited toward the Preliminary Contribution. If the Customer does not pay the Preliminary Contribution within sixty (60) days after its receipt of the Final Plans, the Deposit shall be forfeited, shall not be credited toward any amount due hereunder and shall be used by the Company to cover the cost of preparing the Final Plans.

4. Within ten (10) days after its receipt of the Preliminary Contribution, the Company shall commence construction of the Requested Extension. The Company shall complete the Requested Extension within a reasonable time after construction is commenced.

5. As soon as practical after the Company completes construction of the Requested Extension, the Company shall calculate the actual cost of construction of the Requested Extension. If the actual cost of construction exceeds the Preliminary Contribution, the Customer shall pay the difference to the Company within thirty (30) days after receipt of notice from the Company requesting payment. If the Preliminary Contribution exceeds the actual cost of construction, the Company shall refund the difference to the Customer within thirty (30) days after the Company has calculated the actual cost of construction. The final amount paid by the

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Customer to the Company pursuant to this Agreement, after all payments and refunds contemplated in this paragraph, shall be the Customer's Contribution in Aid of Construction.

6. The Customer and the Company do not currently anticipate that any Advance for Construction is applicable to the Requested Extension. However, if within five (5) years after the date of this Agreement, a property owner abutting the Requested Extension other than the Customer requests water service from the Requested Extension, the Company shall make any applicable refund to the Customer as required pursuant to the Company's then applicable Line Extension Policy.

7. Customer shall furnish all necessary easements and rights-of-way for construction of the Requested Extension, as well as the rights of ingress and egress and the right of excavation as required for installation, maintenance, repair or replacement for any of the facilities installed underground. All easements shall be of public record and clearly shown on recorded plats. The Customer agrees to provide final grades on all utility easements and locate lot lines as required by the Company before installation of any underground facilities. The Company may, but will not be required to, make installations in easements or rights-of-way where final grades have not been established, or where street grades have not been brought to those established by public authority. If installations are made before grades have been established and there is a reasonable probability that the existing grade will be changed, the Customer shall deposit the estimated net cost of relocating, raising or lowering facilities upon establishment of final grades. Payment of any difference between the amount so deposited and the actual cost of relocating, raising or lowering facilities shall be made within ten (10) days after the Company has ascertained such actual cost. The cost of such relocation is not subject to refund.

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8. The title, possession, ownership and full dominion and control of the Requested Extension, shall at all times be and remain vested exclusively and unconditionally in the Company and its successors and assigns.

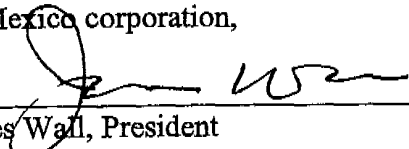
9. The Customer's request for extension of water service is for fifty (50) lots. Customer represents and warrants that the uses contemplated on each lot will not require more than 0.25 acre-feet per year of consumptive use of water per parcel. Customer has executed concurrent with this Agreement another agreement of even date herewith fully waiving and relinquishing any and all alleged rights to water and water taps made pursuant to that certain Memorandum Agreement between Eldorado at Santa Fe, Inc., and John Livingston, L. Samuel Livingston and Michael Todd Livingston (the "Livingstons") dated January 4, 1984, as amended by all amendments including but not limited to that certain Second Addendum to Memorandum Agreement between the Livingstons and EASF dated April 27, 1984 (collectively the "Livingston Agreement"). Therefore, the Customer's waiver and relinquishment of any and all rights to water and water taps pursuant to the Livingston Agreement shall be considered to be a donation by Customer to the Company of such water and water rights as are necessary for the Customer's Tierra Bello subdivision. The Customer shall have not pay a System Service Fee for its Tierra Bello subdivision and development on the Property. However, in the event the Customer, its successors or assigns, uses water on any lot within the Property in excess of 0.25 acre-feet per year during any calendar year, the Company shall have the right to charge the Customer or the then owner of such parcel within the Property a System Service Fee.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 19th day of January, 2004.

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COMPANY:

EL DORADO UTILITIES, INC.,
a New Mexico corporation,

By: 
James Wall, President

1/26/04
Date

CUSTOMER:


Joseph M. Miller

1/26/04
Date


Alma Miller

1/26/04
Date

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EXHIBIT A

EL DORADO UTILITIES, INC.

LINE EXTENSION AGREEMENT

TIERRA BELLO SUBDIVISION

DESCRIPTION OF REQUESTED EXTENSION

The Requested Extension is approximately shown on the Preliminary Plan attached hereto and is described as follows:

Fourteen Thousand feet (14,000') of eight inch (8") PVC water line extending throughout the Tierra Bello subdivision, together with applicable appurtenances including eight (8) fire hydrants and fifty three-quarter inch (3/4") service line stub outs.

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THIRTEENTH JUDICIAL DISTRICT COURT
COUNTY OF SANDOVAL
STATE OF NEW MEXICO

No. 97-D-1329-CV-1102

ALTO ELDORADO PARTNERSHIP,
JOSEPH MILLER, ALMA MILLER,
CHRIS MILLER, MATT MILLER,
RANCHO VERANO, LLC,
SUMMIT PARTNERSHIP 2, and
SANTA FE PARTNERS 1,

Plaintiffs,

— vs —

ELDORADO UTILITIES, INC., a New Mexico
Corporation, ELDORADO AT SANTA FE, INC.,
A New Mexico corporation, AMREP CORPORATION,
An Oklahoma Corporation, AMREP SOUTHWEST, INC.,
A New Mexico Corporation,

Defendants.

STIPULATED DISMISSAL WITH PREJUDICE

THIS MATTER having come before this Court upon the stipulation of the
Plaintiffs JOSEPH MILLER, ALMA MILLER, CHRIS MILLER, and MATT
MILLER, by and through their attorneys, ROTH, VAN AMBERG, ROGERS,
ORTIZ, FAIRBANKS & YEPA, LLP (Ronald J. Van Amberg, Esq.), to the dismissal
with prejudice of any and all claims by said Plaintiffs against each and every defendant
named herein which any of said Plaintiffs made or could have made in this lawsuit
relating to the following issues only: (a) any and all damages and/or claims relating to that
certain Memorandum Agreement between Eldorado at Santa Fe, Inc., and John
Livingston, L. Samuel Livingston and Michael Todd Livingston (the "Livingstons") dated

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Exhibit B

January 4, 1984, as amended by all amendments including but not limited to that certain Second Addendum to Memorandum Agreement between the Livingstons and EASF dated April 27, 1984 (collectively the "Livingston Agreement"), and/or the water and water taps described in the Livingston Agreement; and/or (b) any and all damages and/or claims relating in any way to Lots 18 and 19 of the Eldorado at Santa Fe Plat of Acreage Parcelization as said lots are shown and described on the Plat thereof filed in the Office of the County Clerk of Santa Fe County, New Mexico, on October 15, 1981, in Book 107, Page 6, as Document No. 486,453 (hereinafter referred to individually as "Lot 18" and "Lot 19") and/or Lot 8-A, Eldorado at Santa Fe as said lot is shown and described on the Replat thereof filed in the Office of the County Clerk of Santa Fe County, New Mexico, on April 29, 1988, in Book 186, Page 029, as Document No. 648,148 (hereinafter referred to as "Lot 8-A"); because the parties have reached a settlement with regard to such claims.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that any and all claims by the Plaintiffs **JOSEPH MILLER, ALMA MILLER, CHRIS MILLER, and MATT MILLER**, against each and every defendant named herein which any of said Plaintiffs made or could have made in this lawsuit relating to the following issues only: (a) any and all damages and/or claims relating to that certain Memorandum Agreement between Eldorado at Santa Fe, Inc., and John Livingston, L. Samuel Livingston and Michael Todd Livingston (the "Livingstons") dated January 4, 1984, as amended by all amendments including but not limited to that certain Second Addendum to Memorandum Agreement between the Livingstons and EASF dated April 27, 1984 (collectively the "Livingston Agreement"), and/or the water and water taps described in

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the Livingston Agreement; and/or (b) any and all damages and/or claims relating in any way to Lot 18, Lot 19 and/or Lot 8-A in this cause are hereby dismissed with prejudice.

THE HONORABLE KENNETH G. BROWN

STIPULATED TO:

ROTH, VANAMBERG, RODGERS, ORTIZ , FAIRBANKS & YEP A LLP

By: _____

Ronald J. VanAmberg
Attorneys for Plaintiffs
P. O. Box 1447
Santa Fe, New Mexico 87504-1447
Telephone: (505) 988-8979
Facsimile: (505) 983-7508

LASTRAPES, SPANGLER & PACHECO, P.A.

By: _____

Matthew M. Spangler
Attorneys for Defendants
P. O. Box 15698
Rio Rancho, New Mexico 87174
Telephone: (505) 892-3607
Facsimile: (505) 892-1864

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COPY

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT is made this 19th day of January, 2004, by and between EL DORADO UTILITIES, INC., a New Mexico corporation (hereinafter called the "Company"), and JOSEPH M. MILLER and ALMA MILLER, husband and wife (hereinafter collectively called "Miller").

WHEREAS, the Company is a water utility doing business in its franchise area in and around the Eldorado at Santa Fe subdivision; and

WHEREAS, Miller is or was the owner of the following parcels of land in the Company's franchise area:

Lots 18 and 19 of the Eldorado at Santa Fe Plat of Acreage Parcelization as said lots are shown and described on the Plat thereof filed in the Office of the County Clerk of Santa Fe County, New Mexico, on October 15, 1981, in Book 107, Page 6, as Document No. 486,453 (hereinafter referred to individually as "Lot 18" and "Lot 19"); and

Lot 8-A, Eldorado at Santa Fe as said lot is shown and described on the Replat thereof filed in the Office of the County Clerk of Santa Fe County, New Mexico, on April 29, 1988, in Book 186, Page 029, as Document No. 648,148 (hereinafter referred to as "Lot 8-A").

WHEREAS, Miller is a Plaintiff in that certain lawsuit known as "Alto Eldorado Partnership, et al. v. Eldorado Utilities, Inc., et al, Thirteenth Judicial District Court Cause No. 97-D-1329-CV-1102 (the "Lawsuit"); and

WHEREAS, in the Lawsuit Miller alleges that the Company owed seventy-nine (79) water taps (the "Water Taps") to Miller pursuant to that certain Memorandum Agreement between Eldorado at Santa Fe, Inc. ("EASF"), and John Livingston, L. Samuel Livingston and Michael Todd Livingston (the "Livingstons") dated January 4, 1984, as amended by that certain

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Second Addendum to Memorandum Agreement between the Livingstons and EASF dated April 27, 1984 (collectively the "Livingston Agreement"); and

WHEREAS, Miller has already used a portion of the Water Taps and now desires to use the remaining Water Taps at Lot 8A instead of on the Lot 18 or Lot 19; and

WHEREAS, the Miller and the Company desire to eliminate certain issues in the Lawsuit as between them.

NOW, THEREFORE, in consideration of the covenants and agreements hereinbelow, Miller and the Company covenant and agree as follows:

1. The Company agrees that Miller shall have the right to obtain fifty (50) Water Taps within Lot 8A. Water lines shall be extended to and throughout Lot 8A pursuant to a standard form Water Line Extension Agreement which will require Miller to pay for the extension of the water lines to and throughout the subdivision. Miller understands and agrees that the Line Extension Agreement may contain a repayment charge of approximately Thirty Thousand Dollars (\$30,000.00) for water lines constructed by a neighboring land owner. However, the Line Extension Agreement shall not contain any charge for System Service Fees.

2. In addition, concurrent with the execution of this Agreement, the Company shall execute and deliver to Miller a letter in the form of Exhibit A attached hereto committing the Company to provide water to Lot 8A.

3. Concurrent with the execution of this Agreement: (i) Miller shall execute a Stipulated Dismissal with Prejudice of any and all claims Miller made or could have been made in the Lawsuit as against each and every defendant in the Lawsuit relating to the following issues only: (a) any and all damages and/or claims relating to the Livingston Agreement or the Livingston water taps; and/or (b) any and all damages and/or claims relating to Lot 18, Lot 19

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and/or Lot 8A; and (ii) Miller shall obtain a similar Stipulated Dismissal With Prejudice from the following other Plaintiffs in the Lawsuit: Matt Miller and Chris Miller. The form of the Stipulated Dismissal With Prejudice is attached hereto as Exhibit B.

4. Miller further agrees that the Livingston Agreement is hereafter null and void and of no effect. Miller hereby agrees to indemnify, defend and hold the Company harmless from and against any and all claims made by any person or entity claiming water or Water Taps pursuant to the Livingston Agreement.

5. Miller also agrees to execute a waiver and release as Trustees on behalf of the Joseph and Alma Miller Revocable Trust releasing and waiving any and all claims released by Miller hereinabove. In addition, Miller represents and warrants that this Agreement is effective and applies to any and all entities owned by or under the control of Miller which in the past, now or in the future hold title to any land within Lots 18, 19 and/or 8A.

6. Miller and the Company agree that the consideration described in this Agreement and the execution of this Agreement is done entirely for the purpose of compromise and settlement of disputed claims. The compromise and settlement of such claims shall not be construed as an admission of liability on the part of either Miller or the Company, by whom liability is expressly denied.

7. This Agreement shall be construed and interpreted in accordance with the laws of New Mexico. It shall not be construed against any party hereto solely because of the fact that that party drafted it or a portion of it.

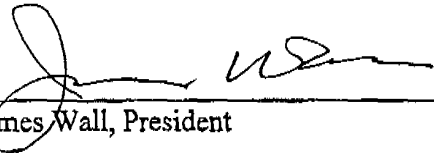
8. This Agreement contains the entire agreement between the parties hereto with regard to the matters set forth in it and supercedes any and all prior agreements and understandings, whether written or oral, relating to the subject matter hereof. This Agreement

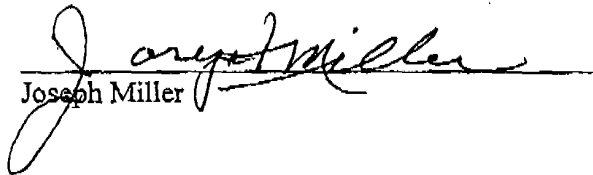
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may be amended, or any right or condition hereunder waived, only by written instrument signed by all the Miller and the Company. This Agreement shall be binding upon each of the parties hereto, their respective executors, administrators, personal representatives, heirs, successors, and assigns.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

EL DORADO UTILITIES, INC.,
A New Mexico corporation,

By: 
James Wall, President


Joseph Miller


Alma Miller

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MEMORANDUM OF AGREEMENT

Joseph F. Miller and Alma Miller and related Miller entities (Miller) have entered into an agreement (Agreement) with Eldorado Utilities, Inc., whereby the parties have agreed that of the seventy-nine (79) water taps (the "Water Taps") Miller alleges to own pursuant to that certain Memorandum Agreement between Eldorado at Santa Fe, Inc. ("EASF"), and John Livingston, L. Samuel Livingston and Michael Todd Livingston (the "Livingstons") dated January 4, 1984, as amended by that certain Second Addendum to Memorandum Agreement between the Livingstons and EASF dated April 27, 1984 (collectively the "Livingston Agreement"), fifty (50) of the Water Taps will be used on Lot 8A, Eldorado at Santa Fe as said Lot is shown and described on the Replat thereof filed in the office of the Santa Fe County Clerk, Santa Fe, New Mexico on April 29, 1988, in Book 186, Page 029, Document No. 648,148 and will be retired in lieu of any System Service Fees otherwise provided for in Eldorado Utilities' Line Extension Agreement and Miller has no further rights whatsoever under the Livingston Agreement.

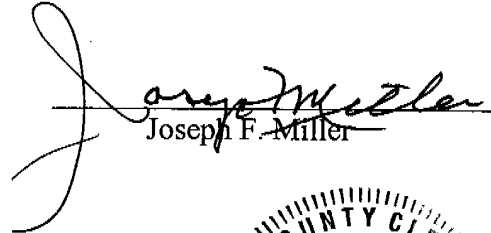
The Agreement also contains other terms and conditions concerning water service to Miller.

A copy of the Agreement can be obtained from:

Matthew M. Spangler, Esq.
Lastrapes, Spangler & Pacheco, P.A.
Post Office Box 15698
Rio Rancho, New Mexico 87174

or

Ronald J. VanAmberg, Esq.
Roth, VanAmberg, Rogers, Ortiz,
Fairbanks & Yepa, LLP
Post Office Box 1447
Santa Fe, New Mexico 87504-1447


Joseph F. Miller

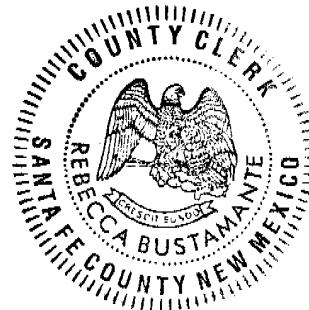
COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

AGREEMENT
PAGES: 2

I hereby Certify That This Instrument Was Filed for
Record on The 28th Day Of January, A D . 2004 at 09:11
It Was Duly Recorded As Instrument # 1311507
The Records Of Santa Fe County

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

County Clerk, Santa Fe, NM



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ROTH, VANAMBERG, ROGERS, ORTIZ & YEPA, LLP

ATTORNEYS AT LAW

F. JOEL ROTH (NM)
RONALD J. VANAMBERG (NM)
CARL BRYANT ROGERS (NM,MS)
RAYMOND Z. ORTIZ (NM,DC)
DAVID R. YEPA (NM)

DAVID T. GOMEZ (NM)
STEPHANIE PHO-POÉ KIGER (NM)
CAROLYN J. ABEITA (NM)

P.O. BOX 1447
SANTA FE, NM 87504-1447
(505) 988-8979
FAX (505) 983-7508

347 EAST PALACE AVENUE
SANTA FE, NEW MEXICO 87501

1201 LOMAS BOULEVARD, N.W.
SUITE C
ALBUQUERQUE, NEW MEXICO 87102
(505) 242-7352
FAX (505) 242-2283

April 20, 2004

Stephen C. Ross, Esq.
Santa Fe County Attorney
Post Office Box 276
Santa Fe, NM 87504-0276

Re: Lot 8A, Terra Bella Subdivision

Dear Steve:

The purpose of this letter is to express concern over the recent letter from Roman Abeyta, which purportedly destroys subdivision approval for Lot 8A.

Prior to purchasing the property, Joe Miller reviewed a letter from Terence Brennan to Pat Coughlan setting forth the status of the approval for Lot 8. It clearly indicates that there was final approval and that water taps were reserved for the subdivision. This means that water, if it was a condition, had been satisfied. A copy of the letter is enclosed.

Also prior to purchasing the property, Joe Miller and myself met with Steve Kopelman and Gerald Gonzales concerning an issue as to whether a subsequent master plan destroyed the final approval. Our assurance from the county was that the approvals were still valid. Based upon those assurances, the letter from Mr. Brennan to Mr. Coughlan and Mr. Miller's examination of the record, Mr. Miller purchased the subdivision.

Subsequently, Danny Martinez, Mr. Miller's planner met with county staff on a variety of occasions. All acknowledged that the subdivision had valid approvals and that the only items needed were engineering drawings. Specifically, on instructions from Joe Catanach in the presence of Roman Abeyta, Danny Martinez was instructed to prepare engineering drawings. He did so at a cost of somewhere between \$30,000-\$40,000 to Mr. Miller.

Mr. Miller continued with the project, and there was no problem expressed by the county until some time later when Joe Catanach found some old minutes, where there were efforts on the part of an individual, who claimed an interest in Lot 8B

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Stephen C. Ross, Esq.

Page 2

April 20, 2004

to adjust the number of lots in that parcel. Apparently there was some thought that this action somehow affected the approval on Lot 8A. Mr. Miller provided to the county documentation and other information clearly demonstrating that nothing which happened as related to Lot 8B affected Lot 8A.

At the meeting between yourself, myself, Joe Miller, Roman Abeyta and Joe Catanach, the issues raised in Mr. Abeyta's letter were not raised at the meeting. In fact, it was admitted by Mr. Abeyta and Mr. Catanach that the moratorium would not affect Lot 8A as the approval predated the moratorium.

Mr. Miller has now installed several hundred thousand dollars worth of water lines in the property, has spent approximately \$40,000 in engineering fees and spent over \$1 million on the purchase of the property. This does not even account for the considerable amount of time and effort put into this project by Mr. Miller.

We believe that the County's newly raised issues at this late date constitute at best arbitrary and capricious action. As you know, Mr. Miller has filed an appeal to the CDRC and will complete his exhaustion of administrative remedies. However, given the enormous economic impact that Mr. Abeyta's decision has had and the manner in which it was made, Mr. Miller will have no choice but to seek damages in the civil rights context.

We request that you reconsider the County's ruling. I would be happy to discuss this with you further.

Thank you.

Sincerely


Ronald J. Van Amberg

RJVA:ms

cc: Joe Miller ✓

S:\VanAmberg\Condemnation Group\Ross 04-16-04 ltr.rtf

SFC CLERK RECORDED 09/14/2004

ROTH, VANAMBERG, ROGERS, ORTIZ & YEPA, LLP

ATTORNEYS AT LAW

F. JOEL ROTH (NM)
RONALD J. VANAMBERG (NM)
CARL BRYANT ROGERS (NM,MS)
RAYMOND Z. ORTIZ (NM,DC)
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FAX (505) 242-2283

347 EAST PALACE AVENUE
SANTA FE, NEW MEXICO 87501

July 1, 2004

Stephen C. Ross, Esq.
County Attorney
Santa Fe County
Post Office Box 276
Santa Fe, NM 87504-0276

Re: Joseph Miller and Terra Bella Subdivision

Dear Mr. Ross:

I have still not heard anything from your office in response to my last letter concerning Joseph Miller and the Terra Bella Subdivision. As I previously informed you, County Land Use has informed Mr. Miller and his representatives that it will no longer accept any applications or have any dealings with Mr. Miller. Instead, a special procedure has been established where Mr. Miller has to make all applications through your office. However, since we have received no responses from your office, it places Mr. Miller in an impossible situation. Please let me know if there is any available procedure for Mr. Miller to make application for any permits that he might need.

Another issue has also arisen which I request that you consider. Well No. 11 is a well, whose ownership was in dispute between Eldorado Utilities and Joseph Miller. The parties entered into a contract resolving their differences whereby Mr. Miller was entitled to the first 14 acre feet of water pumped from the well. This is a well which was the subject of State Engineer litigation in the early 70s, and a court decree issued stating that the water rights to that well were those which reflect the actual capacity of the well to produce water at the time of the court decree. The precise amount of that capacity is currently an issue before the State Engineer's office. However, as a beginning point, the State Engineer's office does recognize 4.8 acre feet of water rights from that well. The well is about to be put into operation and placed on line by Eldorado Utilities. Eldorado Utilities intends to pump the full capacity of that well, which is considerably more than 4.8 acre feet. Mr. Miller is entitled to the first 14 acre feet of production from that well. He could take 14 acre feet from the well and apply it to agricultural uses on his property.

SFC CLERK RECORDED 09/14/2004

ROTH, VANAMBERG, ROGERS, ORTIZ & YEPA, LLP

ATTORNEYS AT LAW

F. JOEL ROTH (NM)
RONALD J. VANAMBERG (NM)
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(505) 242-7352
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July 2, 2004

Stephen C. Ross, Esq.
County Attorney
Santa Fe County
Post Office Box 276
Santa Fe, NM 87504-0276

Re: Tierra Bella Subdivision/Joe Miller

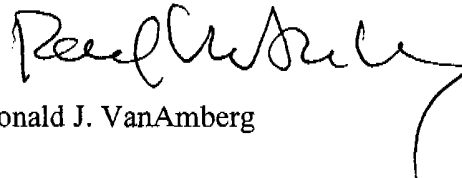
Dear Mr. Ross:

Thank you for your letter of July 1, 2004. My understanding from Mr. Miller is that the utility companies are no longer performing any work on Mr. Miller's property. I believe that the utility companies are working outside of Mr. Miller's property to upgrade service capacity for other subdivisions and developments. Mr. Miller has no control over these activities.

Concerning utility companies and development permits, Mr. Miller was informed by two utilities that they routinely do not obtain development permits unless they are working within publicly owned right-of-ways. I personally checked with counsel and personnel at the PRC, and they did not know whether PRC preemption would apply. I also checked with local counsel for Qwest, and his only response was that this was an interesting question – thus the confusion. Nevertheless, Mr. Miller did apply for development permits and Land Use has refused to process them. Apparently, the "Miller: hold" sign in Land Use has been removed, so perhaps Mr. Miller's applications can now be reviewed and future problems avoided.

Thank you for your cooperation.

Sincerely,



Ronald J. VanAmberg

RJVA:ms

cc: Joe Miller ✓

S:\VanAmberg\Miller,joe\CORRESPO\Ross 07-02-04 ltr.doc

SFC CLERK RECORDED 09/14/2004

ROTH, VANAMBERG, ROGERS, ORTIZ & YEPA, LLP

ATTORNEYS AT LAW

F. JOEL ROTH (NM)
 RONALD J. VANAMBERG (NM)
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 RAYMOND Z. ORTIZ (NM,DC)
 DAVID R. YEPA (NM)
 DAVID T. GOMEZ (NM)
 STEPHANIE PHO-POE KIGER (NM)
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 FAX (505) 242-2253

247 EAST PALACE AVENUE
 SANTA FE, NEW MEXICO 87501

June 8, 2004

Stephen C. Ross, Esq.
 County Attorney
 Santa Fe County
 Post Office Box 276
 Santa Fe, NM 87504-0276

Re: Joe Miller

Dear Mr. Ross:

I have been placing calls to your office since last Wednesday, trying to discuss with you important issues relating to Joseph Miller, and have not had my calls returned.

As you know, Mr. Miller is the owner of Lot 8A, Eldorado Subdivision. He has been attempting to have utilities run to his property, being installed by various utility companies. Each of the utility companies states that it has never been obligated to obtain a development permit to extend utility lines unless it is involving a Santa Fe County road. This is appropriate because utility companies are regulated by the Public Regulation Commission, which controls and dictates the manner and method for utility installation. See also, City of Albuquerque, et al., v. New Mexico Public Regulation Commission, 134 N.M. 472. The pattern of Santa Fe County has been that utility installation has not been subjected to development permit requirements. Mr. Miller is clearly being singled out. When a development permit was requested, Mr. Miller was informed that staff was not available to meet any of his requests and that everything was to go through the County Attorney's office. As you know, I get no reaction from your office when I try to contact it.

Mr. Miller then applied for a road grading permit to maintain a road which is the legal, dedicated access to his property. He has a lawful right to maintain his access easement. When Mr. Miller's representative applied to Penny Ellis-Green for a permit to grade this access, Mr. Miller's representative was told that he needed to present a recorded plat. This is a requirement which I understand does not apply to anyone else other than Mr. Miller. Nevertheless, Mr. Miller's representative returned with a recorded plat showing the access easement. He was informed by Penny Ellis-Green that none of Mr. Miller's

Exhibit Z

SFC CLERK RECORDED 09/14/2004

Stephen C. Ross, Esq.
June 8, 2004
Page 2

applications were to be considered by staff, but would have to go through the County Attorney's office.

Again, I do not have access to the County Attorney's office.

On Friday, June 4, 2004, Commissioner Sullivan instructed Paul Kavanaugh to go to Mr. Miller's lot 8A property where the utility companies were in the process of installing utilities. Later, at the County offices, Commissioner Sullivan addressed staff about Mr. Miller's project and ordered that staff "stop this son of a bitch." Apparently, the Sheriff's Department was poised and ready to descend upon the project that afternoon. In order to avoid a confrontation, Mr. Miller informed the utility companies that they should stop their work.

The purpose of this letter is to make a statement for the record as to the events that have transpired. I understand now that, given the current course of events and the County's current treatment of Mr. Miller, the old days have never ended. If you wish to contact me and discuss this matter, I am more than happy to do so. However, given past events, I trust that negotiation is no longer an option.

Sincerely,


Ronald J. VanAmberg

RJVA:ms

cc: Joe Miller ✓

S:\VanAmberg\Miller,Joe\CORRESPO\Ross 06-07-04 ltr.doc

SFC CLERK RECORDED 09/14/2004

SFC CLERK RECORDED 09/14/2004

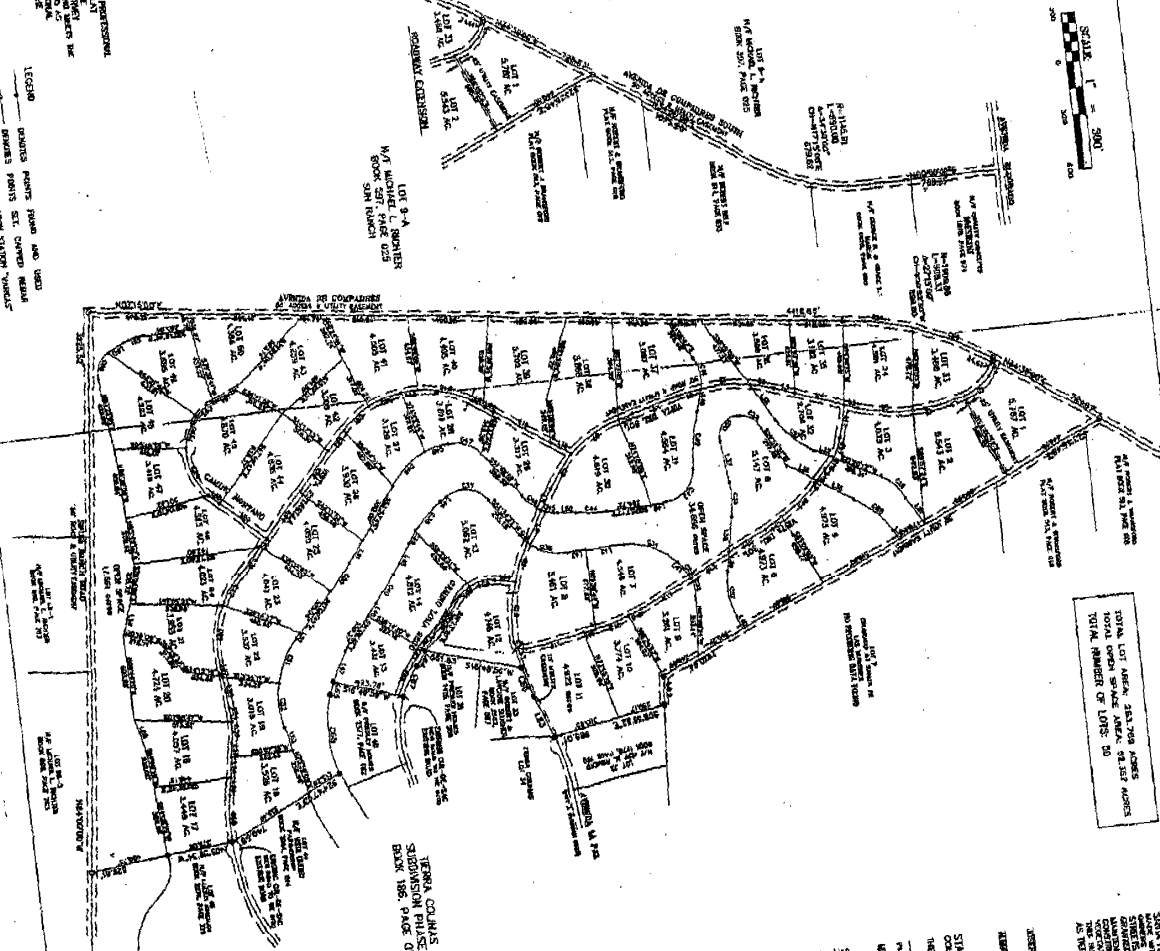


REFERENCE DOCUMENTS
 VICTORY MAP

SHOWN IS BASED ON THE FOLLOWING:
 1. THE RECORDS OF THE COUNTY ENGINEER, STATE OF NEW YORK, AND THE COUNTY ENGINEER, COUNTY OF SHERIDAN, NEW YORK, SHOWING THE LOCATION OF THE HIGHWAY AND THE LOCATION OF THE HIGHWAY RIGHT-OF-WAY.
 2. THE RECORDS OF THE COUNTY ENGINEER, COUNTY OF SHERIDAN, NEW YORK, SHOWING THE LOCATION OF THE HIGHWAY AND THE LOCATION OF THE HIGHWAY RIGHT-OF-WAY.
 3. THE RECORDS OF THE COUNTY ENGINEER, COUNTY OF SHERIDAN, NEW YORK, SHOWING THE LOCATION OF THE HIGHWAY AND THE LOCATION OF THE HIGHWAY RIGHT-OF-WAY.
 4. THE RECORDS OF THE COUNTY ENGINEER, COUNTY OF SHERIDAN, NEW YORK, SHOWING THE LOCATION OF THE HIGHWAY AND THE LOCATION OF THE HIGHWAY RIGHT-OF-WAY.

NOTES
 1. THE LOTS SHOWN ON THIS MAP ARE THE SAME AS SHOWN ON THE VICTORY MAP.
 2. THE LOTS SHOWN ON THIS MAP ARE THE SAME AS SHOWN ON THE VICTORY MAP.
 3. THE LOTS SHOWN ON THIS MAP ARE THE SAME AS SHOWN ON THE VICTORY MAP.
 4. THE LOTS SHOWN ON THIS MAP ARE THE SAME AS SHOWN ON THE VICTORY MAP.

QUALITY SIGNATURES
 DATE: _____
 NAME: _____
 TITLE: _____
 COUNTY ENGINEER



REASON FOR AND AFFIDAVIT
 I, the undersigned, being a duly qualified and sworn-in Surveyor for the State of New York, do hereby certify that the above described land is the same as shown on the attached map and that the same is the same as shown on the attached map and that the same is the same as shown on the attached map.

STATE OF NEW YORK
 COUNTY OF SHERIDAN
 PUBLIC OFFICE
 COUNTY ENGINEER

SHERIDAN COLLEGE 1 SUBDIVISION PLANS 1 BLOCK 156 PAGE 028
 I, the undersigned, being a duly qualified and sworn-in Surveyor for the State of New York, do hereby certify that the above described land is the same as shown on the attached map and that the same is the same as shown on the attached map and that the same is the same as shown on the attached map.

TERRA BELLO SUBDIVISION
 (FORMERLY SHERIDAN COLLEGE SUBDIVISION)
 EXHIBIT
 TOWNSHIP

STATE OF NEW YORK
 COUNTY OF SHERIDAN
 PUBLIC OFFICE
 COUNTY ENGINEER

(Handwritten initials)

FIRST JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF SANTA FE

First Judicial District Court

JUN 15 2004

No. D-0101-CV-2003 2094

Santa Fe, Rio Arriba &
Los Alamos Counties
PO Box 2268
Santa Fe, NM 87504-2268

MONTE ALTO HOMES AND LAND, INC.

Appellant,

v.

COUNTY OF SANTA FE,

Appellee.

ORDER ON APPEAL

This matter having come on before this Court upon the appeal of the Decision of the Santa Fe County Commission which declared that the Development Plan approval for Tract G, Eldorado, had expired, the Court having reviewed the record, the pleadings and having heard argument of counsel,

FINDS AND CONCLUDES AS FOLLOWS:

1. The Decision of the Santa Fe County Commission is not in accordance with law as there is no provision by ordinance or statute which results in the expiration of the Development Plan approval.

2. Additionally, Monte Alto had representations made to it by the County over time concerning the validity of the approval by the County and was entitled to rely upon these representations.

3. The Court cannot infer under which period of time the Development Plan would have expired.

SFC CLERK RECORDED 09/14/2004



4. The County is not in the position to prevent Monte Alto from proceeding with the Development Plan approval given to Tract G in 1984.


IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the Decision of the Board of County Commissioners of Santa Fe County be, and hereby is, reversed and that the 1984 Development Plan approval on Tract G at Eldorado be, and hereby is, confirmed to be in full force and effect.

JAMES A. HALL

JAMES A. HALL
District Judge, Division II

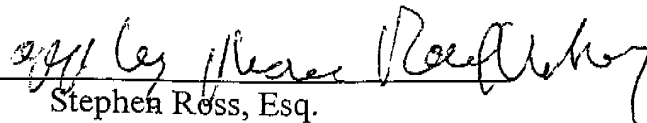
SUBMITTED:

ROTH, VANAMBERG, ROGERS,
ORTIZ & YEPA, LLP
Post Office Box 1447
Santa Fe, New Mexico 87504-1447
(505) 988-8979
(505) 983-7508 (Fax)

By: 
Ronald J. VanAmberg
ATTORNEYS FOR APPELLANT

APPROVED AS TO FORM:

COUNTY OF SANTA FE

By: 
Stephen Ross, Esq.
Sophia S. Collaros, Esq.
P. O. Box 276
Santa Fe, NM 87504-0276
(505) 986-6279

Harry B. Montoya
Commissioner, District 1

Paul Dwan
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3

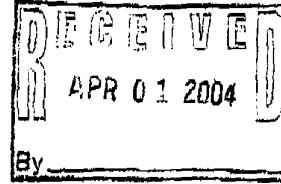


Paul Campos
Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Gerald T. E. Gonzales
County Manager

March 31, 2004



Joe Miller
P.O. Box H
Lamy, NM 87540

Danny Martinez
ADLR Land Use Planning Consultants
P.O. Box 24434
Santa Fe, NM 87502

Ron Van Amberg
347 East Palace Avenue
Santa Fe, NM 87501

Re: Tierra Bella Subdivision (formerly Tierra Colinas, formerly Sun Ranch East)

Gentlemen:

Thank you for the information you provided regarding the above referenced property. You asked whether the County would recognize the final plat approved in 1986 for the Tierra Colinas Subdivision. After researching our files we discovered that a decision has already been made regarding the status of the final plat. Enclosed is a copy of a letter dated January 21, 2000 from Assistant County Attorney Christopher Graeser to Stephen Gibbens and Joe Canepa. The County's position then was that the final plat approval was abandoned. Nothing in the information you provided changes that assessment, and the County reaffirms Mr. Graeser's opinion that the 1986 plat has expired. Review of the information you provided also shows that subsequent to the 1986 approval, in addition to a master plan (Sun Ranch East) being approved by the Board of County Commissioners on January 9, 1996, to increase the number of lots, a land division plat was applied for, approved, and recorded in 1988 creating two lots of record.

To summarize the letter of January 21, 2000, approval of a succeeding master plan extinguishes any prior land use or subdivision approvals for that property. Also, the conditions of approval for that May 1986 plat were never complied with. A specific condition of approval, requiring compliance before the plat could be recorded, required proof of adequate water supply and infrastructure.



SFC CLERK RECORDED 09/14/2004

March 31, 2004
Tierra Colinas Subdivision
Page two

1986?
No Hablone

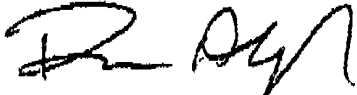
The proof was never supplied, most probably because even at the time El Dorado Utilities was experiencing significant water source problems. Accordingly, the 1986 final plat and development plan was never completed, thus there was never any actual approval, and there could be not vested rights.

Furthermore, it is unreasonable to expect Santa Fe County to allow the construction of a project that was granted approval almost 20 years ago. Since that time there has been a considerable amount of development in the El Dorado area and the water availability statement you submitted dated January 19, 2004 from the El Dorado Utilities does not meet the County Code 100-year water availability requirements. Since 1986, Santa Fe County and the Office of the State Engineer have determined that EDU is not able to provide water to any lot within its service area in excess of 0.25 acre ft. per year, for a 100-year period as required by the Code. This is true for all the properties that were included in the inventory that Santa Fe County and EDU used to track water commitments in the EDU franchise area in the 1990's. You provided a copy of this inventory and it includes Lot 8A.

You have the option of appealing this decision to the County Development Review Committee. Should you choose to do so, a written request must be submitted to this office within 5 working days.

If you have any questions, I can be reached at (505) 986-6218.

Sincerely,



Roman Abeyta
County Land Use Director

Enc: Letter Dated Jan. 21, 2002 from Santa Fe County

Cc: Steve Ross, County Attorney
Joe Catanach, Dev. Review Div. Director

SFC CLERK RECORDED 09/14/2004

JOSEPH F. MILLER
 JOSEPH F. & ALMA MILLER TRUST
 220 RIVERBANK RD.
 LAMY, NM 87640

13472

DATE: 09/28/04

PAY TO THE ORDER OF: El Dorado Utility \$ 44,169.42

STATE BANK

1070014620 3472 00361167X

100005500

3472

44,169.42

JOSEPH F. MILLER
 JOSEPH F. & ALMA MILLER TRUST
 220 RIVERBANK RD.
 LAMY, NM 87640

13540

DATE: 09/15/04

PAY TO THE ORDER OF: El Dorado Utility \$ 390,000.00

STATE BANK

1070014620 3540 00291047X

100073840

3540

390,000.00

SFC CLERK RECORDED 09/14/2004

EXHIBIT
A-A

JOSEPH F. MILLER
JOSEPH F. & ALMA MILLER TRUST
286 RIVERBANK RD.
LAMY, NM. 87540

95-145/1070
002341417

13613

DATE May 5, 04

PAY TO THE
ORDER OF

B.M.N.

\$ 153,582⁴²/₁₀₀

One Hundred Fifty Three Thousand Five Hundred Eighty Two DOLLARS

1ST
FIRST
STATE
BANK
www.fsbnm.com

MEMO

For + Alva for taxes + etc Joseph Miller

⑆107001452⑆ 3613 002341417⑈

SFC CLERK RECORDED 09/14/2004

EXHIBIT
B-B

Public Service Company Of New Mexico Cost Statement

CUSTOMER NAME: Joe Miller
 ADDRESS: TIERRA BELLO SUBDIVISION
 RESP. PERSON: FRANK ARAGON

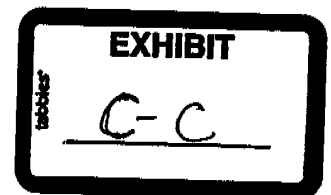
PASSPORT #: 73784 4
 LOC/PROJ/WO: 87577341034

DESCRIPTION: GAS - TIERRA BELLO SUBDIVISION

| | | | |
|---------------------------|--------------------|----------|-------------|
| LABOR | | | \$12,855.81 |
| MATERIAL | | | 27,036.15 |
| METERS | | | 0.00 |
| SERVICES | | | 0.00 |
| TRANSPORTATION | | | 4,663.54 |
| RIGHT OF WAY | | | 0.00 |
| CONTRACT WORK | | | 27,084.65 |
| OTHER | | | 82.50 |
| JOINT TRENCH | | (0.00) | |
| | TOTAL COST OF WORK | | \$71,722.65 |
| CUSTOMER CREDIT | | (0.00) | |
| LOT CREDIT | | (0.00) | |
| SALVAGE CREDIT | | (0.00) | |
| SYS IMPROVEMENT CREDIT | | (0.00) | |
| TRANSFORMER CREDIT | | (0.00) | |
| PROFIT MARGIN | (0.00 %) | | 0.00 |
| | | SUBTOTAL | \$71,722.65 |
| TAX | (0.0000 %) | | 0.00 |
| | | SUBTOTAL | \$71,722.65 |
| CUSTOMER TRENCH ALLOWANCE | | (0.00) | |
| | BILLABLE AMOUNT | | \$71,722.65 |

AUTHORIZED BY: _____

DATE: _____



4/22/2004

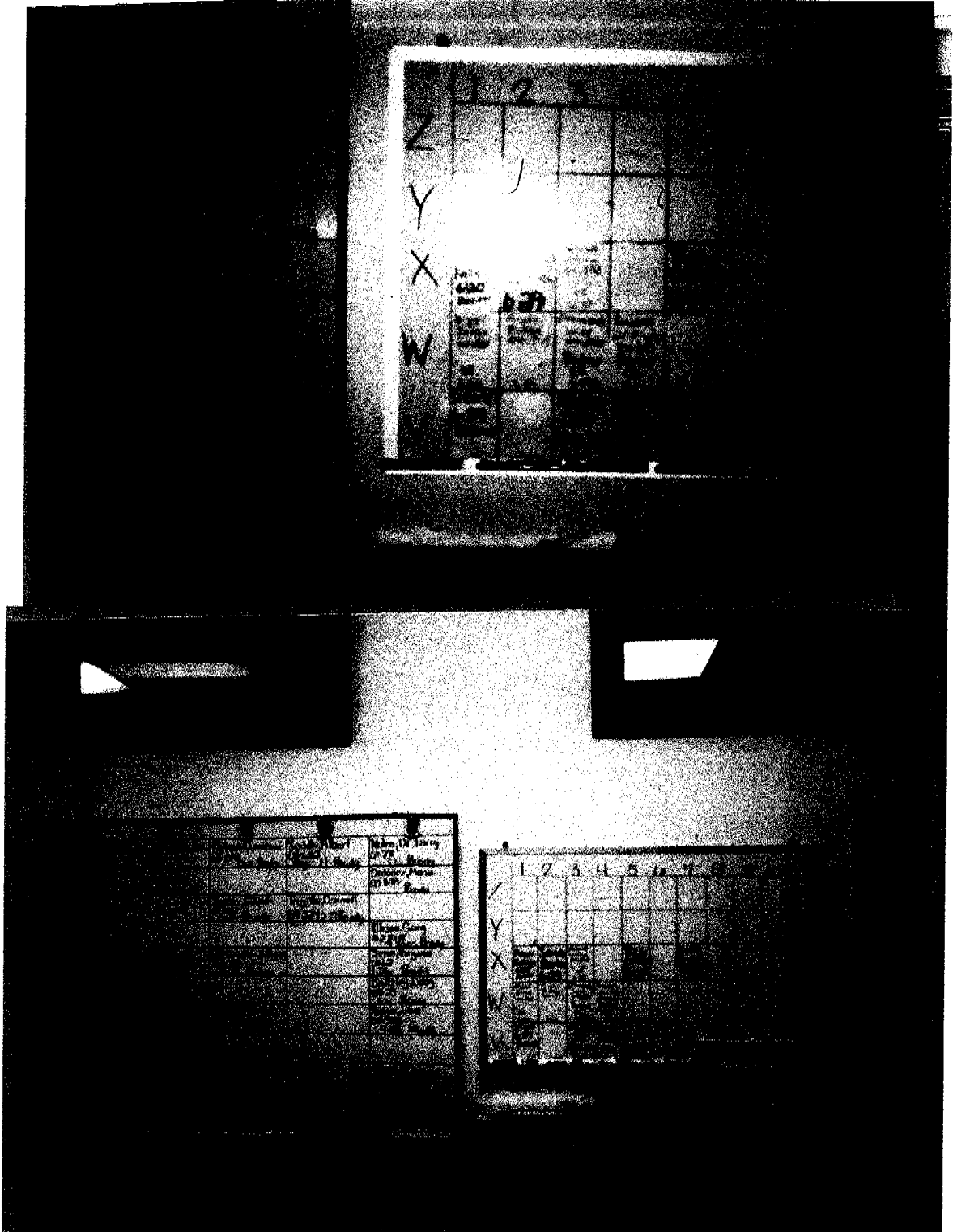
Confidential Information

SFC CLERK RECORDED 09/14/2004

SFC CLERK RECORDED 09/14/2004

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| 7 | 8 | 9 | 10 | 11 | 12 |

tabbles
EXHIBIT
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SFC CLERK RECORDED 09/14/2004

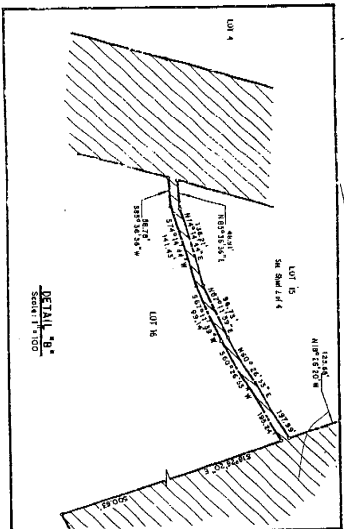


SFC CLERK RECORDED 09/14/2004

EXHIBIT
E-E



SFC CLERK RECORDED 09/14/2004



NOT A PART

LOT 4

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LOT 8

LOT 9

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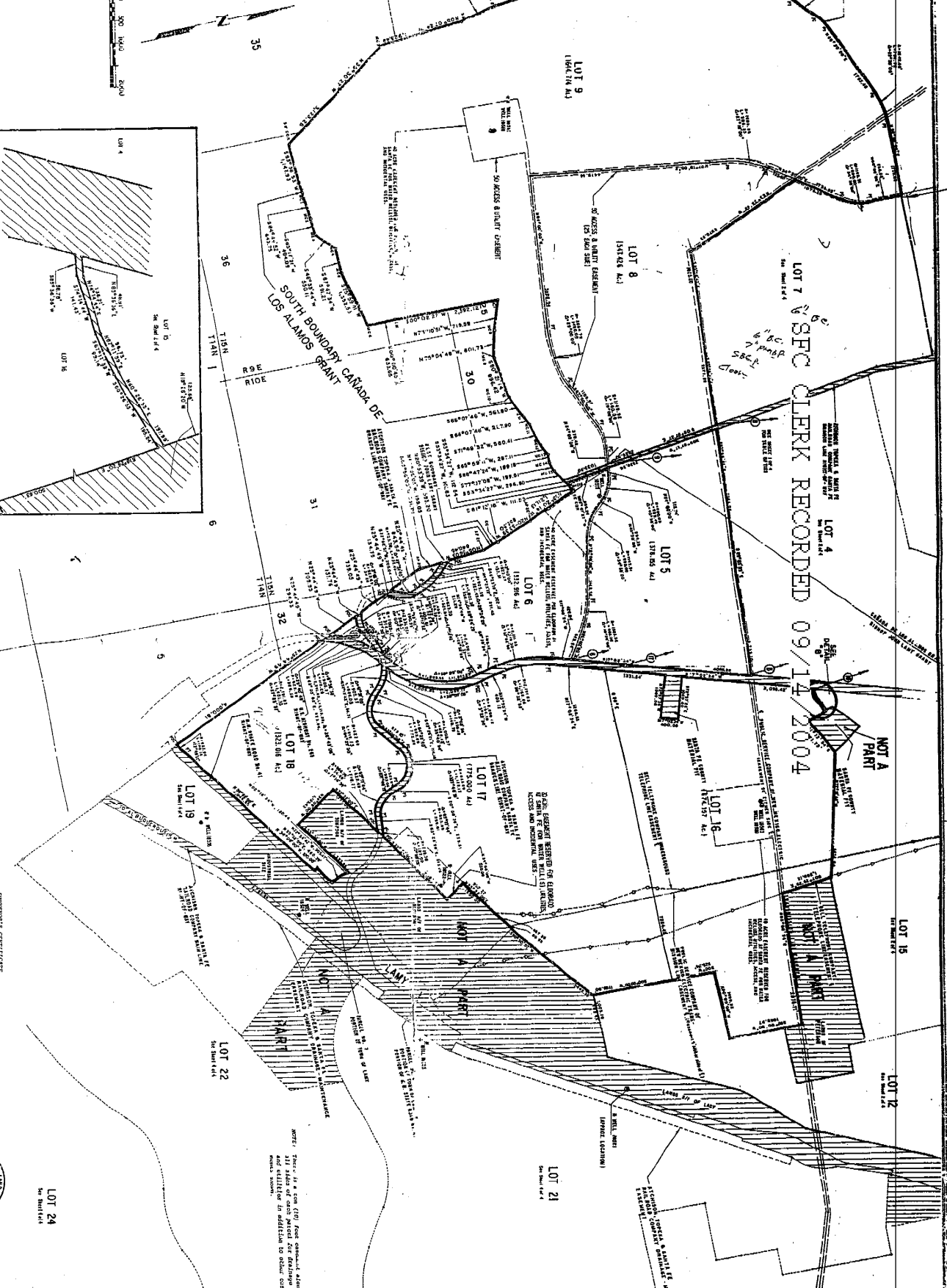
LOT 98

LOT 99

LOT 100



SHEET THREE OF FOUR



REGISTERED LAND SURVEYOR

STATE OF NEW MEXICO

CLIFF A. ROYER, M.L.S. No. 4172

NOT A PART

LOT 4

LOT 5

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EXHIBIT

17

SFC CLERK RECORDED 09/14/2004

JOE MILLER CHRONOLOGY

10/15/81 PLAT OF ACREAGE PARCELIZATION FILED

PLAT STATES "NOTICE: ALL FURTHER SUBDIVISIONS (DEVELOPMENT) OF PARCELS SHOWN HEREON MUST COMPLY WITH THE THEN CURRENT REGULATIONS AND ORDINANCES OF THE COUNTY OF SANTA FE"-PLAT SPECIFICALLY INCLUDES LOT 8 OF 547.4 ACRES
SEE PLAT

4/24/86 CDRC MEETING

4/25/86 LETTER FROM ERNEST MARTINEZ COUNTY LAND USE

ADMINISTRATOR RE: TIERRA DORADO, A 100 LOT SUBDIVISION WRITES APPROVAL "WITH THE FOLLOWING CONDITIONS:

- 1) POSITIVE COMMENTS FROM ALL STATE AGENCIES BE RECEIVED BY LAND USE OFFICE PRIOR TO FINAL PLAT REVIEW BY COMMISSIONERS
- 2) FIRE CHIEF RECOMMENDATIONS BE INCLUDED FOR FINAL REVIEW BY COMMISSIONERS
- 3) BUFFER STRIP OF 100 FEET
4. THE EASEMENT PROVIDING ACCESS TO SUBDIVISION BY IMPROVED TO COUNTY STANDARD A-4
- 5, COST OF INFRASTRUCTURE IMPROVEMENTS BY SUBMITTED PRIOR TO FINAL PLAT REVIEW BY COMMISSIONERS"

5/12/86 COUNTY COMMISSIONERS MEETING

MINUTES REFLECT: "AVERAGE LOT IS 5.47 ACRES. 121 ACRES WILL BE LEFT UNDISTURBED AND WILL BE UTILIZED AS COMMUNITY OPEN SPACE."

BCC APPROVED 100 LOT SUBDIVISION ON 547 ACRES KNOWN AS TIERRA COLINAS SUBDIVISION-FINAL SUBDIVISION PLAT APPROVAL

5/14/86 LETTER FROM ERNEST MARTINEZ, COUNTY LAND USE

ADMINISTRATOR RE: TIERRA COLINAS, A 100 LOT SUBDIVISION WRITES APPROVAL "WITH THE FOLLOWING CONDITIONS:

1. BUFFER STRIP OF 100 FEET
2. EASEMENT PROVIDING ACCESS TO SUBDIVISION BE IMPROVED TO MEET COUNTY ROAD STANDARDS FOR TYPE A-3 (32 FT. WIDE DRIVING SURFACE)
3. BOND OR LETTER OF CREDIT FOR IMPROVEMENTS PRIOR TO RECORDING OF FINAL PLAT
4. WATER EXTENSION BE APPROVED TO VERIFY WATER AVAILABILITY PRIOR TO FILING OF FINAL PLAT."

4/29/88 LAND DIVISION PLAT APPROVED BY BCC CREATING TWO LOTS OF RECORD.

DIVIDED LOT 8, A 547 ACRE PARCEL OWNED BY MICHAEL RICHTER AND PAT COUGHLIN INTO TWO PARCELS:

SFC CLERK RECORDED 09/14/2004

LOT 8B IS TIERRA COLINAS 283.6 ACRES-EASTERN PORTION
LOT 8A IS THE JOE MILLER LOT 263.7 ACRES-WESTERN PORTION
SEE PLAT

**11/16/95 APPLICATION FOR MASTER PLAN APPROVAL FOR SUN RANCH
EAST**
FOR LOT 8A:263.7 ACRES

1/9/96 BCC APPROVAL OF NEW MASTER PLAN

SANTA FE COUNTY COMMISSION APPROVES NEW MASTER PLAN (SUN
RANCH EAST) INCREASING THE NUMBER OF LOTS
BCC GRANTED MASTER PLAN APPROVAL FOR 98 LOTS ON 263 ACRES
SUBJECT TO FOLLOWING CONDITIONS:

“PRIOR TO PRELIMINARY DEVELOPMENT PLAN AND PLAT APPROVAL,
PROVIDE AN IMPACT STUDY TO DEMONSTRATE THAT THE CURRENT
WATER SYSTEM IS ADEQUATE”

ELDORADO UTILITIES “MUST DEMONSTRATE THAT ADEQUATE WATER
RESOURCES ARE AVAILABLE, SUBJECT TO REVIEW AND APPROVAL OF
THE COUNTY AND STATE ENGINEER’S OFFICE”

“THE APPLICANT SHALL PREPARE A DETAILED TRAFFIC REPORT FOR THE
SEGMENT IN THE GREATER ELDORADO AREA IN WHICH THE PROPOSED
DEVELOPMENT IS LOCATED...THE STUDY SHALL BE REASONABLE
SATISFACTORY TO THE COUNTY ENGINEER”

SEE PLAT

4/24/96 SFCC ORDINANCE 1996-4 ELDORADO WATER EMERGENCY

8/11/96 COUNTY LETTER TO MILLER’S PREDECESSOR IN INTEREST

PURSUANT TO SUBDIVISION REGULATION 3.3.5 “ALL FINAL PLATS SHALL
BE RECORDED WITHIN 18 MONTHS OF THE DATE OF FINAL APPROVAL BY
THE BBC OTHERWISE SUCH APPROVAL SHALL BECOME NULL AND VOID”

3/11/97 SFCC ORDINANCE 1997-5 MORATORIUM ON SUBDIVISIONS

3/31/98 SFCC ORDINANCE 1998-4 MORATORIUM ON SUBDIVISIONS

LETTER FROM ORALYNN GUERRERORTIZ TO ATTORNEY GENERAL UDALL
STATING “PROJECTS WHICH PROPOSE TO CONNECT TO EL DORADO
UTILITIES INC. ARE PROHIBITED UNTIL THE WATER COMPANY HAS
PROVEN A 100 YEAR WATER SUPPLY AND ADEQUATE FIRE PROTECTION.”

4/13/99 SFCC ORDINANCE 1999-4 MORATORIUM ON SUBDIVISIONS

1/21/00 CHRIS GRAESER ASSISTANT COUNTY ATTORNEY LETTER

“DUE IN PART TO FACTORS SURROUNDING PLANNING, LAND USE
CERTAINTY AND POTENTIAL DEVELOPMENT WITH INSUFFICIENT
INFRASTRUCTURE, IT IS THE LAND USE DEPARTMENT’S POSITION THAT

SFC CLERK RECORDED 09/14/2004

THE APPLICATION FOR, AND APPROVAL OF A SUCCEEDING MASTER PLAN EXTINGUISHES ANY PRIOR LAND USE OR SUBDIVISION APPROVALS FOR THAT PROPERTY.”

“THE CONDITIONS OF APPROVAL ON THAT (1986) PLAN WERE NEVER COMPLIED WITH. A SPECIFIC CONDITION OF APPROVAL, REQUIRING COMPLIANCE BEFORE THE PLAT COULD BE RECORDED, REQUIRED PROOF OF ADEQUATE WATER SUPPLY AND INFRASTRUCTURE. THAT PROOF WAS NEVER SUPPLIED.”

“THE 1986 FINAL DEVELOPMENT PLAN WAS NEVER COMPLETED, THUS THERE WAS NEVER ANY ACTUAL APPROVAL.”

“THE 1996 APPLICATION AND BCC APPROVAL (SUBJECT TO CONDITIONS) OF THE NEW MASTER PLAN EVIDENCED MR. GIBBEN’S ABANDONMENT OF THE 1986 PLAN.”

“BECAUSE THE CONDITIONS OF APPROVAL WERE NOT COMPLIED WITH, THERE HAS NEVER BEEN ACTUAL APPROVAL OF THE 1986 PLAN.”

“EVEN HAD THERE BEEN VESTED RIGHTS, THOSE RIGHTS WOULD HAVE BEEN ABANDONED BY THE APPLICATION AND BCC APPROVAL OF THE 1996 PLAN.”

3/14/00 SFCC ORDINANCE 2002-02 MORATORIUM ON SUBDIVISIONS

12/12/00 SFCC ORDINANCE 2000-14 MORATORIUM ON SUBDIVISIONS

3/13/01 SFCC ORDINANCE 2001-04 MORATORIUM ON SUBDIVISIONS

10/22/01 SFCC ORDINANCE 2001-14 MORATORIUM ON SUBDIVISIONS

5/13/03 DEED TO JOE MILLER OF PORTION OF LOT 8-A

DECLARATIONS OF RESTRICTIVE COVENANTS OF TIERRA BELLO

FILED BY JOE MILLER WITH COUNTY

6.14 “ACCESS TO LOTS. NO LOT MAY BE ACCESSED EXCEPT FROM ROADS WITHIN THE SUBDIVISION. NO LOT MAY BE ACCESSED FROM SPUR RANCH ROAD OR FROM AVENIDA DE COMPADRES.”

3/31/04 ROMAN ABEYTA LETTER TO JOE MILLER AND VANAMBERG

“YOU ASKED WHETHER THE COUNTY WOULD RECOGNIZE THE FINAL PLAT APPROVED IN 1986 FOR THE TIERRA COLINAS SUBDIVISION. WE DISCOVERED THAT A DECISION HAS ALREADY BEEN MADE REGARDING THE STATUS OF THE FINAL PLAT. ENCLOSED IS CHRIS GRAESER’S LETTER OF JANUARY 21, 2000. THE COUNTY’S POSITION THEN WAS THAT THE FINAL PLAT APPROVAL WAS ABANDONED.”

“A MASTER PLAN (SUN RANCH EAST) WAS APPROVED BY THE BOARD OF COUNTY COMMISSIONERS ON JANUARY 9, 1996 TO INCREASE THE NUMBER OF LOTS.”

SFC CLERK RECORDED 09/14/2004

"A LAND DIVISION PLAT WAS APPLIED FOR, APPROVED AND RECORDED IN 1988 CREATING TWO LOTS OF RECORD."

"APPROVAL OF A SUCCEEDING MASTER PLAN EXTINGUISHES ANY PRIOR LAND USE OR SUBDIVISION APPROVALS FOR THAT PROPERTY."

"A SPECIFIC CONDITION OF APPROVAL, REQUIRING COMPLIANCE BEFORE THE PLAT COULD BE RECORDED, REQUIRED PROOF OF ADEQUATE WATER SUPPLY AND INFRASTRUCTURE. THE PROOF WAS NEVER SUPPLIED."

"THE 1986 FINAL PLAT AND DEVELOPMENT PLAN WAS NEVER COMPLETED."

4/30/04 NOTICE OF VIOLATION

JOE MILLER IS CONSTRUCTING SUB-DIVISION WITHOUT PROPER PERMIT.

5/20/04 CDRD CASE #APP 04-5150 JOE MILLER APPEAL

CDRD AFFIRMS LAND USE ADMINISTRATOR'S DECISION REGARDING DENIAL OF 50 LOT SUBDIVISION

5/20/04 CHARLIE GONZALES LETTER TO JOE MILLER

"YOU WERE ISSUED A NOTICE OF VIOLATIONS

THE WATERLINE INSTALLATION, THE PROPOSED ROAD NETWORK HAS BEEN CLEARED AND GRUBBED

ALL PROPOSED IMPROVEMENTS ARE REQUIRED TO BE PERMITTED PRIOR TO CONSTRUCTION

TODAY STAFF CONDUCTED AN INSPECTION OF THE SITE AND CONFIRMED THAT A CONSTRUCTION CREW WAS INSTALLING FIRE HYDRANTS ALONG THE UNPERMITTED WATERLINE

THE PROPOSED DEVELOPMENT PERMIT YOU REQUESTED HAS BEEN PLACED ON HOLD UNTIL A DECISION IS MADE BY THE CDRC AND THE BCC ANY FUTURE CONSTRUCTION CONDUCTED WITHOUT THE PROPER DEVELOPMENT PERMIT WILL BE SUBJECT TO ADDITIONAL NOTICE OF VIOLATIONS INCLUDING FILING IN MAGISTRATE COURT"

47-6-19 NEW MEXICO STATUTES ANNOTATED

"ROADS WITHIN A SUBDIVISION SHALL BE CONSTRUCTED ONLY ON A SCHEDULE APPROVED BY THE BOARD OF COUNTY COMMISSIONERS. IT IS UNLAWFUL FOR THE SUBDIVIDER TO GRADE OR OTHERWISE COMMENCE CONSTRUCTION OF ROADS UNLESS THE CONSTRUCTION CONFORMS TO THE SCHEDULE OF ROAD DEVELOPMENT APPROVED BY THE BOARD OF COUNTY COMMISSIONERS."

6/3/04 JOE MILLER LETTER TO GERALD GONZALES

"I REQUESTED A PERMIT TO IMPROVE, GRADE AND RELOCATE COMPADRES ROAD SOUTH OF AVENUE EL DORADO"

"I AM EXPERIENCING THE RESULTS OF ORCHESTRATED CONSPIRACY DESIGNED TO VIOLATE MY CIVIL RIGHTS."

"THIS DISCRIMINATION WILL NOT BE TOLERATED."

SFC CLERK RECORDED 09/14/2004

6/4/04 FINAL NOTICE OF VIOLATION

JOE MILLER "IS CONSTRUCTING SUBDIVISION WITHOUT PROPER PERMIT, INCLUDING UTILITIES. ALL WORK MUST STOP ASAP."

6/7/04 CRIMINAL COMPLAINT AGAINST JOE MILLER FILED IN MAGISTRATE COURT

"MILLER IS CONSTRUCTING A SUB-DIVISION IN THE COUNTY WITHOUT PROPER PERMITS. THE DEFENDANT NEEDS TO STOP ALL WORK AND OBTAIN APPROVAL THROUGH THE BOARD OF COUNTY COMMISSIONERS."

6/28/04 VANAMBERG LETTER

"MR. MILLER DOES INTEND TO PAVE AVENIDA DE COMPADRES SOUTH TO HIS SUBDIVISION."

7/13/04 SF COUNTY COMMISSIONERS MEETING

LAW

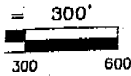
"BY ISSUING APPROVALS PREPARATORY TO A BUILDING PERMIT, THE GOVERNMENT MAKES NO REPRESENTATION THAT THE DEVELOPER WILL BE EXEMPT FROM CHANGING LAND-USE REGULATIONS; HE MUST COMPLY WITH THE ORDINANCES IN EFFECT AT THE TIME HE SECURES A BUILDING PERMIT."

IN THE MATTER OF THE SUBDIVISION APPLICATION OF SUNDANCE MOUNTAIN RANCHES 107 NM 192 (1988)

"WHERE A PARTY ASSUMES A CERTAIN POSITION...AND SUCCEEDS IN MAINTAINING THAT POSITION, HE MAY NOT THEREAFTER, SIMPLY BECAUSE HIS INTERESTS HAVE CHANGED, ASSUME A CONTRARY POSITION."

NEW HAMSHIRE V. MAINE, 532 U.S. 742,749 (2001)

SFC CLERK RECORDED 09/14/2004



SEE ROADWAY EXTENSION THIS SHEET

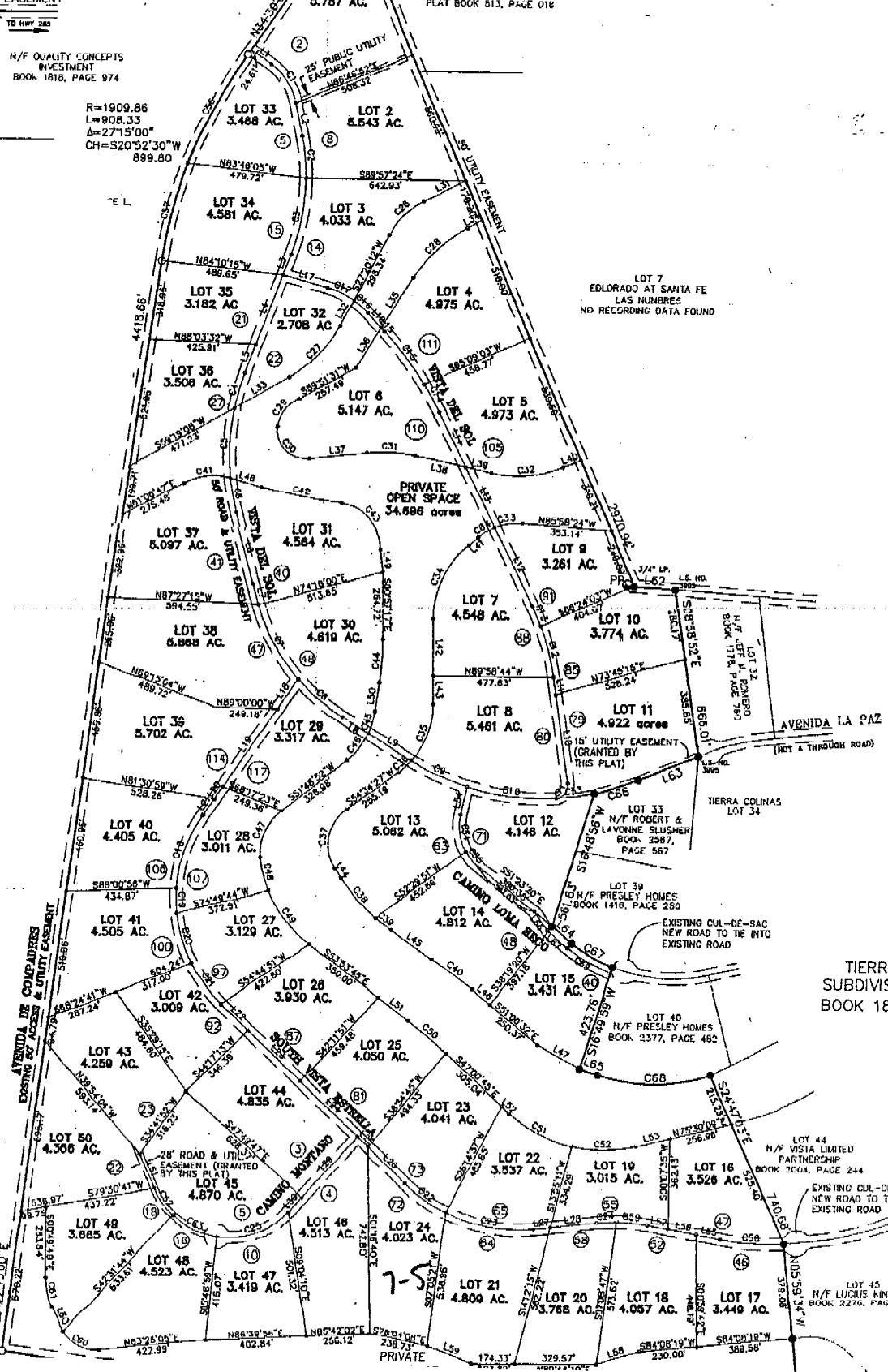
N/F ROBERT J. BRANSFORD
FLAT BOOK 513, PAGE 018

TOTAL LOT AREA: 263.769 ACRES
 TOTAL OPEN SPACE AREA: 52.357 ACRES
 TOTAL NUMBER OF LOTS: 50
 TOTAL ROADWAY AREA (INTERIOR ONLY):

AVENIDA ELDORADO
ROAD & UTILITY EASEMENT

N/F QUALITY CONCEPTS
INVESTMENT
BOOK 1818, PAGE 974

R=1909.86
L=908.33
Δ=27°15'00"
CH=S20°52'30"W
899.80



LOT 7
EDLORADO AT SANTA FE
LAS NUMBRES
NO RECORDING DATA FOUND

TERRA COLINAS
SUBDIVISION
BOOK 186,

SFC CLERK RECORDED 09/14/2004

EXHIBIT
B

7-5

SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

Bennie J. Chavez
DISTRICT NO. 1

Patricio C. Larragoite
DISTRICT NO. 2

Jerome D. Block
DISTRICT NO. 3

Nancy E. Rodriguez
COUNTY MANAGER

April 25, 1986

Santa Fe Planning
PO Box 1072
Santa Fe, NM 98501

Re: Case #SUB 1986-6. Request preliminary and final plat approval of a 100 lot subdivision known as Tierra Dorado, located 1.3 miles west of U.S. Highway 286.

To whom it may concern:

The County Development Review Committee at its regularly scheduled meeting of April 24, 1986, met and acted upon the above referenced case.

The decision of the Committee was to approve your request with the following conditions:

1. That positive comments from all State Agencies be received by the Land Use Office prior to final plat review by the Board of County Commissioners.
2. That Fire Chief recommendations be included in submittals for final plat review by the Board of County Commissioners.
3. That a buffer strip of at least 100 ft. in depth be provided for the lots adjacent to A.T. & S.F. railroad right-of-way.
4. That the easement providing access to the subdivision be improved to county standard A-4.
5. That an estimated cost of infrastructure improvements be submitted prior to final plat review by the Board of County Commissioners.

EXHIBIT
A

SFC CLERK RECORDED 09/14/2004

Santa Fe Planning
April 25, 1985
Page two

If you have any questions regarding this matter, please do not
hesitate to contact this office.

Sincerely,



ERNEST L. MARTINEZ
Land Use Administrator

ELM:mlj

SFC CLERK RECORDED 09/14/2004

556941

Regular Meeting
Board of County Commission
May 12, 1986
Page 14

- c. Request approval of Transfer of ownership of Liquor License D236 from Robert De Vargas to Alicia Matzinger. This item was presented by Ernest Martinez. Land Use Staff has reviewed the case from a land use concern and there is no proposed expansion of the project. Commissioner Chavez moved for approval. Commissioner Block seconded. Motion passed.
- d. Request approval of County-City Ordinance #1986-5 Extension of Regional Water Service area Boundary-La Mariposa Subdivision. Request made by Tierra Engineering, Inc., for Storhard Partnership, Limited. Discussion ensued. Approval Ordinance #1986-5 was made by Commissioner Chavez. Commissioner Block seconded.

ROLL CALL VOTE:

| | | |
|------------------------------|---|-----|
| Chairman Patricio Larragoite | - | Yes |
| Commissioner Bennie Chavez | - | Yes |
| Commissioner Jerome Block | - | Yes |

Motion passed.

- e. Final Plat Approval of 100 lot - Tierra Colinas. Mr. Martinez stated is a 100 lot single family subdivision proposed which is located in Canada de Los Alamos Grant. Average lot proposed is 5.47 acres with 7.445 acres being the largest lot. 121 acres will be left undisturbed and will be utilized as a Community Open Space. Will be designated as not to be subdivided and will be maintained by the Homeowner's Association. It is recommended by the County Development Committee that the Board of County Commission grant final plat approval and recommends imposing the following two conditions:
 - 1) That a buffer strip of at least 100 feet in depth be provided for the lots adjacent to the Atchikon Topeka Santa Fe railroad right of way.

SFC CLERK RECORDED 09/14/2004

556942

Regular Meeting
Board of County Commission
May 12, 1986
Page 15

- 2) That the easement providing access to the subdivision be improved to meet county road standards for Type A-3 construction. This is a 32 foot wide driving surfaces. In addition, to these conditions, staff asks that the Board consider placing the third condition which is not included in the County Development Review Committee recommendation. Condition J would read that a bond or letter of credit for the various types of improvement be submitted to the Land use office to reflect the estimated improvement costs prior to recording of final plat.

David Schutz representing applicant-Tierra Colinas had no statement. Charles Kagerman Geologist stated the importance of water availability in Eldorado.

In re-memorandum dated 4/10/78 State Engineer's Office which was head of water rights division from Peter White, Chief Counsel. The memo states that the water that Eldorado had was called "inchoate rights". Commissioner Block moved to approve final plat contingent on all recommendations by staff and all requirements including water extension approved by proper agencies. Commissioner Chavez seconded. Motion passed.

- 13. MATTERS FROM COUNTY MANAGER. None
- 14. MATTERS FROM COUNTY ATTORNEY

Involving Land Use department in a court settlement in appeal to the District Court. This has been pending since 1983. Proposed Settlement Agreement which is subject to the Board's (Board of County Commission) approval. Mr. Earl Potter represents Plaintiff. Lot 13, Kaplan Subdivision is the concern. East of race track. In 1983, the applicants requested a mobile home use. Phase I, 4 units, Phase II, 5 units.

SFC CLERK RECORDED 09/14/2004

SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

Bennie J. Chavez
DISTRICT NO. 1

Patricio C. Larragoite
DISTRICT NO. 2

Jerome D. Block
DISTRICT NO. 3

Nancy E. Rodriguez
COUNTY MANAGER

May 14, 1986

Mr. David Schutz
Santa Fe Planning & Associates
PO Box 1072
Santa Fe, NM 87504

Re: Request final plat approval of a 100 lot residential
subdivision known as Tierra Colinas.

Dear Mr. Schutz:

The Board of County Commissioners at their regularly scheduled
meeting of May 12, 1986, met and acted upon the above
referenced case.

The decision of the Commissioners was to approve your request
with the following conditions:

- 1) That a buffer strip of at least 100 feet in depth be
provided for the lots adjacent to the A.T. & S.F. Railroad
right-of-way.
- 2) That the easement providing access to the subdivisi
be improved to meet county road standards for type A-3
construction (32 ft. wide driving surface).
- 3) That a bond or letter of credit for the various typ
of improvements, be submitted to the Land Use office to refl
the estimated improvement costs, prior to recording of final
plat.
- 4) That the water extension be approved by appropriat
agencies to verify water availability prior to filing of fi
plat.

SFC CLERK RECORDED

09/14/2004



TUN-11-2004

JUN-11-2004 13:50

Santa Fe, New Mexico 87504-0276
96%

(505) 984-502
P.07

96%

P.08

7

F. A. B. T.

RECEIVED
NO 116 1995

SANTA FE COUNTY DEVELOPMENT PERMIT APPLICATION - 1995

CONTROL # _____ APPLICATION DATE 10/95

APPLICANT INFORMATION

OWNER NAME: Gibbons, Steve and Miziker, Ron
(LAST) (FIRST) (MIDDLE)

MAILING ADDRESS: P.O. Box 1066 Solana Beach CA
STREET OR P.O. NUMBER CITY STATE ZIP

HOME PHONE () _____ WORK PHONE (619) 481-2514

AGENT / CONTRACTOR NAME: Tom Wilson & Associates

AGENT / CONTRACTOR ADDRESS: 144 Verano Loop, Santa Fe, NM 87505
STREET OR P.O. NUMBER CITY STATE

HOME PHONE () _____ WORK PHONE (505) 466-2856

PROJECT INFORMATION

DESCRIPTION: Request for Master Plan approval for Sun Ranch East Project

TOTAL ROOFED AREA TO BE CONSTRUCTED: _____ Sq. Ft. BUILDING MATERIAL: _____

PROJECT VALUATION (from appraisal): \$ _____ # EXISTING LOTS: _____ EXISTING STRUCTURES: _____

TOTAL EXISTING BLDG. SQ. FT.: _____ EXISTING USE: _____

NUMBER PROPOSED LOTS: _____ NUMBER PROPOSED STRUCTURES: _____

PROPERTY INFORMATION

NAME OF PREVIOUS OWNER: John Bowler

PREVIOUS DEED RECORDED AS - Deed Book 186 Page: 029 Reception # 648, 148

COUNTY RURAL ADDRESS NE corner of Spur Ranch Road and Avenida de Compadres, Eldorado at Santa Fe
This address is available from the Santa Fe County Rural Addressing Dept 986-6330

LEGAL DESCRIPTION - Twnshp: 15 N Range: 9 E Sectio: _____ Lamy Grant

PARCEL ACREAGE: 263.750 Lot 8-A Being a replat of Lot 8 - Eldorado at Santa Fe

Subdivision: Eldorado at Santa Fe Grant/Claim Bishop John Lamy Grant

01 02 03 UNIT: _____ TRACT: _____ QLot: _____ Block: _____

PROJECT TYPE: Residential, single family

Signed _____ Reviewed by Landuse Staff _____

COUNTY ASSESSOR CERTIFICATION

LOCATION ID: 129002932

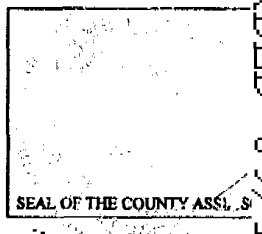
UPC: 1-059-086-300-980

HENCEFORTH, LAND WILL CONTINUE TO BE ASSESSED UNDER THE ABOVE LOCATION ID WITH ADDITIONAL/NEW LOCATION ID NUMBERS IF/AS NEEDED.

ASSESSED PRIOR TO 19 95

CERTIFIED THIS 16 DAY OF November, 19 95

[Signature]
ASSESSOR ASSIGNED REPRESENTATIVE

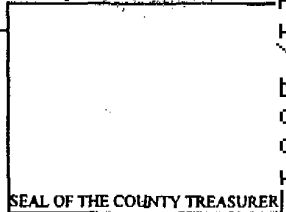


COUNTY TREASURER CERTIFICATION

TAXES PAID TO DATE: _____

TAXES NOT PAID FOR: _____ AMOUNT DUE: \$ _____

DATE: _____



All of the above information is true and accurate to the best of my knowledge

Applicant signature: Tom Wilson Date: 10/30/95

REC CLERK RECORDED 09/14/2004

School.

1. Applicant record master plan in County Clerk's Office.
2. Applicant provide signage plan.
3. An engineered fire protection plan must be approved by the County Fire Marshal prior to the applicant submitting for preliminary development plan approval.
4. Is basically a part of the County Fire Marshall's concerns which are attached.
5. The fire access road needs to be within 150 feet of the furthest portion of any structure.
6. The applicant be required to perform a geohydrologic study showing sufficient water availability to support the water rights adjudicated by the State Engineer's Office.

COMMISSIONER GONZALES: Any questions of staff? Thank you, Rudy.
The applicant please.

[Ms. Griscom's testimony was not picked up by the audio system and is summarized below from the reporter's notes.]

Duly sworn, the applicant, Ms. Chris Griscom, stated that they were in full agreement with all conditions and working with staff. She stated that she met with the community of Galisteo regarding this request.

As a 26 year resident of Galisteo, Ms. Griscom stated that she has always been involved in education. The idea of her school is to promote a world consciousness so children are prepared to interact with the world.

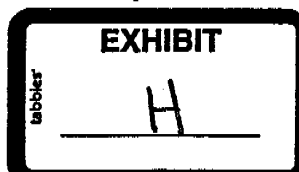
There was no one wishing to speak in favor of or opposition to this request.

Upon motion by Commissioner Rodriguez and second by Commissioner Trujillo CDRC Case #ELNC 1995-2 was approved by unanimous voice vote.

9. CDRC Case #MP SUB 1994-6a. Sun Ranch East Subdivision. Tom Wilson, agent, requests master plan approval of a 98 lot residential subdivision on 263.00 acres +/- . The property is located in the Eldorado areas within the Cañada de los Alamos Grant Township 15 North, Range 10 East.

MR. GARCIA: Mr. Chairman and commissioners, on December 15, 1995 the CDRC granted master plan approval of the Sun Ranch Subdivision which consisted of a 597 residential lot subdivision broken down as follows: Sun Ranch West, 331 lots; Sun Ranch East, 82 lots and; Sun Ranch Highlands, 184 lots.

On December 15, 1995 the CDRC granted master plan approval of the Sun Ranch

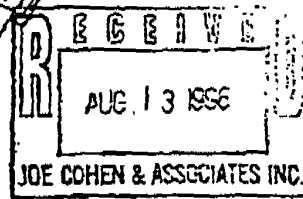


5757-5 SHC CLERK RECORDED 09/14/2004

Marcos Z. Trajillo
Commissioner, District 1

Nancy Rodriguez
Commissioner, District 2

Javier M. Cortez
Commissioner, District 3



P. 11
Richard L. Araya
Commissioner, District 4

Betty Flats
Commissioner, District 5

Domingo Sanchez, III
County Manager

August 11, 1996

Joe Cohen and Associates, Inc.
224 Otero Street
Santa Fe, NM 87591

Attn: Joe Cohen, President

Dear Mr. Cohen:

With regards to your letter of August 1, 1996, please refer to the EZ Subdivision Regulations page 26, Section 3.3.5 - "All final plats shall be recorded within 18 months of the date of final approval by the BCC; otherwise such approval shall become null and void unless an extension of time is applied for in writing by the subdivider and granted by the Board for good cause shown."

For subdivisions located outside of the 5-mile EZ approved prior to July 1, 1996, there is no filing deadline. Projects which receive final approval after this date must be filed within 24 months.

If you have any questions, please contact me at 986-6223.

Sincerely,

Orallynn Guerrerortiz, P.E.
Development Review Division Director



SFC CLERK RECORDED 09/14/2004

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Commissioner, District 4

Joe S. Grifé, Jr.
Commissioner, District 5

Domingo Sánchez III
County Manager

Mr. Tom Udall
Attorney Generals Office
P.O. Drawer 1508
Santa Fe, New Mexico 87501

Dear Mr Udall,

On March 31, 1998, the Santa Fe County Board of County Commissioners adopted the following ordinance: **Ordinance 1998 - 4 "An Ordinance Amending and Replacing Ordinance 1997-5 and Declaring a Moratorium on New Subdivisions Serviced by El Dorado Utilities Inc. and Encouraging Conservation Measures Within the El Dorado Service Area"**.

The ordinance requires that all master plans, land divisions and subdivisions meet all fire protection and water supply requirements of the County Land Development Code and Fire Code. Projects which propose to connect to El Dorado Utilities Inc. are prohibited until the water company has a proven 100-year water supply and adequate fire protection. Subdivisions and land divisions which can prove adequate groundwater available per Land Development Code requirements are permitted with a minimum lot size of 12.5 acres.

This ordinance shall be in effect until April 1, 1999.

A copy of this ordinance is attached.

Sincerely,

Oralynn Guerrerortiz, P.E.
Development Review Division Director

cc: Vincent "Corky" Ojinaga, Land Use Administrator

SFC CLERK RECORDED 09/14/2004

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Richard D. Anaya
Commissioner, District 4

Joe S. Grãe, Jr.
Commissioner, District 5

Samuel O. Montoya
County Manager

Stephen Gibbens
4715 Aragon Drive
Carpinteria, CA 93013

January 21, 2000

Joe Canepa
Canepa, Vidal, Ahern & Hyatt
PO Box 8980
Santa Fe, NM 87504-8980

Re: Sunranch Master Plan

I am sending this letter to both Mr. Gibbens and Mr. Canepa, as it is in response to Mr. Canepa's 1997 letter and Mr. Gibbens' letter of last month. Once again, I apologize for the delay in answering your query; I understand that Steve Kopelman had communicated orally with Mr. Canepa regarding the issue, but I do not know what the substance of those communications were.

Unfortunately, I must inform you that the County will not recognize the 1986 preliminary and final development plan for the referenced property. Although I have read Mr. Canepa's legal argument, and I understand it, the County does not agree with that position. The Land Use Department has significant concerns about allowing a situation in which a property can have two or more alternative, exercisable development plans. Due in part to factors surrounding planning, land use certainty and potential development with insufficient infrastructure, it is the Land Use Department's position that the application for, and approval of a succeeding master plan extinguishes any prior land use or subdivision approvals for that property.

Mr. Gibbens does not have any vested rights in the 1986 plan. In his letter, Mr. Canepa cited *Brazos Land, Inc. v. Board of County Commissioners of Rio Arriba County* for the proposition that vested rights to development arise from the approval of a final development plan. That case adhered to the rule that "There are two prongs that must be met for a vested right to exist. First there must be approval by the regulatory body, and second, there must be a substantial change in position in reliance thereon." According to *McQuillen's Municipal Corporations* the type of reliance envisioned is "substantial" and includes investment of capital, purchase of equipment, employment of workers, letting of contracts and commencement of building. Conversely, where the reliance has been "minor, minimal or relatively insignificant" there are no vested rights. In the present case, there was no contracting, building, or other substantial reliance.

Moreover, the conditions of approval on that plan were never complied with. A specific condition of approval, requiring compliance before the plat could be recorded, required proof of adequate water supply and infrastructure. That proof was never supplied, most probably because even at that time El Dorado Utilities was experiencing significant water source problems.

SFC CLERK RECORDED 09/14/2004



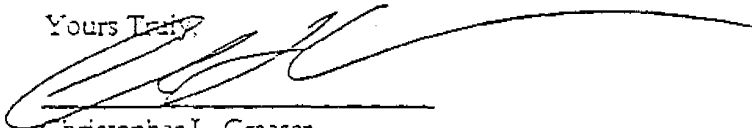
Accordingly, the 1986 final development plan was never completed, thus there was never any actual approval, and there could be no vested rights.

Going beyond the lack of vested rights, the 1996 application and BCC approval (subject to conditions) of the new master plan evidenced Mr. Gibbens' abandonment of the 1986 plan. Mr. Canepa cites *Posey v. Dove* for the proposition that where the alleged abandonment is done by an act, that act must "unequivocally indicate such an intention." Moving forward with plans for a new, larger, different subdivision when only one subdivision can exist on the same property clearly indicates an intent to abandon the former plan.

In short, because the conditions of approval were not complied with, there has never been actual approval of the 1986 plan, and the lack of actual approval, coupled with the lack of substantial reliance shows that there are no vested rights in that plan. Finally, even had there been vested rights, those rights would have been abandoned by the application and BCC approval of the 1996 plan.

I apologize for any inconvenience this causes you, and I understand that this is not the answer you had hoped for. Further, as I am sure you realize, you will be unable to proceed with development until the Eldorado moratorium is lifted. Please do not hesitate to contact me if I can be of further assistance.

Yours Truly,



Christopher L. Graeser
Assistant County Attorney

- cc: Estevan Lopez, Land Use Administrator
- Diana Lucero, Deputy Land Use Administrator
- Oralynn Guerrerortiz, Development Review Director

SFC CLERK RECORDED 09/14/2004

7-10



WARRANTY DEED

2522652

BUENA VISTA, LTD.

for consideration paid, grant(s) to

JOSEPH F. MILLER AND ALMA M. MILLER, Trustees of the Joseph F. Miller and Alma M. Miller Revocable Trust

whose address is: , ,

the following described real estate in Santa Fe County, New Mexico:

The north portion of Lot 8-A of land, lying and being situate within Lot 8-A of Eldorado at Santa Fe, a portion of Canada de Los Alamos Grant, T. 15 N., R. 9 E., N.M.P.M., County of Santa Fe, State of New Mexico, more particularly described as follows, to wit:

Commencing at a U.S.C. & G.S. Triangulation Station "VARGAS" a computed tie of S. 13° 54' 01" W., a distance of 26,304.25 feet to the true point and place of beginning of the lot herein being described; thence S. 09° 00' 17" E., a distance of 666.18 feet; thence S. 67° 37' 12" W., a distance of 252.16 feet; thence along a curve to the right having a radius of 1022.04 feet, central angle of 10° 08' 45", curve length of 180.98 feet, Chord bearing of S. 72° 41' 35" W., Chord distance of feet; thence S. 16° 51' 18" W., a distance of 561.71 feet; thence S. 23' 20" E., a distance of 101.43 feet; thence along a curve to the left having a radius of 634.19 feet, central angle of 17° 13' 49", curve length of 190.72 feet, Chord bearing of S. 60° 00' 13" W., Chord distance of 190.00 feet; thence S. 16° 49' 19" W., a distance of 423.87 feet; thence along a curve to the right having a radius of 562.35 feet, central angle of 20° 09' 59", curve length of 197.93 feet, Chord bearing of N. 61° 05' 32" W., Chord distance of 196.91 feet; thence N. 51° 00' 32" W., a distance of 340.37 feet; thence along a curve to the left having a radius of 2160.11 feet, central angle of 05° 18' 04", curve length of 199.86 feet, Chord bearing of N. 53° 39' 33" W., Chord distance of 199.79 feet; thence N. 56° 18' 36" W., a distance of 200.69 feet; thence along a curve to right having a radius of 735.45 feet, central angle of 23° 03' 20", curve length of 295.94 feet, Chord bearing of N. 44° 56" W., Chord distance of 293.95 feet; thence N. 33° 15' 16" W., a distance of 44.73 feet; thence along a curve to right having a radius of 176.57 feet, central angle of 51° 09' 43", curve length of 157.67 feet, Chord bearing of N. 07° 24" W., Chord distance of 152.48 feet; thence N. 68° 20' 55" W., a distance of 211.32 feet; thence N. 68° 17' 23" W., distance of 248.83 feet; thence N. 34° 15' 29" E., a distance of 371.06 feet; thence N. 89° 00' 00" W., a distance of 249 feet; thence N. 69° 20' 12" W., a distance of 489.33 feet; thence N. 07° 15' 00" E., a distance of 1628.70 feet; thence along a curve to the right having a radius of 1909.86 feet, central angle of 27° 15' 00", curve length of 908.33 feet, Chord bearing of N. 20° 52' 30" E., Chord distance of 899.80 feet; thence N. 34° 30' 00" E., a distance of 723.65 feet; thence S. 23° 36' 48" E., a distance of 2970.93 feet; thence S. 85° 58' 42" E., a distance of 160.00 feet to the true point and place of beginning.

Subject to: Reservations, restrictions, easements of record and taxes for the year 2003 and subsequent years.

with warranty covenants.

Executed this _____ day of _____, 200_.

X BUENA VISTA, LTD.

1205-298
COUNTY OF SANTA FE } ss
STATE OF NEW MEXICO }
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE 12 DAY OF MARCH A.D.
20 03 16:08 CLOCK P.M.
AND WAS DULY RECORDED IN BOOK 522
PAGE 051-052 OF THE RECORDS OF
SANTA FE COUNTY
WITNESS MY HAND AND SEAL OF OFFICE
REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.
[Signature] DEPUTY



ACKNOWLEDGEMENT

X STATE OF _____ }
COUNTY OF _____ } ss.

The foregoing instrument was acknowledged before me on this by BUENA VISTA, LTD..

X _____
Notary Public

SFC CLERK RECORDED 09/14/2004

15

**DECLARATION OF RESTRICTIVE COVENANTS
TIERRA BELLO**

KNOW ALL PERSONS BY THESE PRESENTS:

ARTICLE 1 DECLARATION

The undersigned, Joseph A. Miller and Alma M. Miller, the owners of real property now duly platted as Tierra Bello as shown by a plat thereof files in the office of the County Clerk of Santa Fe County, New Mexico on the ____ day of _____, 2004, in Plat Book _____, Page(s) _____ under Reception No. _____, _____: HEREBY MAKE THE FOLLOWING DECLARATION as limitations, restrictions and use to which the lots or tracts constituting said subdivision may be put. HEREBY SPECIFYING that said declaration shall be constitute covenants to run with all the land, as provided by law, and shall be binding to all parties and all persons claiming under them and for the benefit of and said limitations upon all future homeowners in said subdivision, thus keeping said Subdivision desirable, uniform and suitable in architectural design and use as herein specified, whether or not that same are embodied in the covenants or other instrument affecting any portion of Lot 8A, Eldorado at Santa Fe. This declaration of restriction is intended to protect the visual and environmental integrity; the value and desirability of the subject property.

NOW THEREFORE that the subject property being Lot 8A, Eldorado at Santa Fe and zoned residential use is hereby subject to the restrictions herein set forth below.

ARTICLE 2: DEFINITIONS

- 2.01 "Lot" shall mean each and every lot sold or held for sale in the subject property. "Lot" means tract.
- 2.02 "The Subdivision" Tierra Bello refers to any lands lying within Lot 8A, Eldorado at Santa Fe, approved by the County Commissioners in year 19__ and described on Plat of Survey dated _____ and filed _____ Book _____, Page _____.

ADLR Landuse Planning, P.O. Box 24434, Santa Fe, NM 87502
Phone: (505) 982-8442 Fax: (505) 455-0097

6.11 Nuisance- No noxious or offensive activity can be carried on any lot, nor shall anything be done thereon which may become an annoyance or nuisance to the owners or renters in the subdivision. This provision shall be liberally construed to include activities which are offensive to reasonable persons such as disposal or retention of junk vehicles, carrying on loud activities. Nor the conduct of any activities, which produce interferences to ordinary TV reception such as improperly tuned HAM or CB reception transmission stations, etc. Any activations that interfere with the peace and tranquility of the residence of Tierra Bello shall be prohibited.

6.12 Other uses- No uses inconsistent with the residential character of the Subdivision shall occur, as determined by the Committee.

6.13 Subdivision of lots. No lot shall be subdivided as to create an additional lot.

6.14 Access to lots. No lot may be accessed except from roads within the subdivision. No lot may be accessed from Spur Ranch Road or from Avenida de Compadres.

6.15 Waivers- Any prohibition may be waiver by the Committee when the proposed waiver is not inconsistent with the purpose and intent of these covenants.

ARTICLE 7: CONSTRUCTION

7.01 Approval- Architectural Committee must approval all plans prior to the construction, exterior modification or addition to any structure on any lot in Tierra Bello. The Architectural Committee shall render its decision relating to the proposed construction within 15 days following submission of plans and specifications. If no decision is forth coming within this time the plans and specifications shall be deemed to have been approved.

7.02 Standards- The type of construction and architecture shall be based upon, but not strictly adhere to Santa Fe style, Territorial style, Traditional Pueblo style moderate modifications of the foregoing styles in reasonable innovative and creative ways is permitted. The use of construction materials having the appearance of local, indigenous and traditional building materials may be used where their use will not be visually offensive is at the sole discretion of the Architectural Control Committee. The only requirement of the decision to approve modifications in the standard is that the committee shall act in good faith for the benefit of all owners of lots in the subdivision.

7.03 All utilities shall be underground.

7.04 All construction shall be completed within twelve (12) months from the date such work is started.

ADLR Landuse Planning, P.O. Box 24434, Santa Fe, NM 87502

Phone: (505) 982-8442

Fax: (505) 455-0097

14. STATEMENT OF ALL RESTRICTIONS OR RESERVATIONS OR RECORDS SUBJECTING THE SUBDIVIDED LAND TO ANY UNUSUAL CONDITIONS AFFECTING ITS USE OR OCCUPANCY: See Restrictive Covenants and Title Binder

15. ESCROW AGENT:

16. UTILITIES:

Electrical service is available through Public Service Company of New Mexico. Electric Transformers are installed and service is to be provided to each lot line. Lot owners are responsible for any costs associated with transformer power lines to the building site. Power lines are in right of way.

Water service will be provided by Eldorado Utilities, Inc. with individual metered sources to each individual lot owners. These agreements are available for inspection upon request. Water use agreement terms and conditions will be available at closings. Water quantity and quality cannot be assured; purchasers are urged to review Hydrology Report.

US West will provide telephone service to all lots. Associated costs are unknown at this time and are to be paid by each lot owner.

PNM Gas Company will provide natural gas service.

17. INSTALLTION OF UTILITIES: Electricity, and telephone service is available for use provided buyers make appropriate arrangements with the Utility Company.

18. UTILITY LOCATION: All applicable utilities will be provided near the lot line of each parcel within the subdivision. All utilities shall be placed underground.

19. WATER USE: Water use, restrictions and covenants apply to Tierra Linda Subdivision. Individual lot owners will be provided these documents upon request.

20. AMOUNT OF WATER: The maximum quantity of water which may be used by each lot is 0; 20 acre foot per year. Water will be made available to each lot prior to sale unless other arrangements are made.

21. LIFE EXPECTANCY OF THE WATER SUPPLY:

Source: Underground Aquifer

Life Expectancy: A geohydrology report was prepared for various wells drilled within the Santa Fe, New Mexico. These reports were prepared for various wells drilled within the subdivision. Documentation may be acquired by prospective lot buyers. This report has been submitted to the New Mexico State Engineers Office for their approvals and recommendations. This report should be reviewed carefully with the assistance of appropriate professionals.

20. SURFACE WATER : Not applicable

ADLR Landuse Planning, P.O. Box 24434, Santa Fe, NM 87502

Harry B. Montoya
Commissioner, District 1

Paul Duran
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3



Handwritten initials: J.C. F/H

Paul Campos
Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Gerald T. E. Gonzales
County Manager

March 31, 2004

Joe Miller
P.O. Box H
Lamy, NM 87540

Danny Martinez
ADLR Land Use Planning Consultants
P.O. Box 24434
Santa Fe, NM 87502

Ron Van Amberg
347 East Palace Avenue
Santa Fe, NM 87501

Re: Tierra Bella Subdivision (formerly Tierra Colinas, formerly Sun Ranch East)

Gentlemen:

Thank you for the information you provided regarding the above referenced property. You asked whether the County would recognize the final plat approved in 1986 for the Tierra Colinas Subdivision. After researching our files we discovered that a decision has already been made regarding the status of the final plat. Enclosed is a copy of a letter dated January 21, 2000 from Assistant County Attorney Christopher Graeser to Stephen Gibbens and Joe Canepa. The County's position then was that the final plat approval was abandoned. Nothing in the information you provided changes that assessment, and the County reaffirms Mr. Graeser's opinion that the 1986 plat has expired. Review of the information you provided also shows that subsequent to the 1986 approval, in addition to a master plan (Sun Ranch East) being approved by the Board of County Commissioners on January 9, 1996, to increase the number of lots, a land division plat was applied for, approved, and recorded in 1988 creating two lots of record.

To summarize the letter of January 21, 2000, approval of a succeeding master plan extinguishes any prior land use or subdivision approvals for that property. Also, the conditions of approval for that May 1986 plat were never complied with. A specific condition of approval, requiring compliance before the plat could be recorded, required proof of adequate water supply and infrastructure.

SFC CLERK RECORDED 09/14/2004

March 31, 2004
Tierra Colinas Subdivision
Page two

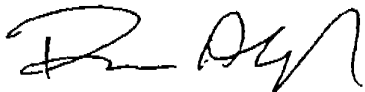
The proof was never supplied, most probably because even at the time El Dorado Utilities was experiencing significant water source problems. Accordingly, the 1986 final plat and development plan was never completed, thus there was never any actual approval, and there could be not vested rights.

Furthermore, it is unreasonable to expect Santa Fe County to allow the construction of a project that was granted approval almost 20 years ago. Since that time there has been a considerable amount of development in the El Dorado area and the water availability statement you submitted dated January 19, 2004 from the El Dorado Utilities does not meet the County Code 100-year water availability requirements. Since 1986, Santa Fe County and the Office of the State Engineer have determined that EDU is not able to provide water to any lot within its service area in excess of 0.25 acre ft. per year, for a 100-year period as required by the Code. This is true for all the properties that were included in the inventory that Santa Fe County and EDU used to track water commitments in the EDU franchise area in the 1990's. You provided a copy of this inventory and it includes Lot 8A.

You have the option of appealing this decision to the County Development Review Committee. Should you choose to do so, a written request must be submitted to this office within 5 working days.

If you have any questions, I can be reached at (505) 986-6218.

Sincerely,



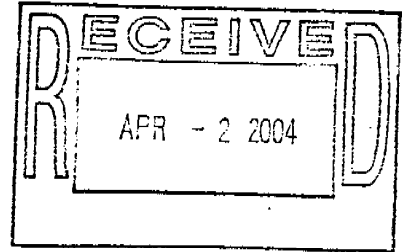
Roman Abeyta
County Land Use Director

Enc: Letter Dated Jan. 21, 2002 from Santa Fe County

Cc: Steve Ross, County Attorney
Joe Catanach, Dev. Review Div. Director

SFC CLERK RECORDED 09/14/2004

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April 1, 2004

Roman Abeyta
County Land Use Director

Re: Terra Bello Subdivision (Phase two of Terra Colinas)

Sir:

Referring to your letter of March 31, 2004 I assume you are refusing to issue me a development permit for my Terra Bello Subdivision which is the second phase of Terra Colinas that had final approval by the Board of County Commissioners. Final plat plan and development plan were submitted to you over a month ago..

I do not agree with you that a subsequent master plan extinguishes a subdivision previously approved by the Board of County Commissioners

A review of my submittles will demonstrate I have proved adequate water supply with the water taps I have previously purchased and paid for. Eldorado Utilities is bound to serve Terra Bello as indicated in our agreement, our contract and our court settelment.

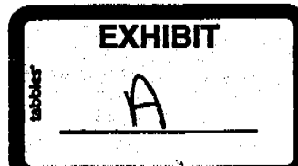
I hereby expres that I choose to exercise my option to appeal your decision to the County Development Review Committee. I expect to be on the agenda for the next Public hearing which I believe to be on Thursday, April 15, 2004.

Sincerly,

J. Miller
Joe Miller

SFC CLERK RECORDED 09/14/2004

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NOTICE OF VIOLATION

THIS BUILDING AND/OR PROPERTY HAS BEEN INSPECTED AND IS IN VIOLATION OF SANTA FE COUNTY:

- EXTRATERRITORIAL ZONING ORDINANCE
- LAND DEVELOPMENT CODE
- ANTI-LITTER ORDINANCE
- JUNK VEHICLE ORDINANCE
- MINING ORDINANCE
- OTHER: Unpermitted Development 1996-10 Art. 2 Sec. 2

YOU HAVE (5) FIVE WORKING DAYS TO CONTACT THE COUNTY AND MAKE ARRANGEMENTS TO CORRECT THE VIOLATION OR LEGAL ACTION WILL BE NECESSARY.

PERSON/LOCATION: Raymond Dennis P.O. Box 370 Edgewood, N.M. 87015

COMMENTS: Extention of utilities without proper S.F. County permits.

DATE: 4/30/04 INSPECTOR: GENE PORTILLO #3

CASE#



FINAL

Notice of Violation

THIS BUILDING AND/OR PROPERTY HAS BEEN INSPECTED AND IS IN VIOLATION OF SANTA FE COUNTY:

- EXTRATERRITORIAL ZONING ORDINANCE
- LAND DEVELOPMENT CODE
- ANTI-LITTER
- JUNK VEHICLE ORDINANCE
- MINING ORDINANCE
- OTHER: Unpermitted Development 1996-10 Art II Sec.

YOU HAVE (3) THREE WORKING DAYS TO CONTACT THE COUNTY AND MAKE ARRANGEMENTS TO CORRECT THE VIOLATION OR LEGAL ACTION WILL BE NECESSARY.

PERSON/LOCATION: Jar Miller Hc 75 Box 406 Lamy N.M. 87540

COMMENTS: Property Owner is constructing sub-division without proper permits, installing utilities. (All work must stop A.S.A.P) Thank you

DATE: 06/04/04 INSPECTOR: CHRIS VIGIL

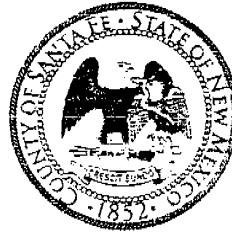
CASE#

SFC CLERK RECORDED 09/14/2004

Harry B. Montoya
Commissioner, District 1

Paul Duran
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3



Paul Campos
Commissioner, District

Jack Sullivan
Commissioner, District

Gerald T. E. Gonzal
County Manager

May 20, 2004

Mr. Joe F. Miller
#20 County Road 33A
286 Riverside
Lamy, NM 87540-9711

Re: Development Permit request for installation of utilities, water gas, electricity and cable TV, "after the fact", in the Tierra Bello Subdivision. (Formerly Tierra Colinas) Property located within Lot 8A, Eldorado at Santa Fe, Santa Fe County, NM.

Dear Mr. Miller,

Thank you for your application to install utilities at the above mentioned site. As you know, you and your contractor, Mr. Raymond Dennis were issued "Notice of Violations" for extension of utilities without proper permits from Santa Fe County. By the time County Staff was made aware of the work it was already mostly completed. As a result of the waterline installation, the proposed road network has also been cleared and grubbed. After you were informed of the situation, you came in and met with Permits & Inspections Staff and submitted the development permit application without the proper documentation or plans to support the application. On April 29, 2004, staff spoke with Mr. Danny Martinez about the incomplete submittal. On May 5, 2004, Mr. Martinez submitted five sheets for the project entitled "Waterline Improvements for portions of Tierra Bello Subdivision, Lot 8A, Eldorado at Santa Fe. However, a warranty deed was not submitted so the application is still incomplete.

Santa Fe County has standard procedures for installing utility and infrastructure improvements within new subdivisions. There is a process for reviewing engineering plans for infrastructure improvements, prior to commencing construction. This includes a pre-construction conference with County Staff after the engineering plans have been approved. All proposed improvements are required to be permitted **prior** to construction as well.

Today staff conducted an inspection of the site and confirmed that a construction crew was installing fire hydrants along the un-permitted waterline. (See photo) This information will be forwarded to the County Development Review Committee (CDRC) and if necessary, the Board of County Commissioner (BCC) upcoming hearings.

SFC CLERK RECORDED 09/14/2004

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This letter is to inform you that the proposed development permit you requested as mentioned above has been placed on hold until a decision is made by the CDRC and the BCC, as per your appeal of the Land Use Administrator's decision regarding the approval status of a Tierra Bello Subdivision. (Lot 8A) In addition, please be informed that any future construction conducted without the proper development permit will be subject to additional Notice of Violations including filing in Magistrate Court.

If you have any questions or comments, please contact my office at 995-2716.

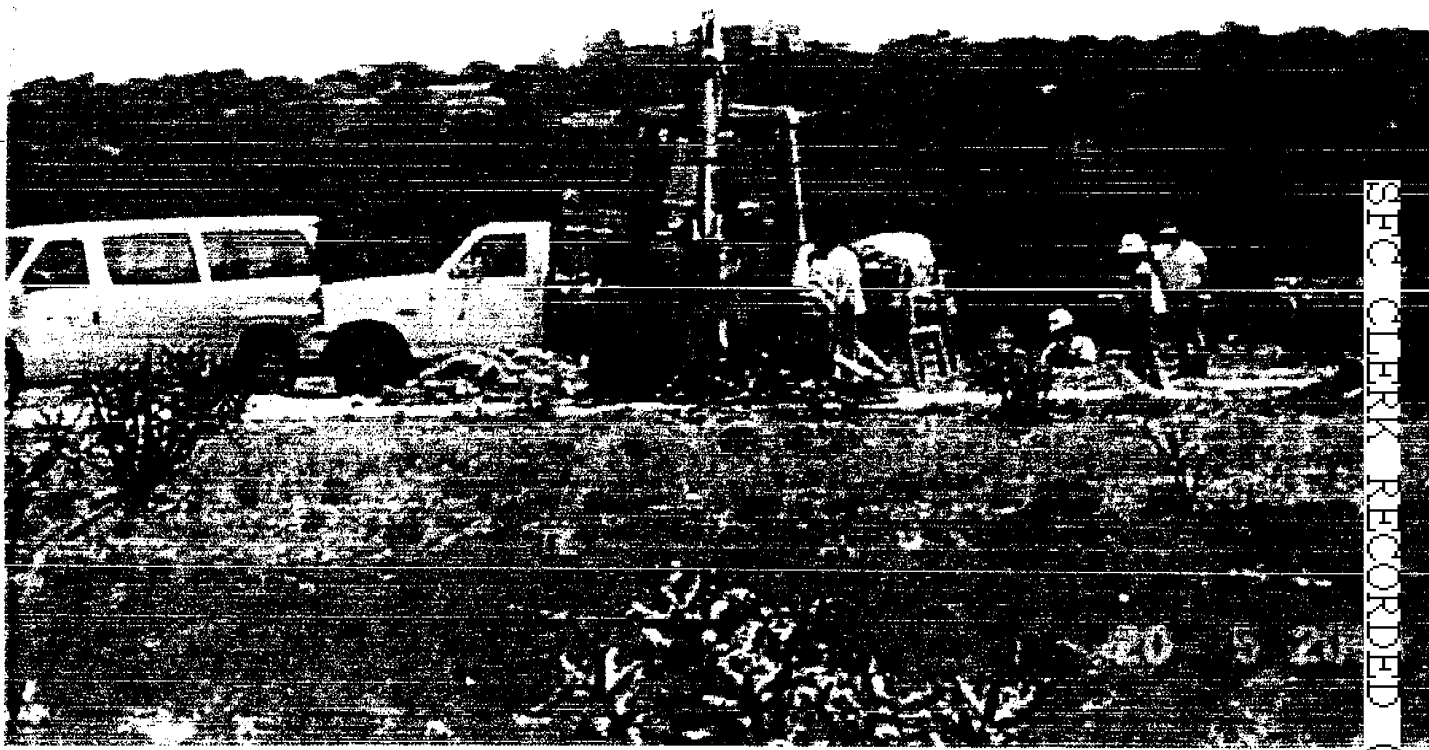
Sincerely,

CHARLIE GONZALES

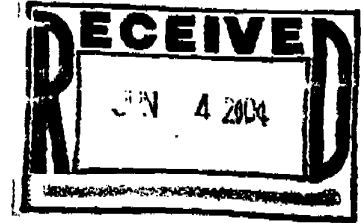
Charlie Gonzales, Permits & Inspections Division Director

Xc: Roman Abeyta, Land Use Director
Joe Catanach, Development Review Division Director

SFC CLERK RECORDED 09/14/2004



SFC CLERK RECORDED 09/14/2004



June 3, 2004

→Gerald Gonzales
County Manager
Santa Fe County N.M.

Dear Sir:

In a sincere attempt to work with Santa Fe Land Use Department, I have requested several development permits and a lot split.

I was informed, through my engineer coordinator Danny Martinez, that any thing from Joe Miller must go to the County Attorney for review: effectively singling out Joe Miller for treatment no other applicant must endure. After following through to determine the status of the requested permits, I and Mr. Martinez both were informed that staff had issued instructions to take no action on any permits Joe Miller requested.

One permit was denied because it lacked a copy of the deed to the property involved. When the deed was produced ~~we were informed the permit was not going to be processed.~~ I requested a permit to improve, grade and relocate Compadres road south of Avenue El Dorado onto the designated access easement. I was informed that Staff issued instruction to not process the application.

I have been informed that request for a completely legal lot split will not be acted upon..

The Board of County Commissioners approved a final plat plan for a 100 lot subdivision (Tierra Colinas). The first phase of this subdivision (50 lots) were built out and sold out. I can find no record that The BCC has never taken any action to revoke this approval. Never the less The Land Use Administrator claims the second phase has been revoked and refuses to issue a development permit.

Over the years of dealing with Santa Fe county relating to land use proposals there exists well documented history of discrimination. I can not but feel I am experiencing the results of orchestrated conspiracy designed to violate my civil rights.

I protest the fact that staff will not process my request for development permits. I have been singled out for treatment no other applicant has been subjected to. This type of discrimination will not be tolerated. I have attempted to meet with you to resolve this issue. The only meeting I was able to schedule with you was canceled. Renewed attempts to schedule have been frustrated. I was informed that I could

SFC CLERK RECORDED 09/14/2004

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Jun 14 04 01:48p

not meet with you for over a month. I employ you to set a meeting to resolve the situation as soon as possible to avoid a civil rights action.

Sincerely,

Joe Miller
Joe Miller

cc: to each county commissioner

466 7032

660 9583

SFC CLERK RECORDED 09/14/2004

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[5-201, 6-201, 7-201, 8-202]

STATE OF NEW MEXICO

IN THE MAGISTRATE COURT

COUNTY OF Santa Fe

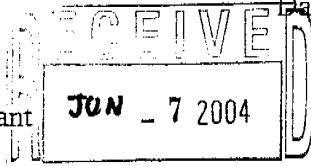
State of New Mexico

No. M 49 MR-2004-0446

Date filed: 06/07/04

v.

DOB 08/22/20



FILED 127700
MAGISTRATE COURT

JUN - 7 2004

Joe Miller, Defendant
Hc 75 Box 406 Lam y NM
87540

MAGISTRATE COURT
CRIMINAL COMPLAINT

CRIME: Unpermitted Development 1996-10 Art II Sec. 2

(common name of offense or offenses)

The undersigned, under penalty of perjury, complains and says that on or about April 10 04, in the Santa Fe County, State of New Mexico, the above-named defendant(s) did: (her state the essential facts) Defendant is constructing a (sub-division) in the County without proper permits. The defendant need to STOP ALL WORK, and obtain approval through Board Of County Commissioners, also Land Use/Permit Inspection contrary to Section(s) NMSA 1978.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY THAT THE FACTS SET FORTH ABOVE ARE TRUE TO THE BEST OF MY INFORMATION AND BELIEF. I UNDERSTAND THAT IT IS A CRIMINAL OFFENSE SUBJECT TO THE PENALTY OF IMPRISONMENT TO MAKE A FALSE STATEMENT IN A CRIMINAL COMPLAINT.

If Probable Cause Determination Required:

Probable Cause Found ; Not Found

(If not found, complaint dismissed & defendant released)

Date: _____

Judge: _____

Cole Enforcement Inspector
Complainant

Approved: [Signature]
Title (if any)

CHRIS UIGEL

This Complaint may not be filed without the prior payment of a filing fee unless approved by the District Attorney or a law enforcement officer authorized to serve an Arrest or Search Warrant. Approval of the District Attorney or a law enforcement officer is not otherwise required.

Distribution Instructions

1 copy - Court 1 copy - Defendant 1 copy - Plaintiff

[Supreme Court Approved, August 13, 1991; as amended, effective November 1, 1991.]

SHC
CLERK RECORDED
09/14/2004

20

- I
ORDINANCE NO. 1996-4
AN ORDINANCE DECLARING A WATER EMERGENCY WITHIN
THE SERVICE AREA OF ELDORADO UTILITIES

A.

2. SERVING 2015 RESIDENTIAL CUSTOMERS AND 26 COMMERCIAL ESTABLISHMENTS
4. COUNTY STAFF AND THE STATE ENGINEER'S OFFICE HAVE ENCOUNTERED LONG STANDING DIFFICULTY IN OBTAINING ACCURATE AND UP TO DATE INFORMATION ABOUT WATER SUPPLY, PRODUCTION CAPACITY AND USER DEMANDS ON ELDORADO UTILITIES SYTEM.
6. COUNTY STAFF HAS RECENTLY LEARNED THAT SEVEN OF THE WELLS IDENTIFIED BY THE UTILITY AS CONTRIBUTING TO THIS PROJECTED YIELD WERE NOT PRODUCING WATER AT ANY TIME BETWEEN JANUARY 1991 AND THE PRESENT AND DID NOT YIELD ANY OF THE WATER ELDORADO UTILITIES PROJECTED THEY WOULD YIELD.
7. THE NINE WELLS WHICH HAVE ACTUALLY BEEN PRODUCING CANNOT BE RELIED UPON TO PRODUCE THE YIELDS PROJECTED BY ELDORADO UTILITIES. MANY OF THESE NINE PRODUCING WELLS HAVE CONSISTENTLY PRODUCED LESS WATER THAN ELDORADO UTILITIES PROJECTED IN 1993.
11. INSUFFICIENT GEOHYDROLOGICAL DATA HAS BEEN PROVIDED BY THE UTILITY TO DEMONSTRATE WHETHER THE UTILITY CAN PROVIDE A RELIABLE WATER SUPPLY PRESENTLY OR IN FUTURE.
12. IN EARLY APRIL, 1996, ELDORADO UTILITIES APPLIED TO THE STATE ENGINEER FOR AN "EMERGENCY PERMIT" TO ADD AN "EXPLORATORY WELL" TO THE NINE WELLS WHICH HAVE BEEN SERVING THE SYSTEM.

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13. THE CAPACITY OF RG 18529 HAS ALSO DIMINISHED RECENTLY. THIS WELL, ORIGINALLY CAPABLE OF PRODUCING OVER 300 ACRE FEET PER YEAR, HAS RECENTLY DROPPED TO ABOUT 100 ACRE FEET PER YEAR, CREATING WHAT ELDORADO UTILITIES REFERRED TO AS A "DIRE NEED" TO SUPPLEMENT ITS SYSTEM.
16. PUMPING SUMMARIES RECENTLY RECEIVED BY COUNY STAFF FROM ELDORADO UTILITIES INDICATE NO RECORD OF WATER PUMPED BY RG 18529.
18. THE EMERGENCY AUTHORIZATION TO USE THE EXPLORATORY WELL IS TEMPORARY AND WILL EXPIRE ON SEPTEMBER 8, 1996.
21. (D) ALL OF THE SYSTEM'S WELLS ARE PRODUCING AT LOW RATES;
22. THE SYSTEM HAS VIRTUALLY NO CUSHION FOR STORAGE, FIRE PROTECTION, LINE BREAKS, SYSTEM LOSSES, WELL FAILURES, DRY PERIODS, OR USAGE SPIKES.
27. STORED WATER WOULD BE NECESSARY TO MEET WATER SERVICE DEMANDS AND FIRE PROTECTION WOULD BE COMPROMISED AS STORAGE AMOUNTS DROPPED.
35. THERE ARE NUMEROUS HYDRANTS IN THE ELDORADO UTILITIES SYSTEM WHICH HAVE BEEN OUT OF SERVICE FOR A YEAR OR MORE IN VIOLATION ON THE COUNTY FIRE CODE.
- 47.(B) THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS THEREFORE CONCLUDES AND **DECLARES** THAT THE DIMINISHING PRODUCTION CAPACITY OF ELDORADO UTILITIES, CONTINUING GROWTH AND HIGH WATER DEMAND IN THE AREA, AND THE FAILURE OF ELDORADO UTILITIES TO PROPERLY DEVELOP AND MAINTAIN ADEQUATE STORAGE AND FIRE PROTECTION HAS

SFC CLERK RECORDED 09/14/2004

CREATED A WATER EMERGENCY WITHIN THE SERVICE AREA OF ELDORADO UTILITIES. THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS FURTHER CONCLUDES AND **DECLARES** THAT THIS WATER EMERGENCY IS CREATING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY AND WELFARE.

47.(C) 8. NO APPLICATIONS FOR NEW LAND DIVISIONS, MASTER PLANS AND SUBDIVISIONS WILL BE ACCEPTED BY THE SANTA FE COUNTY LAND USE ADMINISTRATOR OR HIS STAFF AND NO PENDING APPLICATIONS FOR LAND DIVISIONS, MASTER PLANS OR SUBDIVISIONS WILL BE ACTED UPON BY THE SANTA FE COUNTY LAND USE ADMINISTRATOR, FOR ANY PROPERTY WITHIN ELDORADO UTILITIES' SERVICE AREA.

APPROVED ADOPTED AND PASSED THIS 24TH DAY OF APRIL, 1996.

II
ORDINANCE NO. 1997-5
AN ORDINANCE AMENDING AND REPLACING ORDINANCE
1996-4 AND DECLARING A MORATORIUM ON NEW
SUBDIVISIONS

- A.
14. EDU CONSISTENLY EXAGGERATES IT'S TRUE WATER PRODUCING CAPABILITIES.
 33. EDU LACKS THE DEMONSTRATED CAPACITY AND WATER RIGHTS TO SERVE DEMAND
 34. NOT ONLY DOES EDU LACK DEMONSTRATION OF RESERVE CAPACITY... THEY HAVE A PROBLEM WITH THE DECLINE OF EXISTING WELLS.

SFC CLERK RECORDED 09/14/2004

39. A FEBRUARY 9, 1996 SEO OFFICE MEMORANDUM INDICATED THAT THE SEO WILL CONTINUE TO GIVE UNFAVORABLE OPINIONS ON NEW SUBDIVISIONS WHICH PROPOSE EUD AS A SOURCE OF SUPPLY.

PASSED, ADOPTED AND APPROVED THIS 11TH DAY OF MARCH, 1997.

III

ORDINANCE NO. 1998-4

AN ORDINANCE AMENDING AND REPLACING ORDINANCE 1997-5 AND DECLARING A MORATORIUM ON NEW SUBDIVISIONS SERVICED BY EL DORADO UTILITIES INC.

- A.
7. EDU... REPORTED THAT IN SEPTEMBER 1996, ITS WATER STORAGE AVAILABLE FOR SUPPLY AND FIRE PROTECTION PURPOSE WAS UNDER REQUIRED CAPACITY.
10. EDU HAS EXAGGERATED IT'S TRUE, LEGAL WATER PRODUCING CAPABILITIES.
16. SEVERAL OF THE ACTIVE WELLS HAVE SUFFERED SIGNIFICANT DECLINES IN AVERAGE PRODUCTION OVER TIME, ACCORDING TO THE STATE ENGINEER RECORDS.
- C.
2. NO DENSITY ADJUSTMENTS BEATH 12.5 ACRES PER DWELLING UNIT... WILL BE CONSIDERED, AND THESE APPROVALS WILL BE CONSIDERED, AND THESE APPROVALS WILL BE CONTINGENT UPON ACCEPTABLE SITE SPECIFIC HYDROLOGY REPORTS.

PASSED, ADOPTED AND APPROVED THIS 31ST DAY OF MARCH, 1998.

SFC CLERK RECORDED 09/14/2004

LETTER TO TOM UDALL FROM ORALYNN GUERRERORTIZ "PROJECTS WHICH PROPOSE TO CONNECT TO EL DORADO UTILITIES INC., ARE PROHIBITED UNTIL THE WATER COMPANY HAS A PROVEN 100-YEAR WATER SUPPLY AND ADEQUATE FIRE PROTECTION."

IV
ORDINANCE NO. 1999-4
AN ORDINANCE AMENDING AND REPLACING ORDINANCE
1996-4 AND DECLARING A MORATORIUM ON NEW
SUBDIVISIONS SERVICED BY ELDORADO UTILITIES, INC.

- A.
12. THE SANTA FE COUNTY LAND DEVELOPMENT CODE REQUIRES THAT NEW DEVELOPMENT PROVE THE AVAILABILITY OF A 100 YEAR GROUNDWATER SOURCE IN SPECIFIC WELLS.

PASSED, ADOPTED AND APPROVED THIS 13TH DAY OF APRIL, 1999.

V
ORDINANCE NO. 2000-02
AN ORDINANCE AMENDING 1999-4 AND REPLACING
ORDINANCE 1996-4 AND DECLARING A MORATORIUM ON
NEW SUBDIVISIONS SERVED BY ELDORADO UTILITIES, INC.

- A.
10. THE SANTA FE COUNTY LAND DEVELOPMENT CODE REQUIRES THAT NEW DEVELOPMENT PROVE THE AVAILABILITY OF A 100 YEAR GROUNDWATER SOURCE IN SPECIFIC WELLS.

PASSED, ADOPTED AND APPROVED THIS 14TH DAY OF MARCH, 2000.

SFC CLERK RECORDED 09/14/2004

VI
ORDINANCE NO. 2000-14
AN ORDINANCE AMENDING 2000-2 AND REPLACING
ORDINANCE 1996-4 AND DECLARING A MORATORIUM ON
NEW SUBDIVISIONS SERVED BY ELDORADO UTILITIES, INC.

A.

3. GROUND WATER USE IN THE EDU SERVICE AREA INCREASED FIVE FOLD FROM 1985 TO 1995.

10. THE SANTA FE COUNTY LAND DEVELOPMENT CODE REQUIRES THAT NEW DEVELOPMENT PROVE THE AVAILABILITY OF A 100 YEAR GROUNDWATER SOURCE IN SPECIFIC WELLS.

PASSED, ADOPTED AND APPROVED THIS 12TH DAY OF DECEMBER, 2000.

VII
ORDINANCE NO. 2001-04
AN ORDINANCE AMENDING AND REPLACING ORDINANCE 2000-14
AND DECLARING A MORATORIUM ON NEW SUBDIVISIONS, LAND
DIVISIONS AND MASTER PLANS FOR PROJECTS SERVED BY
ELDORADO UTILITIES INC. AND ENCOURAGING CONSERVATION
MEASURES WITHIN THE ELDORADO UTILITIES INC. SERVICE
AREA.

MORATORIUM ORDINANCES 1996-4, 1997-5, 1998-4, 1999-4, 2000-2 AND
2000-14

A.

5. EDU HAS EXAGGERATED ITS TRUE, LEGAL WATER PRODUCING CAPABILITIES.

7. EDU WELL #9, THE LAMY WELL, WENTY DRY IN THE SPRING OF 1996 AND LOST CAPACITY IN 1999.

SFC CLERK RECORDED 09/14/2004

8. SEVERAL OF EDU'S ACTIVE WELLS HAVE SUFFERED SIGNIFICANT DECLINES IN AVERAGE PRODUCTION OVER TIME, ACCORDING TO THE STATE ENGINEER.
10. SANTA FE COUNTY LAND DEVELOPMENT CODE REQUIRES THAT NEW DEVELOPMENT PROVE THE AVAILABILITY OF A 100 YEAR WATER SUPPLY; THE AVAILABILITY OF GROUNDWATER SOURCES MUST BE SHOWN IN SPECIFIC WELLS.
12. EDU LACKS THE DEMONSTRATED CAPACITY AND WATER RIGHTS TO SERVE DEMAND PROJECTED FOR BUILD OUT OF LOTS ALREADY APPROVED IN THE SERVICE AREA.
15. A FEBRUARY 9, 1996 OSE MEMORANDUM INDICATED THAT THE OSE WILL CONTINUE TO GIVE UNFAVORABLE OPINIONS ON NEW SUBDIVISIONS WHICH PROPOSE EDU AS A SOURCE OF SUPPLY UNLESS IT RECEIVES INFORMATION WHICH DEMONSTRATES THAT EDU CAN ASSURE REQUIRED WATER AVAILABILITY.

C.

2. NO DENSITY ADJUSTMENTS BENEATH .25 ACRES PER DWELLING...WILL BE CONSIDERED AND THESE APPROVALS BE CONTINGENT UPON ACCEPTABLE SITE SPECIFIC HYDROLOGY REPORTS, WATER USE COVENANTS.
9. THIS ORDINANCE SHALL REMAIN IN EFFECT UNTIL THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS, COUNTY TECHNICAL STAFF AND THE STATE ENGINEER ARE SATISFIED THAT DEVELOPMENTS WHICH PROPOSE EDU AS THE WATER SUPPLY ARE IN FULL COMPLIANCE WITH STATE AND COUNTY STANDARDS, AT WHICH TIME THE BOARD SHALL PASS A RESOLUTION DISCONTINUING THE APPLICATION OF THIS ORDINANCE.

PASSED AND APPROVED THIS 13TH DAY OF MARCH, 2001 BY THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS.

SFC CLERK RECORDED 09/14/2004

VIII
ORDINANCE NO. 2001-14
AN ORDINANCE AMENDING AND REPLACING ORDINANCE 2001-4
AND DECLARING A MORATORIUM ON NEW SUBDIVISIONS, LAND
DIVISIONS AND MASTER PLANS FOR PROJECTS SERVED BY
ELDORADO UTILITIES INC. AND ENCOURAGING CONSERVATION
MEASURES WITHIN THE ELDORADO UTILITIES INC. SERVICE
AREA AND TO ESTABLISH PROVISIONS UNDER WHICH
DEVELOPMENT CAN PROCEED.

C.

5. DEVELOPMENTS THAT ALREADY EXIST AND ARE USING EDU CAN REALLOCATE THE WATER THEY RECEIVE FROM EDU ON THEIR PROPERTY WITHOUT BEING SUBJECT TO THE 100-YEAR PROOF OF WATER REQUIRED BY THE COUNTY CODE.
6. IN NO CASE WILL BUILDING AND DEVELOPMENT PERMITS BE ALLOWED IN WHICH MORE THAN 0.25 FEET PER YEAR PER LEGAL LOT OF EDU WATER SERVICE IS REQUIRED, UNLESS THE PROVISIONS OF #5 ABOVE ARE MET.
11. THIS ORDINANCE SHALL REMAIN IN EFFECT UNTIL THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS, COUNTY TECHNICAL STAFF AND THE STATE ENGINEER ARE SATISFIED THAT DEVELOPMENTS WHICH PROPOSE EDU AS THE WATER SUPPLY ARE IN FULL COMPLIANCE WITH STATE AND COUNTY STANDARDS, AT WHICH TIME THE BOARD SHALL PASS A RESOLUTION DISCONTINUING THE APPLICATION OF THIS ORDINANCE.

PASSED AND APPROVED THIS 22ND DAY OF OCTOBER, 2001 BY THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS.

SEC CLERK RECORDED 09/14/2004

constructed will receive use and that the roads are required to provide access to parcels or improvements within twenty-four months from the date of construction of the road.

D. It is unlawful for a subdivider to grade or otherwise commence construction of roads unless such construction conforms to the schedule of road development approved by the board of county commissioners.

History: 1953 Comp., § 70-5-19, enacted by Laws 1973, ch. 348, § 19; 1981, ch. 148, § 5.

The 1981 amendment, in Subsection A, inserted "only" following "shall be constructed" in the introductory paragraph, in Paragraph (3), deleted "and" following "by the road," added Paragraph (4), redesignated former Paragraph (4) as Paragraph (5); and added Subsections C and D.

Law reviews. — For annual survey of New Mexico law relating to property, see 12 N.M.L. Rev. 459 (1982).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 83 Am. Jur. 2d Zoning and Planning §§ 518 to 528, 531 to 534, 564 to 567.

Constitutionality, construction, and application of statutes regulating the subdivision or development of land for sale or lease in lots or parcels, 122 A.L.R. 501.

Enforceability, by landowner, of subdivision developer's oral promise to construct or improve roads, 41 A.L.R.4th 573.

63 C.J.S. Municipal Corporations §§ 1042, 1044.

47-6-19. Road development. (Effective July 1, 1996.)

A. Roads within a subdivision shall be constructed only on a schedule approved by the board of county commissioners. In approving or disapproving a subdivider's road construction schedule, the board of county commissioners shall consider:

- (1) the proposed use of the subdivision;
- (2) the period of time before the roads will receive substantial use;
- (3) the period of time before construction of homes will commence on the portion of the subdivision serviced by the road;
- (4) the county regulations governing phased development; and
- (5) the needs of prospective purchasers, lessees and other persons acquiring an interest in subdivided land in viewing the land within the subdivision.

B. All proposed roads shall conform to minimum county safety standards.

C. The board of county commissioners shall not approve the grading or construction of roads unless and until the subdivider can reasonably demonstrate that the roads to be constructed will receive use and that the roads are required to provide access to parcels or improvements within twenty-four months from the date of construction of the road.

D. It is unlawful for the subdivider to grade or otherwise commence construction of roads unless the construction conforms to the schedule of road development approved by the board of county commissioners.

History: 1953 Comp., § 70-5-19, enacted by Laws 1973, ch. 348, § 19; 1981, ch. 148, § 5; 1995, ch. 212, § 20.

The 1995 amendment, effective July 1, 1996,

inserted "and other persons acquiring an interest in subdivided land" in Paragraph A(5) and made minor stylistic changes.

47-6-20. State agencies required to provide counties with information. (Effective until July 1, 1996.)

A. Any state agency receiving a request from the board of county commissioners for an opinion on water, water quality, liquid or solid waste disposal adequacy, terrain management or highway access shall furnish the board with the requested opinion. The board of county commissioners shall furnish the appropriate state agency with all relevant information which the board has received from the subdivider on the subject for which the board is seeking an opinion. If the state agency does not have sufficient information upon which to base an opinion, the state agency shall notify the board of this fact.

B. All opinion requests mailed by the board of county commissioners shall be by certified mail "return receipt requested." Boards of county commissioners delivering opinion requests shall obtain receipts showing the day the opinion request was received by the particular state agency.