

SANTA FE
BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING


October 14, 2003

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



COUNTY OF SANTA FE) BCC MINUTES
STATE OF NEW MEXICO) ss PAGES: 293

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SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

October 14, 2003

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:05 p.m. by Chairman Jack Sullivan, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Commissioner Jack Sullivan, Chairman
Commissioner Paul Campos
Commissioner Paul Duran [late arrival]
Commissioner Mike Anaya
Commissioner Harry Montoya

Members Absent:

[None]

IV. Invocation

An invocation was given by Reverent Matthew Davis from the First Presbyterian Church.

V. Approval of the Agenda

A. Amendments

B. Tabled or withdrawn items

CHAIRMAN SULLIVAN: Gerald, could you take us through amendments and tablings?

GERALD GONZALEZ (County Manager): Yes, Mr. Chair. Just a note under the Consent Calendar, item A. 1, that was published as tabled. It's on here just to indicate that it's a continuous tabling as a matter of procedure just to inform the Commission and the public. Under Section XI. Staff and Elected Officials' Items, Assessor's Office, that's listed as a

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)
October 14, 2003 - 3:00 pm

Amended Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda *Approved or add*
 - A. Amendments
 - B. Tabled or Withdrawn Items
- VI. Approval of Minutes
- VII. Matters of Public Concern -NON-ACTION ITEMS
- VIII. Presentations
 - A. Presentation of Certificate of Appreciation for 25 Years of Service to Retiring Employee Frank Rivera (E-911/Rural Addressing)
 - B. Update of Fiscal Impact Study for the Santa Fe Community College District, Brief Presentation by Dan Guimond of Economic Planning Systems, Inc. (EPS) of Denver
 - C. Presentation and Update of Pojoaque Valley Planning Committee's Meeting with County and Pueblo Officials and their Respective Staffs on September 5, 2003 at the Hilton Hotel given by Romella Glorioso-Moss
- IX. Matters from the Commission
 - A. Resolution No. 2003 ¹⁵ A Resolution in Support of Continuing the Gross-Receipts Tax Exemption for Los Alamos National Laboratory *Approved w/amend*
 - B. Resolution No. 2003 ¹⁵ A Resolution Supporting Santa Fe County Working with Local Energy, a Nonprofit, on a Biomass District Energy System *Approved*
 - C. Resolution No. 2003 ¹⁵ A Resolution of Support for Health Centers of Northern New Mexico and Las Cumbres Learning Services Shared Facility *Approved*
- X. Consent Calendar
 - A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:
 - 1. BCC CASE #DL 03-4370 - Pomonis Land Division (Denied) TABLED
 - 2. BCC CASE #V 02-5590 - Laura Star Lot Size Variance (Approved) *Approved*

XI. Staff and Elected Officials' Items

A. Assessor's Office

- Order*
Order
Approved
1. ~~Resolution No. 2003~~ – ~~An~~ *Order* *Order* Resolution to Approve the Imposition of Property Tax at the Rates as Set Forth by the New Mexico Department of Finance and Administration, Local Government Division for Tax Year 2003

B. Project & Facilities Management Department

- Approved*
1. Request Authorization to Accept and Award a Professional Services Agreement to the Highest Rated Offeror in Response to RFP #23-38 for the San Ysidro River Park
Talk?
Presentation and Staff Recommendation on Potential Donation of Real Property to Santa Fe County

C. Matters from the County Manager

D. Matters from the County Attorney

1. Executive Session

- Nothing*
a. Discussion of Pending or Threatened Litigation
b. Limited Personnel Issues
c. Acquisition or Disposal of Real Property
d. Discussion of the Purchase, Acquisition or Disposal of Water Rights

XII. Public Hearings

A. Project & Facilities Management Department

1. First Public Hearing on the Santa Fe County 2004 Community Development Block Grant (CDBG) Application Period

B. Land Use Department

1. Ordinance No. 2003 – An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article III, Section 2.4.1, Article III, Section 4.4.1, Article V, Section 5.2.2, Article V, Section 5.3.2 and Article V, Section 7.1.2 to Require Rainwater Catchment Systems for Commercial and Residential Development (Second Public Hearing) Penny Ellis-Green
2. Ordinance No. 2003 – An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article XIV, Traditional and Contemporary Community Zoning Districts to Add a New Section 7, El Valle De Arroyo Seco Highway Corridor Plan Zoning District (Second Public Hearing) Robert Griego
3. CDRC CASE #A 03-5720 – Monte Alto Homes & Land, Inc. Appeal. Dennis Kensil, Agent, is Appealing the County Development Review Committee's Decision that the Final Development Plan for Tract "G" has Expired. The Property is Located at 2 Monte Alto in Eldorado, Within Section 17, Township 15 North, Range 9 East. (Commission District 5) Jan Daniels
4. BCC CASE #DP 03-5150 – Luna Rosa LLC Equestrian Facility. Luna Rosa LLC Applicant, Jim Siebert, Agent, Request Preliminary and Final Development Plan Approval for an Equestrian Facility to Include Three Homes, an Outdoor Riding Arena, an Indoor Riding Arena, Thirty Stall Areas, a Hay Storage Shelter, Four Turn-Out Areas and Parking on 50 Acres. The Property is Located at 47 Ranch Road, Within Sections 20, 21, 28, and 29, Township 15 North, Range 10 East. (Commission District 5) Dominic Gonzales

5. **EZ CASE #S/V 03-4421** – Windmill Ridge Unit III. Rancho Viejo Inc., Applicant, Isaac Pino, Agent, Requests Final Plat and Development Plan Approval for a Residential Subdivision Consisting of 163 Lots in Conformance with the Approved Master Plan for Rancho Viejo and with the Existing Village and Fringe Zones (Residential, Commercial, Community). The Request also Includes a Variance of the CCDO to Allow Two “No Outlet” Roads to Exceed 300 Feet in Length. The Property is Located Within the Community College District, off of Richard’s Avenue, Within Sections 28 & 29, Township 16 North, Range 9 East. (5 Mile EZ District) Vicki Lucero
6. **CCDRC CASE #Z.DP 00-5302** – Sandia Vista Commercial Property. Sonny Otero, Applicant, Michael Bodelson, Agent, Request a Master Plan Amendment with Preliminary and Final Development Plan Approval for Six Additional Warehouse Buildings Ranging in Size from Approximately 8,000 Sq. Ft. to 10,800 Sq. Ft. for Commercial and Light Industrial Uses and Storage on 5.4 Acres. This Request also Includes Multiple Variances which Would Allow the Applicant to Utilize an On-Site Well and Septic System Rather than a Public Water and Community Wastewater System; to Exceed 30% Lot Coverage; to Reduce the Amount of Openspace Below 50%; and to Reduce the Parking Below what is Required by County Code. The Property is Located Off of State Road 14, North of the Intersection of NM 599 and SR 14 within the Community College District, Within Section 25, Township 16 North, Range 8 East. Vicki Lucero
7. **CDRC CASE #MIS 01-5012** – Santa Fe Downs Reconsideration of Conditions. Pojoaque Pueblo Development Corporation Requests the Reconsideration and Clarification of Conditions that Were Imposed on the Previously Approved Master Plan for the Santa Fe Downs, which Requires the Applicant to Submit a Manure Removal Plan within 2 Years of Master Plan Approval, as Well as to Install a Monitoring Well to Monitor the Effects the Manure Pile May Have on Ground Water. 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. (Commission district 3) Vicki Lucero TABLED

XIII. Adjournment

The County of Santa Fe makes every practical effort to assure that its meetings and programs are accessible to the physically challenged. Physically challenged individuals should contact Santa Fe County in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

resolution but according to statute it actually should be listed as an order. And I believe we get the number for the order from the County Clerk.

Under B, also under Staff and Elected Officials' Items, Project and Facilities Management Department, item 2, we are requesting that that be tabled until the next BCC meeting on the 28th I believe it is. And the purpose for that is because we're still in the process of meeting with the proposers and gathering some additional information so that we can have a complete report for the Commission when we make that presentation. That's still an ongoing item and still an active item but we're requesting tabling for that purpose.

And then under Matters from the County Attorney, Executive Session, all those matters have cleared up so we have no matters to be taken care of in executive session. And finally under Section XII. Public Hearings, the Land Use Department, item number 7, CDRC Case #MIS 01-5012 is tabled.

CHAIRMAN SULLIVAN: Okay. Thank you. Thanks, Gerald. On that B.2, on that potential donation issue, as you're taking a look at that, could you be sure also that there's some contact made with the City with regard to that because that property is being considered for annexation or portions of that property and I had some interest expressed by City Councilors that they'd like to have some input on that as well.

MR. GONZALEZ: I'd be glad to do that, Mr. Chair, and I've already made a tentative contact at the City Council level and we'll continue to pursue those.

COMMISSIONER MONTOYA: Mr. Chair, move for approval as amended.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion on approval, Commissioner Montoya, seconded by Commissioner Anaya. Is there further discussion on the agenda?

The motion to approve the agenda as amended passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this action.]

VI. Approval of Minutes

None were presented.

VII. Matters of Public Concern - NON-ACTION ITEMS

CHAIRMAN SULLIVAN: These are non-action items where we offer the public an opportunity to express itself on various issues, any issues that they would like us to know about. Yes, sir. Come forward and state your name.

JIM DICKENS: Thank you. My name is Jim Dickens and I would like to preface my remarks first, we certainly appreciate the opportunity to meet with the Board and generally, we just see you fellows in your campaign photos, but you all aren't a bad looking bunch in person. So I think it's a great pleasure to be here and speak on behalf of a senior

citizen center that we are attempting to finish and get into operation. I would assume that most of you have been in a senior center some place in New Mexico and have seen what it means to the community. And a senior citizen center is not a luxury in New Mexico. It's a necessity. It's a necessity because of our elderly population. It's a necessity with our rural areas and it gives people a chance to gather once a week or whatever time that they have to meet, socialize, they get concerned with public problems, elections and they're a great voice in the community.

I had the opportunity for many years with the Attorney General's Office and then volunteered with the State Agency on Aging and we traveled throughout the state, at workshops, and it's just amazing what goes on at these senior centers and the great feeling that you get and they get when they have the opportunity to join together. The lady is going to speak right after me and she's been very active in this and she has some dollar amounts that we want to put out and try to prioritize this situation. Our center is in progress. We've been meeting for several years now in Eldorado and we're drawing people from Galisteo and Pecos and Lamy and the general area out there and it's just a great one-day meeting that everybody has a chance to get together and have a good time. So we really appreciate your input and your assistance in this matter. Thank you.

CHAIRMAN SULLIVAN: Thank you, Jim.

PATTY ADAM: Chairman Sullivan and members of the Commission, I am Patty Adam and usually I answer the phone and say, Yes, I will order a lunch for you Wednesday. But I thought you might be interested in the fact that whenever you go to meetings about the so-called aging problem, you find that the needs are the same whether it's the state or the county or the city. We need, in general, transportation for those who can't drive, and even for those who shouldn't drive sometimes. We need homecare when people are ill and alone. We need something for those people who find it difficult to cook very much. We cook a balanced meal. And we all benefit from companionship.

Now, we need all those things in Eldorado. We have some 200 people in the area who have signed up for senior cards and they don't come to activities very much because we don't have the activities yet, but we do have a lunch on Wednesdays, which gets 20, 25, sometimes 30 people and we have just started a Tuesday transportation link and one of our volunteer drivers drove our group in today. So we appreciate what you've done throughout the county and we hope that you'll be able to continue your good work and get us a senior center too. Thank you for seeing us today.

CHAIRMAN SULLIVAN: Thank you, Patty. Were you going to give us some numbers? Jim said you were going to give us some numbers or that was someone else?

MS. ADAM: Well, I don't know quite what sort of numbers you want besides our 200 registrants.

CHAIRMAN SULLIVAN: Is that the numbers you were talking about? Yes. Okay. Is there someone else that wants to speak from your group today? Patty, maybe you could introduce the others to us. Just come on up to the microphone.

MS. ADAM: Would you like me to do that? Phyllis Dickens is the representative to the County Board of Senior Citizens, and Nancy Steadman, and Shaleen

Black, and our volunteer driver, Pat Lavender. David Davis behind her and Florence Green and my husband Ken Adam and Joyce Henmer, who lives next door to me. Thank you.

CHAIRMAN SULLIVAN: Thank you very much. Let me make just one comment about that. One of the items on our agenda, Board members, is item XII. A which is a first public hearing on the CDBG grant application process. And we've had the representatives from the Eldorado speak here right now and I wanted to ask is Tony around? You had mentioned something about this as a possible CDBG project before and I just thought maybe you could reiterate that while we have some of the representatives here.

TONY FLORES (Project Director): Actually, Mr. Chair, you're correct. I had indicated at the previous meeting that senior citizen centers were eligible for the CDBG dollars and we at the County had placed them as a potential applicant for that program already.

CHAIRMAN SULLIVAN: Okay.

MR. FLORES: So I would consider their presentation to you before as a potential project that would be reviewed under those guidelines.

CHAIRMAN SULLIVAN: Okay, so when we get to that point, it's not necessary for these individuals to stay for that hearing?

MR. FLORES: That's correct, Mr. Chair.

CHAIRMAN SULLIVAN: We could still -- you will have someone that will show up for that hearing just to get it into the record. Okay. Commissioner Anaya.

COMMISSIONER ANAYA: I would like to thank you all for coming over today and feeling the same about your concerns in the area. One question for them, Tony, and then I'll get to your question. When you talk about surrounding areas, you talk about the Lamy and the Galisteo area and were they involved in coming over to your meetings? Is there a number of people that were involved?

MS. ADAM: The program is open to anybody in that area and it's intended to include everybody in that area. We haven't gotten the word out too well for two reasons. One is that the only way we have of communicating with everybody is through the *New Mexican* or a newspaper. And the other one is that our meeting place at the Eldorado Community Center only has room for 30 lunches in the stove. We have to warm our dinners in the stove before they're served at the proper temperature. So people are welcome but we're not pushing it too much until we have a better way to heat the lunches.

COMMISSIONER ANAYA: I hear you. Okay. So if that does come about, we can still -- we'd be notifying people in the Glorieta area, all of the surrounding areas for this center. Okay. Thank you, Patty. And I've got a question for Tony. Tony, did they already do their study? Is there a study that needs to be done? An income study?

MR. FLORES: Mr. Chair, Commissioner Anaya, based upon their senior center designation, we would not be required to do a low to moderate income survey for that type of use. That's the only exemption that the state has for that type of program. And I can attest. I've been to those luncheons at the senior center and 30 I think is pushing it, Patty.

COMMISSIONER ANAYA: Tony, that's all I have. Thank you.

CHAIRMAN SULLIVAN: And Tony, one other question. Your department

has gone through a site selection study. Is that correct?

MR. FLORES: Mr. Chair, yes. PFMD evaluated, I think it was upwards of 12 sites for the senior center. We identified through Commissioner Sullivan's guidance the Eldorado or Vista Grande Community Park which is where our Vista Grande public library is located. So that is the site for the senior center. And I must add that we do have \$123,000 through the last session to begin the process of developing the senior center. What we would be looking for if we're successful in this or any other type of finding is the infill to actually do the bricks and mortar.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Tony, is there other sites more centrally located between -- I know the majority of the seniors would be coming out of the Eldorado area, but is there a central site, let's say between Eldorado and Galisteo that maybe possibly they could use. I know the fire station right next to it.

MR. FLORES: Mr. Chair, Commissioner Anaya, like I said, we did an in-depth -- I think it was upwards of 12 sites. We looked at it as far away as Glorieta and even closer back into the Hondo area of Santa Fe and even other areas of Eldorado. This was the most convenient site that we had readily available for the center.

[Commissioner Duran joins the proceedings]

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

CHAIRMAN SULLIVAN: I think one of them was next to the solid waste property, that they looked at.

COMMISSIONER ANAYA: By that fire station. That's what I was asking.

CHAIRMAN SULLIVAN: This one was the consensus but it's not the end of it. It can always change. Any other questions on that? I guess not. Yes, ma'am. Step forward.

REESE E. PETERSON: Good afternoon, Mr. Chair and Commissioners. My name is Reese E. Peterson and I'm a resident of Eldorado at 24 Esquila Road. And I'm here this afternoon to share the concerns of my neighbors and my family and myself about a situation I know you're probably aware of in Eldorado. Last Tuesday I was driving to town from my home in Eldorado using Eldorado Avenue, the third entrance to Eldorado. Driving toward 285, approaching the railroad tracks, there was a van that had stopped at the railroad, before the railroad tracks to let a train go by, because the excursion train was on its way home and quite visible to the right as it was approaching the crossing. So the passenger van was stopped there to let the train pass, and between myself and the van was one other vehicle. It was a cement truck. A ready-mix truck.

It was clipping along, and instead of stopping behind the van to wait for the train to pass, it pulled out past the van and crossed the railroad tracks approximately three seconds before the train was at that intersection. It was quite a narrow miss. It was one of the most frightening experiences I ever care to witness personally. It frightened all of us.

As you know, every since the Eldorado Avenue has been paved all the way down its entire length, traffic has increased. I don't have statistics and I'm sure you're aware it's

increased many-fold because it's a very delightful street to use now and we all use it for our exit. People go faster. People are not paying attention at that crossing. That crossing, as you know, is an uncontrolled railroad crossing, unlike the one on Vista Grande, our former high-use traffic area in Eldorado. It has no barriers it has no signal. People barely look right and left when they pass that area because there's so rarely a train. That's understandable. But I knew it was just a matter of time until I would be witnessing a scene as I saw last week.

People get used to feeling safe in this country because engineers take so much trouble to make sure that we are safe on our roads, so we sort of forget to look right and left. When a commercially licensed driver forgets to look right and left, passes a parked vehicle and goes right in front of a train, I think there's no hope for any of us.

I'm aware that the state legislature has appropriated, I believe it's \$80,000 to put in a controlled crossing at our Eldorado crossing and I think that's wonderful. I understand that some \$15,000 or so is needed in order to improve the quality of the crossing that could go in. In other words, it's a \$95,000 project or so, I believe. And that there's a shortfall of \$15,000 to get it done. We very badly need to control that intersection. I think it's just a matter of time until someone is killed.

As you know, about a year or two ago, someone was struck, a regular car was struck at that intersection. Fortunately, there were no injuries. I contacted the train company after witnessing this accident to let them know who had done it so that they could contact the company because I followed the truck, got the phone number and I even got the driver's name. He told me, the owner of the train company that if the cement truck had struck the train it would surely have derailed because a vehicle of that weight would have derailed the train, and there were at least 20 children on that open box car, waving Hi at me as they went by and I thought, Kids, you'll never know how close you came to dying today.

Anyway, you get my point. If there's anything that the County can do to provide the extra \$15,000 that we so badly need along that road to keep our community safe, we'd really appreciate that. And when I told a neighbor this story earlier this week, she said Be sure to tell the Commissioners that she feels that the cement truck company should pay the \$15,000. Just an idea. Anyway, thank you very much for listening and I do hope that something can be done about this increasingly dangerous intersection. Thank you.

CHAIRMAN SULLIVAN: Thank you, Ms. Peterson.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Gerald, do you have any recommendations on what we could do to maybe try to get another \$15,000? I know we're strapped, but is there other ways? Do we need to write letters to the legislature or maybe we can contact them. What are your ideas?

CHAIRMAN SULLIVAN: I think maybe Robert might have some too.

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chair, Commissioner Anaya, currently we're working with the railroad department to acquire a right-of-way across Avenida Eldorado. That is the first thing that needs to be done. And we are in

the process of working with the railroad. I believe the agreement is in legal being reviewed at this time. Second of all, the estimate for the signalized crossing is \$160,000, not \$95,000. It is correct that \$80,000 was appropriated at last year's legislative session. We have it on our ICIP list to go to the legislature this January for an additional \$80,000 for this crossing.

COMMISSIONER ANAYA: So right now we don't own that?

MR. MARTINEZ: Mr. Chair, Commissioner Anaya, we do not have a right-of-way from the railroad department. The railroad was there prior to the road being there. So we need to acquire right-of-way from the railroad for that crossing.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner.

COMMISSIONER ANAYA: I know that, and maybe the PRC, there's an individual there, Paul Montoya, who deals with railroad crossings. I don't know if he makes sure they're installed right or maybe they can supply some money for it. I'm not sure, but maybe we can call him and see how he does it.

MR. MARTINEZ: Mr. Chair, Commissioner Anaya, he is on the Road Advisory Committee and we have discussed at prior meetings and the way to acquire the funding is through the legislature. So we are going down the right track. No pun intended.

CHAIRMAN SULLIVAN: Or tracks. Commissioner Duran.

COMMISSIONER DURAN: Robert, since this is really a health and safety issue, it seems to me that -- isn't it Santa Fe Southern that you're negotiating with, or that owns the right-of-way that we need?

MR. MARTINEZ: Mr. Chair, Commissioner Duran, I believe that is correct.

COMMISSIONER DURAN: It would seem to me that they are as responsible for that crossing and they're responsible to make it safe. Why would we try to negotiate the purchase of it versus trying to just get them to dedicate it from the standpoint that it's a health and safety issue?

MR. MARTINEZ: Mr. Chair, Commissioner Duran, I believe that there is no cost involved for the right-of-way. It's just actually acquiring it from them.

COMMISSIONER DURAN: Okay.

MR. MARTINEZ: But as far as I understand there's no cost involved. I could be wrong but that's my understanding.

COMMISSIONER DURAN: Okay.

MR. MARTINEZ: The cost is mainly for the construction of the signalized crossing.

COMMISSIONER DURAN: Okay.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Anything else, Commissioner Duran?

COMMISSIONER DURAN: No, I'm fine.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: So I guess, would they be willing to put up the other part of the money, since it's their track?

MR. MARTINEZ: Mr. Chair, Commissioner Anaya, they have not been willing to contribute in the past for other crossings. It has all been through legislative funding.

COMMISSIONER ANAYA: Have we asked them?

MR. MARTINEZ: Mr. Chair, Commissioner Anaya, I don't recall if we have or not. But they have not in the past on other crossings.

COMMISSIONER ANAYA: Maybe we should ask them.

MR. MARTINEZ: We can ask them.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN SULLIVAN: Okay, any other questions on the crossing issue.

Thank you, Ms. Peterson for bringing that to our attention, for taking the time to come down and present that and for those of you also from Eldorado, you may want to talk with your state representative starting with Representative Coll and indicate the need for that funding. We'd like to see that safety issue resolved. There have been other accidents out there that I'm aware of. Are there any other individuals in the audience this afternoon who would like to bring any matters of concern before the County Commission.

MR. GONZALEZ: Mr. Chair, I apologized early with respect to the matter under the County Assessor because of a time issue, he is requesting that the Commission consider adding that at the end of presentations, rather than taking it in the order that it appears on the agenda.

CHAIRMAN SULLIVAN: And what is the time issue?

MR. GONZALEZ: I think he has to be someplace else and he would like to have it considered before he has to leave. Here he is, Mr. Chair.

XI. Staff and Elected Officials' Items

A. Assessor's Office

1. An order to approve the imposition of property tax at rates as set forth by the New Mexico Department of Finance and Administration, Local Government Division for tax year 2003

BENITO MARTINEZ (County Assessor): Thank you, Mr. Chair, members of the Commission. I have an appointment to pick up my wife at the airport at 4:40 so I'd appreciate allowing us to move up in the agenda. I want to begin by first of all, recognizing my deputy, Brian Baca, who is standing here. I'd like to formally and publicly introduce him. This is his first day on the job as Deputy Assessor, so this is Brian Baca, 20 years experience with the County.

Mr. Chair, members of the Commission, pursuant to NMSA 7-38-34, the property tax rates for Santa Fe County are imposed by an action by the County Commission with a written order setting the tax rates on the net taxable value of property allocated to Santa Fe County. This is the tail end of several real important documents that have been certified to the Department of Finance including the valuation certificate and of course our budget, and along

with the municipalities, the Department of Education, Commissions on Higher Ed, Water and Sanitation Districts, Conservation Districts and so on. So therefore, attached with the original document with our County Clerk and copied to you is the written order setting the tax rates. So I would ask your unanimous consent of this written order setting these tax rates upon the taxpayers of Santa Fe County. Stand for questions.

CHAIRMAN SULLIVAN: Benito, how do we stand in comparison to prior years in terms of the mill rate? Are we going up or down?

MR. B. MARTINEZ: Mr. Chair, members of the Commission, the tax rates before you, on the left hand column are all of the governmental units. Those governmental entities that receive property tax revenue. I apologize, these documents are not numbered, but they are the last three pages in the handout. The page immediately before those three are the certificate of tax rate's letter from DFA, and speaking from the County operational standpoint our rates did increase ever so slightly. Last year, if I'm not mistaken, they were at 4.3 and they went to 4.6. So we're talking in the tens of thousands place. Four dollars for every thousand, and if we're talking a couple of tens of thousands place, it's dollars for every hundred thousand dollars of valuation. Very, very minimal increases.

This was due in part, once again as I mentioned previously, to the job that the County Assessor's staff has done in the analysis of new appraisals nearing one billion and maintenance additions to property value. So from the County's operational standpoint, 4.690 is the rate. The County debt service rate did increase because of an oversight last year. Our debt service was not met for the general obligation bonds so that has increased two-fold. Two-fold plus. Does that answer your question, Mr. Chair?

CHAIRMAN SULLIVAN: My question was how does it compare to last year?

MR. B. MARTINEZ: And that's what I stated is that the rate has increased very slightly.

CHAIRMAN SULLIVAN: Slightly. Okay. And then in terms of whether an individual can determine if their taxes are going to be going up or down, you don't know that until you have all the assessments in. Is that how that works?

MR. B. MARTINEZ: Mr. Chair, members of the Commission, our County Treasurer is standing here and he does distribution after the collection and I'll yield to him to answer that question.

PHILIP TRUJILLO (County Treasurer): Mr. Chair, members of the Commission, we have been concerned to receive these documents from DFA because time is getting short and we're getting pressed now. Usually by this time of the year we're about ready to start cranking out tax bills. As far as the distribution is concerned, Mr. Chair, I believe that the -- ordinarily we would want to get word to the various taxing entities so that they would know and be able to review the distribution but what we're going to do at this time is ask for your approval and then simultaneously send them the information so that they can be reviewing it.

Distribution-wise, I don't see that there is any real significant difference from what we had last year. There may be a slight increase due to the debt service, but other than that, Mr.

Chair, I don't see any other significant dramatic difference in the distribution to the various entities.

CHAIRMAN SULLIVAN: I'm sorry to have to ask these questions but this is the first time I've seen this.

MR. TRUJILLO: Same here, Mr. Chair.

CHAIRMAN SULLIVAN: On the first page of 3, where there's two columns for Santa Fe, it's page one of three of those last three pages. And there's two columns titled "Santa Fe."

MR. B. MARTINEZ: Mr. Chair, if I can answer that question for you. We, in Santa Fe County have four school districts. They are the Española School District up north, Pojoaque School District, the Santa Fe School District and of course, Moriarty School District down south. These rates are reflective of those school districts. The first two columns identified Santa Fe, within the city limits of Santa Fe. First column on your left is C-in R, which stands for City in Residential. The next column over to the right is C-in-NR, which stands for non-residential. Those rates are applied against the residential properties within the city of Santa Fe, within the Santa Fe School District, and then subsequently, the non-residential properties within the City of Santa Fe, Santa Fe School District.

Your next column over is C-out R and C-out NR. That is the Santa Fe School District outside the city limits of Santa Fe, but within the Santa Fe Public School District. The communities of Tesuque, La Cienega, Galisteo, Eldorado. So everything that is outside the city limits within the Santa Fe School District. The next column is 1-R. Stands for Pojoaque School District, residential, non-residential. Next page, 0-8-T or 0-8-TR is the Edgewood municipality. 0-8-TNR is non-residential within the municipality of Edgewood.

18-in and 18-out is the Española School District.

CHAIRMAN SULLIVAN: Okay, then so the difference for example in Santa Fe for residential rates in and outside the city is 18.812 mills in the city and 18.348 mills outside the city. For residential.

MR. B. MARTINEZ: Yes, Mr. Chair, that is correct. And coincidentally, those numbers subtotal at the bottom of the page are a cumulative total of all governmental units together, because each individual governmental unit has its own obligations, the net total of those rates appears at the bottom of the page. Those numbers did increase less than one mill in the city for the residential in the city, and about 3 mills increase for the non-residential. So we saw a greater increase on the non-residential property, which applies to commercial, industrial and vacant land.

CHAIRMAN SULLIVAN: Okay, other questions for the Assessor or the Treasurer from the Board? What's the wishes of the Board?

COMMISSIONER DURAN: Move for approval, Mr. Chair.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Motion by Commissioner Duran, second by Commissioner Montoya. And this isn't -- Madame Clerk, an order number?

REBECCA BUSTAMANTE (County Clerk): We don't use an order number.

This is the only order we have. So we could call it number 1 if we liked. How about that? Okay, we'll just call it an order. All right. We have a motion and a second. Is there further discussion?

The motion to approve the property tax rates passed by unanimous [5-0] voice vote.

CHAIRMAN SULLIVAN: Thank you, gentlemen.

MR. TRUJILLO: Mr. Chair, thank you. Thank you, Commissioners.

VIII. Presentations

A. **Presentation of Certificate of Appreciation for 25 years of service to retiring employee Frank Rivera (E-911/Rural Addressing)**

MR. FLORES: Thank you, Mr. Chair. Before I turn this over to Erle Wright, who is actually our GIS program coordinator, I'd just like to say that with staff members of the County such as Frank, it has really brought the County to where it is today and has us looking forward. So personally, on my part, I would really like to thank Frank for his dedication, especially to PFMD but to the County in general. And now I'd like to turn it over to Erle so he can give you a little bit of highlights or lowlights, I'm not sure which, of Frank's career.

CHAIRMAN SULLIVAN: Mr. Wright.

ERLE WRIGHT (GIS Coordinator): Good afternoon, Mr. Chair, Commissioners. With Frank it's actually all highlights. Frank's been with the County for 25 years and I think it's very rare to see somebody actually stick with the County that long. Typically, I think it's a very unusual thing and it's something to be very proud of.

Frank Rivera began his service to the citizens of Santa Fe County in October of 1978. Frank's first position was as a custodian and he then moved on to a clerk's position in the County Manager's office and then to a supply clerk in what was then the central supply and filing section of the County. In 1984, Frank began to serve the County as a voting machine technician in the Bureau of Elections. In about 1992, Frank moved on to the Public Works Department where he took over the Rural Addressing program and responsibilities. I think in this role Frank had some really significant impact there. Frank established the sign fabrication shop which we still run today. That shop in its first year alone saved the County about 75 percent of its typical operating cost. And that shop continues to save the County money year after year, because we do that work in house, rather than contracting it out.

Frank also initiated upgrades to equipment and procedures, which helped standardize and improve our Rural Addressing project and processes. He pushed for the purchase of high accuracy mileage meters, the GPS base station and the rover units, which we still use today to maintain the 911 addressing throughout the county. About three years ago in 2000 the addressing section was reorganized and placed under the direction of the Geographic

Information Systems Division. And during these last three years, I think Frank, his work ethic, his experience and his attitude has been invaluable to us in seeing this very difficult and critical addressing project through to completion.

We're going to greatly miss Frank and his dedication to complete the task put before him. He's been a real asset to the County and we will miss him tremendously.

CHAIRMAN SULLIVAN: Thank you, Erle.

COMMISSIONER DURAN: Let's make him stay.

FRANK RIVERA (Rural Addressing): Chairman Sullivan, members of the Commission, I just wanted to thank the County staff that I've worked with. It's been a pleasure working with everybody. A great learning experience and I'm going to actually miss everybody here, but 25 years is a long time and it's time to step down. Thank you.

CHAIRMAN SULLIVAN: Thank you, sir.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Frank, I want to personally thank you for all your hard work and all your expertise and you've started and you've kept going and we appreciate everything you've done. Thank you.

VIII. B. Update of Fiscal Impact Study for the Santa Fe Community College District, Brief Presentation by Dan Guimond of Economic Planning Systems, Inc. (EPS) of Denver

JACK KOLKMEYER (Planning Director): Thank you, Mr. Chair, good afternoon Commissioners. Jack Kolkmeier, Planning Director for the County. As requested by the Board of County Commissioners last year, the Santa Fe County Land Use Department and Planning Division entered into a professional services agreement in December of last year with Economic and Planning Systems, known as EPS, to prepare a fiscal impact study for the Santa Fe Community College District. They had a specific scope of work for that project which Mr. Guimond will address in his presentation to you, and also County staff, including Land Use, Public Works, Utilities and Sheriff's Department, Fire, Finance and the Assessor's office, all work together to provide data and other information to EPS. A stakeholder group was formed to provide additional information to EPS about current projects, infrastructure estimates and a market analysis were presented to staff and to the stakeholders at a meeting held this past July. We've done a lot of work on this and we thought it would be timely and appropriate to have Mr. Guimond from EPS do a presentation for you which will be shown on the power point behind you. You also have a hard copy of the presentation that will be presented and without any further ado I'd like to introduce Mr. Dan Guimond.

DAN GUIMOND: Thanks, Jack, Mr. Chair, Commissioners. You do have a copy of the power point in front of you to avoid any neck injuries from turning around and looking at the screen at the same time but it does give the public an opportunity to follow along.

I'd like to briefly cover the project objectives and the scope as Jack mentioned. The project objectives were to evaluate the timing and distribution of residential and commercial growth in the Community College District, to quantify the costs and revenues of providing County services and facilities to the district, to identify a feasible governance structure for the implementation of the plan and to recommend any ongoing fiscal analysis model for future development.

The first task was to establish some market forecasts and development framework for the Community College District. Working with regional demographer, Al Pitts, we developed residential and non-residential forecasts over the 2003 to 2007, 2007 to 2020, and 2020 to 2050 time periods. The development forecast will provide the development program as a baseline for conducting the fiscal impact analysis and it also provides information to evaluate implications of the plan and any recommended changes that might be needed.

The second task, task 2-A is to establish the fiscal structure for evaluation of fiscal impact. We evaluated, or are evaluating the existing County fiscal structure, basically determining what the budget trends are, cost multipliers for the existing County budget as it's applied to future provision of general government services, for which the residents in the district would also pay. We also are specifically identifying the marginal costs associated with infrastructure development and the ongoing provision of County services for that capital infrastructure in the Community College District itself. We're identifying which of these services would be done by the County and which would be done by other providers. The second part of that fiscal task is to evaluate what those specific fiscal impacts are in terms of forecasting County revenues by source, forecasting County general government costs, estimating future capital operating costs, future capital replacement costs, for which we believe it would be prudent on the County's basis to account for all of these costs in terms of moving forward, to quantify the net fiscal impacts on the County and also to identify any fiscal impacts to other entities besides the County in the Community College District.

Task 3 and task 4 deal with implementation issues, both first determining and equitable capital facilities development model for the district to recommending the future operating governance structure for the plan, identifying any needed additional revenue sources that might be warranted in terms of future operations, and to recommend any district plan implementation steps or changes that might be warranted.

The slide labeled Community College District Plan status just shows you the existing development planning structure of the district that as of January of this year there are 820 residential units and 310,000 square feet of commercial space in the district, and that there's a proposed 4500 units and 5 million square feet of non-residential development and at build-out, the plan anticipates 18,000 residential units and 13 million square feet of commercial or non-residential space.

The housing forecast -- again, these are the RPA or Regional Planning Area Forecasts and they show the Santa Fe Community College District or SFCCD on the slide as a subset of the regional forecast for the RPA district. It does show that for forecast housing development that the Community College District is projected to be the fastest growing area of the county with

moving from 909 housing units in 2003 to an estimated 1447 in 2007, 4300 in 2020, and 16,185 in 2050, or approximately build-out.

In the next slide it's translated into housing, into population, with a projected population of nearly 10,000 by 2020 and almost 35,000 by 2050. The non-residential development forecasts were based on, again, RPA forecasts for regional employment growth in the Santa Fe region and that employment as a share of the ratio of employment to population was projected by district in the region with the Santa Fe Community College District numbers calculated. The slide up here translates those employment numbers into affordable square feet of development for the Community College District itself and as you can see, the non-residential forecast is broken down by major employment sectors, including retail, finance, insurance and real estate services, government, manufacturing, construction, transportation, and public utilities and wholesale. We grouped them into these three major groupings of retail, office and other, because that's how space is likely to line up with retail type space accommodating retail uses, office uses including most services, and other being manufacturing, light industrial flex space for manufacturing, construction and wholesale trade type uses.

And as you see, by 2020 there's a forecast for about 763,000 square feet of retail, about 1.6 million square feet of office type space, and about 500,000 square feet of industrial type space. In terms of relating these market forecasts in the capacity of the Community College District Plan, on the next slide you can see that by 2050, the projected 16,000 residential units is relatively close to the planned build-out of 18,000 housing units, being fairly in equilibrium, at least on the long term for the plan. Certainly, with the 2020 forecast of only 300 housing units it does suggest that a phasing development for these master developments within the district is warranted.

On the non-residential side, the development, the forecast for 2020 is for almost 3 million square feet of development and although we do not have forecasts for 2050, if you projected the same growth rate forward, it would be almost 7 million square feet in 2050. However, this is significantly less than the planned build-out of 13.6 million square feet that's shown in the plan.

The next slide addresses some of the plan implications that we've identified from these market forecasts. As I said, the district accommodates residential growth but the development approval should be tied to both infrastructure availability and development phasing. In our opinion the non residential development is over-planned and that some master plan adjustments are recommended to address that, both in terms of the number of village centers and neighborhood centers that accommodate the planned mixed use commercial development within the residential portion of the district, as well as the amount of employment based non-residential development that is shown elsewhere, primarily on the periphery near the major highways around the Community College District.

The next slide shows, as we move into the fiscal analysis portion of the plan, how the capital development, how the capital facilities are being developed within the district. And as you can see in the first column, essentially, at least under the Rancho Viejo model, which is the one active development in the Community College District, the developer is essentially building

all of the capital infrastructure, and in terms of County facilities, the County is essentially responsible for fire and police, with some participation of a community improvement district in terms of financing a developer-initiated district in terms of financing roads and water facilities.

The initial analysis has identified some issues that should be discussed as it relates to providing capital infrastructure. Right now, developers have the primary responsibilities for capital infrastructure. As I said, a County improvement district is being used for arterial roadways or at least has been used in the past. Other developments within the district have not established a model, at least they have not moved forward. In terms of looking at how the infrastructure is to be turned over in terms of operation and maintenance in the future, as in any other real estate development, the developer will eventually work himself out of a job in terms of building real estate and the logical extension of that is that the major capital facilities and entities will be transferred over to other entities and we are looking at, there are a number of different ways that this can be handled and we will analyze the fiscal impacts of a number of different alternatives.

In general, we're suggesting, as a recommended structure, that regional facilities be either County or regional district in nature and that local facilities be local homeowner or homeowner association in nature. And that's what's shown on that chart.

In terms of recommendations for County systems, we believe the primary roads, water system, stormwater and drainage that follows the primary roads, law enforcement, fire and EMS services, regional parks, regional trails and open space are logically County responsibilities or at least regional responsibilities and should not be retained at the individual development level or homeowners' level. In terms of other entities, we believe that, and this will be subject to further fiscal analysis that parks, trails and open space could be done potentially as a special district as opposed to a countywide responsibility. We believe that the homeowners association should be responsible for the local roads, neighborhood parks and plazas and community recreation facilities, and that the utilities, basically utilities, whether they be sewer and water or gas and electric, would basically work as self-funding structures because they're covered by user fees. So either private utilities or County utility enterprise funds.

We are in the process of calibrating our fiscal model and getting our service standard verified with County staff at this point. In terms of some preliminary fiscal analysis issues that we've identified, we do believe that the County operating model or recommended County operating model that I briefly presented can be balanced over the 2003 to 2020 analysis period, and that we believe that by 2020, that most of the fiscal development will be far enough along that that year of analysis is indicative of future fiscal conditions. We have identified some fiscal issues that will need to be addressed in terms of what I would describe as the lumpiness of how infrastructure is developed in the sense that you build facilities like roads and parks that you need to have a certain amount of tax base to pay for and the taxes come along later. So we are working with staff to refine the assumptions about how that capital infrastructure is provided.

It's important to keep in mind the commercial in relation to the amount of residential that's coming on line but that's something that you could easily smooth out or adjust. In terms of fire and EMS services, our initial analysis has indicated that we have impact fees in place

and that that provides adequate funding to pay for fire through the year 2020, but because impact fees are a one-time fee as opposed to an ongoing revenue source, that as development tapers off, some additional revenue sources may be needed to cover ongoing operation. And we need to resolve some open space and park issues as well as we're recommending that a different law enforcement model be structured for the Community College District when development gets further along.

I can end the presentation here. I would just say briefly, I've already talked to you about the park development issues, the park revenue issues are mostly related to the fact that there's a higher level of parks anticipated in the Community College District that exists elsewhere in the county and if that's the case then the homeowners in that area would need to anticipate one way or another, either to impact fees or a district or some other structure would have to pay for a higher cost standard in order to maintain those. And in terms of law enforcement issues, right now you've got a structure where there's essentially one officer per vehicle and one officer per thousand people in the county because you're serving a large rural area, as the area gets more developed we see it that a more cost-efficient model would be to run it as a district or a substation model where you have shift service and you have two officers per one vehicle or three officers per vehicle and operated on that type of structure. That would be a more cost-efficient model for a higher density area like this.

And then finally, just additional revenue issues that we've identified that we're looking at. We believe the County should consider increasing development review and building permit fees, if not overall, then at least for the Community College District as an additional revenue source and that, as I already mentioned, the park impact fee or special mill levy may be needed to address the differing levels of park needs within the district compared to elsewhere in the county.

Mr. Chair, I'd be happy to answer any questions that the Commission has.

CHAIRMAN SULLIVAN: Questions for Mr. Guimond from the Commission?
Commissioner Montoya

COMMISSIONER MONTOYA: Mr. Guimond, when are you projecting that this will be complete?

MR. GUIMOND: In the next six weeks. We're well into the study. As I said, we've got our models set up and we're doing some initial runs at this point. We should be back in front of the Commission in a month to six weeks with our analysis and identification of any further issues.

COMMISSIONER MONTOYA: Okay. Thank you.

COMMISSIONER DURAN: Mr. Chair, I'm wondering, in the next six weeks, you make some statements in here that -- I'd like to make sure that you are factoring in the increase in revenues that we're going to be receiving from an increase in property tax. Right now it's vacant land, that's how it's being taxed, and once they've achieved build-out, the revenues generated from the development out there will be much greater than what they are today. So you are factoring that into your assumptions and your recommendations, correct?

MR. GUIMOND: Yes, we are, Commissioner. That's why we needed some development forecasts so that we can then apply an average home value and an average value per square foot of non-residential development and calculate how those revenues will grow by time period commensurate with development forecasts.

COMMISSIONER DURAN: Okay. And the County is not responsible for any of the road construction or infrastructure expense in the Community College District. At least that's my understanding. Is that yours?

MR. GUIMOND: That's my understanding as well. We're in the process of meeting both with County staff and the property owners, the stakeholder groups out there to verify all of the assumptions that we have put into the financial model. So all of those cost factors, who's paying for what, all of those revenue factors are all, will all be transparent in the sense that they will be reviewed and if somebody disagrees with those figures we'll work it out with staff as to what the right figure is to use.

COMMISSIONER DURAN: Okay. And my last question is, you made several statements here where one of them is non-residential development is over-planned. Some master plan adjustments are recommended, and the number of village centers should be adjusted. You will be making some recommendations to us as to how you think these adjustments should be made?

MR. GUIMOND: Yes, Commissioner. The actual adjustments to the plan would be beyond the scope of this project but the recommended land use changes that come out of the market forecasts and come out of the fiscal analysis will be recommendations that will be included in this study.

COMMISSIONER DURAN: And you'll give us information then based on, that have led you to make that assumption. You'll provide us with that information. You're saying that non-residential development is over-planned. You will provide us information basically why you made that assumption or arrived at that.

MR. GUIMOND: Yes, sir. I'm not just offering sort of my personal opinion that it's over-planned. We are deriving these conclusions from the market numbers and the fiscal numbers. So if we're saying the non-residential is over-planned, or say the village centers are over-planned, we're saying that based on this amount of residential development, we can only support so many supermarkets and so many community centers and we're suggesting that there isn't enough development to fill those community centers. So that's how we reached that conclusion.

COMMISSIONER DURAN: Okay.

MR. GUIMOND: I don't think there's anything that we have found that would -- that are suggesting that the intent of the plan is not valid. We're just suggesting some refinements in how the plan is implemented.

COMMISSIONER DURAN: My only concern is that Eldorado is about a 20-year old subdivision and it, in the last five years, that's when all the commercial development has taken place out there. They finally have a shopping center. And I think that until you have a community, it's hard to get non-residential uses for people who are interested in developing

non-residential uses to commit to that kind of investment until they know what kind of community, or the size of the community, or a cross section of the community. And I think it took Eldorado 20 years to get built out and for them to make that decision. So I'm just a little concerned that you offer us some direction or you give us some reason for it based on past experiences.

MR. GUIMOND: We will certainly do that. You raise a very, I think, legitimate point, that is, if people are expecting commercial development to be there now, it's not going to happen because there needs to be a certain number of rooftops out there before that commercial development is supported. And even I would say from a fiscal point of view, we need to make sure that the development is balanced because your fiscal structure in this state, commercial development pays a higher proportion of the governmental burden than residential development does. So we are very cognizant of those issues and are not recommending -- I don't expect we would be recommending dramatic changes in the plan, just issues related to timing and phasing of development.

COMMISSIONER DURAN: Thank you. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: One of the things, I think, on that same issue that is important to us, on that non-residential, first of all, it's important to have as accurate as possible a figure, because as non-residential pays, as we saw in the Assessor's presentation here just moments ago, a larger portion of the property tax and Santa Fe County relies much more heavily on property tax than it does on gross receipts tax. But I think that's important for us to look at the numbers that Al Pitts and yourselves are generating there with regard to that build-out. Basically, after we've let this market stabilize itself, you're projecting and Al's projecting about 7 million square feet of non-residential in 50 years. Our Community College District Plan allows almost 14 million square feet of commercial. So where I think that's important for us to be careful is that because we're allowing twice as much commercial as we feel the market can support in 50 years, I'm concerned that all that commercial is going to encircle the district and be on Route 14, possibly along Richards Avenue and not be in the community centers where we had hoped it would happen.

So we may need to look at some guidance as we're adjusting those commercial centers to see is that what we want or do we want to have to include some incentives to have those commercial activities in those areas. In fact in some of them, the Rancho Viejo master plan, there were requirements that at a certain level of development commercial would occur. That was part of the development agreements and those are being translated into fire stations, things like that. We haven't gotten any commercial yet, but I think that's where the important issue there is that you bring forward is that we need to really give some thought to how we manage that commercial development. And just a clarification on the roads. Although the developer will be building the roads, you have another -- your expectation is that the County will be paying the cost of operating them and repaving them and reconstructing them in the future. Is that part of it?

MR. GUIMOND: You know, based on just looking at how County roads have been taken over in the past in terms of how the primary road system or the regional road system

is going to work in the future, it appears to us that these are really roads that service more than just the local development. They're going to serve the whole district plan and for that reason, it seems to me they should be County roads. Now, we need to protect the County's interest and make sure that the revenue streams are forthcoming from this project to cover those costs. We are looking not only at the costs of the annual operations and maintenance of those roads but we're also looking and recommending a capital replacement fund be put in place at the County level so that in 20 years when those roads need to be reconstructed that the money is in place to do that.

CHAIRMAN SULLIVAN: Okay. Other questions, comments from the Commission? All right, Dan. Thank you very much. Appreciate your concise summary and we look forward to reviewing the final product. Are you going to provide a draft to the Commission before the final presentation?

MR. GUIMOND: We will do that. We'll provide a draft. What's your normal - a week or two weeks in advance?

CHAIRMAN SULLIVAN: Yes. We'd like to get it before just the three days before the Commission meeting if we can -- if necessary move it back a meeting or whatever to give us at least two weeks to go through it and discuss it.

MR. GUIMOND: We will certainly do that. Thank you.

CHAIRMAN SULLIVAN: Good. Thank you very much.

VII. C. Presentation and Update of Pojoaque Valley Planning Committee's Meeting with County and Pueblo Officials and their Respective Staffs on September 5, 2003 at the Hilton Hotel given by Romella Glorioso-Moss

ROMELLA GLORIOSO-MOSS (Planner): Thank you and good afternoon, Mr. Chair and members of the Commission. I would like to review the results of the September 5th meeting, bringing you up to date on subsequent activities of the Pojoaque Valley Planning Committee, and then make a few suggestions on how to proceed. [Exhibit 1] From the beginning of this project, both the County staff and the Board of County Commissioners recognized the need to invoke the area's five Native American Pueblos in the planning process. Several efforts were made towards achieving this objective which include County Manager's formal letter of invitation to Pueblo governors to participate in the traditional community's planning process, Commissioner Montoya's meeting with Pueblo governors and lieutenant governors to discuss common interests in his district, including the Pueblos' participation in this planning process. Number three, staff regularly sending invitations to committee meetings, including meeting notes to Pueblo governors.

Realizing that those efforts were not enough, a proposal was made in July 2003 to present to the County and Pueblo officials and their respective staffs the planning committee's work to date. It was hoped that this meeting would lead the way for a more open and direct

communication, consultation and coordination with the Pueblos. The Board of County Commissioners approved a budget of \$2,300 and the meeting, which was attended by 46 people was held on September 5, 2003 at the Hilton of Santa Fe. Meeting notes are available at the project's website, and on September 9, 2003 was mailed to all committee members and participants in the September 5, 2003 meeting.

The Pojoaque Valley Planning Committee presented the project's vision and mission statement and objectives for the next 20 years for dealing with their community's growth, economic, jurisdictional and sustainable development issues, including maintaining diverse but harmonious relationships across cultural and jurisdictional boundaries. The subsequent discussion revolved around two main topics: participation of the Pueblos in the planning process and second, issues the Pueblos may be interested to participate. The discussion seems to indicate a lack of understanding or lack of clarity about how the government to government relationship actually works.

This condition was exacerbated by the fact that each Pueblo government has its own protocol. In addition, the discussions indicate a low level of trust of the County by the Pueblos' participants. However, at the same time there were indications that the Pojoaque Valley Planning project may be a good vehicle for moving beyond this constraint. The statements of James Rivera, Pojoaque Pueblo, Michael Vigil of Tesuque Pueblo and Gilbert Tafoya, Santa Clara Pueblo seem to suggest this opportunity.

So how do we proceed to take advantage of this opportunity. It seems a two-pronged approach may best serve. One, invoke the Pueblos in specific, practical activities needed for both Pojoaque Valley Plan formulation and plan implementation, and second, more generally proceed with an activity that addresses the general need for better communication and understanding among the key stakeholders in the valley.

For number one, I suggest two or three specific activities that the Pueblo participants indicated they might be interested to participate in, which are also vital to our planning. Number one, improving the quality of public education in the valley. Number two, mapping. Number three, increase law enforcement for public safety.

The planning committee has already divided into several mission-generated subcommittees, two of which correspond with activities one and two, while the third was also identified by the committee as an important task. Therefore this condition presents a solid foundation to build on. The decision of the tribal summit in April 2003 to establish a committee on cross-cultural communications between the Pueblos and the County was in force at our September 5th meeting. We chose to give a means to address the more general, important issue of trust and understanding. Therefore, I suggest we immediately convene this committee. Perhaps it would also give this more general activity some teeth or bite and immediate relevance if it is used for practical purposes or application the two or three specific valley planning activities recommended above.

For example, members of this cross-cultural committee would assist from the perspective of communication issues. It could considerably facilitate all these activities and aid in their success if the Board of County Commissioners delegates this responsibility of convening

and facilitating the cross-cultural communications committee with the County planning staff. Thank you, Mr. Chair, members of the Commission, and I will be happy to answer any questions you may have.

CHAIRMAN SULLIVAN: Questions?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: It's Romella, right?

MS. GLORIOSO-MOSS: Romella.

COMMISSIONER DURAN: Romella. Thank you. I was just wondering, I'm more than concerned that the Pueblos really participate in this process and I know that they have major concern as to how this process is eventually going to evolve. Do you think that they would be willing to help us form some kind of committee that would meet on a monthly basis that would be comprised of Commissioners and tribal members so that there could be direct communication between the elected officials and those that represent the Pueblos so that we can deal with their concerns and their issues at a higher level or at a decision making level?

MS. GLORIOSO-MOSS: Mr. Chair, Commissioner Duran, I believe so. And some members of the Pueblos clearly indicated that at our September 5th meeting. But the issue is this lack of clarity. How are we going to do this? And so one of the suggestions that I'm proposing is to convene the cross-cultural communications committee so the members of this committee can liaise to their Pueblos what's happening, when is the meeting going to be. Maybe we can conduct a workshop how this government to government relationship works. But I don't think there will be -- there will be some problems of course but as I said earlier, there are members of the Pueblos who indicated that they are willing to participate in this planning process.

COMMISSIONER DURAN: I know in the past several years what's come out of these tribal summits that we've had and other communications that we've had with Pueblo leaders they really like to have some direct communication with the elected officials and I would be willing to participate in some kind of monthly dialogue with them on a scheduled basis to discuss the planning process that we've undertaken out there and I'm sure other Commissioners would be interested in doing that also. So perhaps one way of being able to get them to participate more in this planning process or participate at a level that we might be able to actually accomplish something, you might let them know that we would be willing to, assuming that the Commission is in agreement with this, but we would be willing to deal with them directly, in addition to what staff is doing but I wouldn't be opposed to meeting with them on an ongoing basis.

MS. GLORIOSO-MOSS: Mr. Chair, Commissioner Duran, thank you very much.

CHAIRMAN SULLIVAN: Other questions for Romella? Commissioner Montoya.

COMMISSIONER MONTROYA: Mr. Chair, not any questions but I just want to again commend you for the work that you did in putting that together along with Jack and the

way it was facilitated. I thought that it was very productive and I agree with Commissioner Duran, I think if there's some way to maintain the dialogue that began on that day and sustaining that I think we'll be better off in terms of all of the citizens that reside particularly in the district that happens to be the district that I represent and I know that there's been a lot of I think contentious feelings on the parts of a lot of residents there and it's primarily because of lack of information.

So I think certainly if we -- I had toyed at some point and I'll mention it now that possibly a liaison of some sort to this Board of Commissioners might be an appropriate role to have in terms of that kind of decision making that you're talking about, Commissioner Duran. I don't know what that would look like or what that would be like, but that liaison would be able to hopefully -- we would be able to communicate government to government as you're indicating. I don't know if that's a feasibility either, Gerald, or what your thoughts are on that.

MR. GONZALEZ: Mr. Chair, Commissioner Montoya, that's one of the topics that came up repeatedly during our summit meetings and it's something that we're looking at seriously internally within the County Manager's office to see how we can take care of that function. There's some delicate aspects to it because of the cross-cultural issues but we're working on it and we'll continue to pursue it. I have some thoughts that down the road I hope to share with the Commission once they've percolated for a while.

COMMISSIONER MONTOYA: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioners, other questions? Okay, thank you, Romella, appreciate the update.

MS. GLORIOSO-MOSS: Thank you.

IX. Matters from the Commission

A. Resolution No. 2003-150 A Resolution in Support of Continuing the Gross-Receipts Tax Exemption for Los Alamos National Laboratory

COMMISSIONER MONTOYA: Mr. Chair, I'll speak on this since I brought it forth to the Commission. It's pretty, I think, straightforward in terms of the information that is before you regarding the impact that incorporating a gross receipts tax would have on the residents of Santa Fe County in terms of approximately 2500 employees being employed in Santa Fe County who are residents and taxpayers. Approximately \$170 million of annual LANL payroll comes to Santa Fe County. Approximately \$23 million annually in LANL procurement is purchased in Santa Fe County. And the legislature at this point is examining the gross receipts tax exemption granted to LANL at this point as a non-profit organization. I believe that we would suffer economically and it would probably be irreversible in terms of the economic hard times that we would face here in the County if this were to indeed be incorporated. So that is the reason that I brought this forward for a consideration, Mr. Chair.

CHAIRMAN SULLIVAN: Questions for Commissioner Montoya.
Commissioner Duran. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chair, just a quick question.

CHAIRMAN SULLIVAN: Wait a minute. Were you raising your hand, Commissioner Duran?

COMMISSIONER DURAN: No, I yield to --

CHAIRMAN SULLIVAN: Oh, you were pointing over there. Okay.

Commissioner Campos and then did you want to speak? Followed by Commissioner Duran.

COMMISSIONER CAMPOS: Commissioner, do you feel that the exemption would affect the ability of Los Alamos National to exist or to continue with the contract, or what's the detriment?

COMMISSIONER MONTOYA: What I have been told is that it would probably impact about 700 jobs at the lab. The majority of those labs would of course be, rather than scientific in nature would be technical or support staff and the unfortunate reality is that a lot of those technical and support staff do live in Santa Fe County, particularly in the area, the Española, Pojoaque area that is part of the district that I'm at, so that would probably impact a lot of those people and their livelihoods.

COMMISSIONER CAMPOS: You're saying that the contractors, there would be less contract work if we had a GRT?

COMMISSIONER MONTOYA: Exactly.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Do you know when we adopted this policy of not charging them gross receipts tax?

COMMISSIONER MONTOYA: They're exempt because of their 501(c)(3) status.

COMMISSIONER DURAN: Do you know when that was established?

COMMISSIONER MONTOYA: When they came into existence in 1945, I think it was.

COMMISSIONER DURAN: And that's when they were funded pretty much by the federal government.

COMMISSIONER MONTOYA: Exactly.

COMMISSIONER DURAN: And now they're not, right?

COMMISSIONER MONTOYA: Well, they continue to receive the large majority of their funding from the federal government.

COMMISSIONER DURAN: Do you know how much gross receipts tax we are actually losing by not -- by making them exempt?

COMMISSIONER MONTOYA: It would be approximately \$23 million annually that we would lose, just in Santa Fe County.

COMMISSIONER DURAN: Or that we lose right now.

COMMISSIONER MONTOYA: No, no, no. That we would lose. Right now, we're getting that money.

COMMISSIONER DURAN: Maybe I don't understand then. So right now,



they're exempt from paying gross receipts tax.

COMMISSIONER MONTOYA: Correct.

COMMISSIONER DURAN: For services of for --

COMMISSIONER MONTOYA: For anything.

COMMISSIONER DURAN: For anything?

COMMISSIONER MONTOYA: For anything.

COMMISSIONER DURAN: So that means if they come to Santa Fe County and buy certain goods or certain services, they don't have to pay tax.

COMMISSIONER MONTOYA: On certain goods and services.

COMMISSIONER DURAN: I'm a little concerned about that, actually. Is it because they were subsidized by the government that we made them exempt. I guess you've already answered that. And I guess they're not subsidized by the government anymore. They are a for-profit business is my understanding and I'm not sure why we would exempt them. I understand your concern that perhaps there would be a loss of jobs and all that but do you think it would be possible to do more research on this? Is it something that needs to be done immediately?

COMMISSIONER MONTOYA: This is something that was being requested prior to the Blue Ribbon Tax Commission making any final recommendations to the governor.

COMMISSIONER DURAN: So the Blue Ribbon Tax Committee might be recommending that we --

COMMISSIONER MONTOYA: Pull their exemption.

COMMISSIONER DURAN: Hold the exemption for them.

COMMISSIONER MONTOYA: Yes.

COMMISSIONER DURAN: And they're looking for our support?

COMMISSIONER MONTOYA: Yes. In supporting their current status.

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

CHAIRMAN SULLIVAN: Other questions? Commissioner Anaya.

COMMISSIONER ANAYA: Commissioner Montoya, so right now we don't know approximately how much money that we would -- if we were to charge them gross receipts tax, we don't know how much money the County could be making then. Because we never have, right?

COMMISSIONER MONTOYA: Actually that gross receipts tax would more than likely go to the state and we would get a percentage of that.

COMMISSIONER ANAYA: Oh, it goes to the state.

COMMISSIONER MONTOYA: Right. The gross receipts tax would. So I don't know exactly what the amount would be.

COMMISSIONER DURAN: I bet you Gerald knows.

CHAIRMAN SULLIVAN: I think it would be pretty hard to determine if it's on construction, Commissioner Anaya. The gross receipts tax on construction is charged at the point where the construction takes place. So that gross receipts tax would go to Los Alamos County. If it's on services, that gross receipts tax is charged at the location of the service

provider. So if it's say, for example, an architectural firm in Santa Fe providing services to Los Alamos, they would pay gross receipts taxes in Santa Fe County and we would get those taxes. If they're physically located in Los Alamos, the architects or the engineers, then they'll pay those gross receipts taxes which would be distributed to Los Alamos County. So it would be a matter of knowing how many service providers they actually had in Santa Fe County. And the same holds, I think probably where it has more impact is on purchase of goods. Picks and shovels and stationary and computers and all of those types of things which would come from stores in Española, stores in Santa Fe, and those purchases, those taxes would be credited to Rio Arriba County or to Santa Fe County, wherever the point of purchase was.

COMMISSIONER ANAYA: Do the other counties charge gross receipts tax or not? Or is it just us, just our county that we're asking?

COMMISSIONER MONTOYA: No, all of them.

CHAIRMAN SULLIVAN: Let me ask Commissioner Montoya, this is a state - in other words, the County doesn't have the authority to charge the gross receipts tax or not. Is that correct?

COMMISSIONER MONTOYA: Correct.

CHAIRMAN SULLIVAN: This is a state determination that has to be made and this recommendation, the Blue Ribbon Committee then has to be translated into state legislation.

COMMISSIONER MONTOYA: Exactly.

CHAIRMAN SULLIVAN: So we don't have the option to charge them or not but we do have the option to influence what the committee's decision might be.

COMMISSIONER MONTOYA: Yes.

COMMISSIONER ANAYA: And the state doesn't want to charge them.

COMMISSIONER MONTOYA: No, the state does -- some members on the Blue Ribbon Tax Commission do want to charge that gross receipts tax. They want to do away with the exemption that they have now. And I believe that primarily the exemption is because they're an educational institution. Their affiliation with the University of California is what has afforded them the tax exemption.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I think that if they are buying goods and they're making a real effort to buy goods and trade within the community and in the state that perhaps this is something that I could support but if they're doing a lot of their purchasing outside, when you can buy out of state and oftentimes not even pay gross receipts tax that way, I guess I'd have a problem if we were exempting them here and then they were still going out of state to buy merchandise. Would there be any way of requiring them to buy in state, as part of our approval? That could be something that perhaps the legislature could enforce.

COMMISSIONER MONTOYA: Yes, the legislature probably could.

COMMISSIONER DURAN: Commissioner Campos says no.

COMMISSIONER CAMPOS: I don't think so.

COMMISSIONER MONTOYA: I think, just as indicated here, about \$23

million annually is purchased here in Santa Fe County. In terms of what we're really looking at supporting again is the potential loss of job and the potential loss of revenue in terms of the procurement expenditures that they currently have here in Santa Fe County.

COMMISSIONER DURAN: I guess I just don't know enough about it. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you, Commissioner. I think this issue applies actually to all the non-profits. There's been a lot of discussion and there's been articles in the paper about the taxation of all non-profits and I think on a smaller scale, they're all saying the same thing which is if you tax us then our dollar doesn't go as far. It goes six percent less further. And we can't provide as many services or we can't hire as many people with the budget, assuming that we had a fixed budget. So really the issue rolls over to all the gross receipts tax and then the issue becomes if it's a gross receipts tax, it should be uniform across the board, if that's what we want to call it. And it is difficult to know what the impacts would actually be. \$23 million out of LANL's total budget, in terms of purchases is a pretty small amount of purchases in their total budget.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I actually think that if it's the legislature that's going to make this decision, they're probably going to have more information available to them to make that decision and I for one can't support this at this point and it's only because I don't have enough information to support it or not support it. And I would suggest that we, I don't know, table it, until we have more information. This happens in the next legislative session, right?

COMMISSIONER MONTOYA: Potentially by the beginning of the special session, which is October 27th.

CHAIRMAN SULLIVAN: Two weeks.

COMMISSIONER MONTOYA: Two weeks.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: And we have a meeting on the 28th?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN SULLIVAN: What about, just to throw out a thought, following up on Commissioner Duran's thought of adding a "now, therefore" that the exemption be predicated on a certain level of public purchases which would be monitored by an independent entity. We don't even need to set that level but that could be discussed and debated in the legislature. I don't know what that appropriate level is but my experience, personally, dealing with Los Alamos is that unless you give them some specific goals and measurable dollar amounts it gets very fuzzy about what their real commitment to local public purchasing is. So perhaps if we tied it to some better efforts on local purchasing.

COMMISSIONER DURAN: Local preference, something like that.

CHAIRMAN SULLIVAN: Does that sound reasonable?

COMMISSIONER MONTOYA: Mr. Chair, that would be fine.

CHAIRMAN SULLIVAN: So perhaps a "now, therefore" that would add that the imposition of a gross receipts tax on Los Alamos National Lab would have a deleterious effect on the region, and be it further known that the Santa Fe County Commissioners are opposed to legislation that would remove the tax exemption for Los Alamos National Laboratory, provided that a definitive, measurable program of local purchasing within Santa Fe County and the state was established.

COMMISSIONER MONTOYA: That's fine.

COMMISSIONER DURAN: That sounds good to me. Move for approval, with that amendment.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Motion and a second. Is there discussion?

The motion to approve Resolution 2003-150 as amended passed by unanimous [5-0] voice vote.

IX. B. Resolution No. 2003-151. A Resolution Supporting Santa Fe County Working with Local Energy, a Nonprofit, on a Biomass District Energy System

CHAIRMAN SULLIVAN: We have another resolution that has the imprint of Commissioner Montoya on it.

COMMISSIONER MONTOYA: Yes. Actually, I would like to ask Mark to come forward please.

MARK SARDELLO: Thank you, Mr. Chair, members of the Commission and thank you Commissioner Montoya for introducing this resolution. I appreciate the opportunity to come and speak to you. I'm going to run through a short power point which you can watch on your monitor there. I invite you to ask questions. Stop me and ask questions any time during the presentation if you have a question or if you say something really outrageous you can stop me also.

Biomass District Energy for the City of Santa Fe is what we're looking at. Basically what happened is over the summer the US Department of Agriculture and the Department of Energy put out a solicitation and it's called the Biomass Research and Development Initiative and what they were looking to do was get some facilitation of forest thinning projects and try to create some economic value for the forest thinning projects by developing some biomass alternatives.

I think you can see right here -- I copied this off their website today, right here, this announcement under What's New? Energy and Agriculture Departments, \$23 million in joint biomass research and development initiatives. We were one of the 19 recipients of that \$23 million award. We got about \$1.3 million to do the project that I'm going to describe for you

now. Our proposal that we gave to the DOE and USDA suggested that Biomass District Energy Systems can reduce energy costs, provide energy security, stimulate local economic development, facilitate and improve forest thinning and reduce harmful emissions, primarily from the combustion of natural gas but also from the combustion of biomass materials, which are typically just burned and slash piles.

When you make a series of claims like that to the DOE, this was actually the result. I guess they believed our claims so this is what happened. We ended up getting an award. Specifically what we said we would do is this. The Biomass District Energy project is for downtown Santa Fe. We said we would do a detailed design of the system, the mechanical design, all the way up to the watershed where the thinning projects are going on. The biomass system up in the watershed. Also the network of heating pipes that would distribute the heat that was generated by burning that biomass down through a system of pipes under the street to the City of Santa Fe, and the next step, we said we would study the economic benefits, also the costs model, the finance model, how would be pay for such a system and would the reduction in energy costs justify the construction of such a system.

So we hired an economic development expert under this project to also look at the creation of local economic benefit by having a local energy system. And thirdly, we said we'd do a study of the emissions reductions generated by this system as I was describing. The slash piles that they're planing on burning up in the watershed give off a tremendous amount of particulate pollution, smoke, and other pollutants, and also carbon monoxide. So the basis of the study is these three steps.

This is a picture from the International District Energy Association of just what is a district energy system. These are quite common. There's probably 6,000 systems estimated in this country. There's many, many more systems than that throughout the world. But basically what you do is you have a centralized location for generating heat or cooling as well, and then you circulate that heating and cooling in a system of underground pipes that then connects as a network to all the buildings in downtown. As I say, this is very common. Some of the hospital complexes in Albuquerque, certainly Presbyterian Hospital has a big system. UNM has a big system. I'm not sure what there is in Santa Fe. I think the Indian School has a very old steam system that's kind of falling apart, in Santa Fe.

The way we would start out the design is by looking at the heat loads in downtown Santa Fe. This is a map of downtown Santa Fe. Let's see. We're in this building over here. Just to get you oriented. The plaza is right here in the center. But basically what we did is we mapped out the what we felt were the biggest heat loads in Santa Fe. A couple of these I've already assessed. There's quite a bit more energy assessment to do. But the yellow markers are indicating primarily hotels and residential facilities like that. The blues are commercial space and the reds are municipal facilities. All of these buildings will need to be energy assessed to determine the feasibility of this project.

Biomass is what we're talking about heating the system with. What is biomass energy? It's simply solar energy that's stored in organic matter. It's nice to think of the trees and the plants and so on, you can harvest them actually and get some energy. Actually, we are biomass

material also. You could throw me in the furnace and you'd probably get a few BTUs out of it. I don't recommend it. I could use any one of you as an example. Excuse me.

COMMISSIONER DURAN: How about Commissioner Campos? How many BTUs would you get.

MR. SARDELLO: It's terrible to think of the value of your life in terms of BTUs. Here's some of the sources of biomass to get it out of the academic realm now. Here's some of the more practical sources of biomass. This would be forest thinning. I think this device is a Finnish device. It's actually a four-wheel steering device that's intended for low-impact forestry, although I'm not sure how low-impact that picture looks. It looks like they're doing some trashing of the environment there. I'm not really sure. But there's a number of sources for biomass. I hate to put a depressing photo up like this. These are not the fall colors and the aspen turning. These are evergreen pinons, obviously and I don't have to tell any of you that we have a tremendous problem with the dying pinon. But this would provide some economic value that might help some of those pinon thinning projects.

Biomass can also be generated from landfill waste. This is a big project out in California. I think it's just south of Los Angeles where they've covered over a landfill and drilled some holes to collect the biogas that comes out of there. You know the biogas in there is methane, very similar to natural gas and they collect it here and then they run it through, in front of the picture here is a series of microturbines actually. They're actually doing electrical generation in here. Imagine if we do just a thermal only system, it's a much, much cheaper system to integrate. You would just have a furnace there and then you could put the thermal energy into the district energy grid that we're talking about building.

Sawmill waste is another source. Sad to see the last big sawmill close in the area, up in Española, but they were generating a tremendous amount of wood chip biomass. This is exactly the type of biomass that you put in the furnace that we're contemplating for this system. There were piles and piles and piles of this stuff up there. They're still up there, I'm sure. One of the major expenses that Rio Grande Forest Products had was trucking these chips to Montana so that they could give them away to a pulp/paper factory. So using this resource locally helps businesses find a use of value for their waste stream.

Biomass from municipal solid waste is also a common thing you can do. The reason I'm showing you all these examples, by the way, is to get you thinking that once we build a thermal network, a thermal highway of these pipes, I envision the system growing and growing and growing and picking up all these facilities around the Santa Fe area eventually. So just to show you there's so many sources of heat from biomass. Municipal solid waste, what you do is you can actually run your sludge through a drier and make it into these little brickettes and then you buy these package units just like this and set them on the ground. This would be a gasifier, a combustor, electrical generator. These units put out both electricity and heat and in effect, they put out more electricity and heat than the surrounding system, the drier and so on would require, so this would be a net generator of energy in addition to taking away your energy bills at the solid waste treatment facility.

As I say, if you have a thermal highway, you might as well put any source of heat you

can find. If you're currently dumping large amounts of heat out on your roof through a cooling tower or something, you can instead dump some of that heat into the local thermal network. Also anybody who wants to install a solar thermal system, it becomes extremely simple to just tie that energy in to the thermal network.

Why do we need this project? Part of the reason local energy was formed, in fact, to look at helping communities solve their energy needs is because we're looking at the depletion of fossil fuel reserves, and by depletion, I don't mean that we're almost out of them. There's actually a tremendous quantity of natural gas left. There's a tremendous quantity of oil left. The problem is not the quantity, the problem is the quality. The quality has been going down for many, many years. Just to give you an example, the earlier gusher wells, when we used to drill a well in East Texas or in Southern California in the early 1900s they would shoot out tens of thousands of barrels of oil a day. Now we're combing the deep oceans for any drop of oil we can. The same thing is happening with natural gas. We're contemplating a 3500-mile pipeline to Alaska to bring down what amounts to about a year and half worth of gas for the US now. So again, as these resources get further away and harder to get to support your economy, they're considered lower quality resources.

Now, the situation in natural gas is actually getting very interesting. The quality of natural gas in this country is getting so low that the industry is having a very difficult time meeting demand. This is not something that's going to change. It's not a short-term problem. You hear it called a tight supply every now and then. I don't know exactly what that means. I call it quality degradation, and it's a one-way street. These are some of the news stories that are posted on the front page of my website. There's obviously a number of these. I'm sure all of you have seen the *New Mexican* run a couple of stories as well. But this is a long-term crisis and we're in it for the long haul, and it's time we started looking at waste streams and efficiency and some of the other things you can do.

This is just -- I want to give you just a little bit of detail on the current natural gas crisis. This is a graph that just came out of a Petroleum Council study. This was just released about two weeks ago. Over the last eight years, really, from about 1995 through the year 2000, we were running with about 400 natural gas rigs doing drilling in this country, and over this last eight-year period we've upped the rig count. We had a big spike in that winter, I think it was three years ago now, wasn't it? Where we had that big spike in gas. Right now, we have over 900 rigs working on natural gas. You can see the results up here in this orange curve. Natural gas production, the daily volume of production has not risen in the last eight years. So what I would say from this graph is what they had to do is more than double the rig count just to stay in place. So they're running on a treadmill here and they're about out of steam.

So again, this is a long-term situation. These two curves are crossing and I think we're in this for a long haul. Again, feel free to stop me if you have questions specifically.

This is the reason you can't drill your way out of a problem like this. This is some data that was taken in Texas on a natural gas well production. Back in the 70s, when you would drill a natural gas well, back here you would get on the order of four to six billion cubic feet of gas out of drilling a single well, nowadays you can see an exponential decline and we're down to

below a billion cubic feet out of any single well. This is why you have to keep doubling and doubling and doubling the number of gas wells that you're drilling so that you can try to maintain production. It's an exponential decline. Very, very hard thing to escape.

The net result of the situation we're in in natural gas is an instability in the prices. This is the spike from last winter and this was on the Nimex hub. There's several hubs for purchasing natural gas. I think Nimex is the one we purchase from. Yes. So we saw a spike around the \$10 level. The issue of how high gas prices will spike this winter is a difficult one to answer. It depends on a number of things, how cold the winter is and how good a job we've done refilling those storage tanks since the spike we had last year. It's a very difficult thing. They've had a very difficult time, as I say, refilling these gas storage tanks and we expect spikes like this this winter and beyond.

Again, it's a one-way thing and the only thing that can be certain is that we've reached an instability in the market. Instability is a problem for a number of reasons, obviously. When the price goes up everybody gets hurt by higher natural gas prices, but on average, New Mexicans get hurt twice as hard as the rest of the nation. And the reason for that is New Mexicans, as a percentage of their disposal income, spend about twice as much on energy as the rest of the country. We spend about 13 percent. Now, in this graph, we've actually totaled all of the energy sources that people buy. It's petroleum, it's electricity and gas, but again, it's always tough on an economy when energy prices go up because it drives up the price of all consumer goods. It's equally as troublesome that people are spending more on their utility bills and they don't have as much money to spend on the market. But again, we get hurt twice as hard so this is a real local issue for us.

Another source will reduce and stabilize energy costs, local economic development. Again, in that particular phrase, local is the key word. We're looking to create a different sort of economic model. We're trying to keep energy dollars here in the community. It's a tremendous loss of dollars from circulating in your local community when you pay your energy bill. Primarily, most of that money leaves town. We're also looking to facilitate the thinning projects by providing some value to the waste stream. Also your green waste stream that's going in the landfill, we're looking to reduce, improve energy efficiency. These district energy systems tend to be extremely efficient because you can take waste heat from one facility and move it to the next facility. So it's a very high efficiency project. We're anticipating high efficiency anyway.

Reduce greenhouse gas emissions, that's because we're going to turn off a whole lot of gas boilers here in the city and the surrounding community, and also we'll put that waste stream that's being burned currently up in the watershed to some good use. And also there's some value in becoming the first 100 percent renewably heated city.

What we're asking the County to do, not all of this is in the resolution, this is just what I am sort of recommending, I'm just asking you to support the project, just to recognize its value. Again, all it is is a study. We're not building a system. We're doing a study of economic development and a detailed study of the system. So I would ask you to support it and to be an outspoken supporter of it. As to your thermal energy needs. I know you have a couple of

buildings that have not yet been energy assessed. I would be glad to assist the County in getting those buildings assessed to determine what your exposure is to the natural gas market and how much thermal energy you actually need.

To begin processing and storing fuel. I know a lot of this is already going in your landfill and in order to process it and use it as fuel later, you're going to have to make sure that you're processing it per the requirements such that it can be used as fuel later. And that's just a particular kind of chipper, perhaps a drier, to make sure, again, that these fuel piles or these big -- I know that now you're mulching it I think and grinding it into mulch and I think you'd be better off chipping it such that it could be used for either purpose later.

I studied a little bit about energy resource degradation. I've given you a little taste of it with my example on the petroleum industry and also natural gas but it's really going to be an enormous problem. It's going to get a lot of attention here in the coming years in getting control of your waste streams and getting control of your local energy resources, I think is going to be extremely important. We'd be glad to help you with that. We do have education programs and outreach programs that we're constantly running. And consider the benefits of staying local with this. Again, we're creating an economic model here that keeps money within the community. So we're looking at local folks going up in the woods to do the harvesting of this biomass material. Local companies to distribute the energy and also to the benefit of local businesses. So if we can keep it all local.

This is kind of what we believe is that there is a destabilization going on and to reverse the destabilization of energy resource degradation, you'd have to restore local self-reliance in energy. A hundred years ago we were all self-reliant in energy, primarily the work for the economy came from domesticated animals or human labor. So I recommend that we try to bring some of that back. We've done it before and we can do it again and I think it's best to do it at the community level. I really appreciate your attention and if you have questions I'd be glad to answer them now.

CHAIRMAN SULLIVAN: Questions?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Sardello, you're in the planning phase right now. How long will you be in that phase and when you complete that phase, what about having a system on line, actually functioning downtown?

MR. SARDELLO: Good question. A common question I get. We turned in a one-year time line on that to the USDA to do a study. By the end of 2004, we will have a complete set of documents on how you can open a system, a complete set of engineering specifications [inaudible] so that they could bid on the project. We'll also have an economic study that will show how to finance the project [inaudible] So one year for the study. How long it will take to construct after that I don't know. This process [inaudible] So I would anticipate probably another year after that. Interestingly, this isn't exactly your question but you could begin doing, taking different facilities and already putting them on biomass material in little local pockets. You could change an individual building over, if it's a large enough heat load,

you could install a small heating unit there, a thermal unit there that could be tied into a system later when the district energy system comes your way. Also, all new construction, I was looking at the ccd presentation, all that new construction should be done with hydronic heating. In other words, you should be heating water and circulating that water through a building.

Most buildings, most of the larger buildings are heated this way, circulate water through the building so that later it's a very simple thing to just change out the boiler and you already have the rest of the infrastructure there. So I've gone a little past your question but I would say a year for the study and at least another year to get the construction done.

COMMISSIONER CAMPOS: One thing that's interesting to me, Mr. Sardello is the conversion process. The way you describe it, a building like this could be converted to biomass hot water simply.

MR. SARDELLO: Yes, and I didn't go into the utility room when I was here last week. I did not go into the utility room and look but if you have any building that already has water distribution for its heating and again, most of the big buildings to, I've done energy assessments in the El Dorado Hotel and also in the La Fonda Hotel. Any time they have -- they already have this water circulation system. It's actually very simple to bring the thermal energy, the district energy pipe up into the utility room and tie into their system. Interestingly, there's not much else to do because what happens is their boiler just stops coming on because the water is constantly hot. The boiler already knows not to come on when the water's hot. So there's very little to do to tie in a system of building that already has a hydronic heating system.

COMMISSIONER CAMPOS: We have a city here of about 62,000, 64, 000, 65,000. Is it feasible to provide energy to the entire community? How would you do that? Starting downtown where there's a lot of people and buildings. But getting down Cerrillos, how would you handle that?

MR. SARDELLO: It's a great question. Every time I do assessments, I'm sorry I'm not being as formal as I probably should be, Mr. Chair, Commissioner --

CHAIRMAN SULLIVAN: We do need to put a limit on this, because we've got a public hearing. I need to check with Gerald. What's the time of our public hearing for the HUD CDBG project? what time was that advertised for? And we do have a pretty long agenda still to complete here and we're into public hearing time now. What time was that advertised for?

MR. FLORES: Mr. Chair, it wasn't advertised for a specific time because we were unsure of when we would be at that point.

CHAIRMAN SULLIVAN: Okay, we didn't have a --

MR. GONZALEZ: The difficulty is completing the agenda in time to get to the public hearings before the public arrives.

CHAIRMAN SULLIVAN: Yes. Okay.

COMMISSIONER DURAN: What time is that? Six?

MR. GONZALEZ: That's correct.

CHAIRMAN SULLIVAN: Okay. Excuse me. Go ahead and answer the question but try to be a little more succinct if you can. I understand it's a wonderful project and

I'm sure you're extremely excited about it and I could be excited about \$1.3 million too but we need to move on.

MR. SARDELLO: Well, I didn't get the \$23 million.

CHAIRMAN SULLIVAN: I said \$1.3 million.

MR. SARDELLO: The answer is there's a tremendous amount of biomass materials. The initial studies we've done show that there's clearly enough in the watershed and surroundings for the downtown area, and then with the other sources I mentioned and showed, it's a very flexible system. You can continue adding heat sources all along. I've been amazed when I've done calculations of biomass availability and thermal energy. I think the answer is yes. I think heating this entire community with renewable energy is clearly possible.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I have three quick questions. So let's get to the answer real quick. Is there a byproduct that we need to be concerned about if we're going to build this facility up in the watershed, is there a byproduct? Is there any emissions? Any environmental issues?

MR. SARDELLO: Yes, there are environmental issues. Any time you combust something, the answer is yes. The deal is we've hired a European firm that actually designed the highest efficiency boilers for biomass in the world. The efficiency is over 90 percent. So the emissions are as low as you can get in a facility like that. For many things, they're lower than the comparable combustion of natural gas. Again, we're going to be combusting some things in the watershed but turning off all these furnaces in the downtown area so the net emissions reduction I think will be enormous.

COMMISSIONER DURAN: Okay. Does manure work in these?

MR. SARDELLO: Yes. I recommend that you gasify it first. Yes, the answer is yes. That's a biomass. Absolutely.

COMMISSIONER DURAN: We have a racetrack with a lot of manure.

MR. SARDELLO: You have a particular source of manure.

COMMISSIONER DURAN: Yes. And then my last question is is there a way of developing a system that could be used for homes, individually? Could I have a biomass system in my home?

MR. SARDELLO: You may already have one if you have a pellet stove. But to hook into the system, absolutely. Traditionally, usually you start out by hooking up the larger facilities and getting their commitment to buy the thermal energy. That will pay for the system. To begin hooking up residential neighborhoods, it's only the incremental costs of running distribution pipe over into those homes.

COMMISSIONER DURAN: I'm talking about the rural areas of the county.

MR. SARDELLO: Energy density is an issue when you start in the higher density areas and you have to move out. In the rural, if it's very low density you probably need an individual unit within a home. A lot of homes do already have hydronic heat, the floor heat,

and the answer is yes, you can buy small biomass furnaces. They're not manufactured in this country and they're a little expensive.

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

CHAIRMAN SULLIVAN: One question I have about the resolution itself. It's a joint resolution, indicates the County Commission's signature and also the Mayor's signature. But everything in the resolution says the County shall do this and the County shall do that. What's the City going to do here?

MR. SARDELLO: I don't know how joint resolutions work but I originally drew this up --

CHAIRMAN SULLIVAN: They don't look like this, let me tell you. Or maybe they have in the past, which is one of the problems.

MR. SARDELLO: The original draft was for the City and it said the City shall do this and the City shall do that and as far as I know it still says that, so I'm not exactly sure.

COMMISSIONER MONTOYA: This mirrors the City's.

CHAIRMAN SULLIVAN: It just says the County though.

MR. SARDELLO: It's a mirror, but theirs says the City.

CHAIRMAN SULLIVAN: Is that the way theirs works?

MR. SARDELLO: Mr. Chair, I would assume that's true. Yes.

CHAIRMAN SULLIVAN: My understanding is that the intent here, or one of the intents is that the SWMA Board, the Solid Waste Management Authority Board be requested to consider the benefits to the greenwaste stream there which I think is the first and most immediate one which would have some applicability. Okay, other questions? What's the wishes of the Commission with regard to Resolution 2003-151?

[Clerk speaks away from microphone.]

It's a joint resolution. I don't know. Has the City passed this?

MR. SARDELLO: The City is hearing it in their Public Works Committee tonight, actually, right about now. And that meeting starts at 5:15. Again, the last I saw the City version, it didn't ask the County to do anything. It just asked the City to do things. So I don't know what their version says or whether the versions need to be identical or how this works.

[Clerk speaks away from microphone.]

CHAIRMAN SULLIVAN: This asks that the County staff look for potential locations to begin processing and the County staff cooperate providing access to utility rooms and utility bills to build up historical data and those types of issues, which I'm sure you would have no problem doing but I'm a little confused as we pass this as a joint resolution. Do you have any suggestions, Commissioner?

COMMISSIONER MONTOYA: Stephen, did you look at this, Mr. Ross?

STEVE ROSS (County Attorney): Yes, I looked at an earlier version of this and made some suggestions and I think this is what came out. I think she's just left out the words "and the City" in a few places and I can identify those places. I just went through it very, very quickly. Line 16 on page 2 says that Santa Fe County, and you could add "and the City" should

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consider entering into. And then similarly, on line 20, you could say the County and the City Manager coordinate. And that already refers to appropriate City and County agencies. And then on the next page, page 3, line 12, it could say, "Be it further resolved the County and City staff cooperate and likewise on line 13, County and City buildings" and on line 16, County and City staff." Same thing on line 19, County and City staff. And line 20, you could add, "and the City at the end of that sentence and I think that's all the reference to the County in the singular that I picked up going through this just now.

CHAIRMAN SULLIVAN: Okay, how does that sound, Commissioner Montoya?

COMMISSIONER MONTOYA: Sounds fine. I move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion and a second. Further discussion? Okay, now I guess, Rebecca, help me out here. What does this become? A County resolution or a joint resolution?

[Clerk speaks away from microphone.]

Assuming they pass the same resolution, which they won't. Okay. All right. We'll do ours. A motion and a second.

The motion to approve Resolution 2003-151 passed by unanimous [5-0] voice vote.

IX. C. Resolution No. 2003-152. A Resolution of Support for Health Centers of Northern New Mexico and Las Cumbres Learning Services Shared Facility

CHAIRMAN SULLIVAN: This sounds like a Commissioner Montoya resolution.

COMMISSIONER MONTOYA: I guess I was Mr. Resolution this meeting, I guess. I'll ask Virgil. He's the executive director for Las Cumbres Learning Services and they, along with Health Centers of Northern New Mexico are looking at putting together a shared facility and Virgil, if you could inform us as to why we should do this as well.

VIRGIL LOPEZ: Commissioners, and especially Commissioner Montoya, thank you for sponsoring this resolution. As you're aware more keenly than I would be, there's been substantial growth in the northern end of your county and you may not be as aware that some of the programs officed in Española are serving a lot of people in the north end of Santa Fe County, and two of those programs have substantially increased their sizes. One is Health Centers of Northern New Mexico, which is serving about 6,000 people in the border area of Rio Arriba and Santa Fe County co-joined in Española, Chimayo, Arroyo Seco and Las Cumbres Learning Services which is a program that provides child and family mental health services for children and adults who develop mental disabilities, serves both that area and a number of the Pueblos in the area.

Both of us have outgrown our facilities and Las Cumbres, for example, has tripled in size in the last nine years and Health Centers has substantially increased and we could much better serve the increasing population of people seeking our services if we were to have some new facilities to house them in. And I might also add that for both of us, it's in excess of 85 percent of the people we're serving who are indigent, who are non-insured and that this is a very strong sense of mission for us in our service catchment areas.

We're coming to you asking for a resolution of support, not for any kind of financial support but to lend your influence as we go for state and federal funding and to private foundations to fund the building of a new shared campus. The Northern New Mexico legislative delegation has appropriated \$70,000 for us in the last session to help us with the initial design and planning for the project and the City of Española, the Rio Arriba County Commission, the Española Valley Schools, all have lended resolutions of support Rio Arriba County is serving as the fiscal agent for the project. It's considering housing maybe the Department of Health offices in the project and currently we're looking for about ten to twelve acres of land and funding for the project.

Congressman Udall has expressed a strong interest in the project and part of his saying that he can help and the other members of the congressional delegation can help if we have the strong local support. So we come to you, the Commissioners of Santa Fe County asking for you to lend your influence to this project so that we can go out and get the funding we need for the much needed facility. Some of us have as many as five and six staff jammed into small offices that were designed for one desk, one person and we're just greatly overcrowded in our service facilities which makes it hard on our consumers.

CHAIRMAN SULLIVAN: Okay. Are there questions with regard to this Resolution 2003-152 in support of the Health Centers of Northern New Mexico and Las Cumbres shared facility. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I just want to say thank you. It's good to see that you all are going to work together on this and provide better services for the people in northern New Mexico. This is good, Commissioner Montoya.

COMMISSIONER DURAN: Move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion from Commissioner Duran, seconded by Commissioner Anaya. Further discussion?

The motion to approve Resolution 2003-152 passed by unanimous [5-0] voice vote.

MR. LOPEZ: Thank you.

CHAIRMAN SULLIVAN: Thank you, sir. Thank you for bringing this to our attention. We're still under Matters from the Commission. Commissioner Anaya.

COMMISSIONER ANAYA: Two quick things. First of all, this goes out to the question for the Planning Department. Are there any planners here? I wanted to bring up the

fact that the community of Galisteo is coming forward with a community plan. They'll be here next month to talk about their plan and many just getting on the schedule, actually. Not talk about their plan but getting on the schedule. That's one thing, Mr. Chair.

And I want to thank the Project and Facilities Department for the fine job that they did with the new projector and I just wanted to thank them and it looks really nice. It's working out great. That's all I had, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Commissioner Duran.

COMMISSIONER DURAN: I was just wondering if Gerald, if you could ask the Fire Department to get, at the next meeting make a presentation to us as to where they are on the tree issue, bark beetles. I know that they've had a couple meetings. I forgot what direction we gave them last time. Was it 60 days to come up -- anyway, if you could just follow up and ask them to make a presentation to us at the next meeting. I'd like to know what progress they've made and my -- I think that we should try to move in the direction of acquiring several of those chippers that you take on site, they chip the tree and they disperse it, they throw it out there on the ground. I'd like to find out more about that. I actually think that that's the best idea that I've heard and I'd like some guidance from your office and the Fire Department on how we might be able to implement that kind of program and where we could get some money to buy those machines if the Commission decides that that's the route we want to take.

And there's also one other element to that and that's the anti-donation clause that we might have to deal with but in talking to Stan, it's a health and safety issue that I think gets us over that hump. That's it on that. Then the other thing is I was wondering if Commissioner Sullivan, if you wind giving us the two-minute drill on what came out of that Regional Water Authority presentation that was made to the Regional Planning Authority, to members of the Regional Planning Authority on Friday. I'm sorry I couldn't attend but I sure would like to know in as few words as you can come up where you guys ended up.

CHAIRMAN SULLIVAN: As they used to say on the cereal boxes, in 25 words or less. We did have a very informative meeting that went from 1:00 in the afternoon to about 6:30 over at the Roundhouse. And Commissioner Montoya was there, Commissioner Campos was there, I was there and several of the City Councilors were there who were on the RPA as well as one who was not. And City and County staff were there. The presentation I think was summarized pretty well in the *New Mexican* on Saturday. They had an article about it and Tampa Bay, we had two entities there who have regional water authorities. Tampa Bay, Florida. And we didn't discuss the Monday night football game, so we got along well with Tampa Bay, and Denver Metropolitan Water Board, which is also a regional water authority.

Denver has been at it considerably longer so they had some interesting insights. Tampa Bay has tremendous political and organizational items to overcome, a lot of which we could see similarities with in what we would have to focus on. The questions were asked, what's the benefit of this for the long term for both the City and the County and I think a whole lot of questions were answered quite well as to the mechanics and different ways of the formation of the board. Should it be elected? Should it consist of elected officials? Should it be appointed by

elected officials? Should it be a combination of those? Should it be a bulk water supply? Should it own the water systems? And all of those issues were addressed and what we learned was you can work it either way and it depends on how the politics works in your region. But once you get over those hurdles, the mechanics of it seem to work quite well and quite effectively and cost savings, economies of scale can be achieved.

I was personally quite impressed by the Tampa Bay presentation. They were very well prepared and obviously took the effort to heart. Denver brought three people down. Tampa Bay had two. So they were really interested in helping us. They put that out that they were there and they were able to help us through this process as we continue on. Both the City Councilors who were there saw some real concepts that perhaps they hadn't thought about before. And their questions seemed to indicate that they didn't have just totally preconceived notions. It's hard to pin it down. I don't think anybody walked away and said This is the model we want to follow but I think they took pieces from each model. We didn't take any formal steps as to the next step and I think we need to think about doing that at the next RPA meeting and say Where do we go from here.

There's clearly people who have done this and have done it in venues much more complicated than ours. Tampa Bay had 17 different entities that were water purveyors that they had to aggregate into one unit and great political issues of local ownership and so forth to overcome to do it. They did say it took a long time. It took the willingness of all parties to do it and they gave us some hints on what to avoid and some of the pitfalls. Commissioner Campos, Montoya? Any additions to that?

COMMISSIONER CAMPOS: I think you summarized it pretty well.

COMMISSIONER DURAN: It sounds great.

CHAIRMAN SULLIVAN: It was a very positive presentation. I think the group was energized and felt that this could work. I'm just hoping that we can continue to move forward.

COMMISSIONER DURAN: Well, thank you for that. I've just been to a few meetings where there's been some question and only because there isn't any real information out there for the public, that the County and the City are working together on the water issues. It's nice to know there has been some progress made. Thank you.

CHAIRMAN SULLIVAN: Commissioner Montoya, something else other than the three?

COMMISSIONER MONTOKYA: I have five more resolutions. Mr. Chair, just to inform the Commission, we are still working on the MOUs with the Pueblos and we're hoping to have those wrapped up by the end of this month where they'll be able to review them and then probably come back, hopefully in November some time for this Commission's approval as well. So that's proceeding. That's all I have. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: I have nothing, Mr. Chair.

COMMISSIONER ANAYA: Mr. Chair, I have one more.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I'll use up Commissioner Campos' time. The voters just approved the fire impact fees, the quarter percent. I'd like to maybe get a presentation from the Fire Department to let us know what exactly that money is going to be used for. I know that they had a five year plan but I'd like to know what they're using it for. I heard talk of new fire stations. I'd like to know where they're going to be located at and how many. So that's what I'd like, Mr. Chair.

CHAIRMAN SULLIVAN: Okay, Gerald, would you add that to your list of things to do in your spare time?

MR. GONZALEZ: It's on the list.

CHAIRMAN SULLIVAN: Okay, I guess the only think I'd like to add under Matters from the Commission is at the Commission's direction about a month ago I wrote a letter to St. Vincent Hospital asking them to reconsider some appointments, recommendations that the Commission had made for the St. Vincent Hospital board. I have not received a response to that letter but I did see two articles in the newspaper today indicating that three members were appointed to the board, none of whom were the two that we had recommended. One of whom was a nurse and I was surprised. I was glad to see that and I was surprised that there wasn't already a nurse on the board. Two others named, one was named as a County appointee and the other as a City appointee. I was disappointed at that, not at these individuals. I think they're fine individuals but I was disappointed that of the two individuals that the County recommended, one was not even interviewed by St. Vincent Hospital.

I think we just need to remember and St. Vincent Hospital needs to remember that the taxpayers of Santa Fe County provided this past year over four million dollars to the operation of that hospital under the sole community provider program. That \$4 million was parlayed through federal funds into \$16 million which went to the hospital to provide services under the sole community provider program. I would emphasize under that program, the middle word is "community." I believe that when you are in that program, you indicate that you are a community hospital and as a result you are eligible for that level of funding which the County has assisted with.

So I hope that the hospital board and the administrators will give some more in-depth consideration to their responsibility to Santa Fe as a community as they reformulate their board. Those are my comments and that takes us down to the Consent Calendar.

X. Consent Calendar

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

1. **BCC CASE #DL 03-4370 – Pomonis Land Division (Denied)
TABLED**
2. **BCC CASE #V 02-5590 – Laura Star Lot Size Variance
(Approved)**

CHAIRMAN SULLIVAN: What are the wishes of the Commission?

COMMISSIONER DURAN: Move for approval of the Consent Calendar as amended.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Moved by Commissioner Duran, seconded by Commissioner Montoya. Discussion?

The motion to approve the Consent Calendar with item X. A. 1 tabled passed by unanimous [5-0] voice vote.

XI. Staff and Elected Officials' Items

B. Project and Facilities Management

1. **Request Authorization to Accept and Award a Professional Services Agreement to the Highest Rated Offeror in Response to RFP #23-38 for the San Ysidro River Park**

PAUL OLAFSON (Open Space Coordinator): Mr. Chair, Commissioners, in the memo before you we're requesting your approval of a contract to do design and construction oversight for the San Ysidro River restoration project. We did put this out to solicitation to 14 potential bidders. We received four responses and we have selected Resource Technology, Incorporated as the most responsive bidder. The total amount for the contract would be \$41,433. And this is for the San Ysidro Park, the County open space park at the San Ysidro Crossing. We had a presentation last November I believe to outline the general concept we were aiming for on that. I'll stand for any questions.

CHAIRMAN SULLIVAN: Questions of staff?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER DURAN: Second.

CHAIRMAN SULLIVAN: Motion from Commissioner Anaya, second Commissioner Duran. Is there discussion?

The motion to authorize a professional services contract for Resources Technology passed by unanimous [5-0] voice vote.

XI. C. Matters from the County Manager

MR. GONZALEZ: I have nothing at this time.

XI. D. Matters from the County Attorney

CHAIRMAN SULLIVAN: Under Matters from the County Attorney we have been advised that there are no items for executive session today. Is that correct, Steve?

MR. ROSS: That's correct. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. What's the wishes of the Board? Would you like to take a brief break before we move into the public hearing? Twenty minutes, would that do it? Like to reconvene? Commissioner Duran.

COMMISSIONER DURAN: I just have one question. Stephen, at the last executive session, you were asked to do some research on an issue and get back to us.

MR. ROSS: I'm not quite ready to talk to you about that yet.

COMMISSIONER DURAN: Okay.

MR. ROSS: But I do know what you're talking about.

CHAIRMAN SULLIVAN: Okay, those who are here for the public hearings, thank you for your patience and the first one will be the CDBG Community Development Block Grant hearing and we will get that started at 6:00. So take a break.

[The Commission recessed from 5:35 to 6:00.]

XII. Public Hearings

A. Project & Facilities Management Department

1. First Public Hearing on the Santa Fe County 2004 Community Development Block Grant (CDBG) Application Period

MR. FLORES: Thank you, Mr. Chair, members of the Board. Just real quickly before we turn it over to the public, on September 30th, staff requested direction on this year's application period. Direction was provided to open the application back up for the 2004 CDBG application period. Basically, what we'll do over this meeting and on the 28th is to take public input on potential projects that they would like to see as potential applicants for this funding. Staff will then use an application form that's been developed and will be available to interested organizations that's modeled after the state application form. Then we will bring back an application to you in November and immediately start the surveys and other application preparedness once you select a project.

Basically, just as a reminder, we have up to a maximum funding level of \$500,000 that is good for a two-year period. Basically looking for project-ready applications. We are looking

at the benefit of the program to low and moderate income families, aid in the prevention or elimination of slum or blight and then to meet any emergency or urgency needs based upon health, safety and welfare. So basically, those are the guidelines that are set forward. We've done an application and advertisement in the local papers requesting input from the citizens. And basically, at this time, I'd like to turn it over to any interested party that may be here.

CHAIRMAN SULLIVAN: Okay. Are we having two public hearings, Tony?

MR. FLORES: Mr. Chair, that's correct. Tonight and on the 28th.

CHAIRMAN SULLIVAN: Okay. This is a public hearing. If there is anyone who would like to make a recommendation on the County's 2004 CDBG application, feel free to step forward. Give us your name.

JANET AMTMANN: Good evening, Mr. Chair. Janet Amtmann, Eldorado. And I'm here to talk about the senior center. I believe we had some representatives here earlier today. But I feel that the senior center for the Eldorado area and the 285 corridor is a necessary thing that we need to move forward with. It serves the southeast sector of the county, not only just Eldorado although there is an allocation for a site that has been described at Vista Grande next to the library and the Eldorado Elementary School.

So the site is already there. We've received \$150,000 during last year's legislative session and we're now looking for more money to complete this project. I think the expected cost as has been present to us, the seniors, will be about \$500,000. Perhaps there could be some of this Community bond grant that would be allocated in order to complete this project, at least the first phase. The public services are for health screening, socialization, certainly meals and to serve those folks that are unable to get out. We now have a van that we can use to bring people to our center. And I think it's an asset for the community and I'd urge you to consider this. And I'll be looking forward to finding out what applications we need to make and the committees will work on that. Thank you. Any questions?

CHAIRMAN SULLIVAN: Janet, will you spell your last name please.

MS. AMTMANN: It's German. A-M-T-M-A-N-N. And I live at 16 Herrada Road in Eldorado.

CHAIRMAN SULLIVAN: I don't believe you'll need to complete an application if it's selected. Tony, the County does that, do they not?

MR. FLORES: Mr. Chair, the process this year is that we'll be working with the potential applicants such as the senior center in filling out a simple narrative of the proposal. That way it will allow us an evaluation to bring you a recommendation. So there will be some up-front work that needs to be done by the applicant, but as I indicated earlier, the senior center is already in the process with the existing funding so we have quite a bit of that information currently.

CHAIRMAN SULLIVAN: So you'll present that information at the October 28 meeting, the staff recommendations and detail for the Commission's action.

MR. FLORES: It will be in the meeting in November.

CHAIRMAN SULLIVAN: Oh. November. You said that before. Okay. So the 28th will just be the second hearing.

MR. FLORES: That's correct, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. Thank you. I see lots of boards up here that look like a library. So who would like to talk about that?

MARTIN VALDEZ: Mr. Chair, Commissioners, my name is Martin Valdez. I'm the Community Facilities Manager with the City of Santa Fe's Engineering Division, and also the project manager for the proposed library. I'm sure you are all aware of the great interest and need that has been expressed by the City of Santa Fe and county residents for a library facility. The attendance at committee meetings, letter to the editor in newspapers, petitions to Councilors have all been consistent for the past several years. Interest has increased as we have moved the project to the design phase and are preparing for construction.

We do have a state of the art design by an experienced library architect for a 37,000 square foot building. We have received Council direction to proceed with phasing the facility and the first phase would include a 25,632 square foot building at an estimated cost of about \$5.9 million and that's for both construction and for equipping the library. The site is in Tierra Contenta. It was purchased last year and it will be accessible to many residents living in the city/county access area.

The City has procured via its current CIP bond allocation \$4.8 million of the estimated \$5.9 million cost. We are respectfully requesting your consideration to apply for the County of Santa Fe's fiscal year 2004 CDBG allocation for this essential project. We also can assure you, being that we do have line complete of meeting the federal CDBG time limit requirement with this project. We regard this library as a top priority. That was also very evident as far as residents were concerned as we opened up our CIP bond potential projects to the public and this surfaced as the top priority project. We have worked together since 1999 to use CDBG funds jointly to address the needs of our citizens with the successful projects of La Familia Southside Clinic and the completion of phase one of Youth Shelters and Family Services. And we are apparently working together on the Recovery of Alcoholics as it develops, this long-term residential facility.

So we respectfully request your consideration as we move forward through the process. Thank you.

CHAIRMAN SULLIVAN: Questions for City staff? I had a question. How much is the City eligible for in CDBG funds each year? Because they're under a different program than the County, are they not?

MR. VALDEZ: Mr. Chair, I do not have that information available.

CHAIRMAN SULLIVAN: Okay. Other questions? All right. Thank you very much. Appreciate your presentation. Anyone else in the audience who would like to bring forward a potential project for the Community Development Block Grant program? If not, I'll close this public hearing and thank you for coming and thank the members of the audience for your suggestions. Commissioner Duran.

COMMISSIONER DURAN: Mr. Chair, does this mean that there are no other applications? No one else to come forward with an application?

CHAIRMAN SULLIVAN: Not tonight. We have another public hearing.

MR. FLORES: Mr. Chair, Commissioner Duran, no. That does not close the application for any firm. Basically, they have two public hearings to do presentations at if they choose. They can also contact my office directly, which was indicated in the advertisement to make application with us. So this does not in any way close the number of applicants we could receive on this program.

COMMISSIONER DURAN: So how many do we have right now?

MR. FLORES: I have been contacted by 15 different potential applicants regarding this year's application period.

COMMISSIONER DURAN: When are the other 14 coming?

MR. FLORES: There's a potential that we'll have about 10 of those coming up on the 28th of this month, and then there's a few that will be driven primarily by County staff, just some projects that would meet the guidelines.

COMMISSIONER DURAN: Do you think we might -- I mean if we're going to have 14 at the next meeting maybe we should have a special meeting.

CHAIRMAN SULLIVAN: This went pretty fast. You missed it.

COMMISSIONER DURAN: I was watching. Okay. Thank you very much.

CHAIRMAN SULLIVAN: Other questions? Commissioner Anaya.

COMMISSIONER ANAYA: Tony, do you have the list of those?

MR. FLORES: I have a list at the office started with the phone calls that we have received of the applicants and they'll be getting an application form, basically it's a two-sided document tomorrow so they can start the process.

COMMISSIONER ANAYA: Thanks.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Flores, what are the County-driven projects that you perceive bringing?

MR. FLORES: Mr. Chair, Commissioner Campos, I see the Eldorado senior center as an application that we bring forward. I also see the Agua Fria Community Center, which is currently under design as a potential applicant or recipient. I see our teen center in Arroyo Seco as a potential applicant. I see our youth shelter space too as a potential applicant that would meet those guidelines. And I also see the Stanley youth agricultural facility in southern Santa Fe County as a potential applicant for this. So those are the five that I can tell you right now that I would prepare an application for for consideration by the Board.

COMMISSIONER CAMPOS: Can this money be used for infrastructure?

MR. FLORES: Mr. Chair, Commissioner Campos, yes, that is one of the guidelines that it can be used for.

COMMISSIONER CAMPOS: But you have no infrastructure projects at this time?

MR. FLORES: Mr. Chair, Commissioner Campos, no.

COMMISSIONER CAMPOS: Okay. One last question, the criteria that it benefits principally low and moderate income families. And then the other one is the prevention

or elimination of slums or blight.

MR. FLORES: Mr. Chair, Commissioner Campos, this money is through the Housing and Urban Development Department, which looks at projects that, based on upon project location has a benefit to those residents within that area. And there has to be a 51 percent or greater income level, low to moderate individuals within that project area for it to meet the guidelines. Part I, Part II of the areas is the aid or prevention of slum or blight. If we take an empty lot that's in an area that impoverished and we improve it by putting a facility on there of some nature that aids in the prevention or elimination of blight for that area. So those are some of the national and state guidelines that we have to follow for the application.

COMMISSIONER CAMPOS: Okay. Thank you, Mr. Flores.

CHAIRMAN SULLIVAN: Other questions of staff? Okay. That concludes the public hearing.

XII. B. Land Use Department

1. **Ordinance No. 2003-6. An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article III, Section 2.4.1, Article III, Section 4.4.1, Article V, Section 5.2.2, Article V, Section 5.3.2 and Article V, Section 7.1.2 to Require Rainwater Catchment Systems for Commercial and Residential Development (Second Public Hearing) [Letter attached as Exhibit 2]**

PENNY ELLIS-GREEN (Planner): Thank you, Mr. Chair, Commissioners. The first public hearing for this ordinance was held on September 9, 2003. At this time concern was raised about the fiscal impact of the requirement for lower income houses. To address BCC's concerns, staff now proposes that the ordinance now require active systems for commercial development and for residential development of 3,000 square foot and larger. Cisterns will be required to be buried, partially buried or within an insulated building and shall be connected to a drip irrigation system to serve landscaped areas.

Residential development under 3,000 square foot in size will be required to use a passive system such as rainbarrels directing stormwater into landscaped areas by use of swales and berms. The ordinance references guidelines prepared by the Land Use Department. They will be updated as necessary and as additional informational guidance can be made to the public and the ordinance is attached as your Exhibit A and the draft guidelines as Exhibit B. And I'll stand for questions.

CHAIRMAN SULLIVAN: Questions for Penny?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos

COMMISSIONER CAMPOS: Ms. Ellis, you choose 3,000 square feet as the cut-off. Why not 2,000? What's your thinking?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Campos, we didn't want to affect affordable housing even at 2,000 square foot, you're probably not going to affect affordable housing, you're looking at a conservative number there but we would be open to changing that figure.

COMMISSIONER CAMPOS: It looks a little high to me. A 2,000 square foot house is a good-sized home to me, I would think. That's just a comment. And as far as affordable housing, you're looking at a minimalist approach, right? Basically rainbarrels and some permaculture?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Campos, yes. Directing stormwater into a landscaped area or using rainbarrels. So it could be pretty minimal. We're asking everyone to think about rainwater harvesting, but not to do an expensive \$5,000 cistern.

COMMISSIONER CAMPOS: What are you looking at for the affordable? A couple hundred dollars? Two, three hundred dollars worth of work?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Campos, rainbarrels I believe run about \$80.

COMMISSIONER CAMPOS: Fifty, eighty dollars.

MS. ELLIS-GREEN: Correct. Or using berms and swales just to go into landscaped areas can be much cheaper than that.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN SULLIVAN: Any other questions of staff or public comment? Commissioner Anaya.

COMMISSIONER ANAYA: I agree with staff on the 3,000 square foot. I don't want to put a burden on the people that are trying to purchase a home and then have to spend another \$5,000 to \$10,000 on the cistern and all that. So I agree with the 3,000. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I also agree with the 3,000 square feet. I think 2,000 square feet is not a large home. I think it's minimal and that extra money that one would save by not having to put an active system could turn that 2,000 square foot house into a 2,200 square foot house. So I agree with staff's recommendation.

CHAIRMAN SULLIVAN: Okay, this is a public hearing, the second public hearing on this proposed ordinance. Anyone who would like to speak step forward and give us your name.

PAUL PARYSKI: Mr. Chair, members of the Commission, my name is Paul Paryski. I'm on the Governor's Blue Ribbon Water Task Force. I represent the Sierra Club, the Alliance for the Rio Grande Heritage and I also work on the State Engineer's Water Wise Development Committee. I think this is an excellent ordinance. We think that the limit perhaps, you can compromise and make it 2,500 square feet because this is a fantastic way of getting free water without mining our aquifers and stressing our river systems.

You should be aware that there probably will be a state law requiring water harvesting for commercial buildings and also public buildings so this would mesh very, very well. I think

all the environmental community supports such measures. As I say, it saves our aquifers, it saves our rivers and it's a way of getting water to people easily. Thank you for listening.

CHAIRMAN SULLIVAN: Thank you, sir. Next speaker.

KAREN STALLINGS: Mr. Chair, Commissioners, my name is Karen Stallings. I'm president of Desert Rain Systems. We're a Santa Fe based rainwater catchment company. I would like to suggest we pay some now versus a lot later. Santa Fe must have a balanced water budget or it simply will not be able to support future growth. Long-term climate data says the last two years are not at all unusual but simply part of the natural water cycle we can expect. Rainwater catchment has historical and global precedent which I could cite lengthy examples, but I won't. This is not a trendy or knee-jerk thing to implement as policy. It's low-tech, basically a one-time expense.

With water catchment, water falls on the roof, goes into a tank and when it's time to water the landscaping the tank supplies it. As a contrasting example, snow falls in the southern Rockies, melts, runs down and down through streams to the Rio Grande. Water is then taken back out of the Rio Grande, diverted through pumping stations and miles of expensive pipe up to a municipal distribution point, through more pipe and pumping stations to an end-user who uses it for irrigation and pays a nice bill every month to do so. Secondary benefit for rainwater harvesting is reduction of storm sewage runoff so when Santa Fe does get rain it tends to really get it. Rainwater catchment offsets the effects of impervious surfaces like roofs and roads, reduces soil erosion and non-point source pollution, prevents trash getting into our waterways.

Where harvesting itself is not a panacea, it belongs in an integrated water policy for Santa Fe County. Thank you.

CHAIRMAN SULLIVAN: Thank you. Who else would like to speak?

MELISSA MCDONALD: Hello, Chairman and Commissioners. My name is Melissa McDonald. I live at 1005 Camino Oraibi. And I'm here to speak in favor of this ordinance. I want to thank the Commissioners and the staff that worked on this. I think it's a very forward thinking and reasonable ordinance and I hope that you'll support it. I'm not going to list all the reasons, because I think we all know that we have to find new sources of water and this brings us one step closer to having aquifer independent homes and businesses. So I do hope it passes.

I think it also works very nicely with the drought ordinance you passed, landscape drought ordinance you passed last year and I thank you for being responsible in considering this and the only comment I would make is that I hope in the future the County might consider ways in which you could take the roof water and you get to flush toilets. Because I think in commercial structures especially the need for landscaping is actually less than in a residential situation. But I think this is a wonderful ordinance and I think that's something that could be addressed later down the road. Thank you very much.

CHAIRMAN SULLIVAN: Thank you, Ms. McDonald. Yes, sir.

SPENCER FARR: My name is Spencer Farr. I run a company called Rain Capture. I have made copies for the Commission of an exhibit. {Exhibit 3} I'll describe it briefly or I can hand it to you. I don't know the process.

CHAIRMAN SULLIVAN: Just hand it out if you have extra copies. Staff will help you.

MR. FARR: There's only enough for the Commissioners. I did an analysis, Mr. Commissioners, of the actual cost benefits of installing a rain harvest system at sizes less than 3,000 square feet. That's what I've asked you to consider. What you'll see on this exhibit is the cost of installing a system for homes of either 1,500 square feet, 2,000 square feet, or 2,500 square feet, with an accompanying cistern size from 1700 gallons to 2800 gallons. The annual water savings potential, an estimated price of installation, the cost of upkeep, and what you will see is if this cost, if the installation cost is amortized in new construction over the life of the loan, it almost is offset by the actual savings on water over that 30-year period and that's if you do choose to amortize this cost.

So in fact the actual cost for even a 1500 square foot home is only in the few hundred dollars. If you do not amortize it, and one simply pays for it up front, over that 30-year period then there is a beneficial return economically. The last thing I want to say is if one were to capture water from 2,000 square foot homes on the second page and looking at the number of homes that the County would allow to be build in this average size of 2,000 square feet, one can see that the total number of gallons annually saved is in the order of millions of gallons, converted to acre-feet, if one were to require harvesting from 2,000 square foot homes, that is approximately 10 acre-feet per year if one built 200 homes. Very importantly, the equivalent of 41 new homes, the total water for 41 new homes. So yes there is an up front cost but over the life of the system it's a benefit and it allows more homes to be built. Thank you very much.

CHAIRMAN SULLIVAN: Thank you, sir. Who else would like to discuss the ordinance?

NATE DOWNEY: I just want to speak in favor. It's a very forward thinking ordinance and I think staff has worked very hard on this. I'd be very proud if you all were to go ahead and support the kind of ordinance that we're all going to end up living with in the future. And I know my little son, who's in the lobby will also be very thankful if you do so. Thanks.

CHAIRMAN SULLIVAN: Would you like to give us your name, sir.

MR. DOWNEY: Nate Downey, 1005 Camino Oraibi.

CHAIRMAN SULLIVAN: Thank you, Mr. Downey. Mr. Siebert.

JIM SIEBERT: My name is Jim Siebert. My address is 718 Juniper Drive. It's a reasonable ordinance and I recommend it. I'd like to maybe mention a few practicalities that should go along with it. In terms of when you're preparing the budget, I didn't see any consideration for water harvesting as something that would go as credit as evaluation of your water budget. That's something to be handled administratively.

The other thing I think is the point of water harvesting is to bring in line your landscape requirements with the water that's captured. And I would recommend to you that you review your current landscape standards and see if those perhaps need to be modified to bring those in line with our high desert region. In my opinion the landscape standards for today's watering needs are excessive.

The other thing that I think you may want to consider at some point is that everything

has to go into an active system from what I can see. What you may want to consider at some point is passive systems. There may be places on a structure where it is difficult to get the water back into the cistern and it may be more practical to use pumice wicks or berm swales as a method to capture the roof or some portions of the roof and allow credit for that. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Siebert. Anyone else. Seeing none, we're back to the Commission. How about a suggestion of 2500 square feet of roof area? How about that? Anybody like that?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I think there are a lot of people who have commented on the ordinance and none of them have had a problem with the 3,000 square feet, so based on that I'd like to make a motion to approve the ordinance as submitted by staff.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Moved and seconded. Discussion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: First of all, I'd like to thank staff and I'd like to thank the people that helped in putting this ordinance together. It was a great effort on your part. This is the beginning of something that -- this is a new thing. It's a beginning and we can always go back and improve on it. For example, Ms. McDonald talked about flushing the toilets with this water. It can easily be done and we can add that on later. We don't know enough about these cisterns yet. So we'll learn.

Another gentleman who isn't here today brought up the fact that maybe we could expand it and possibly use it for fire protection in the future, for the fire departments. Jim Siebert brought up a good idea about our landscaping standards today. We require developers to put in a lot of landscaping. Maybe we need to cut back on that. So I strongly support this and I do thank the public and the staff for working hard. Thank you.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Paul, was it you that suggested 2,500 square feet? Could you tell me a little bit as to why you mentioned that?

MR. PARYSKI: Mr. Chair, Commissioner Montoya, I think it's a little more reasonable. You get a little more water and most people who build houses of 2,500 square feet or over certainly can afford a cistern. I think affordable housing probably falls beneath that limit. That's all.

COMMISSIONER MONTOYA: Beneath that threshold of --

MR. PARYSKI: Yes.

COMMISSIONER MONTOYA: Okay. Thank you. And the gentleman who gave us Rain Capture, Inc., in terms of the cost, what if this was a 15-year scenario in terms of the mortgage. Would the amortized costs still be similar to what this 30-year mortgage is or would it be more significant?

MR. FARR: You can see that the difference between paying cash and amortizing it over a 30-year period almost doubles the cost. If you amortized over a 15-year period, then almost, without exception -- I gave out all my copies, I believe all those numbers would become positive. It would mean a slightly higher per-month payment of course. But the ultimate benefit over the 15-year period would be positive. And of course presumably the homes are going to be around longer than the 30 years and all of those savings will continue to accrue.

COMMISSIONER MONTROYA: Thank you. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: My comment on the number two, and first of all, let me say I'm in support of the ordinance, was that we often get into the issue of what the square footage -- I mean the staff does -- what the square footage of a unit is. That's why I suggested whatever number we come up with we use the word "roofed" because lots of times, someone says it's a certain size home and does that include the garage? Does that include the portals? What is included? But I think in terms of capturing rainwater what we're looking at is roofed area so that we can get the most benefit. That's why I suggested the word "roofed." I think in today's market a 2,500 square foot home is probably on the order of about \$450,000. In the Santa Fe and in the EZ and it seems to me that's not affordable housing. Affordable housing we're generally down around 1600 square feet or something in that vicinity. So those are my thoughts on it. I think Commissioner Anaya, then Commissioner Duran.

COMMISSIONER ANAYA: Mr. Chair, yes, that was my question. Are we talking about heated or roofed?

MS. ELLIS-GREEN: Mr. Chair, Commissioner, we were talking about roofed area.

COMMISSIONER ANAYA: Okay. So then if somebody were to build a 2,000 square foot home, heated, and he has some roofed area, then he'd have to go by the standards, if it's over 3,000.

MS. ELLIS-GREEN: Right. If the roofed area is over 3,000 square foot then they would need to comply with the active cistern.

COMMISSIONER ANAYA: So that's why I would think that if somebody has a 2,000 square foot home, heated, and they have roofed area, they still wouldn't be subject to this ordinance, but parts of it. Correct? Anyway, I strongly support the 3,000. I don't want to have a burden on the people that cannot afford this. Thank you.

COMMISSIONER DURAN: I might be able to help you a little bit with that, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: So if you're talking about roofed area, you have a 3,000 square foot roofed area that you're talking about, the garage, typically a two-car garage is 400 square feet. So now you're talking about a 2500 square foot house, heated, living. And then if you start calculating the portals, that's another 400 square feet, so what you're really talking about is a 2,000 square feet heated house. You're talking about a 2,000 square foot house. So if you take it down to 2,500 square feet house, now you're talking about a 2,000

square foot house. And a 2,000 square foot house is not worth \$450,000. You're saying that house is built for over \$200 a square foot, inclusive of the land, and I disagree with that. I don't see what the problem with the 3,000 square foot roofed area is if in fact if you start factoring in the other roofed areas to take the heated living space down to around 2,000, 2,500 square feet, you're actually talking about a 2,500 square foot house in the terms that we discuss living quarters.

When you say an affordable house of 1500 square feet, and if you factor in the garages, then you're talking about 2,000 square feet or 2,200 square feet. I just think that if you start factoring in all those other accessory structures and accessory living spaces that you have it down to about a 2,000 square foot house. And it's not that those 2,000 square foot houses are not going to be contributing to the conservation of this resource, it's just their requirement is a less active system, a less expensive system. And they are contributing.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos,

COMMISSIONER CAMPOS: Question for Ms. Ellis. What is a 2,000 or a 3,000 square foot home. What do you mean by that when you propose it in your memo?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Campos, we mean total roofed area.

COMMISSIONER CAMPOS: Total roofed area.

MS. ELLIS-GREEN: Including the garage, including portals.

COMMISSIONER CAMPOS: Mr. Chair, a comment. I understand the Commissioners are concerned about affordable housing. We all are. We know though that the cost of water is going to get higher and higher every day. And the cost of water is going to be higher but the cost of no water is even more disastrous. And if we don't all work together, everybody, the cost of drying up the aquifer and no water means that our 2,000 square foot homes are going to be worth zero. So I think what we need to do is take strong action and going out to 3,000, you're going way beyond the affordable exception. I think if we bring it down to 2,000, we're in line with what we have to do and that's reasonable and that's taking the right action for our situation. It's going to cost money to get water, but no water, when these people on wells run out of water, what's your house worth? It's going to be worth nothing.

So I would suggest a friendly amendment of 2,000 of 2,500 whatever I can get a second on.

CHAIRMAN SULLIVAN: Okay. Any comments?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Those people that are going to build a home less than 3,000 square feet are still going to have to do some water harvesting as mentioned in the Code. So they're not completely out of it. And if they would like, they can put in a cistern or go as far as they want to on these. But if somebody wants to go out and build them a home, and they only have \$100,000 to deal with, that's the only amount the bank's going to lend them,

then there's an issue of the other \$5,000 or \$10,000 for this capture system and that's the people that I'm talking about when I say less than 3,000 square feet.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: When you amortize it over 30 years, you're actually saving on the cost of water. So it's a positive net for the installation. And I think that was some of the evidence that was presented. So in the long term, the person who installs a small system in amortizing is coming out ahead, not behind. You're talking not about \$5,000 cash but \$5,000 over 30 years. I'd like to make a friendly amendment, or if it's not friendly, I'd like to make an amendment. Motion to amend.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Just one comment. The average, an average person sells their home ever seven years. Amortizing it over 30 years doesn't do anything. It looks good on paper but the fact of the matter is the average person sells every seven years. So they are building less of a home. The fact of the matter is if you really want to have 2,000 square foot homes conform to this, then why don't you say 2,000 square foot heated area, rather than 2,000 square feet of roofed area. Because if you're saying 2,000 square feet of roofed area, you're talking about a 1500 square foot house or less.

COMMISSIONER CAMPOS: I'll make a motion, I'd like to make a motion, Mr. Chair, to amend the main motion if that's in order.

CHAIRMAN SULLIVAN: Okay, I think we got into this before under the purview of substitute motions and I think the way we handle that is to deal with the main motion and if that fails, to go to another motion, unless the maker wishes to amend his motion or the seconder wishes to withdraw his second.

COMMISSIONER CAMPOS: I don't agree. We've done it where we've allowed a motion to amend a main motion, and that's voted on first, and then you go back to the main motion That's how it's done in most parliamentary systems.

CHAIRMAN SULLIVAN: Mr. Ross, do you want to give us some guidance on that?

MR. ROSS: Well, a substitute motion, Mr. Chair, at least under Robert's Rules, and I believe as I understand your rules, wouldn't be a subsidiary motion. A subsidiary motion is the only motion that's in order at this time, which would be like a motion to table or a friendly amendment if accepted or a motion to postpone to another time. Something like that. That's what I call subsidiary motions. This motion would be in equal stature, I think, so I think you should hear them successively. We've talked about this before.

CHAIRMAN SULLIVAN: Successively, meaning --

MR. ROSS: Well, vote on the motion that's on the table at this point, then take up the next motion.

CHAIRMAN SULLIVAN: Unless it's subsidiary, which is like to table or to postpone or something of that sort.

MR. ROSS: Correct.

CHAIRMAN SULLIVAN: Okay.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya

COMMISSIONER MONTOYA: Either Penny or Charlie, regarding the roofed area that we're talking about. What's your, based on the debate and discussion that you've heard, what would you recommend at this point?

CHARLIE GONZALES (Code Enforcement): Chairman Sullivan, Commissioner Montoya, staff would like to stay with the 3,000 square foot if possible. I'd like to maybe put out a scenario for you. This ordinance is more to encourage people to do this. I don't want to get into a situation where someone comes to get a permit, for example, and they're trying to cut the limit, 3,000, for their cistern or rainbarrels, and I'd hate for someone to say, well I have this roofed area, I'm going to drain it here but it's going to be over 3,000 square feet, so I don't want to put this additional concrete impervious surface into it as well. So the main intent is to try to encourage people to use it and not focus on the line on the square footage and trying to get people just to do it.

COMMISSIONER MONTOYA: Thank you, Charlie.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: What was the main motion?

CHAIRMAN SULLIVAN: The main motion was to approve, I think, the staff recommendation. I wanted to just point out a few typos in the ordinance. I don't know if we could clean those up, regardless of what the number, whether it's 2,500 or whatever. I don't know if it's legal, once we pass an ordinance to clean up the typos, but under the second page, under 6, 6) it says cisterns shall be sized to hold 1.5 gallons per square foot of roofed area. There should be a period there. The size of the cistern may be adjusted to provide a month's worth of landscaping, "month's" should have an apostrophe between the h and the s. Then it says, comma, the size of the cistern shall be approved by the Land Use Administrator. That should be a period and a capital T. Just some typographical things there. I personally feel that 2,500 square foot of roofed area is a good compromise but we'll see what the Commission wants to do. Commissioner Anaya, I think you still have the floor.

COMMISSIONER ANAYA: I forgot what I was going to say.

CHAIRMAN SULLIVAN: Forgot what you were going to say. Okay, we'll move to Commissioner Duran then, who'll tell us it should be 3,000.

COMMISSIONER DURAN: I think that staff has spent a great deal of time discussing this ordinance with people, with the community with professionals, that have contributed to this ordinance, to the making of this ordinance and I would like to call for the question and move to vote on this amendment which is to approve the ordinance as submitted and recommended to us by staff.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Okay, we have a call for the question. The vote is

on the question, not the ordinance.

The motion to close debate failed by a 2-3 voice vote.

CHAIRMAN SULLIVAN: That was just a call for the question. That means we're still in discussion of the ordinance on the motion. We're not voting at this time.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: If I could ask Paul another question regarding the significance of what we're talking about here in terms of between the staff recommendation and kind of what we're discussing in terms of the 2,500 square foot, I guess the overall benefit, or what would be the breaking point, I guess in terms of --

MR. PARYSKI: Mr. Chair, Commissioner Montoya, I really don't have the answer to that. I think possibly one way out of this is simply to pass the ordinance as it stands and do some monitoring and see what that saves you in water and then in the future if you want to change the limit, or perhaps to adopt Commissioner Duran's Duran of heated area. That would perhaps be a good compromise. A lot of people who do build affordable housing do not build garages. That's something to take into consideration too.

CHAIRMAN SULLIVAN: Commissioner Montoya, are you done?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN SULLIVAN: Okay. Commissioner Duran.

COMMISSIONER DURAN: I would, if we could move to 2,500 square feet of heated area. But the problem is if you do 2,500 square feet of heated area, then if someone builds a two-car garage I think we're cutting ourselves short because we've lost that other 400 or 500 square feet. The closer they get to the 3,000, the more active systems we have installed. So I really think that if we take it down to 25, then we're talking about a 2,000 square foot house or less and \$5,000, \$8,000 I think makes a big difference, whether it's affordable or not, it still has a financial impact.

But I think whatever we do, let's make a decision. I think that we need to have this ordinance in place and if it proves to be a problem in the Land Use Department they can always bring it forward and amend it moving it upward or downward. So I would still make the motion that we have 3,000 square feet unless one of you would like to make an amendment. I just think we need to move on.

CHAIRMAN SULLIVAN: That motion's still on the floor.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I'll agree to the 2,500 heated. If you had a person that wanted to build a two-story house, and each level was 1500, then he'd beat the 3,000 heated and his roof would only be 1500.

CHAIRMAN SULLIVAN: I think that's why it's better to keep it at roofed because the first part of the ordinance talks about a minimum of 85 percent of roofed area. And

if we go in one part of the ordinance to roofed and another part to heated, then that complicates it. And I think in the instance you're saying, it penalizes the two-story house so to speak because it doesn't have that much roofed area.

COMMISSIONER DURAN: It doesn't penalize them, it lets them off the hook.

CHAIRMAN SULLIVAN: It increases the square footage and they go into the more expensive system requirements. If they have 1500 square feet on each floor, and they only had 1500 square feet of roofed area, they would have normally been under the rainbarrel part as opposed to the cistern part.

COMMISSIONER DURAN: So you're in agreement with the heated area?

CHAIRMAN SULLIVAN: No, I'm saying it should stay roofed area.

COMMISSIONER ANAYA: But then somebody that builds a 3,000 square foot home can build a two-story and get away from it.

CHAIRMAN SULLIVAN: If they want to. That's correct.

COMMISSIONER ANAYA: But if we did it heated then anything over 2,500 heated, they would have to use -- two-story, three story.

CHAIRMAN SULLIVAN: That's correct. But a two-story with only a 1500 foot roofed area isn't -- the savings isn't as much. They're not catching as much water either. So that really puts them in the lower category. See what I'm saying?

COMMISSIONER ANAYA: But I thought we were looking at it as income. That's the way I was looking at it.

COMMISSIONER DURAN: Water savings.

COMMISSIONER ANAYA: And the person that could build a 3,000 square foot home can afford the cistern. And I'm not saying that the one that can build less than that couldn't afford it, I'm just saying I wanted to help those people out if they couldn't.

CHAIRMAN SULLIVAN: Okay. I see where you're coming from. Further discussion? So Commissioner Anaya, you would go with 2,500 heated. Is that what you were proposing?

COMMISSIONER ANAYA: Mr. Chair, that's correct.

COMMISSIONER DURAN: And the maker would accept that as a friendly amendment.

CHAIRMAN SULLIVAN: Okay. Any discussion?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: So we're actually lowering the threshold then. CHAIRMAN SULLIVAN: It's about the same if there were a garage. If it was 3,000 with a garage, it would be 2,500 heated. It's six of one, half a dozen of the other.

COMMISSIONER MONTOYA: What about 2,750?

CHAIRMAN SULLIVAN: Commissioner Campos,

COMMISSIONER CAMPOS: Just a comment from staff. If we went to 2,500 of heated, what does that mean as far as the standards, as far as what you're trying to do?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Campos, we could accept

2,500 heated area. You wouldn't be including a garage, though if you're using heated area, you're correct, if you're building a two-story house, the smaller roofed area means you'd still have to do one of these active systems because you're talking about heated floor space.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN SULLIVAN: So we would penalize townhouses, two-story townhouses. Okay, other discussion? You all know -- was that an amended motion or --

COMMISSIONER DURAN: It's 2,500 square feet, heated.

CHAIRMAN SULLIVAN: It's now at 2,500 heated, is the current motion by the maker and the seconder. Further discussion?

[Clerk speaks away from microphone.]

CHAIRMAN SULLIVAN: If we did that we'd have to change the roofed area in the first sentence also. No, I don't think that's the motion. It's a good question, but that's not the current motion. I think the motion, if I'm not mistaken, is that in sub. A, the current motion is homes of 2,500 square feet of heated area, and then under sub. B, homes smaller than 2,500 square feet of heated area shall install rainbarrels, etc. Those are the only changes to the motion that exist right now.

MS. ELLIS-GREEN: Mr. Chair, if we're going to use heated area, then on line 36, where it says "roofed area" that should probably be changed to "heated," and also --

CHAIRMAN SULLIVAN: That was the Clerk's question. I was just saying that that's not the motion.

MS. ELLIS-GREEN: Okay. But that would be consistent to use in both heated floor space.

CHAIRMAN SULLIVAN: So you're saying on line 30 you would change "roofed" to "heated" and on line 36 you would change "roofed" to "heated." Does the motioner agree with that?

COMMISSIONER DURAN: Yes.

CHAIRMAN SULLIVAN: Does the seconder?

COMMISSIONER ANAYA: Yes.

CHAIRMAN SULLIVAN: Okay, we're back to the motion. As amended, roll call.

The motion passed by unanimous [5-0] roll call vote with Commissioners Anaya, Campos, Duran, Montoya and Sullivan all voting in the affirmative.

CHAIRMAN SULLIVAN: Thank you, gentlemen, and members of the public for your input.

COMMISSIONER MONTOYA: Thank you, Charlie. Penny, thank you. Good job.

XII. B. 2. Ordinance No. 2003-__ . An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article XIV, Traditional and Contemporary Community Zoning Districts to Add a New Section 7, *El Valle De Arroyo Seco Highway Corridor Plan Zoning District* (Second Public Hearing)

CHAIRMAN SULLIVAN: Mr. Griego, tell us again about the El Valle de Arroyo Seco Highway Corridor Zoning District.

ROBERT GRIEGO (Planner): Good evening, Commissioners. This is the second required public hearing for the El Valle de Arroyo Seco Highway Corridor Zoning District. This proposed ordinance will codify the policies outlines in the El Valle de Arroyo Seco Highway Corridor Plan, which was adopted by resolution by the Board on January 14, 2003. At the first public hearing on July 8, there were several issues identified by the Board as well as the property owners and business owners along the corridor. These issues included the following. The commercial district should be expanded. The home business category was too restrictive. The infrastructure, water and wastewater issues were not addressed. There were design standards including signs and landscaping which needed to be addressed.

The planning committee met to discuss options for addressing these issues identified at the first public hearing. A community-wide meeting was held to discuss the proposed ordinance and the proposed amendments to the ordinance. Additionally, the fourth annual El Valle de Arroyo Seco Community Day event was held to inform the community of the proposed ordinance. Both the community-wide meeting and the Community Day event were advertised in a local newspaper and letters were sent to property owners, business owners and residents in the area. The proposed revisions to the ordinance are outlined in red in the proposed ordinance in your packets.

These include the following: The access management section was inserted to incorporate regulations determining access requirements. Property that has received a variance allowing commercial development identified as existing commercial. The properties south of County Road 88 contiguous to US 84/285 which were formerly in the commercial node are allowed to request commercial zoning until December 31, 2006. There is a non-conforming uses section added. The sign section was revised and the El Valle de Arroyo Seco Highway Corridor Zoning District map was revised. That was the map that was just handed out. [Exhibit 4] That would replace the map that was in your packet.

Legal also reviewed the ordinance and proposed suggestion for language clarification. The community has worked on this plan for several years. Staff recommends adoption of this ordinance at this time. I stand for questions from the Board.

CHAIRMAN SULLIVAN: Questions? Commissioner Duran.

COMMISSIONER DURAN: In 7.7.c you have modifications can not occupy more than 50 percent of the total square footage of the legally permitted residence.

What constitutes a legally permitted residence? If it's a main house and a guesthouse, is it 50 percent of the combined, or is it 50 percent of just the residence, the main residence?

MR. GRIEGO: Mr. Chair, Commissioner Duran, I'm not sure.

MR. ABEYTA: Mr. Chair, Commissioner Duran, I believe it's the residence itself, so it would not include the guesthouse. We would take the square footage of the main house and you'd be allowed to use up to 50 percent of that.

COMMISSIONER DURAN: Okay. Then, at the last meeting we had, there was some concern and you mentioned it in the front of the memorandum about commercial districts should be extended south of County Road 88. And I'm reading here, it did get extended and those people have until December 31st to apply?

MR. GRIEGO: Yes. In the area that was formerly the commercial node --

COMMISSIONER DURAN: Where was the commercial node that was up there?

MR. GRIEGO: Mr. Chair, Commissioner Duran, the former commercial node, this ordinance would replace that. This zoning district would replace the former commercial node which was at County Road 88 and US 84/285.

COMMISSIONER DURAN: What is 88? Is that La Puebla?

MR. GRIEGO: That's La Puebla Road. That's correct.

COMMISSIONER DURAN: Okay. So that has been removed and you've extended it down to where?

MR. GRIEGO: To Bar View Road, which is approximately 1750 feet, which was the extent of the former commercial node. So we allowed -- this ordinance would allow property owners to request commercial zoning until December 31, 2006.

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

CHAIRMAN SULLIVAN: I had a question, Robert. If we've extended the commercial zone down, why do we need to have this provision until 2006. This is the first one of these plans that I've heard that has that kind of a provision in it.

MR. GRIEGO: Mr. Chair, this provision was set up to address the concerns that were brought up at the first public meeting. This area was formerly a part of the commercial node. We created a new commercial district through this zoning district. By creating a new commercial district we changed what was formerly a part of the node. So we wanted to allow the property owners a period of time to request commercial zoning if they were formerly in the node.

CHAIRMAN SULLIVAN: Okay, so in your new map, you have a light green area. Is the light green area with the diagonal lines, is that the area you're talking about?

MR. GRIEGO: Mr. Chair, that's correct. That's the proposal. If you look in the legend, that area would be eligible for commercial zoning until 12/31/06.

CHAIRMAN SULLIVAN: The legend doesn't have any diagonal lines across it. It just has light green.

MR. GRIEGO: Mr. Chair, that's correct. The reason for the diagonal lines

is because that is also a proposed home business district. It does overlap.

CHAIRMAN SULLIVAN: Okay. So what happens to the light green area after December 31, 2006?

MR. GRIEGO: According to this ordinance, the property owners there would no longer be allowed to request commercial zoning.

CHAIRMAN SULLIVAN: Commercial zoning. But they could request home business.

MR. GRIEGO: Mr. Chair, that is correct.

CHAIRMAN SULLIVAN: Okay. Another question I had was on the first page, under 7.4, you struck out the line "any development that does not have final development plan approval where such approval is required at the time of adoption shall comply with this ordinance." Is that stricken out because of this December 31, 2006 provision?

MR. GRIEGO: Mr. Chair, no. That was stricken out because there was a property owner which had requested -- who came in for a variance to the County and he received a variance for commercial development. That commercial development had not received a final development plan so in -- that's the reason it was stricken out, but in addition, on 7.9, on page 5 of the ordinance, underlined in red it says, "Property that has received a variance allowing commercial development at the time of the adoption of this ordinance shall be identified as existing commercial." So that was the reason for that, Mr. Chair.

CHAIRMAN SULLIVAN: Okay, mine's not underlined in red. Which paragraph are you talking about?

MR. GRIEGO: 7.9.1. where it says "Areas for Commercial Development" on the second statement there. "Property that has received a variance allowing commercial development."

CHAIRMAN SULLIVAN: It says, "Property that is zoned commercial at the time of adoption of this ordinance shall be permitted to continue as commercial uses." Is that the sentence you're talking about.

MR. GRIEGO: No, that's not it.

CHAIRMAN SULLIVAN: There's another one that says, "Changes in use, intensity of use, location and type..." Is that the sentence you're talking about? Do I have the same ordinance that you do?

MR. GRIEGO: Are you looking at the red-line copy, Commissioner?

CHAIRMAN SULLIVAN: Mine doesn't have any red lines. I'm just looking at the copy of the ordinance that was in the book.

MR. GRIEGO: Can I step up and see it?

CHAIRMAN SULLIVAN: Sure. But the underline is the change, right? The underline is the addition to the former ordinance? Do you have some additional changes to these?

MR. GRIEGO: Apparently, the change is different from this. I'm not sure

why, how that happened.

CHAIRMAN SULLIVAN: This doesn't look the same. Oh, no. This is totally different from mine. Okay, what was published?

MR. GRIEGO: Mr. Chair, I apologize. Apparently, the copy that went into your packet was not the updated copy and I believe we have some copies at the back of the room that we can distribute which are the clean copies of the ordinance.

CHAIRMAN SULLIVAN: I've got a bit of a problem here is because we have at least 24 hours publication of an ordinance and just having them in the back of the room is not going to meet that requirement. Now, what we can do here is we can go ahead and take any public testimony and we can pass this at the 28th meeting if we want to do that. Unless, Mr. Ross, you have any other suggestions.

MR. ROSS: Mr. Chair, all we have to do to prepare for this meeting in terms of notice is to publish the title and a general summary of what's in the ordinance. But I think we really need to figure out what the text of the ordinance is and get it in front of you.

CHAIRMAN SULLIVAN: We've got a lot of other things to do here tonight and --

COMMISSIONER DURAN: How about a table?

CHAIRMAN SULLIVAN: I think a table to the next meeting when we get the right ordinance here is --

COMMISSIONER DURAN: Move to table, Mr. Chair.

CHAIRMAN SULLIVAN: Okay.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion to table and second.

The motion to table the Arroyo Seco ordinance passed by unanimous [4-0] voice vote.

CHAIRMAN SULLIVAN: Robert, could you just get us the final one that you want us to consider and we'll take care of it at the next meeting.

MR. GRIEGO: Okay. Is that the next meeting on the 28th?

CHAIRMAN SULLIVAN: On the 28th.

MR. GRIEGO: Thank you, Mr. Chair. I apologize.

CHAIRMAN SULLIVAN: Those things happen. Not to worry. Not to worry.

XII. B. 3. CDRC CASE #A 03-5720 – Monte Alto Homes & Land, Inc. Appeal. Dennis Kensil, Agent, is Appealing the County Development Review Committee’s Decision that the Final Development Plan for Tract “G” has Expired. The Property is Located at 2 Monte Alto in Eldorado, Within Section 17, Township 15 North, Range 9 East. (Commission District 5)

MR. ABEYTA: Mr. Chair, I’ll present this case. Jan Daniels isn’t with us this evening. In 1984, the final development plan for Tract "G" of the Eldorado at Santa Fe Subdivision was approved by the CDRC for neighborhood center district use, which included a grocery store, service station, restaurant, retail shop and office space, giving the 4.88-acre parcel one acre-foot of water. Through the years, Santa Fe County has continued to recognize the legal non-conforming status for neighborhood commercial use of the property.

On July 8, 2003, the Land Use Administrator issued a letter, which is attached in your packet as Exhibit D, to Mr. Kensil stating that the final development plan for Tract "G" in Eldorado at Santa Fe Subdivision had expired, and any development or applications for development of Tract "G" would require submission of a development plan subject to the Eldorado moratorium, which is Ordinance 2001-14 and the existing County Land Development Code. The letter also confirms that the legal non-conforming status for the neighborhood commercial use of the property is still recognized.

Based on the moratorium ordinance, Mr. Kensil’s water allocation for development of Tract "G" has decreased from one acre-foot per year to a quarter acre-foot per year for water service from the Eldorado Water Utility.

July 31, 2003, Mr. Kensil wrote a supporting letter in addition to his original letter of intent. He stated six items as evidence as to why the final development plan for Tract "G" should not have expired. Additionally, he attached a chronological list of letters demonstrating the sequence of events on the progress of Tract "G".

Recommendation: Staff’s position is the legal non-conforming status for neighborhood commercial use of the property is still in effect. However, the 1984 development plan has expired. The applicant may submit an updated development plan subject to compliance with current requirements.

Mr. Chair, you may refer to a letter from the Land Use Administrator attached as Exhibit D. Staff recommends denial of the requested appeal. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Questions of staff? Okay, is the applicant here?

COMMISSIONER DURAN: Oh, I have a question. I’m sorry.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Roman, how long has this moratorium been in effect.

MR. ABEYTA: Commissioner Duran, I believe the original moratorium was adopted in 1995.

COMMISSIONER DURAN: Has there been any -- how are we ever going to lift this moratorium? What are the key elements to being able to lift that moratorium out there?

MR. ABEYTA: Mr. Chair, Commissioner Duran, the reason for the moratorium is that El Dorado Utilities cannot provide additional service to properties due to a lack of water supply so until El Dorado Utility provides more water or proves that they have additional water then I would say the moratorium would remain in place.

COMMISSIONER DURAN: Is that based on a quarter acre-foot of water to each residence?

MR. ABEYTA: Mr. Chair, Commissioner Duran, yes, and the moratorium allows development to proceed provided that it utilizes less than a quarter acre-foot of water.

COMMISSIONER DURAN: Say that again.

MR. ABEYTA: The moratorium allows for development, but you cannot use more than a quarter acre-foot if you're proposing El Dorado Utilities for water service. So you can still develop under the moratorium, but you're limited to a quarter acre-foot of water.

COMMISSIONER DURAN: But no new lots can be developed out there.

MR. ABEYTA: Right. The minimum lot size is 12.5 acres.

COMMISSIONER DURAN: Okay. So at the time that we actually adopted the moratorium, or placed the moratorium out there, there were a lot of people, such as Mr. Kensil, that were caught with developable lots that had been approved but because of the water situation were unable to build on them. Correct?

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

COMMISSIONER DURAN: So is there, and I might be getting off on a tangent so I'll make it real quick. Is there any way that we might be able to find a way of lifting the moratorium based on water savings that we might experience similar to what they're doing out at Rancho Viejo there. I think they're going to come forward some time in the near future showing that they were able to prove the new homes are only using .18. And now with these water catchment systems, maybe that would even add to the savings.

So I'm wondering if the Commission would consider at some point in time exploring the possibility of lifting the moratorium similar to what the City did with their toilet retrofit program to allow some of these people that got caught in this moratorium to move forward with some of the uses that were allowed and the lots that were approved provided that they could show that there would be a zero -- it would zero out the water usage.

MR. ABEYTA: Mr. Chair, Commissioner Duran, that would be staff's concern or issue. If the moratorium was lifted, you would still have to comply with the County Code which requires 100-year water supply, but we would suggest that if it was lifted that another ordinance be put in place that would still, that development would still

comply with the 100-year water supply and your proposal that it would have a zero net effect on EDU supply and we would be favorable and we would look into that.

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

CHAIRMAN SULLIVAN: Okay. Applicant?

COMMISSIONER DURAN: I've been dying to say that for about six months.

CHAIRMAN SULLIVAN: I don't think the applicant even owned the property at the time. I think the approval, Commissioner, was done by a prior owner.

COMMISSIONER DURAN: Oh, on this particular case.

[Duly sworn, Dennis Kensil testified as follows:]

DENNIS KENSIL: My address is 4481 Dancing Ground Road in Santa Fe. Mr. Chair, Commissioners, my name is Dennis Kensil. Tract G is located in the Eldorado at Santa Fe Subdivision at the corner of Monte Alto Road and Avenida Vista Grande. It's a parcel of land that was designated for commercial use when Eldorado was approved some 30 years ago. There is much that the County and I agree on about Tract G. The County acknowledges that in 1984 a commercial project was granted final development approval recognizing one acre-foot of El Dorado Utilities' water. The County also acknowledges that after some years of confusion, that as a result of the 1984 approval, the property continues to have a legal, non-conforming status for neighborhood commercial uses.

We also agree that the property is currently entitled to water from El Dorado Utilities. The appeal before you today is over how much water Tract G is now entitled to. I'm requesting that the County recognize the one acre-foot of water that was and has been set aside for this property since the 1984 approval. In support of my request I offer the following evidence. In February 1993 the Board of County Commissioners entered into an agreement with El Dorado Utilities to resolve a dispute over how much water was available to serve new development. Existing approved projects were listed and EDU water was set aside to serve those projects. New projects were deducted from the inventory as they moved through the Land Use Department and received final approvals. Tract G is on the May 16, 1994 inventory as a County-approved and filed development with one acre-foot or 3.57 hook-ups. Please see Exhibit A in your packet.

The following exhibit, Exhibit B is a letter from Dan Esquibel, an associate planner in the Land Use Department who was responsible at that time for keeping the water inventory for the County. His statement confirms that as a project receives final approval, the County acknowledged that EDU water was set aside to serve those projects. Exhibit C is from El Dorado Utilities and confirms that one acre-foot of water was set aside to serve Tract G as part of the 1984 approval. Two of the last projects to be approved prior to the moratorium were the La Paz Subdivision and the Spirit Wind Ranch Subdivision. La Paz received its final approval on November 14, 1995, and 29.89 acre-feet of water was deducted from the EDU inventory, leaving 385.53 acre feet for development.

Spirit Wind Ranch received its final approval on January 9, 1996 and 9.34 acre-feet of water was deducted from the EDU inventory, leaving 302.53 acre-feet available for

development. Please see Exhibits B and E which show Mr. Esquibel's memos on these projects. Both the La Paz and Spirit Wind Ranch projects have moved ahead with development while Tract G has been denied.

Staff cites the moratorium on new development in the El Dorado Utilities area as the reason why the water allocation shrank from one acre-foot to a quarter acre-foot. However, it was never the intent of the moratorium, the Commissioners, or the staff to take water away from projects with final development approval. Let's look at the record and see what the Board intended. Please see Exhibit F.

I refer to the minutes of April 24, 1996, the date the first moratorium was passed, page 46 of the BCC minutes. Commissioner Gonzales, in response to a question from a planner about whether the moratorium applies to a project with a final approval, says, "I think from what I understand from staff, it's all pending applications. So everyone that has master and preliminary at that level is subject to the ordinance. So anyone who has received final and is just going through the administrative process won't be subject to the moratorium. So your client wouldn't be subject to it."

Please now look at Exhibit G, February 11, 1997. The date the second moratorium was authorized to be published, page 41 of the minutes. County Hydrologist Jack Frost says, in response to a question from Commissioner Duran about highlights of the proposed moratorium, "I can just make mention of several. One is the moratorium would require that the utility come into compliance with fire protection requirements in the Code. Secondly, the moratorium that prevails now is only a moratorium on new development and applications for land divisions that were not approved prior to the first one. That would be the kinds of development utilizing El Dorado Utilities that we would propose be held until the utility can provide adequate water availability into the future.

Please look at Exhibit H in your package. March 11, 1997, the date the second moratorium was passed, page 82 of the minutes. Commissioner Gonzales to County Hydrologist Jack Frost: "Do we specifically address commercial developments in the ordinance? And if so, can you point that out?" Mr. Frost states, "Commissioner, no. We define new or pending applications for land division, master plans, for subdivisions, which propose to utilize El Dorado water services as those being affected by the moratorium."

Please see Exhibit I, March 11, 1997, page 83 of the minutes. Commissioner Gonzales: "My only issue being that if there is a business or an individual impacted by this ordinance that can already go and get a building permit, what's the point in creating that barrier that doesn't necessarily achieve the objective that we're trying to achieve in the moratorium?" The answer is from assistant County Attorney Maryann Reilly. "Mr. Chair, Commissioner Gonzales, the logic behind designing the moratorium that way is that the County has approved many lots in Eldorado that are already approved. The County has traditionally not wanted the burden of the moratorium to fall on people who own legal lots of record, who bought County approved property and who are ready to build. The logic of having it fall on someone who wants to do a lot split or a subdivision is that is development and it's going to create additional demand."

Please see Exhibit J in your package. March 11, 1997, page 87 of the minutes.

Commissioner Gonzales: "I'd like to propose an amendment that any commercial property that has final development approval prior to the adoption of this ordinance may be subdivided in accordance with County Code." And later he says, "Just to explain the motion, Mr. Chair, as I understand it for other issues, there's only one piece of property or one commercial piece of property that sits out in Eldorado that has final development plan approval. So it's not opening up the doors for all commercial development in Eldorado to be exempted. It's basically trying to clean it up in the technical language. That's the purpose of the amendment, Mr. Chair. It's not adding any more burden on the system than what it already had prior to tonight. Commissioner, if that amendment passed and the owner of the Agora was able to create a lot that was sold to First National Bank. No other property owner has been able to utilize that amendment."

Please see Exhibit K in your package. February 10, 1998, the date the third moratorium was authorized to be published. Page 19 of the minutes. County Attorney Steve Kopelman states in response to a question from Commissioner Anaya about litigation of the moratorium is extended: "Mr. Chair, Commissioner Anaya, I believe at this time the County has actually approved in the vicinity of approximately 1000 lots that have the right to go forward. They have final development approval and they just need to come in for building permits."

Please see Exhibit L. March 2, 1998. Staff memo from County Hydrologist Jack Frost to the Board, requesting a revision and renewal of the moratorium. Mr. Frost says: "Revising the moratorium will allow greater flexibility for some commercial developments which possess final County approvals and utility commitments yet wish to modify their projects."

Please see Exhibit M, April 13, 1999. Second hearing on the fourth moratorium. Page 26 of the minutes. Commissioner Gonzales is questioning County Hydrologist Jack Frost about amendments to the moratorium that would encourage the search for new resources and asks: "So what you're saying by creating this tool possibly you'll have private individuals who will actually join in that effort to find new resources." Mr. Frost responds, "Mr. Chair, Commissioner, I think so. I think this possibly could encourage that." Commissioner Gonzales then asks, "On the second issue, are you basically stating that if there is a land use application that's already been approved, that as long as they don't exceed what their approved water requirements are, they can alter it for other uses?" "Yes, sir," says Mr. Frost.

Please see Exhibit N. February 29, 2000. Staff memo from Planner Judy McGowan to the Board, requesting revisions in a renewal of the moratorium. "The proposed revisions extend the moratorium indefinitely and would require the Board to make a finding that EDU has met technical and legal requirements for long-term water supply." The revisions Ms. McGowan cites do not include limiting water to a quarter acre-foot per legal lot of record, nor is any hint made that staff is contemplating this new language for the first time.

Please see Exhibit O. March 14, 2000. Second hearing on the fifth moratorium. Page 32 of the minutes. Ms. McGowan states, "In your memo there are proposals for three potential amendments to the ordinance. The first amendment is some language that was developed in response to the first public hearing where a request was made to be able to sell commercial property in the area without increasing development under the moratorium." I'd like to point

out, Commissioners, that this is the amendment that allowed Gary Boyle to purchase the Agora. No other landowner has used this amendment either.

Ms. McGowan continues on to describe two more amendments, neither of which limit legal lots of record to a quarter acre-foot of water, nor do the amendments she presents have anything to do with sunseting approvals or cause previously approved projects to expire. Nor do they take EDU water away from projects with final development approval. These issues are not discussed by the staff or the Board in the hearing minutes because sunseting approvals and expirations on final development plans and reducing water budgets were not meant to be part of the moratorium. One cannot assume that because an issue is not cited or discussed it was intended to be part of the ordinance.

Nonetheless, the 2000 moratorium did add a limitation of a quarter acre-foot of EDU water for a legal lot of record. This is certainly a reasonable amount of water for a residence, but effectively revokes our ability to develop Tract G as a commercial project if it is applied to us. This was done without proper public notice, specific notice to us as property owners holding a valid final development approval, or discussion by the Board.

Please see Exhibit P. July 10, 2001. The Board approved a request from the owners of the Agora allowing them to consolidate two lots and remove a note on the plat that prohibited development until the EDU moratorium is lifted. No other property owner has been able to get such an approval.

In summary, it's clear from the record that the Board and a wide variety of staff over a number of years did not intend these moratoriums to include previously approved final developments. When a question arose, it has generally been resolved in favor of the owner of a project that holds a final development approval. The moratorium was intended to limit EDU service to new master plans, preliminary plans and demand created by new lot splits. Accommodations have been made along the way to support previously approved projects. Several of these accommodations have only benefited the owners of the Agora Shopping Center.

The 1993 agreement between the County and El Dorado Utilities specifically cites Tract G as having the right to one acre-foot of water. No other project for final development approval that is on that list has been denied the right to develop at its full water allocation. I respectfully ask that you recognize the final development plan and its one acre-foot of water for Tract G in the Eldorado at Santa Fe Subdivision.

CHAIRMAN SULLIVAN: Questions for the applicant, then we'll hear from the public. Just I had one question, Mr. Kensil. Has this plat been recorded? This final development plan, was it recorded?

MR. KENSIL: I don't believe it was, Commissioner.

CHAIRMAN SULLIVAN: Okay. Then we'll hear from the public.

RON VAN AMBURG: Mr. Chair, we had tried to divide the presentation.

CHAIRMAN SULLIVAN: Well, I think we've heard from the applicant. Are you representing the applicant? We just heard from the applicant.

MR. VANAMBERG: Yes, I am. May I speak on behalf of the applicant?

CHAIRMAN SULLIVAN: Mr. Ross.

MR. ROSS: Mr. Chair, what's the problem?

CHAIRMAN SULLIVAN: The problem is that when we have the applicant speak, we have someone representing the applicant speak unless the Commission has got other questions of someone else. I don't know how many people we're going to have speak for the applicant here.

COMMISSIONER ANAYA: Mr. Chair, I believe the applicant has the right to do a presentation and he's part of the presentation. Correct me if I'm wrong.

MR. ROSS: I think that's up to you, members of the body.

CHAIRMAN SULLIVAN: Go ahead. The suggestion is to go ahead but please don't repeat what's already been said.

MR. VANAMBERG: Thank you. My name is Ron VanAmburg. I'm here on behalf of the applicant, Monte Alto, and the purpose of this presentation is to outline what I believe is our legal position on where we are as far as property rights and what Monte Alto is entitled to. I think we begin with Exhibit number 1 [Exhibit 6] which is the recommendation of the County staff and there it sort of sets the playing field and it states, "In 1984 the final development plan for Tract G of Eldorado at Santa Fe Subdivision was approved by the CDRC for neighboring center district use (grocery store, service station, restaurant, retail shop and office space) giving the 4.88-acre parcel one acre-foot of water."

Exhibit number 2, is the approval which was given in 1984 for the zoning and the final development approval. Exhibit number 3 is the County recognition of one acre-foot of water that was attributable to Tract G. Exhibit number 5 is a letter from Gilbert Chavez, then the Land Use Code Administrator, to Dennis Kensil of Monte Alto Homes, who at that time was inquiring about the status of the development prior to purchasing it. Basically the statement is there, the amount of water that was estimated to be presently available was determined after taking all previously approved development into account.

Exhibit 5 is the warranty deed showing Tract G being purchased by Monte Alto Homes. Exhibit 6 is a plat showing the location of Monte Alto Homes being off of Avenida Vista Grande. In 1990, prior to Monte Alto Homes purchasing this property, Jim Siebert wrote to Gilbert Chavez and inquired about the status of the approvals. Exhibit number 8, Gilbert Chavez responded that on August 30, 1984, the 4.88-acre tract located in the southwest corner of the intersection of Avenida Vista Grande and Avenida de Monte Alto was granted final development plan approval by the CDRC for construction of the Eldorado neighborhood plaza center district.

The second to last paragraph, Mr. Chavez states, "It would be my opinion that the approval granted to this property still remains valid." In August of 2000 Dennis Kensil started inquiring again about the status of Tract G. This is well after Monte Alto purchased the tract. Mr. Dominguez in Exhibit number 9 stated that Article V, Section 5.2.7 of the County Land Development Code states that master plans are valid for a period of five years. Therefore, the 1984 approval on this property has expired." That caused a certain concern with Monte Alto homes because they did not have a master plan approval; they had a final approval and the

article and section that was quoted simply did not apply.

Exhibit number 10 is a letter from Oralynn Guerrerortiz, the last paragraph of which states that for subdivisions located outside of the five-mile EZ approved prior to July 1, 1996, there is no filing deadline. Projects which receive full approval after this date must be filed within 24 months. What this confirms is the County interpretation that final approvals prior to July 1, 1996 do not have a sunset clause which apply to them.

In Exhibit number 11 is a letter from myself to Steve Kopelman which again raises the issue as to whether or not the approval has somehow sunsetted or expired. That began correspondence between Monte Alto Homes and the County.

On Exhibit number 12 is a letter dated March 21, 2003 from myself to Dennis Kensil explaining that I had had a conversation with Joe Catanach who could not cite to me any provision in the County Code which would have supported the conclusion that there was a sunset provision which somehow worked against the approval for Tract G.

Exhibit number 13 is a letter from Roman Abeyta, the Land Use Director, and in there he states that "It is our determination that Tract G maintains a legal non-conforming status for neighborhood commercial uses, however, the development approval has expired." So this apparently was the final conclusion of the County from its Land Use Director that the use or the zoning status of that parcel remained by the development plan approval had expired.

Exhibit number 14 is a letter from myself to Steve Ross and Sophia Collaros and that explains our legal position concerning the letter that was received from Mr. Abeyta. July 8, 2003, we received another confirming letter from Mr. Roman Abeyta and there it states, the pertinent part, "After reviewing all of this information and conferring with our legal department, I regret to inform you that your final development plan for Tract G has expired and any development or application for development of Tract G requires submission of a development plan subject to the Eldorado moratorium and existing County Land Development Code. This decision is based on the fact that the initial final development plan for Tract G was granted by the CDRC in 1984. 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 Eldorado area and the information that was submitted in consideration of the 1984 approval is outdated."

That is where we find ourselves legally at this point. We went to the CDRC and the CDRC supported the staff recommendation. We are now before this Board. What we have right now is we have zoning for various commercial related uses but the ability to develop pursuant to the plans for which we received final approval, that has been now declared to have been expired by the County. We have been allowed by the County to develop if we can only use .25 acre-feet. However, our position is that by so limiting us to that type of water use you've effectively denied any real viable and beneficial use of that property. The one acre-foot of water was the amount that was approved in the original application in the approval process.

There is no ordinance that we have been cited and there is no ordinance that we can find which has caused this final development plan to have expired. Even if it did, this cannot destroy a property right. I'd like to also refer to the moratorium ordinance itself which is Exhibit

number 16 and on page 4 of the ordinance are paragraph 5 and paragraph 6. Paragraph 6 provides, essentially, that in no case will building and development permits be allowed in which more than .25 acre-feet per legal lot of EDU water service is required unless provisions of number 5 above are met. If you look at your paragraph 5 above, what that intends to do is to respect the allocations of water that were given in any approval process. It states in pertinent part, "Changes can be made between commercial uses but any change that requires a new zoning is not permitted. The amount of water that the development has for this purpose shall be based on the amount of water proposed in the water budget when the project was approved by Santa Fe County." The amount of water that was approved for this project at the time was one acre-foot and it related to a variety of uses that could be made of that property.

We, along with virtually -- well, with every other development that received final approval prior to the imposition of the moratorium, are allowed by this moratorium language to proceed. And in practice, we are the only approval that has been achieved prior to the moratorium that is now being denied. Our arguments are basically on the standard of arbitrary and capricious conduct. The staff is proposing to destroy our development approval and the property right that we have in that approval. There is no ordinance to support that. There was no notice given to us that our approval was expiring or would ever expire. There was no legal justification given for this and we meet the requirements of the moratorium. We also have an equal protection argument. All residential subdivisions that received approvals prior to the moratorium are allowed to continue in their development.

Agora Subdivision, which is a commercial approval, is allowed to continue with development. There is no difference between Agora and Tract G. Both have property rights for their approvals. That is approval plus investment. Agora was allowed to develop and is allowed to continue to develop to the full extent of its water budget. We apparently are not allowed to do that. In fact, this Commission gave to Agora a variance to allow it to do a lot split in order to sell it to a banking institution.

You reduce our development abilities by limiting our water to .25 acre-feet. That is clearly a residential allocation, not a commercial allocation and it has nothing to do with the approvals that we received. We had final approval with a water budget. And there is no rational reason why there should be discrimination and a distinction drawn between Agora and Tract G, and between residential developments and Tract G. I would also point out that this council has recently granted a lot split out in Sunlit Hills and there has been no requirement for that particular lot split to prove a 100-year supply of water, which is now apparently being imposed only in the Eldorado area.

We also have a due process argument. We had final approval with a water budget and we've spent money in reliance on that approval. That creates a property right. We at various times checked with Land Use and there was no indication that there was going to be any expiration of this approval. We've read the ordinance and it doesn't require, it doesn't provide for any expiration of the approval. Suddenly, in early 2000, we find out that it is now the County's position that there has been a mysterious expiration of the approval that was granted. There is no justification that was given.

Due process requires notice of an impending expiration of the approval and the only way to eliminate that approval would be either to have that as a condition, provided by ordinance at the time of the approval, or to have an amortization ordinance which is passed which allows for a number of years of non-conforming use to recapture its investment and then have an expiration. Those are the only two ways that you can destroy a property right and particularly one without notice.

Assuming that this body exercising its power as opposed to right, but its power, and denies the development on this property in accordance with its previous approval, then we're dealing with a situation involving inverse condemnation. If you deny us a property right, then you have to pay for it and the price of that would be the difference in the compensation, the difference in the value of Tract G with the development ability with only .25 acre-feet of water and a development ability with one acre-foot of water. That should be a significant amount of money.

All we are asking here is that this Commission shows us the same respect and give us the same privileges and rights that have been given to every other development and subdivision that has been approved prior to the moratorium. We're asking for no more, we're asking for no less and I thank you for your attention.

CHAIRMAN SULLIVAN: Questions for the applicant's counsel. I have one question and then Commissioner Duran. Mr. VanAmberg, and you're highlighted areas of Exhibit 16, you cited paragraph 6, which says that building, development and permit applications on legal lots of record will be acted upon. In no case will building and development permits be allowed in which more than .25 acre-feet per year per legal lot of EDU water service is required unless the provisions of number 5 above are met. And then you went up to number 5 and you read the parts about changes can be made between commercial uses but any change that requires a new zoning is not permitted and the amount of water that the development has for this purpose shall be based on the amount of water proposed in the water budget when the project was approved.

But the part of paragraph 5 that I'm reading that you didn't highlight was that paragraph 5 applies to developments that already exist and are using EDU water. And then it goes on, in the middle of the paragraph to say, "This provision is limited to expansion of existing development." Is there existing development on Tract G?

MR. VANAMBERG: We have approval and we have water hook-ups on Tract G.

CHAIRMAN SULLIVAN: But is there development that already exists there? Is there buildings? Is there something that would constitute development?

MR. VANAMBERG: There are no buildings on that property. But what I'm pointing to, Mr. Commissioner, is the intent of this particular ordinance and the rational basis of discriminating against a development which may be operating at initially one-one hundredth of its capacity. It does one little thing and it's got a huge water budget. And under your interpretation, as I understand it, that type of a situation would allow full expansion of the development to use its entire water budget while another development which does not actually,

is not in operation at that time, but does have the same approval, does have the same property right, and does have a water budget, apparently cannot develop. That's the issue.

CHAIRMAN SULLIVAN: Let me just -- I understand that you apparently disagree with some actions that the Commission took in the past but unless I'm wrong, I would imagine that the appeal time for that is passed. I think what we need to deal with here is this particular development and what I was trying to understand is that -- and you may disagree also with the moratorium ordinance, but insofar as it exists, I read paragraph 5, and I wasn't on the Commission when the ordinance was adopted, to relate to expansion of existing development. Are you disagreeing with that or are you claiming that this property is developed?

MR. VANAMBERG: Well, Commissioner Sullivan, paragraph 5 states that developments that already exist. Now, that's the language that's used in the ordinance. We already exist. We have our final approval. We have our zoning. We have our water budget. Are we a development that already exists? I think we are. Are we up and running? No, we're not.

CHAIRMAN SULLIVAN: How could you be a development that exists and not even be recorded?

MR. VANAMBERG: Because we have our final approvals.

CHAIRMAN SULLIVAN: So let me just make it clear I understand, it's your contention that even though this development plan was not recorded, that Tract G is a development that already exists under the provisions of the moratorium.

MR. VANAMBERG: I think under the reasonable interpretation of that provision, and that is uniformly applied to subdivisions that don't have their plats recorded. As long as they have final approvals and there's no sunset provision applicable.

CHAIRMAN SULLIVAN: It says this provision is limited to expansion of existing development. So how would you expand the development of this parcel that hadn't been recorded?

MR. VANAMBERG: Well, we expand it from zero to 100 percent.

CHAIRMAN SULLIVAN: How would you expand it, I mean, legally, if it's not even recorded?

MR. VANAMBERG: Well, we have our development approvals and Roman Abeyta brings up a good point, but I think maybe he misunderstands what we're trying to say. We are not saying when we go in for our building permits that we don't have to follow the current standards relating to drainage or slope or road widths and things of that sort. We fully understand that we have to comply with that. But as far as our right to develop under existing safety standards, I think that's the right that we're talking about. And you don't throw out one in the name of the other.

CHAIRMAN SULLIVAN: Okay. I understand. Your feeling is that paragraph 5 applies to Tract G.

MR. VANAMBERG: Yes, that's our position.

CHAIRMAN SULLIVAN: Okay. Thank you. Any other questions of Mr. VanAmberg. Commissioner Duran.

COMMISSIONER DURAN: Roman, you were here when we adopted the moratorium, put the moratorium in place, weren't you?

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

COMMISSIONER DURAN: Do you recall at that time Jack Frost and Oralynn and maybe you were involved with them, were trying to make a determination as to -- before we actually put the moratorium in place how much -- or actually when the moratorium when in place, we were trying to decide whether we should extend it. We put it in place so that we would have time to determine how much water was available for any new growth out in that area. And so we analyzed the Eldorado Community Water System and there were a number of property owners out there like Joe Miller who claimed that he had water rights to further develop his property. But Jack Frost did a pretty extensive analysis of those water rights. And my question is, when he did that, which caused us to keep the moratorium in place since the day that we adopted it, was this one acre-foot part of the calculation as to what the El Dorado Utilities had committed to or was committed to provide?

MR. ABEYTA: Mr. Chair, Commissioner Duran, if you look at the Eldorado moratorium and the ordinance itself, it talks about part of the reason why we imposed the moratorium was because EDU had overallocated to different properties. So it's staff's position that that's why the moratorium was put in place because we knew that we had this list of all kinds of properties that EDU was promising to serve water to and we knew that they weren't capable of doing it.

COMMISSIONER DURAN: But why, if you look at that letter, the Eldorado water inventory -- what's the date of the ordinance?

MR. ABEYTA: The date of the ordinance is 1996. It was 1996-4.

COMMISSIONER DURAN: So the Eldorado water inventory which was May 16, 1995 indicated that there was one acre-foot of water allocated to Tract G. I'm wondering if, when we were doing our analysis we accepted the fact that there were certain allocations to other developments why we wouldn't accept an allocation made to Tract G.

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

COMMISSIONER DURAN: I understand your point that you believe that the staff and the Commission came to the understanding that El Dorado Utilities was overcommitted, why would we single out Tract G as being the one that didn't -- Tract G is the one that we're not going to allow or accept as property that has been duly allocated water.

MR. ABEYTA: Mr. Chair, Commissioner Duran, I don't know that Tract G is the only one we singled out. I believe there are others on this list that haven't been able to proceed either because they've been subject to the Eldorado moratorium also.

COMMISSIONER DURAN: Do you know which ones those are?

MR. ABEYTA: I don't know -- Cimarron Village is an example. They haven't been able to proceed unless they complied with a quarter acre-foot.

COMMISSIONER DURAN: Cimarron Village, weren't those lots?

MR. ABEYTA: It was mixed use. It was commercial and --

COMMISSIONER DURAN: This was already a lot that was in existence.

MR. ABEYTA: Right.

COMMISSIONER DURAN: It's different. It's different than new lots.

MR. ABEYTA: Well, the moratorium language says that in no case will building and development permits be allowed on which more than a quarter acre-foot per legal lot. This is a legal lot. We don't argue that. It's just that we're saying he's only allowed to use up to a quarter acre-foot. The moratorium didn't make an exception for this property.

COMMISSIONER DURAN: Mr. Ross, what do you think about the claim that there's a taking issue here?

MR. ROSS: The takings issue doesn't persuade me at this point, simply because there hasn't been anything put out there.

COMMISSIONER DURAN: What about the property rights they have?

MR. ROSS: I think under our case law you have to put something out there before you attain a property right through a situation, and there's nothing out there.

COMMISSIONER DURAN: Mr. VanAmberg, about three or four years ago Mr. Kensil came forward with a project for office use. Do you recall what that water budget was at that time? Water budget?

MR. VANAMBERG: One acre-foot, Commissioner.

COMMISSIONER DURAN: It was one acre-foot.

MR. VANAMBERG: And in response, Mr. Commissioner, I would like to file of record the expenses that have been associated with that particular lot. [Exhibit 7]

CHAIRMAN SULLIVAN: Go ahead.

COMMISSIONER DURAN: Okay, I don't have any other questions at this time, Mr. Chair.

CHAIRMAN SULLIVAN: Other questions for the applicant? If not, it's a public hearing. Are there those in the audience who might like to speak in favor of or in opposition to this request for appeal. Yes, ma'am. Just state your name and have the recorder swear you in please.

MARY ANNE STICKLER: My name is Many Anne Stickler, I'm the owner of Tract G and I was hoping to make my presentation as part of our presentation as the applicant, but if you prefer that I make my comments as a member of the public I will do so in either capacity as you desire, Chairman Sullivan.

CHAIRMAN SULLIVAN: You're the applicant's spouse?

MS. STICKLER: No, I personally am the owner of Tract G.

CHAIRMAN SULLIVAN: Oh, you're personally the owner. So you should have been making the presentation.

MS. STRICKLER: I'm part of the presentation of the applicant. [Exhibit 8]

CHAIRMAN SULLIVAN: Okay. Mr. Ross, does the applicant have to be sworn in? I think so. Is that correct?

MR. ROSS: I think so too.

CHAIRMAN SULLIVAN: I think so. So regardless of how you're making it you still need to be sworn in.

[Duly sworn, Mary Anne Stickler testified as follows:]

MS. STRICKLER: My name is Mary Anne Stickler.

CHAIRMAN SULLIVAN: Again, let me ask you to not repeat the information that the Commission has already received, if you don't mind.

MS. STRICKLER: You can rely on that. Thank you for reminding me.

CHAIRMAN SULLIVAN: You're welcome.

MS. STRICKLER: I reside at 2017 Valle Vista in Santa Fe. I am the president and the founder of Monte Alto Homes and the owner of Tract G. I lived with my family in Eldorado on Monte Alto Road in this very same neighborhood for almost 12 years. In fact my 13-year old son was born in our house on Monte Alto Road. I know this property well and I know most of the neighbors well and have had very good relationships with most of the neighbors in this area for the extent to which most people have lived there. Many of the neighbors in this area live in houses that I designed and built and I continue to be on very good terms with these people.

I wanted to make the last part of the presentation to specifically address the fact that we have taken this appeal to the CDRC and probably in your packet you can see that the CDRC did in fact deny our appeal. They did not have the advantage of the extensive presentation and documentation that you have tonight. It was a very brief presentation and there clearly was some misunderstanding left in the room based on a lack of information and a misunderstanding of the information presented. So my comments will be directly related to the comment by the CDRC member Holian -- and I apologize is I'm not pronouncing that correctly. But according to my minutes of the CDRC, member Holian encouraged us to work with community members.

I have a long and well established personal history of working with residents in the Eldorado and the Simpson Ranch area to resolve difficult planning and development issues. As a professional land developer and home builder for over 20 years, I have both resided in Eldorado and have actively participated in an ongoing process with residents and property owners to resolve contentious development issues and create workable planning policies for the future. I respectfully submit the following chronology as evidence of my involvement in community planning, not just for my own property known as Tract G, but for regional planning issues as well.

In the fall of 1997, my husband Dennis Kensil represented Monte Alto Homes on an ECIA sanctioned planning and zoning city group. In January of 1999, Monte Alto Homes was represented in the ECIA long-range planning committee by myself. In April of 1999, ECIA long-range planning committee was focused on a proposal to build more storage units within the Eldorado subdivision, tried to resolve a very contentious issue between a potential developer and the residents over commercial development within Eldorado. In the fall of 1999, I represented Monte Alto Homes and Land, and with the total consensus of all large-tract property owners within the Eldorado boundary, I submitted two separate proposals to the Eldorado Community Improvement Association which for your information is the homeowners association for about 2800 lots. I drafted two proposals. I was able to find consensus among a

number of people in the community as well as every large-tract property owner and I personally paid for all expenses associated with both proposals.

The two proposals were both put to the community at large and to the ECIA board members themselves. The community at large, by a very narrow margin, was in favor of purchasing all large tracts including Tract G for the future enjoyment of all Eldorado residents. However, the ECIA board denied the proposal. The proposal to develop site-specific uses and architectural restrictions for each tract and convey enforcement for these restrictions was also put to a vote of the general membership of the homeowners association. That proposal did not pass by a majority of homeowners and was also denied by the board.

In winter of 2000, the ECIA sanctioned a long-range planning committee and it was dissolved after we had worked long and hard to make a recommendation to the ECIA to support contemporary community planning and put to rest these contentious planning issues once and for all. The ECIA took no action on our recommendation to initiate contemporary community planning.

In January of 2000 I represented Monte Alto Homes at the commencement of the Highway 285 South Corridor planning effort. I am still an active member to this day and am committed to seeing the completed plan approved within the coming months.

In May of 2000, I represented Monte Alto Homes and Land at an ad hoc meeting for community planning that was called by Howard and Rhoda Sherry in an attempt to move contemporary planning forward as at-large citizens without any organizational or institutional support.

In July of 2000, in the absence of any productive efforts on the part of the community to plan for the development of the commercially designated tracts within Eldorado, Monte Alto Homes and Land announced our intention to develop a professional office campus on our property, Tract G, with our commercial zoning, approved use list and one acre-foot of water in place. Our plan includes both wastewater recycling and rainwater catchment systems. And I'm referring back to our proposal of 2000. We began an extensive series of meetings, hearings and first class individual mailings to inform both the neighbors and the Eldorado community at large and to address specific concerns about our project. This intense dialogue continued for almost a year.

We also approached County staff, both at the Planning Department and the Land Use Department to consider a request from the neighbors that we be allowed to subdivide our tract into single family building lots using our one acre-foot allocation in order to find peace in the community and settle the use of Tract G once and for all. And we were flat-out denied by staff over and over again, without ever consulting with the Commissioners.

It's been a long haul. I'm sorry. In February of 2002, I joined representatives from throughout the Simpson Ranch area to meet with Jack Kolkmeier, the director of Planning to ask for the County to support us initiating a contemporary community plan for Simpson Ranch. In May of 2000 -- I'm sorry, in 2002, there's a typographical error in my presentation, the Board of County Commissioners adopted a resolution to create the Simpson Ranch Contemporary Community District, which in spite of the current problems, still has the support

of Monte Alto Homes and Land.

COMMISSIONER DURAN: Would you like some water?

MS. STRICKLER: I'm okay, Paul. Thank you. Despite an almost three-year struggle to fight invasive cancer, I continue to be an active member of both the Highway 285 South Corridor plan and have a continuing and pro-active interest in building consensus to develop a comprehensive community-wide plan which the County will recognize and enforce. In regard to the development of Tract G, I have recontacted as many neighbors of the Tract G location over the past week that I could reach in order to find support for protecting my one acre-foot water allocation, and to keep alive the hope that there can be a peaceful resolution for the final use of Tract G.

The simple reality is this. With a 4.8-acre tract that has commercial zoning, an approved use list, and with only one acre-foot that the County suggests that we are entitled to, I have limited flexibility in reaching a consensus driven decision as to the final development of Tract G. However, with my property rights intact, and my one acre-foot water allocation, the opportunity may exist for Monte Alto Homes, Santa Fe County, and the neighbors of Tract G to find a final resolution to this long-standing dispute. I ask you to respect the County's existing commitment, to honor the County Code and to provide us with the best chance of peaceful resolving the best and highest use for Tract G by voting in favor of my appeal to you tonight.

If I may, I would like to just read one letter that a close neighbor of Tract G asked me to read into the record because he could not be here tonight. This letter is in the packet you have in front of you and it's from a couple, John and Linda Pruitt, who are very, very close neighbors of Tract G.

Mr. Chair and County Commissioners, for 16 years we have lived in Eldorado at #2 Rico Court, just west of commercial Tract G. Naturally, we have enjoyed the vacant status of Tract G all these years but acquiesce to the fact that some day this property will be developed. Maryann Stickler and Dennis Kensil have made a good-faith effort to devise a commercially feasible plan which fits into the neighborhood. All legitimate rights to commercial water assigned to this tract should be honored. We support their right to pursue the American entrepreneurial dream. Sincerely, John and Linda Pruitt. [Exhibit 9]

I have submitted to you a packet of letters from people who wanted to support us and simply couldn't be here to read their own statements into the record and rather than take any more time with our presentation, I would just ask that you see the letters of support come from a variety of people that have spoken before you in the past in very contentious positions and yet speak tonight in a fairly uniform voice to support our right to our one acre water allocation. Thank you for your time.

CHAIRMAN SULLIVAN: Thank you. Are there questions for the applicant? I had one question about the packet that you just passed out. One of the letters of support that you have here says that we support your petition to split the lot into four residential lots. We know that the houses you would build would enhance the community. Is that what you're proposing? Four residential lots?

MS. STRICKLER: I do not have any petition before you now to do that lot

split. I cannot speak for the people who wrote that letter. I think it speaks for itself. If they're here this evening you can ask that question of them, but I have asked both County Land Use staff and County Planning staff several times over the past six years if I would be allowed to split Tract G into single family residential lots and I haven't been allowed to explore that option with the County at any time past staff level.

CHAIRMAN SULLIVAN: Okay. I understand that. Earlier testimony on your presentation was that you were proposing offices on Tract G. Or someone. Either Mr. VanAmberg or --

MS. STRICKLER: That is the only proposal that was actually fleshed out with the neighbors or with County staff since we have owned the property.

CHAIRMAN SULLIVAN: Okay. So that's the current proposal.

MS. STRICKLER: That is the only -- that is the current proposal in front of you because we did not pursue the other proposal because we were turned down flat by staff over and over again.

CHAIRMAN SULLIVAN: Okay. Thank you.

MS. STRICKLER: Any other questions for me? Thank you for your time.

CHAIRMAN SULLIVAN: Okay, I think that concludes the applicant's presentation. Are there those in the audience that would like to speak either in favor of or in opposition to the applicant's proposal?

[Duly sworn, Willi Hayes testified as follows:]

WILLI HAYES: Willi Hayes, 4 Valencia Loop.

CHAIRMAN SULLIVAN: Go ahead please.

MS. HAYES: Gentlemen, I feel as emotional against this development as Mary Anne feels for this development. Not only that, I'm hungry and I'm tired, and I'm sure you are too. I'm tired because I drive 150 miles round trip to Albuquerque so that I can live in the somewhat rural environment as Eldorado. I was really disappointed to hear about this commercial development because quite some years ago when Mary Anne still lived down the road we had a conversation and she mentioned that they had bought the property on that corner because they didn't want some ugly development to go up in their neighborhood. So that was great. I want to give her credit. Perhaps I misunderstood her and perhaps that's what I wanted to hear but that's not really my memory of it.

However, it's okay for her to change her mind and decide to invest, to change her mind about her investment. Everybody has the right to do so and the right to try to increase their investment. However, some are more speculative than others. I want to remind the Board that his property is located between two elementary schools on Vista Grande. Okay. We already have a problem with traffic and elementary schools in Eldorado. The traffic has already -- it's tough getting them to slow down for the kids as it is now, let alone with the increased traffic that an office building would happen with increased traffic from an office building, increased building development.

And another issue are the vacancies. I live in Eldorado, I used to rent an office space from Mr. Miller over in the Chamiso development. He had vacancies there all the time. There

are vacancies at the Agora all the time. I'm against living in an area with offices that may be vacant because there aren't enough people or businesses that would really utilize this. Okay. This is not good for our neighborhood. It's not good for our kids. It's not good for our families. I'm not against growth. I'm definitely not against growth. But I am against growth within the heart of Eldorado. We had almost 2,000 people sign a petition against -- for keeping the growth in the 285 corridor and against growth at Monte Alto development within the heart of Eldorado. I just urge you, listen to your voters, listen to the people. This is not something -- the 285 corridor plan is moving right along, but again, they can't keep those buildings full now. What are we going to do when we end up having a whole bunch of vacant buildings around the corner from us.

Also, I listed to her saying that letters were sent out to the neighbors. I live 200 yards away from the property. We received one letter in all these years, so I don't know what neighbors those letters went to and I would like to mention that. I would also like to say I'm not against trying to help them work out some kind of development, and I know somebody else brought up something about some houses up there, having a few houses up there instead of a commercial development. I'm not against that. But I am against the influx of the traffic and the people and you know. And the decrease the property values that this will bring to our neighborhood. Thank you very much.

CHAIRMAN SULLIVAN: Thank you, ma'am. Next speaker please. Is there anyone else in the audience that would like to speak?

[Duly sworn, Peter Merrill testified as follows:]

PETER MERRILL: Peter Merrill, 4 Solano Court, Eldorado, two lots removed from Lot G piece of property. Mr. Chair, Commissioners, staff, I think we have two different issues here that we seem to be going around in circles on. The agenda calls for the relooking at whether the development has expired. That's the main issue, I think, that's on the agenda. The one acre-foot of water is a secondary thing. I think we should keep to the agenda, which is has this thing expired? If it hasn't expired, then we need to get into some of the details of it, whether the one acre-foot of water is available or whatever.

But I do want to say that we have had -- when I say we, a lot of our neighbors have been talking to Mary Anne Stickler in the last few days and frankly her attitude has been great and we feel that we would like to keep everything residential in that area. Again, it's overwhelming. You hear talking about different people signing off that they didn't want to see commercial in that area, and residential is what everybody, or I shouldn't say everybody, but the vast majority. I believe it's over 90 percent of the people want to keep it residential in that area. The question again, the main question of whether that has expired or not I think is the main thing. The fact that there may not be a technical resolution on the books or something along that line, we're talking about something that happened 19 years ago.

I know after 9/11 a lot of things changed because an event happened. We have events happening in Eldorado, like having to dig hundreds of feet deeper to try and get a well. Things are happening that necessitate change and that's what you as Commissioners are designed to be able to regulate. I happen to agree with Mary Anne. I don't think that anybody should ever

have to go to the staff and be denied a principle or something that they want to do. I think that anybody should be able to go to staff and say, I want to put in an application to do this. And then they say, you cannot do that. They're doing your job. Your job is to decide whether it's doable or not. I think anybody should have the right.

You've all heard that thing, anybody has the right to sue, okay. Well, I'm not saying that situation here, but if somebody wants to check into something, I don't think staff has been elected to make the decision you can or can't do that. I think that's your responsibility and I believe staff should be directed that way, that is someone comes in, they should be advised what probably, what is the rule, what are the laws, and if they make a decision that they want to make a case to you people, that's your elected job. I think they should be able to do that.

But anyway, back to the main topic here. I think we need to address whether this has expired or not, and what is right for the community of Eldorado. I personally would not support anything to do with commercial. I think that the fact -- I personally, I have a GB-98. I'm a builder. I'm past president of the State Builders Association, Santa Fe Builders Association. When I get a permit, if I don't get in the ground within six months or whatever the allotted time is, it's gone. And they have that as a reasonable period of time. Somehow, we didn't pass a resolution to establish some reasonable period of time where we're hearing them say, Well, that means that we're good, because we never established some kind of a rule or regulation. I think we have to use reason, and reason is that in 19 years things have changed. And I think that since we put the moratorium in in 1996 -- and let me tell you, as president of State Builders Association in the year 2000, I had people saying to me, Why don't you try and get the moratorium taken off your own area in Eldorado. And I said, Because we don't have the water to do it properly. And the Commissioners are doing their job and they're renewing it every few years, it comes up for renewal. I think it needs to be renewed and we need to protect our water rights over a period of time. And that's what you people are doing as Commissioners.

So I think the first thing is we need to determine that this project, submitted 19 years ago, it can't happen. It's just not up for grabs anymore. It's a dead issue. And then, let's see what we can do. The neighbors would like to make a proposal of our own down the road. You asked the thing about the houses and lot splits. I know that lot splits are not allowed. And you have to have 2.5 acres. But there are things called variances. And you people make those decisions to go around that. I have spoken to many, many of the neighbors in the last couple days. I've been living on the phone. And everybody is in favor of allowing them, if it's possible, to have a lot split, to have houses built, to keep it residential. My house is on 1.8 acres. The Bicolts are on 1.5. Joe Oliver is on 1.5. We have no problem with that. And maybe we can make a good enough case for it. And that's what our intention is. If you say that this is a dead issue, that you're dead commercially, it won't end there because you're going to find the neighbors coming out in support of Monte Alto to see if we can't get that to happen.

If you determine that can happen, that's your prerogative again, but we're going to make our best effort to do what's right for the community. That's where we live. And no offense to Mary Anne. I know she's been teary. She was crying on the phone with us, and I

understand it. And she has the right to do that and I feel the same way. But if this development happens to go in, I think you're going to find a lot of other neighbors up here crying also, saying look what's happened to the value of our property. They now have gotten their money out and our properties have gone down a lot because there's commercial on the corner right next door to us.

So based on what you have on the agenda tonight, I would like to speak in opposition to that. I think we need to say after 19 years that this is dead. Whether there's not a specific resolution or whatever, you, I think have the right to make that decision. And I'd like to request that you make that decision, with the understanding that the residents of Eldorado are going to work very hard with Mary Anne Stickler and she has been very, very appreciate. We've had a great open dialogue in the last few days. It's very encouraging because it's the first time we've seen that. And I'm not threatening to come back to you, but we will be back to say we'd like to see something happen residential, because we do feel that that property should be properly used. If somebody can get their money's worth out of it, fine, at the same time. But most importantly it needs to be what's right for that piece of property. Thank you.

CHAIRMAN SULLIVAN: Thank you, Mr. Merrill. Next speaker please.

[Duly sworn, Bill Davis testified as follows:]

BILL DAVIS: I'm Bill Davis, 4 Valencia Loop.

COMMISSIONER DURAN: Mr. Chair, could I ask something of you?

CHAIRMAN SULLIVAN: Just a minute, Mr. Davis. Commissioner Duran has a favor to ask of me.

COMMISSIONER DURAN: Could you ask the applicant, is he going to read this letter to us? And if he is, could we just take a moment to read it and then let him comment.

CHAIRMAN SULLIVAN: Were you going to summarize your letter, Mr. Davis?

MR. DAVIS: Yes. I'll summarize it.

CHAIRMAN SULLIVAN: Okay. That will be fine.

MR. DAVIS: It's a simple letter.

CHAIRMAN SULLIVAN: Before you start, as Commissioner Duran requested, let us read it for just a minute. It's single-spaced is the reason it will take a minute here. Okay, Mr. Davis, go ahead. Thank you.

MR. DAVIS: The letter is a bit technical but its objective is to force a four to one to approve this plan, this appeal.

COMMISSIONER DURAN: Four to one? I must be the one.

MR. DAVIS: The objective of the letter and the signatures and the signatures are to meet with the section of the Code that requires if 20 percent of the owners of the adjacent property petition the Commission, a super-majority is required for the approval. There is a contention in the letter and Mr. VanAmberg, if his contentions are taken serious and believed then he has placed his property in the zone of an existing use, in which case, Article II, Section 4.5.2 is applicable.

That's the same language, Mr. Chair, that you read in Section 5. I don't have that

language with me but a use may be reused, extended or expanded provided -- and there is a clause there that makes our needs and the community's needs relative and it is Section 4, the reuse, expansion or extension is not incompatible with the surrounding uses of land and is deemed to be of interest to the health, welfare and safety of the community. A commercial development isn't. We have -- the community is overwhelming against commercial development. The survey that the County paid for had a tremendous response and 82 percent of the people agreed that commercial development should be located near Agora and at the designated intersections on Highway 284. There's just overwhelming support for keeping Eldorado a residential community.

Peter Merrill spoke to our views and I think he stated them. We have no objection to using that property. It's fine view lots. Lovely homes could be placed there. But the moratorium issue has to be addressed and that's an issue, I'm not going to address it particularly, but I am opposed to granting commercial applications. Secondly, I don't understand, and this is probably just my naivete here. You might be able to enlighten me. When someone gets an approval for a plan, what plan? The plan that was approved in '84 has never been proposed to be developed or put in place. It's been abandoned. The office plan has been proposed. That's certainly a different plan that's contended to be approved with a final approval. So there are issues there that seem like maybe not only in this instance but perhaps as a community we ought to have some rules and some understandings about what goes on there. So in any case, we're seriously opposed to this. It will kind of ruin our community and change its character radically, and do so for a great many more people. More money will be lost out of our pockets and I believe we've created property rights by putting our lives into our homes and building them and living there and owning them for 15 years. And we hate to see our rights taken away.

But we will support, and I certainly will work with Mary Anne Stickler to try to come up with a non-commercial use for that. I don't see how it can be done at a quarter acre-foot.

CHAIRMAN SULLIVAN: Thank you, Mr. Davis. Is there anyone else that would like to speak either in favor of or in opposition to the applicant's proposal?

[Duly sworn, Norton Bicol testified as follows:]

NORTON BICOLL: Norton Bicol, 3 Solano Court, Eldorado. By the way, thank you all for doing what you do. I know this is not the place you necessarily want to be all the time. Especially at night like this, so I really mean thank you. I'm a little confused. Mary Anne did call me. The best thing to do is read this. I've been a mediator between dentists and patients. I'm a dentist. For over 25 years. As chair of a peer review committee in Dallas with 3,000 dentists, and for the last five years here in Santa Fe. Mediation does not work unless one of the parties creates an opening for compromise. In the case of Monte Alto Homes and the homeowners of Eldorado, it appears that an opening has happened and Ms. Stickler has offered to build residences instead of commercial properties.

Now, you've heard that. Ms. Stickler talked to me and talked to several of us and said, I will build residences instead of commercial properties if I'm allowed. However, the compromise here involves water as usual. It looks like water has always been an issue and it

may always continue to be an issue. As a relatively new resident of this area, five years now, I heard stories about Ms. Stickler doing whatever it took to "get her way." I heard stories of her working "behind the scenes" with "powers that be" to get what she wanted. That's not the woman who called me last weekend. The woman who called me wants peace between the parties.

At this point she wants enough water for three, possibly four single family homes on her property. So I'm asking that you call on the wisdom of Solomon and grant her request. You all have the power to do that. You must put this long-standing, bitter battle to rest. You can do that. You are people. You are not machines. Someone has said that you will set a negative precedent by granting her request. I'm not sure I understand what that means but I think this is a unique situation so I feel that a variance, or whatever you want to call it, is appropriate here. I was unpleasantly surprised to learn over the weekend that Ms. Stickler, under the current conditions apply for a permit to build a commercial development as we speak. If she wanted to, she could thumb her nose at us and say, I can do what I want.

I appears that she has decided not to do that. She is tired of name-calling and slurs against her and her family. I believe she wants peace and others who have known her for far longer than I also agree that she is sincere. So I'm asking you all to ask like Solomon. Bend the rules if that's what it takes. Use your hearts and your minds and think compromise to allow Ms. Stickler that water she needs for the single family residences only she is prepared to build on the property.

My mother always told me that a good name is all I really owned in this world. There have been at least 1300 Eldorado residents who signed the original petitions against Monte Alto Homes and Ms. Stickler. That has left her with less than a good name in their minds. She wants that to change. It's time for Eldorado residents to not only think of the quality homes Ms. Stickler built but also think of Ms. Stickler as a quality person. I feel that is where she's coming from today. Life is short. Mr. Stickler has just emerged from a life-threatening disease. She wants peace. We need to help her reach that goal. We all need to end this and move on with our lives. World leaders could learn something from Ms. Stickler's action that compromise and trust are the keys to peace. It's now up to you all to make it happen. I think you can. Use your hearts and your minds. Thanks for your time.

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

[Duly sworn, Gregory Baker testified as follows:]

GREGORY BAKER : Gregory Baker, 9 Valencia Loop. Mr. Chair and Commissioners, thank you for allowing me to speak, and I want to thank the Commission first of all for maintaining a strong position on this moratorium. I think that's hard to do with pressure from development and I'm not opposed to development but I am in favor of sustainable development. It's a difficult time for me supporting a developer when they call you on the phone at the last minute saying that they want to make a deal with us residents if we testify that we're supporting their change in plans to convert versus commercial development when the CDRC hasn't even seen the plan.

Some of us were told three houses were planned, some of us were told four houses were

planned. I'm really not quite sure what is planned. I'm not sure if there's a current water availability study. I am also not sure if a zoning request would be necessary here. I haven't seen anything in writing. I like to be positive about these things so my suggestion to the owners of this land is why not present this in writing and just be clear to everybody. Why not redo this? it's a 20-year old outdated plan. Redo this for residential development, which people seem to be favoring. Resubmit to the County Development Review Committee. I believe that's their name, CDRC. They probably, not even seeing this plan for residential construction versus commercial and here we are presenting it to the County Commissioners. I think that's a little bit -- maybe I just don't understand that chain of command there.

I think it will benefit everybody. I think it will benefit us residents. I can throw two rocks and hit this development. Take two stone throws. I think it would benefit the County. I think it would benefit the developers, us. It must be a really hard job for you all in an arid high desert and you have guys coming to you trying to show you that they have a 100-year water supply. I drive between here and Eldorado now and I've never seen more dead trees in my life. It could look like the Sahara. Things change. And I think that's what they mean to say, that this is a 20-year old plan that needs to be redone. The developers told me they stand to lose a lot of money if you don't support their request. Well, there's no guarantees in life. I've lost a lot of money in the last few years and I bet you 75 percent of the people have lost a lot of money in this room. And I don't want to see them lose money but we don't make up for it by giving them four times more water than they're allowed.

Many of the residents that were here with the CDRC are not here tonight. They thought that this was settled in this room just a month ago, whenever the CDRC met and so they're not here. I heard some really good speakers. Your legal staff recommended denial. I would like to work with this developer on a residential concept but this is an extremely outdated plan that should be denied. And again, I just want to thank you for maintaining a strong position because it's tough and I think you're a very tough Commission and I appreciate that.

CHAIRMAN SULLIVAN: Thank you, sir. Next speaker. Yes, sir.

[Duly sworn, Fred Raznick testified as follows:]

FRED RAZNICK: Mr. Chair, Commissioners, my name is Fred Raznick and I have been a resident of Eldorado with my family since 1978. And like Dennis and Mary Anne, have been part of almost every conceivable planning process in the corridor, some more successful than other. I consider Eldorado a dynamic and fabulous community to live in. It is a wonderful place to live and work in. I believe, however, that the issue of commercial development within the subdivision has been the biggest reason as to why there has been division, frustration and pain caused among friends and neighbors. In addition to being a resident of Eldorado, my wife and I in 1994 brought Tract K before the CDRC and the County Commission. Tract K is located directly north of Tract G across the street. The County Commission unanimously approved a development plan granting master plan zoning for four buildings of approximately 6,000 square feet each. In letters that I have looked at in my file, El Dorado Utilities withdrew over four acre-feet of water in reserve for this project, the County granting over two acre-feet for development. Then the moratorium was put in place and

nothing, of course has been done since. As the song goes, the times are a'changing and it's quite clear that many residents within Eldorado do not want to see commercial development within the subdivision.

Having that knowledge, my wife and I have talked about, once the moratorium was lifted, to again coming before the County, and with the encouragement of several Eldorado residents, and relooking at the purpose for Tract K and changing the uses from commercial to perhaps senior housing. We're finding as the prices go up in the County and particularly in Eldorado we are seeing less younger families and it is in fact beginning to become an aging community. I do not believe that even with the abandonment of commercial development that there will be total peace and harmony with even new ideas for the community because there are some people who just don't want any change.

We believe, my wife and I, that Mary Anne and Dennis have a reasonable proposal here. That we believe that because of the resistance to commercial development that we would encourage them, encourage the County Commission to consider their request or putting into play the possibility of allowing single family residences on their tract. Towards that end, as the owner of Tract K, we also would be willing to work with the County, with the community, and with the owners of Tract G in bringing an ultimate resolution to this intersection. I think that would be in the best interests of all parties concerned and I think a lot of the problems that you hear about in Eldorado would thus go away. So you can count on our support to work with the County in trying to bring ultimate resolution to Tract G and Tract K. Thank you.

CHAIRMAN SULLIVAN: Thank you, sir. Next speaker, Ms. Pilnock.

[Duly sworn, Kathy Pilnock testified as follows:]

KATHY PILNOCK: I live at 13 El Capitan, Lamy, New Mexico. I'm kind of wearing two hats tonight because I'm going to speak for the 285 Coalition and then also personally. The 285 Coalition recognizes that the appeal by Monte Alto Homes and Land is a matter of zoning for the Board of County Commissioners to decide. We have taken no position on this issue. Now I'm going to speak personally. If the issue is water, why are we still issuing building permits for residences in the Eldorado area on property that, as Commissioner Sullivan pointed out, Tract G does not have anything built on it. Neither do a lot of these residential lots. If the issue is water, why was Joe Miller allowed to proceed with his commercial development when he did not have final plan approval but he did have a letter from the utility for commitment of water.

If the issue is water, why is it acceptable to build four homes, using a quarter acre-foot each, rather than a commercial development using an acre-foot. I may be confused, but I thought the issue was water. It seems from what I've read in the packet in the back, the staff is saying they would recognize legal non-conforming commercial status of the property, but restrict it to one quarter acre-foot of water. In other words, a gas station, using a quarter acre-foot would be acceptable.

Rather it seems to me the issue is there are many people in the Eldorado area, or in Eldorado, who are opposed to any commercial development within their community. They want to keep driving into the City of Santa Fe for goods services and jobs, and maybe even as

far away as Albuquerque from what I've heard. And they want the rest of us to do the same. They want to dump all their traffic into Santa Fe city streets and neighborhoods. I know that many people who live in the city are opposed to this, and I heard from a number of them when I was on the CDRC and we approved the Crossingham development without the movie theater.

You Commissioners also represent the people who live in the city of Santa Fe and they vote for you during elections. I ask that you not take away the approval of the Monte Alto Plaza or restrict their water. I think all of us need to shoulder our fair share of commercial development. Yes, that's it.

CHAIRMAN SULLIVAN: Thank you. Are there others who would like to speak on behalf or in opposition to the appeal?

[Duly sworn, Ruth Jacobson testified as follows:]

RUTH JACOBSON: Good evening, Mr. Chair, Commissioners. I think Kathy may have sneaked a peak at my talk before I got up here. I'm a 20-year resident of Eldorado and my home is the only residence that is located adjacent to Tract G, and I have a great interest in how this land is developed. I'm here tonight to lend support to Mary Anne Stickler and Monte Alto Homes in what I feel is her right to use the amount of water that was originally allocated when this tract received final approval. The fact that this property has not been developed should in no way be used as a basis to either deny or reduce the amount of water that was originally allocated.

If I had purchased a lot in Eldorado 20 years ago and I got here all ready to build my retirement home and someone said, Well, we had a lot of water when we sold you your property and we're having some problems now, so you can build half a house and you can use half the water that we banked for you 20 years ago. I'd be very upset. I would find it very unacceptable if not illegal. We have serious water issues. I don't see this as an issue of use it or lose it since this proposed development was allocated and water was budgeted from a privately owned water system which today provides water to the majority of the homes and businesses in the Eldorado water district.

Our water situation is quickly approaching a crisis. Wise water management is crucial and individual sacrifices are being made. Because I have lost my lawn and a few favorite fruit trees in my yard, it doesn't justify my supporting an action that could result in the loss of another's legitimate right. I see this as a black and white issue. Water that was legally allocated should not now be denied because of our water situation. Some of the people that have talked here tonight seem to be more focused on how they will be personally impacted by a project at this site rather than the real issue, which is water. It sounds to me that with them, it would be okay to restore the rights of the developer to a full one acre-foot if the water was to be used in a manner that supported their personal vision, which people are now talking about putting homes there. I personally don't know if I would want homes there. I live adjacent.

When the first proposal came up for Monte Alto Plaza I'd walk out in the middle of the day. I'd walk out at sunset. I'd look at the sunrise and in the evening to see how this property, which is directly east of me, would impact my yard, my family, my activities. Fortunately, I built my house at the very corner of the furthest away from this development. Where am I

now?

CHAIRMAN SULLIVAN: We have, I think a copy of your statement here.

MS. JACOBSON: It's a little changed.

CHAIRMAN SULLIVAN: If you'd just like to summarize it, that would move things along.

MS. JACOBSON: This proposal, without seeing anything in front of me concerns me. But it concerns me because of the water use that potentially could be used by three or four homes. These quarter acre allocations are not set in stone. This is what people are -- it's more or less agreed that they use. Eldorado being very water conscious. We use a lot less out there. But four houses conceivably could use more than an acre-foot of water. And I have seen plans for Monte Alto Plaza, and I feel the plans reflect the integrity and commitment for water and energy conservation that has built the reputation of Monte Alto Homes and Mary Anne Stickler to the highest level. This project is designed to use the minimum amount of water and still reflect Eldorado's character in a manner that is far more restricted than what the County allows.

Now, there's been talk about splitting this land up for residential and I'm not sure if I would like that or not, but there's one thing I would like to point out. I would urge all the neighbors who are for this to closely study the implications if this were to come about, particularly if these homes were not accepted into the ECIA. The Santa Fe Building Code is far less restricted than the covenants and building guidelines of Eldorado. Of specific concern should be issues of style, building heights, color, fencing, outdoor lighting, modular construction, signage and business use, as well as storage of RVs. Regardless of what is built on this parcel, the main issue right now to be determined is that the water was already allocated to this project and that should be allowed. Thank you.

CHAIRMAN SULLIVAN: Thank you, Ms. Jacobson. Is there anyone else who would like to speak towards or in opposition to the appeal? Okay. I think that's everyone. Commissioner Duran.

COMMISSIONER DURAN: I'd like to bring this thing to a head here, so I'm going to try to craft something here that might work for everybody. I'd like to thank everyone for speaking this evening. I've seen a lot of properties that have come before us that have disagreed with the County's position that they're master plans have expired and I think this happens to be one of them. But that's only part of the problem. My motion is to uphold the CDRC's decision that the final development plan for Tract G has expired, but that doesn't take away the fact that the property still has commercial zoning and they have property rights based on that commercial zoning.

I believe that they do have some rights based on the 1985 Eldorado Water Inventory, which is on County letterhead and which we considered in determining how much more development could occur out there when we approved the moratorium. So my motion would be to uphold the CDRC's decision that the final development plan for Tract G is expired. I would like to instruct staff to meet with the applicant and provide them assistance to apply to the County for the creation of four lots on Tract G for residential use, ask them to come before us

with a water budget that would take into consideration the new ordinance that we're adopting with the water conservation measures, and perhaps even require that they require the active system out there rather than the passive. Get information to them that Rancho Viejo is using which indicate that they are able to use that quarter acre-foot usage down to .18, and strongly recommend to them that they try to incorporate the same kind of water conservation measures that Rancho Viejo has done. And let the Commission at that point decide whether or not the four residential lots will be approved, based on the variance. That's my motion.

CHAIRMAN SULLIVAN: Wow. Okay, that's a motion, and is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Second, Commissioner Anaya. Discussion?

COMMISSIONER MONTOYA: Could you repeat that?

CHAIRMAN SULLIVAN: No, don't try. We understand the motion.

COMMISSIONER DURAN: Uphold the CDRC's decision. They don't have master plan approval. Their master plan sunsetted. But they do have commercial zoning. Is that correct, Roman?

MR. ABEYTA: Mr. Chair, their final development plan is expired but they do have commercial zoning.

COMMISSIONER DURAN: The neighborhood doesn't want commercial use out there but I hear a lot of people in support of allowing the applicant to come forward with residential use. I've been a Commissioner for almost seven years and in those entire seven years, the applicant has been before us trying to find some reasonable use of their property. This is the first time, that I can recall, that they've brought this water inventory sheet for us to look at that indicates that prior to -- as a basis for approving this moratorium, we used this water inventory in that deliberation and it indicates to me that they had an acre-foot. I think that if we asked them to adopt water conservation measures, come forward with a variance to change the commercial zoning to residential use that they'll have the community behind them and I think that they're made whole. And the community doesn't have a commercial project right in the middle of the development. So my motion is to allow them to come forward with a variance for four residential lots and instruct staff to assist them in that process.

CHAIRMAN SULLIVAN: But to uphold the decision of the CDRC.

COMMISSIONER DURAN: Right.

CHAIRMAN SULLIVAN: Okay. And that's --

COMMISSIONER DURAN: Well, we can't grant variances for the four residential lots right now because we didn't publish it.'

CHAIRMAN SULLIVAN: I think I understand the intent of the motion which is denial, but to leave the door open as it were for them to resubmit under a residential proposal.

COMMISSIONER DURAN: Well, just for a point of clarification, I don't understand why staff wouldn't allow anyone to come before us and ask for a variance. Anybody has the right to ask for a variance.

CHAIRMAN SULLIVAN: They're here.

COMMISSIONER DURAN: Who's here?

CHAIRMAN SULLIVAN: The applicant. I mean, they've been allowed to come.

COMMISSIONER DURAN: No, they're not asking for a variance.

CHAIRMAN SULLIVAN: Oh, I see. You're saying that the testimony was that they had been denied the opportunity to come before.

COMMISSIONER DURAN: Right. For a variance to residential.

CHAIRMAN SULLIVAN: For a variance to the moratorium ordinance. And you want to allow them to come forward with an application for a variance to the moratorium ordinance.

COMMISSIONER DURAN: That's what I want to do. My question is, where is it that the public doesn't have that right?

CHAIRMAN SULLIVAN: You've kind of lost me, Commissioner. I think I understood your motion at the beginning.

COMMISSIONER DURAN: Okay, let's leave it at that.

CHAIRMAN SULLIVAN: Okay, I think I understood it initially and it's getting vaguer and vaguer. Is there any other discussion on the motion?

COMMISSIONER CAMPOS: Mr. Chair, I just want to make clear, we shouldn't be encouraging people to file variances. If they want to, they can. The only question before us is whether the appeal should be sustained or overturned. That's the only issue before us.

COMMISSIONER DURAN: I guess I'm sending my own personal feeling that staff should allow anybody to come forward. We're having some dialogue here. I'm not interrupting you. I'm having dialogue. I think anyone should have the right before this Commission to ask for a variance of any ordinance that we have. Thank you.

CHAIRMAN SULLIVAN: Okay. That's part of the discussion.

The motion to uphold the CDRC's decision passed by majority [4-1] voice vote, with Commissioner Campos voting against.

COMMISSIONER DURAN: Do you know what we did?

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

- XII. B. 4. **BCC CASE #DP 03-5150 – Luna Rosa LLC Equestrian Facility. Luna Rosa LLC Applicant, Jim Siebert, Agent, Request Preliminary and Final Development Plan Approval for an Equestrian Facility to Include Three Homes, an Outdoor Riding Arena, an Indoor Riding Arena, Thirty Stall Areas, a Hay Storage Shelter, Four Turn-Out Areas and Parking on 50 Acres. The Property is Located at 47 Ranch Road, Within Sections 20,**
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**21, 28, and 29, Township 15 North, Range 10 East.
(Commission District 5)**

[The Commission recessed for five minutes.]

DOMINIC GONZALES (Review Specialist): Thank you, Mr. Chair, Commissioners. Luna Rose, LLC, Sargent Family Trust, applicants, Jim Siebert, agent, request preliminary and final development plan approval for an equestrian facility consisting of three dwelling units, an outdoor riding arena, an indoor riding arena, 30 stalls, a hay storage shelter, four turn-around areas and parking on 50 acres.

On September 25, 2003, the County Development Review Committee approved Luna Rosa LLC's request for preliminary and master plan approval with the condition that final development will be approved administratively. Refer to meeting minutes attached as Exhibit F. On May 13, 2003, the Board of County Commissioners granted master plan zoning approval for an equestrian facility on 50 acres. The applicant is now requesting preliminary and final development plan approval for an equestrian facility on 50 acres. The proposed facility will consist of three dwelling units, approximately 15,000 square feet, where employees of the facility will reside and will be responsible for security, training and maintenance. The proposed facility will also have four turn-around areas totally approximately 24,000 square feet.

The development plan is presented as follows: 31,025 square feet will be the riding arena, 3,750 square feet will be covered hay storage, 3,000 square feet will be the stall area, 4,000 square feet will be the equipment barn. Staff's position is that the applicant is accordance with Article III, Section 4.4, Development Plan Procedures, of the County Land Development Code, for an equestrian facility. Staff recommends preliminary development plan approval subject to the following conditions. Mr. Chair, may I enter them into the record?

CHAIRMAN SULLIVAN: So ordered.

[The conditions are as follows:]

- 1) The development plan shall be recorded with the County Clerk's office.
 - 2) All Staff redlines shall be addressed; original redlines will be returned with final plans.
 - 3) Water restrictions shall be imposed based on water availability report as submitted by County staff.
 - 4) This applicant is subject to final inspection by County Fire Marshall.
 - 5) All outside lighting on the property shall be shielded. The applicant shall provide cut-sheets for all outside lighting.
 - 6) The applicant shall submit a cost estimate and financial guarantee for completion of the required improvements as approved by staff.
 - 7) The height of the structure shall not exceed 24 feet maximum
 - 8) Compliance with applicable review comments from:
 - a. State Engineer
 - b State Environment Department
 - c. Soil & Water District
-

- d. State Highway Department (access permit)
 - e. County Hydrologist
 - f. Development Review Director
 - g. County Fire Marshal
 - h. County Public Works
 - i. State Historic Division
- 9) The applicant shall contract with a licensed solid waste disposal service for the removal of solid waste and manure to be removed on a weekly basis. A liquid waste permit must be obtained from ED for the proposed septic systems prior to final development plan approval.
- 10) The applicant shall submit a landscaping plan as required by staff. All new trees shall be a 50 percent mix of evergreen and deciduous trees. Trees shall have a caliper of 1.5 inches and be a minimum of 6 feet tall at time of planting. Shrubs shall be a minimum of 5 gallons at time of planting.
- 11) Prior to recordation of the final development plan, the applicant shall submit a fire review fee in an amount to be determined in accordance with Santa Fe County Resolution 2001-114.
- 12) Applicant shall obtain a Business Registration prior to occupancy.
- 13) Applicant must submit confirmation regarding review for State Environmental Ground Water Bureau.
- 14) Sign shall not exceed 20 square feet in conformance with County Code.
- 15) No loudspeakers may be used on the property.

MR. GONZALES: Also, Mr. Chair, Roman passed out a few extra pages. [Exhibit 10] Basically it was Mr. Siebert's letter addressing the concerns that the hydrologist had and also the hydrologist's letter after he received Mr. Siebert's letter. There's an attached copy of a water collection/treatment system, a clearer copy was submitted in your packets. It's the last page of Exhibit E.

CHAIRMAN SULLIVAN: Is that it?

MR. GONZALES: Yes.

CHAIRMAN SULLIVAN: Questions for staff. I have a question, Mr. Gonzales. How is the applicant going to provide fire flow service?

MR. GONZALES: How is he going to provide it? El Dorado Utilities is going to provide it. They're going to have a fire hydrant 100 feet away from I believe it's the facility itself, but can only provide water for fire only, not for domestic use. It's only going to be for fire.

CHAIRMAN SULLIVAN: So they're going to bring in the El Dorado Utilities line to the site or close to it to provide fire service.

MR. GONZALES: That's correct.

CHAIRMAN SULLIVAN: One of the items in the Commission's motion for approval of the master plan was that the applicant explore and evaluate the utilization of

the well for the EDU system in accordance with the County's moratorium policy, which would allow them to connect to El Dorado, the EDU system. I didn't see anything in the packet about that. Could you update me on that?

MR. GONZALES: Mr. Chair, it was my understanding that El Dorado Utilities was only granting the approval for the fire protection system. No new domestic use would be allowed for that.

CHAIRMAN SULLIVAN: Is that something -- because I've heard others say that El Dorado Utilities was willing to provide service to anyone that the County will approve and we did a while back a modification to the moratorium that allowed persons to utilize the El Dorado Water system if they provided the well and water rights. In other words, enhanced the EDU system by connecting their well into the system. Has EDU said for some reason they won't supply this particular project?

MR. GONZALES: Mr. Chair, we haven't received anything from the El Dorado Utilities. Maybe that's something that the applicant can address.

CHAIRMAN SULLIVAN: So there hasn't been any discussions on your part?

MR. GONZALES: No. Basically it was just for the fire protection.

CHAIRMAN SULLIVAN: We'll ask the applicant about that. Because I felt that was one way to move this issue forward because it has been mentioned many times that the problem is a shortage of water in Eldorado but also the problem is the lack of capacity on the part of the EDU system which nobody wants to sink any money into because it's in a transitional phase right now. Okay, we'll ask the applicant that. Other questions for staff? If not, do we have the applicant?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: Mr. Chair, Commissioners, my name is Jim Siebert. My address is 915 Mercer, Santa Fe. There's two issues that remained outstanding from the previous meeting where you heard the master plan. One was the direction that we work with the Ayres who are the immediate joiners and residents, the closest residents to this development. We have worked with them. There's a letter in the record from the Ayres saying that they agree with the development.

The other issue is the issue of the water and I'm going to hand out your current moratorium ordinance. [Exhibit 11] On page 4, number 4 it explains the process in the current moratorium, if you connect to the El Dorado water system and I'll just kind of synthesize that for you. First of all, you calculate your water, you add 20 percent for leakage and line loss and then that's the amount of water rights you have to transfer into the EDU system. The other thing that takes place is you have to conduct a 100-year water evaluation which really goes beyond the extent of the particular well and covers really all of the Eldorado area and you have to hire an independent hydrologist, it's actually the County's hydrologist, to review the report. Just hiring. And then you have to buy water rights and transfer the water rights in, equal to the water budget plus 20 percent.

The delays involved in this, my guess, are somewhere on the order of two years and perhaps two to three years in order to complete all this. What this project is proposing is that it's a 50-acre tract. There's been a complete geo-hydrologic evaluation. We've proven up the water within the water budget. In fact, we have an excess amount available to us. The water budget is less than the well can actually produce over a 100-year period.

The County Hydrologist is in agreement with the geo-hydrologic evaluation. The State Engineer is in agreement with the geo-hydrologic evaluation and we're in full compliance with the County Code. So I think what I'm saying is the Sargents have come too far down the line to back up and attempt to connect to EDU water system. And I'll answer any questions you may have.

CHAIRMAN SULLIVAN: Questions for the applicant? Well, let me ask a question then, since we've worn out the other four. You say you have to conduct a 100-year water supply evaluation, but that you've already done that.

MR. SIEBERT: My understanding of this and it's one thing that's been an impediment to any development of the moratorium is you not only have to prove up a 100-year water supply for that well, you have to prove up a 100-year water supply of all of Eldorado. And maybe Shomaker and the Shomaker study is gone, has answered some of those issues, but frankly, I do not have an answer to that.

CHAIRMAN SULLIVAN: I'm just reading from the moratorium where it says, Demonstrate a 100-year water supply for the proposed development in accordance with Article VII, Section 6.4.2. And Roman, isn't that our standard 100-year water supply requirement?

MR. ABEYTA: Mr. Chair, that's correct.

CHAIRMAN SULLIVAN: So it sounds like, and I understand the hydrologist will have some questions about your application but it sounds like you've already done that. Your second concern would be that you would be required to purchase water rights and transfer those to Eldorado plus your need plus 20 percent.

MR. SIEBERT: Correct.

CHAIRMAN SULLIVAN: And there's a time period in doing that and obviously there's a cost in doing that but water has a cost. It's a commodity and it's going up in price and we've found that out as we've been purchasing water rights here in the country lately that it's not free anymore.

MR. SIEBERT: Mr. Chair, I think it's a concern that the applicant understands and part of the application is there's a rather extensive water harvesting system that provides in a drought year .6 acre-feet of the total demand for the water budget. And there is a significant cost to installing that system.

CHAIRMAN SULLIVAN: Significant cost to --

MR. SIEBERT: Installing the water harvesting system.

CHAIRMAN SULLIVAN: I understand. But that's now a part of our Code for everyone.

MR. SIEBERT: Well, at the time that we began this it was not part of the Code.

CHAIRMAN SULLIVAN: Understand. But it applies to everyone now. Commissioner Duran, questions for the applicant.

COMMISSIONER DURAN: Actually, I have one of staff. The applicant is not asking for any variances to the Code. Is that correct?

MR. ABEYTA: Mr. Chair, Commissioner Duran, that's correct.

COMMISSIONER DURAN: He's met all the requirements of the Code?

MR. ABEYTA: Yes.

COMMISSIONER DURAN: He's done a geo-hydro based on the Code. He's proven a 100-year water supply. He's done everything that is required of him. Is that correct?

MR. ABEYTA: Mr. Chair, Commissioner Duran, yes, that's correct.

COMMISSIONER DURAN: Thank you.

CHAIRMAN SULLIVAN: Let me just clarify, Commissioner Duran. He hasn't done everything that's been required of him in the motion that was unanimously approved when his master plan was approved, and that was to investigate EDU water service. There's no letters. There's no indication that that's been done other than some general discussions from Mr. Siebert that this would take a long time.

COMMISSIONER DURAN: Well, we all know that EDU is maxed out. What do we need a letter from them to already confirm what we know.

CHAIRMAN SULLIVAN: We know the EDU is maxed out based on the wells that they have and the purpose of this paragraph or this modification to the moratorium ordinance was to put more wells on to the EDU system. In other words, this says you can get EDU water if you drill the well and then hook up to the EDU system.

COMMISSIONER DURAN: So you're telling me there is an ordinance in place that requires them to transfer their rights of that well, of their well, to the EDU system --

CHAIRMAN SULLIVAN: It allows them to do it.

COMMISSIONER DURAN: It allows them. It doesn't require them to.

CHAIRMAN SULLIVAN: It doesn't require them, it says they can take service for development from EDU for that. And I'm saying that in cases where development is a long ways away, I can understand the cost of that being prohibitive. But in this case, they're essentially having their cake and eating it to. They're bringing in an EDU water line to provide the fire service so they don't have to build an underground draft storage or an above-ground storage tank, so EDU is right there. It's right at the property. So it seems to me that this is a very logical case that serves them that also connects to the EDU water system.

COMMISSIONER DURAN: Can I ask Mr. Ross a question?

CHAIRMAN SULLIVAN: Mr. Ross, a question.

COMMISSIONER DURAN: Is there a requirement in our Code, and I'm looking to see what Commissioner Sullivan has just brought out, do you read that to say this applicant would be required to hook up, take their well and transfer the water rights to EDU? I know Commissioner Sullivan wants them to.

MR. ROSS: I understand, Mr. Chair, Commissioner Duran, I'm reading from Ordinance 2001-14, that's the moratorium ordinance and paragraph for is permissive. You're right. It's not a requirement that a person drill a well and hook up to the EDU. It's something you can do if you want to get EDU service as opposed to just drilling your own well and servicing your property just from that. You're correct.

COMMISSIONER DURAN: And I think it's one water source we have out there, whether it's the EDU wells or if it's one on this site. We've already restricted them to a water budget and whether they're drilling it out of a hole down the road or a hole up the road, what's the difference except maybe your desire to maybe add another condition to the process here. I fail to understand your logic.

CHAIRMAN SULLIVAN: What I had in mind was the difference is when you're on a municipal water system, you're subject first of all to rate structures, to a charge for the water, and that encourages conservation. When you're just drilling a domestic well to provide commercial facilities --

COMMISSIONER DURAN: But they have a budget.

CHAIRMAN SULLIVAN: They have a budget but we don't even have in place means of enforcing these water budgets.

COMMISSIONER DURAN: They have to report every year.

CHAIRMAN SULLIVAN: They have to report but if they go over, let's say we decided there was a \$100 fine, which we haven't even decided yet, it still doesn't save the water. I think on a municipal system the fact that more water costs more money in and of itself encourages conservation. And when you get into drought circumstances, you can enforce drought restrictions. None of that is available to you when you're using an individual domestic well.

COMMISSIONER DURAN: I think we have the right to shut them down, if you wanted next year to check their meter and they exceeded the water budget, I think you can instruct staff to go shut them down until the conformed or proved how they were going to.

CHAIRMAN SULLIVAN: I don't know that we have those ordinances in effect to do that. Commissioner Montoya, had a question.

COMMISSIONER MONTOYA: Thank you, Mr. Chair. Mr. Siebert, regarding the conditions, the staff conditions, are there any that you're opposed to?

MR. SIEBERT: No, we agree to all conditions as stated in the report.

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

CHAIRMAN SULLIVAN: Other questions for the applicant? Okay, if not, is there anyone in the audience who would like to speak, either in favor of or in opposition to the proposal?

[Duly sworn, Lois Lockwood testified as follows:]

LOIS LOCKWOOD: Lois Lockwood, and I live on 25 Bishop Lamy Road. I believe you have received a letter from the board of directors of the Old Road Ranch Owners Association expressing concerns about the Sargent Equestrian Facility. I am speaking for the residents of Old Road Ranch most affected by the proposed facility. Two of them are here tonight also. We are adamantly opposed to the relocation of the buildings from the original location. The Ayres' property is for sale so their objection to the original location does not seem as valid as it was before. We strongly urge that the buildings be placed as originally planned and not so close to Ranch Road.

We are also concerned that a large, commercial property has been allowed in a residential area. We hope there will be no more changes in zoning to non-residential in this area. As all the residents of the greater community we're concerned about our water supply. This facility plans to use a large amount of water. We hope the Commissioners will put a restriction on the amount of well water the facility may use. Thank you.

CHAIRMAN SULLIVAN: Thank you, ma'am. Other persons who'd like to speak on the project.

[Duly sworn, Gerald Doner testified as follows:]

GERALD DONER: Mr. Chair and fellow Commissioners, tonight, sitting here for about six hours, everything I heard was about water and this facility, we just heard, was going to use a lot of water. And I was wondering why would someone not put in their plan, especially when you have the roofs, 32,000 square feet, and not have cisterns as a water catchment. They're planning on putting up berms, but evaporation, I mean I don't know how long the water would last. And that's basically for your landscaping.

But to not put into a plan with the amount of structures on this facility, and not have cisterns seems unreasonable. With all the watering issues we have out here, these are a great way of saving water whenever we do get rain. So I just wanted to make a little bit of a plea here, they don't have to change anything but just include it, which I think would be a great asset to their facility. Thanks.

CHAIRMAN SULLIVAN: Thank you, sir. A question from Commissioner Duran.

COMMISSIONER DURAN: Roman, didn't the applicant agree to -- I know it's not in place yet, but didn't they agree to incorporate our water catchment ordinance? The one we've just adopted?

MR. ABEYTA: Mr. Chair, Commissioner Duran, the water catchment ordinance was adopted. It will be in effect in 30 days and they will be subject to complying with it. But I believe Mr. Siebert had submitted a water harvesting plan already, so we would just have to look at that and see how that complies with our ordinance. But they will be subject to complying with it.

COMMISSIONER DURAN: Okay. Good.

CHAIRMAN SULLIVAN: Are there any conditions, Roman, regarding the water harvesting in the staff conditions?

MR. ABEYTA: Mr. Chair, I don't believe there are, but we could either add one, or again, all development or all commercial non-residential development will be subject to the ordinance in 30 days, since it's been adopted. But we could add that as a condition.

CHAIRMAN SULLIVAN: How does that work? When a final development plan is approved, then the applicant completes the plat and records it, right?

MR. ABEYTA: Mr. Chair, that's correct, but the request this evening is for preliminary development plan. They still need to submit a final development plan.

CHAIRMAN SULLIVAN: And does that go back to the Commission or does that just go to the staff?

MR. ABEYTA: They're proposing that it just go to staff, and there's a condition that I believe addresses that. Or if not, I saw it in the staff report. They're proposing that that be approved administratively which the Board can delegate to staff if they like.

CHAIRMAN SULLIVAN: Okay, so currently, you haven't reviewed that water harvesting plan.

MR. ABEYTA: Mr. Chair, I haven't. I don't know if the County Hydrologist has or not as part of their water budget, but I haven't looked at it.

CHAIRMAN SULLIVAN: Correct me if I'm wrong. Wasn't the hydrologist's report negative, recommending denial?

MR. ABEYTA: Mr. Chair, the hydrologist is here. Maybe he can --

CHAIRMAN SULLIVAN: Let's get to that later, because we're still in public comment. I got off the subject here. We'll get the public comment out of the way and then we'll go back to deliberation. Who else would like to speak? Ms. Pilnock.

[Previously sworn, Kathy Pilnock testified as follows:]

MS. PILNOCK: Commissioners, Chair Sullivan, I am speaking on behalf of the US 285 South Coalition. The Coalition objects to the relocation of the facility from its original, more central location within the property. The Sargents have worked with a number of people from the community concerning the details of the plan while one adjoining property owner objected to the central location, the vast majority of the neighbors do not want to see the facility located so close to the road. I understand this is kind of a Catch-22 for the Sargents, being as they were directed by the Commission to work with the Ayres. I would respectfully suggest that in the future you make a condition that the developer work with all of the neighbors.

Coalition delegates also remain concerned about water consumption. It is commendable of the Sargents to put in place a water catchment system using the roof of the horse arena. We would urge them to consider using other water saving measures, such as horse vacuuming instead of washing, horse watering devices which use a float to control flow, and rainbarrels for the residents as well as doing catchment off the roof of the arena. They also asked the CDRC to put a condition prohibiting the use of loudspeakers on their property and that condition was put on by the CDRC and agreed to by the Sargents.

I just wondered, I hadn't heard an actual figure on their water budget. I wondered what it was. What is their water budget? What is the figure for that?

CHAIRMAN SULLIVAN: Oh, you're asking me? Let's see if we can find it for you.

MR. ABEYTA: Mr. Chair, according to the staff report, it's 2.04 acre-feet per year.

MS. PILNOCK: Okay. Thank you. I forget how much of that Mr. Siebert said of that would be provided by the catchment, or is that what they're going to be allowed to draw from the well?

MR. ABEYTA: Mr. Chair, I believe that some of that will be accomplished through water harvesting or through catchment and I believe that's what Dominic had passed out when he started with his staff report but I don't have the exact number. Maybe Dominic has it.

CHAIRMAN SULLIVAN: Well get into that --

MR. ABEYTA: It's .6 acre-feet per year into the catchment system is what's being proposed.

CHAIRMAN SULLIVAN: So that would subtract from the 2.3 then.

MR. ABEYTA: Right. That's my understanding.

MS. PILNOCK: Okay. Thank you very much.

CHAIRMAN SULLIVAN: All right. You're welcome. Anyone else who would like to speak with regard to the proposed development?

[Duly sworn, Patricia Stevens testified as follows:]

PATRICIA STEVENS: I'm Patricia Stevens. Mr. Chair, Commissioners, I just want to express that this is a reasonable application. All their requirements have already been met and in addition to that, riding facilities are common in this area and this application is nothing out of the ordinary.

CHAIRMAN SULLIVAN: Thank you. ma'am. Anyone else who'd like to speak on the application? If not, we're back to BCC deliberation. Mr. Wust, could you come forward and explain. The first letter I read was a negative recommendation. Is there something more that we should know about now?

STEPHEN WUST (County Hydrologist): Mr. Chair, I came into this, I think in round two and that was part of my various letters on this. Originally, it had seemed that the then current County Hydrologist had thought the water supply was sufficient but I was reading in the transcript that actually was included in the second application from the BCC meeting where a number of concerns had been raised by Commissioners. And my negative review on that was to say that they had not addressed any of those concerns and therefore I recommended that it be denied. Even at that time though I believed the water supply was sufficient. And they came back with additional part of their application at which time they addressed all those concerns that I had brought forth in my earlier letter and that is the tenor of my recommendation of the second of October that actually enumerated them. They addressed the concerns that were brought forth originally and therefore I recommended, not fully, but that

they just be granted the permit but you'll see in there I recommended that with use restriction and be put on the metering program and in addition I did not have a copy of the water harvesting system that was referred to so you'll see in my recommendation I said I will trust to the judgement of Land Use that such a water harvesting system was submitted and applicable.

Therefore my reasoning on that letter was to say they'd addressed all the concerns from the previous BCC meeting and therefore they had done what they were asked to do and therefore I recommended they be approved with conditions.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Okay, just a moment. Let me clarify something. These letters that were passed out weren't in our packets then. This is just new then. I have your August 4th letter in the packet.

MR. WUST: I'm sorry, Mr. Chair, 2nd of October, you don't have a copy?

CHAIRMAN SULLIVAN: No, that's just been passed out.

MR. WUST: Okay.

CHAIRMAN SULLIVAN: That's where you make reference to Mr. Siebert's memo of the 22nd of September, reducing the water budget to 1.73 acre-feet. That's the memo you're talking about, right?

MR. WUST: Correct. And one of the strong recommendations I had in my earlier letter was that they had had a proposal for three dwellings, yet they had done a water budget based on the number of people they expected and I recommended that they assume that those dwellings would be occupied at .25 acre-feet of water use a year and they did include that on the second water budget and to me that was one of my biggest concerns from having come in later in the game. And they did address that. They included that in the water budget at .25 acre-feet per year per dwelling.

CHAIRMAN SULLIVAN: So you're comfortable with the proposal now at the 1.73 acre-foot level. Is that my understanding?

MR. WUST: Mr. Chair, yes. That's correct.

CHAIRMAN SULLIVAN: And then Roman, the issue, has the staff looked at the issue of the moving of the facilities from the center of the site to the edge of the site?

MR. ABEYTA: I'll let Dominic address that, Mr. Chair.

MR. GONZALES: Mr. Chair, we did look at that. We felt, along with Mr. Siebert that that would be the best place for the facility. It is going to be almost 16,000 feet away from US 285 so --

[Voices from audience: "We're talking about Ranch Road."]

MR. GONZALES: Let me check the setbacks but I think the setbacks were adequate for that area.

CHAIRMAN SULLIVAN: I think the concerns were not how far from 285 but how far from Old Ranch Road. Did staff consider that issue?

MR. ABEYTA: Mr. Chair, we looked at it as far as compliance with current Code and it complies with the Code where they have it set. But whether or not the Boards wants to require them to set back, that's surely within your purview.

CHAIRMAN SULLIVAN: Okay. Commissioner Duran, question.

COMMISSIONER DURAN: Mr. Wust, I have a question for you. The 1.7 acre budget that you are okay with ties into the .6 that comes off the 2.4?

CHAIRMAN SULLIVAN: 2.3.

COMMISSIONER DURAN: Is it 2.3? So basically what you're saying is the water budget that they have provided us with, you're okay with that. So there is no negative recommendation if in fact the water catchment systems that Mr. Siebert has indicated will be part of this proposal and which represents .6 acre-feet of water, that based on that, you're okay with the hydrology that has been provided for you to review.

MR. WUST: Mr. Chair, Commissioner Duran, a short answer is yes, but I'll clarify, basically what I evaluated was whether the water budget of consumptive use from their well would be within what the water availability showed and the .6 acre-feet that was being used from the water catchment system basically subtracted from their water need from that well and as such created a water budget that their use from that water supply, that is the well, fit within the water availability that they demonstrated from that well. So I was okay with that.

COMMISSIONER DURAN: So the negative report that Commissioner Sullivan has indicated you provided us with is really not negative. You've been able to analyze the data sufficiently to advise us that the budget as provided tonight meets your approval.

MR. WUST: Mr. Chair, Commissioner Duran, the negative report was the earlier one and the latest, the 2nd October --

COMMISSIONER DURAN: I wouldn't say that your letter dated August 4th was negative. You say that it's sufficient. That the information is sufficient.

CHAIRMAN SULLIVAN: Insufficient.

COMMISSIONER DURAN: The geo-hydrological report was for the most part sufficient.

MR. WUST: Mr. Chair, Commissioner Duran, that's correct.

COMMISSIONER DURAN: The water budget is inadequate. My understanding is the reason they were inadequate is that they weren't able to provide you with the information that they have subsequently provided you with.

MR. WUST: That is correct. The water supply part has always been adequate to meet the Code. They've provided a correct water availability. That's always been the case.

COMMISSIONER DURAN: I just want to make sure that if this thing moves forward we're not approving it with a recommendation from you that it's not adequate. That the information that they provided you with is inadequate.

MR. WUST: Mr. Chair, Commissioner Duran, I agree with what you're saying. They have provided adequate information to show correct water availability for their water budget.

COMMISSIONER DURAN: Okay. Thank you for that. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. Other questions for staff?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Abeyta, has the applicant proposed any numbers as far as cistern storage capacity? How many gallons they intend to store in cisterns?

MR. ABEYTA: Mr. Chair, Commissioner Campos, I believe they're proposing a 20,000 gallon rain storage tank. Right, one 20,000 gallon storage tank is what they're proposing.

COMMISSIONER CAMPOS: And are they proposing to collect water from the 32,000 square feet of roof top that they have, or only a portion of it?

MR. ABEYTA: Mr. Chair, Commissioner Campos, I'm not sure if it's from all of the -- maybe the applicant can address that. This is the first time I've looked at the --

COMMISSIONER DURAN: Could you restate the question, Commissioner?
I'm sorry.

COMMISSIONER CAMPOS: Is the applicant proposing to collect water from the entire 32,000 feet of rooftop or a portion only?

MR. SIEBERT: Mr. Chair, Commissioner Campos, the answer is yes. Off the main arena we will collect all the water. It goes into a centralized location and then is actually lifted up the hill to a point that gives it the necessary gravity flow to the 20,000 gallon tank. Out of that then we use that for irrigation purposes and we don't need a pump. Everything that flows out of the 20,000 gallon tank can do so by gravity flow.

COMMISSIONER CAMPOS: Considering the number of square feet you have of roof top, can you harvest more and store more?

MR. SIEBERT: We can collect, it's really probably not practical off the houses because they're scattered at rather diverse locations around the property. We could collect off two other structures, which would add probably another -- I forget the exact total but around 8,000 square feet.

COMMISSIONER CAMPOS: Is that something you would consider when you come back, when you go back to staff?

MR. SIEBERT: Certainly.

COMMISSIONER CAMPOS: Okay. So Mr. Abeyta, just so staff looks at that issue again, there's 8,000 square feet of roof top that could be harvested and maybe additional cistern capacity added.

CHAIRMAN SULLIVAN: And Roman, we don't have in the conditions that I see the specifics of this 1.73 acre-feet of water budget. Is that something you would recommend be in the staff conditions?

MR. ABEYTA: Mr. Chair, yes. I would recommend that we add a condition to limiting that.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I'd like to make a motion to approve this proposal, with, and I'm open to more conditions, but with the condition that the water budget of 2.4 be represented by .6 acre-feet of water --

CHAIRMAN SULLIVAN: 2.3

COMMISSIONER DURAN: So the budget is 2.3 with .6 coming from water catchment systems. Is there anything else I missed? And all staff conditions.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Just a second. We have a motion.

COMMISSIONER CAMPOS: He's asking for clarification or if there's anything else. I'm assuming he's asking other Commissioners.

COMMISSIONER DURAN: Yes. If you want me to --

COMMISSIONER CAMPOS: The applicant has agreed to use an additional 8,000 square feet of rooftop to collect and add cistern storage capacity.

COMMISSIONER DURAN: With that condition also.

CHAIRMAN SULLIVAN: Okay is there a second to the motion?

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: Second by Commissioner Campos. Discussion on the motion? Any clarifications?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: One question. Would the applicant be willing to move the residences a little further in. I believe that was one of the questions. And maybe you can clarify it for me.

COMMISSIONER DURAN: Where's Old Ranch Road, Jim?

MR. SIEBERT: Mr. Chair, Old Ranch Road sits right here. The previous facility actually was sited further away from the road. It was -- the closest structure was about 550 feet, the closest structure to the main facility is about 300 feet. The first house is about 150 feet off Old Ranch Road. The reason it's shifted as you can see from the contour lines that before we had a natural bowl that was sitting right here. The objections from the Ayres' standpoint was that to fit it into that bowl we put it right next to their home. And what happens is that there's a main drainage that comes down through here. We're trying to stay on either side of that and even if this facility end we had to place some of these structures on the other side. So to push it further away from Ranch Road would be very difficult for the main facility from the standpoint, as you can see, the contours get much steeper, closer together, which means then that as we go further up it would be very difficult to meet the terrain management standards which require a maximum 12-foot cut or fill.

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

CHAIRMAN SULLIVAN: Other questions, comments.

The motion to approve BCC Case #DP 03-5150, with conditions and amendments passed by majority [4-1] voice vote with Commissioner Sullivan voting against..

CHAIRMAN SULLIVAN: Let me just explain that no. I appreciate the work the applicant has done in trying to make the application a good one but I still feel that when we are bringing municipal water to a property for fire protection, at the same time you should be

using it for domestic use.

XII. B. 5. EZ CASE #S/V 03-4421 – Windmill Ridge Unit III. Rancho Viejo Inc., Applicant, Isaac Pino, Agent, Requests Final Plat and Development Plan Approval for a Residential Subdivision Consisting of 163 Lots in Conformance with the Approved Master Plan for Rancho Viejo and with the Existing Village and Fringe Zones (Residential, Commercial, Community). The Request also Includes a Variance of the CCDO to Allow Two “No Outlet” Roads to Exceed 300 Feet in Length. The Property is Located Within the Community College District, off of Richard’s Avenue, Within Sections 28 & 29, Township 16 North, Range 9 East. (5 Mile EZ District)

VICKI LUCERO (Review Specialist): Thank you, Mr. Chair. Rancho Viejo, Inc, applicant, Isaac Pino, agent, request final plat and development plan approval for a residential subdivision consisting of 163 lots in conformance with the approved master plan. The request also includes a variance of the CCDO to allow two no-outlet roads to exceed 300 feet in length. The property is located within the Community College District off of Richards Avenue, within Sections 28 and 29, Township 16 North, Range 9 East, Five-mile EZ District.

On September 11, 2003, the EZC met and acted on this case. The decision of the EZC was to recommend approval of the request. In 1989 the BCC granted master plan approval for Rancho Viejo mixed use development consisting of 655 residential units with commercial/community uses on 2,127 acres. Development plans for the Village at Rancho Viejo and Windmill Ridge Units 1 & 2 have been approved and constructed in accordance with the 1989 master plan.

In December of 2000 the Community College District Ordinance (CCDO) was adopted which encompasses the proposed development. A new master plan was submitted in 2001 for the Windmill Ridge Development, Units 3 & 4, in conformance with the CCDO.

On August 13, 2002, the BCC granted master plan approval for Windmill Ridge-Units 3 & 4 which consisted of a mixed use development, residential, commercial, community, in the designated Village and Fringe Zones. The master plan consisted of a maximum of 461 residential units and an average of 18,000 sq. ft. of commercial space on 304.5 acres.

On May 8, 2003, the EZC granted Preliminary Plat and Development Plan approval for a portion of Windmill Ridge Unit III consisting of 163 lots. The applicants are now requesting final subdivision plat and development plan approval for a portion of

Windmill Ridge Unit 3 of 163 residential lots on 126.02 acres.

The applicant is requesting a variance of road standard of the Community College District Ordinance to allow no-outlet road lengths to exceed 300 feet. The proposed extensions for Saddleback Mesa and Chili Line Road each have a length of 883 feet. The applicant has addressed the variance review criteria in Exhibit H.

Recommendation: The applicant is requesting a variance to allow the length of two "no outlet" road to exceed 300 feet. The proposed "no outlet" roads are 883 feet in length. Staff is in agreement with the applicant's justification of the requested variance. All other aspects proposed subdivision phase are in accordance with the approved master plan, preliminary plat and development plan and in conformance with the applicable requirements for the Community College District and the Extraterritorial Subdivision Regulations. The conditions imposed for the preliminary approval have been addressed and staff's recommendation and the decision of the EZC was to recommend approval of the variance with final subdivision plat and development plan approval. Thank you, Mr. Chair.

[The conditions are as follows:]

1. Compliance with the applicable review comments from the following:
 - a) Santa Fe County Water Utility
 - b) State Environment Department
 - c) Santa Fe County Public Works
 - d) Soil & Water District
 - e) Santa Fe County Technical Review
 - f) Santa Fe County Fire Department
 - g) Santa Fe Public Schools District
 - h) State Highway Department
 - i) State Engineer's Office
 - j) State Historic Preservation Division
 2. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not be limited to the following:
 - a) Water restriction of 0.25 acre feet per lot and conservation measures
 - b) Solid Waste disposal
 - c) Maintenance plan for roads and drainage facilities
 - d) Exterior lights shall be shielded
 - e) Archaeological sites within protective easements
 - f) Prohibit fencing of private open space.
 - g) Address water storage from roof drainage
 3. Final Development Plan shall include but not be limited to the following:
 - a) Community Park in conformance with the Master Plan and specify recreational facilities for park
 - b) Specify four inches of basecourse, two inches of asphalt for typical trail section.
-

- c) Address the community park in Windmill Ridge Unit 2
 - d) Include shrub planting for common area landscaping
 - e) Drip/sprinkler irrigation for common area landscaping
 - f) Street lights at appropriate locations (maintain rural character)
4. Final Plat shall include but not be limited to the following:
- a) Compliance with the plat checklist
 - b) Conditional dedication of primary roads to the County
 - c) Permits for building construction will not be issued until improvements for roads, drainage and fire protection are complete as required by Land Use & Fire Department staff.
 - d) Street names and rural addressing
 - e) Prohibit direct driveway access to Richards Ave.
 - f) Driveway access to lots B and C will be off of Dalton Pass
5. Submit development agreement to establish terms and conditions as applicable for the following:
- a) Affordable housing
6. Submit solid waste fees.
7. The developer shall pay a fire review fee in the amount of \$2,500.00 in accordance with Santa Fe County Resolution No. 2001-114, prior to the recordation of the Final Plat/Development Plan.
8. Conditional dedication of primary roads to County for future ownership and maintenance, in accordance with Community College District Ordinance.
9. Submit cost estimate and financial surety for completion of required improvements as approved by staff.
10. Specify location of community park, and community park and district trail shall be developed as part of this phase.
11. The plat and development plan should be consistent for the purpose of designating open space tracts and community center tracts.

MR. ABEYTA: Mr. Chair.

CHAIRMAN SULLIVAN: Roman.

MR. ABEYTA: I need to clarify condition number five, which is submit a development agreement to establish terms and conditions for affordable housing. The staff report states that there will be 25 affordable units which is 15 percent of the total number of units in Unit 3, and 25 units which complies with the ordinance, and then 15 affordable units to compensate for a shortfall in Windmill Ridge Unit I. The applicant has agreed to that. However, when we looked at the affordable housing plan, the draft plan that was submitted as Exhibit E, which is page NB9-71 and -72, there's some corrections that we need to make to this development plan before we record it. However, I do want to clarify that I spoke with the applicant in regards to item 1.1 in the draft affordable housing plan and again, the applicant has agreed to provide 25 units in Windmill Ridge III and then 15

units to make up for a shortfall in Windmill Ridge I, but I want to make clear to the Board that he is proposing that eight of those units be located in Windmill Ridge Unit II. And the reason why I want to make that clear is because the development agreement that the Board dealt with back in 2002 required that all the units that were needed for Unit I be made up in Unit III. So he's proposing a change to that to allow eight of those units to be located in Windmill Ridge Unit II.

He's already submitted a plan which outlines which lots he would locate these units in, but again, I wanted to make that clear and make sure that the Board is okay with that as part of the approval of this final plat. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Can you clarify that, Roman, because you and I discussed this earlier. You're referring first of all to the staff, second page of the staff report where you say pursuant to the development agreement that we approved a year ago they would provide 25 units and then another 15 to compensate for the shortfall of Unit I. But you're saying of those 15, they're going to back up as it were and take eight of those and provide those in Windmill II. Is that your understanding?

MR. ABEYTA: Right. In Windmill II, they're required to provide 20 and so they're proposing to provide 28 instead. Which would help address the shortfall from Unit I, the 15 unit shortfall.

CHAIRMAN SULLIVAN: And that 15 units so then would become, in Unit III they'd have to provide 25 plus seven instead of 15.

MR. ABEYTA: Right.

CHAIRMAN SULLIVAN: Do we have a mixture of categories? Again my concern is that we're not providing all the zero to sixty percents in Windmill III. Is that evenly divided, that group?

MR. ABEYTA: Mr. Chair, I'm sure the applicants can address it but when I looked at it I believe we do still have the mixture that's required. They won't all be in one category. Right. And then another concern that we had was that if this does take place, we would want to make sure that all of the affordable units aren't put in just one unit. So in other words, that Windmill II doesn't have all the affordable housing units. That won't be the case. There will still be a balance in II and III of affordable housing units.

CHAIRMAN SULLIVAN: And are they all located -- you've seen the plan. Are they all located in one spot or are they distributed throughout the proposed development?

MR. ABEYTA: Mr. Chair, they're distributed throughout. There are -- let's see. I have a plan that shows six in one location, so they're in clusters but distributed throughout the phase itself. So it's not just one section of the phase that's all affordable.

CHAIRMAN SULLIVAN: Okay. And you're looking at Windmill III now or II?

MR. ABEYTA: I was looking at II.

CHAIRMAN SULLIVAN: III hasn't gotten an approved plan from you yet.

MR. ABEYTA: Right. We just have a draft plan and we'll make sure that

when we approve the plan for III that they're spread out.

CHAIRMAN SULLIVAN: And just so the Commission understands, I had a concern because in this draft housing agreement, they talked about putting seven units of carryover from Unit II into III and our original agreement said everything in II would be built in II. We wouldn't keep pushing them back into future developments. But what I'm hearing is we're moving the other way, which sounds good to me. At 10:00 at night.

MR. ABEYTA: Right. Everything that was going to be in II is going to be in II.

CHAIRMAN SULLIVAN: Plus half of the ones that they were picking up from --

MR. ABEYTA: Half of the ones that were supposed to be in I.

CHAIRMAN SULLIVAN: Of the deficiency that they were picking up.

COMMISSIONER DURAN: Has II been approved? Phase II?

MR. ABEYTA: Yes.

CHAIRMAN SULLIVAN: Phase II has been approved but the affordable housing plan, I guess was approved at the staff level. Correct?

MR. ABEYTA: It was approved at the staff level which is allowed by the affordable housing plan, the affordable housing regulations that the Board adopted. They delegated that to the Land Use Administrator.

CHAIRMAN SULLIVAN: The only concern I had about that and I'll mentioned that to you Steve was that we had an issue of a deficiency in affordable housing units which generated a development agreement for certain units to be in certain phases that was approved by the Board, not the current Board but the former Board. Then we had a staff agreement apparently on September 10th which made changes to those allocations and I was concerned that that was a Commission action that was in essence amended by the staff's report or approval of this 28 units.

Having had it explained to me it sounds like it's okay. Sounds like we're on the right track here but I do want the Commission to understand that there has been that change to the original affordable housing agreement.

MR. ROSS: Mr. Chair, I understand. I think it's important that the Commission ratify these actions if you have a concern over whether they've exceeded --

CHAIRMAN SULLIVAN: I didn't know anything about it. Until I received a letter from Rancho Viejo on September 22nd, making reference to a September 10th affordable housing agreement that had been approved, which I was surprised to hear about because as far as I knew we were working off the earlier agreement that the Commission had approved. So I think we need to be careful about that when we're making changes to Commission actions, they need to come back to the Commission. Okay, but that was the concerns that popped up. Commissioner Duran, you had a question. You long forgot it. Okay, wore him out.

COMMISSIONER DURAN: Good job.

CHAIRMAN SULLIVAN: Good job. Okay, we're still on questions from

staff. Hearing none, is the applicant present? Mr. Pino.

COMMISSIONER DURAN: Are you sure I had a question?

CHAIRMAN SULLIVAN: You had your hand up. Maybe you didn't but you just had your hand up.

[Duly sworn, Isaac Pino testified as follows:]

ISAAC PINO: Thank you, Mr. Chair, Commissioners. I'm not going to go into a detailed presentation on the entire development. I think that staff has done an adequate job presenting the main elements of the project, but I would like to address the affordable housing just to get final clarification. Commissioner Sullivan has pretty much outlined what has occurred but we have some very simple spreadsheets that will show you graphically what has occurred.

I would start by first saying that we're in agreement with all the conditions that are in the report and if I could just digress for a second into the affordable housing, what precipitated all this was the affordable housing agreement that we did strike with the staff last year in September, which had as an exhibit 28 lots. And it's true that we did not seek ratification from the BCC of that, and I guess that was driven partially by the fact that we were providing more units than were required. What I'd like to direct your attention to are the two little spreadsheets that we're going to pass out right now. [Exhibit 12]

If you would look at the one that says distribution of affordable housing units, Windmill Ridge Unit III first. We've broken down the three income categories for you so you can see exactly how many units are being moved into each category. The second column says the Community College District required units for Windmill Ridge Unit III would be eight zero to 60, eight in 61 to 80 and nine in 81 to 100 for a total of 25, as has previously been mentioned. Then the units required as carryover from Windmill Ridge Unit I, from the restated agreement from last year, would have required 9 more in zero to sixty and six more in 61 to 80. And those 15 units would have been carried over to Windmill Ridge Unit III.

However, what we did in Windmill Ridge Unit II was to build two additional zero to 60s in Windmill Ridge Unit II in addition to the ones that were required and six, 61 to 80s for an extra eight units. So what we're asking the Commission to approve here in the affordable housing is rather than build 40 affordable units in Windmill Ridge Unit III that they would approve the eight that we moved into Unit II and leave a total of 32. And this is driven -- one of the reasons that we moved eight into Windmill Ridge Unit II was to avoid having too many affordable houses in any particular unit. Forty out of 163 would have been roughly 25 percent of the entire housing stock and we wanted to put more in Unit II.

If you look at the second spreadsheet, [not provided for the record] this tells you what exactly we've done in Unit II to date. The first column tells you per the agreement and all the credits issue we were required to do seven in zero to 60, ten in 61 to 80 and three in 81 to 100 for a total of 20 units. And so the actual number of units that we made available were the nine in zero to 60, the 16 in 61 to 80 and then the three in 81 to 100,

for a total of 28. And to date, we've sold and closed seven zero to 60s, six 61 to 80s, for a total of 13 that are sold and closed with people living in them. And then the number under contract, with their closing dates, as you can see, are two in zero to 60, six in 61 to 80 and two in the 81 to 100 category, which make ten of them that will close by January of 2004, or actually in April when you look up in the second category.

So the number that we've started as specs are three in 61 to 80 and one in 81 to 100, and only one has yet to be started in the 61 to 80. This actually tracks with the development in Windmill Ridge Unit II over all. We have 17 percent of Windmill Ridge Unit II yet left to build in terms of homes, and the amount of specs and unsold, plus the one that's not started amounts to 17 percent of the total as well. So we are trying to keep pace with our affordable houses along with the rest of the subdivision. As Mr. Abeyta pointed out, the 28 units in Windmill Ridge Unit II are spread across the entire width of the subdivision as we intend to propose for Windmill Ridge Unit III.

Mr. Chair, I know that these are last minute handouts, however, I think and I hope that they serve to clarify what the status is of the agreements graphically and what we're asking for in terms of the affordable housing portion of this particular project.

With that, Mr. Chair and Commissioners, I'd stand for any questions that you have.

CHAIRMAN SULLIVAN: Mr. Pino, the second handout that you handed out doesn't indicate what unit that is, but that's Unit II?

MR. PINO: Mr. Chair, that's correct.

CHAIRMAN SULLIVAN: The first one does say that that's Unit III.

MR. PINO: That's correct, Mr. Chair.

CHAIRMAN SULLIVAN: And that's the 28 affordable homes that Mr. Abeyta referred to previously.

MR. PINO: Yes, sir, Mr. Chair.

CHAIRMAN SULLIVAN: Questions for the applicant from the Commission? Okay, hearing no questions at this time, do we have anyone in the audience that would like to speak in favor of or in opposition to the applicant's request for final plat and development plan for Windmill Ridge Unit III, consisting of 163 lots. Seeing none, we're back to the Commission. Commissioner Duran.

COMMISSIONER DURAN: I move for approval with staff conditions.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Motion from Commissioner Duran, seconded by Commissioner Montoya.

COMMISSIONER DURAN: That included the clarification and new plan for affordable housing.

CHAIRMAN SULLIVAN: Okay. Can we restate that to say the ratification, would that be better, Mr. Ross?

MR. ROSS: Clarification and ratification would probably cover everything.

CHAIRMAN SULLIVAN: Ratification of the September 10th affordable

housing plan. Is that what we're looking at here, Roman?

MR. ABEYTA: Yes, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran, that's what generated the 28, the September 10th agreement with staff.

COMMISSIONER DURAN: By the way, I was out there the other day and I looked at the affordable housing and they're quite nice.

CHAIRMAN SULLIVAN: And quite affordable.

COMMISSIONER DURAN: Quite affordable, yes.

CHAIRMAN SULLIVAN: That's the whole idea. Okay, we have a motion and we have a second. Is there further discussion?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: I just would like to thank the applicants for really looking at the affordable housing and trying to distribute it evenly and make it affordable. So thank you.

CHAIRMAN SULLIVAN: Other discussion, comments?

The motion to approve EZ Case #S/V 03-4421 with staff conditions and ratifying the affordable housing agreement as presented passed by unanimous [5-0] voice vote.

MR. PINO: Thank you, Mr. Chair, Commissioners.

CHAIRMAN SULLIVAN: Thank you, Mr. Pino. Come again.

- XII. B. 6. CCDRC CASE #Z.DP 00-5302 – Sandia Vista Commercial Property. Sonny Otero, Applicant, Michael Bodelson, Agent, Request a Master Plan Amendment with Preliminary and Final Development Plan Approval for Six Additional Warehouse Buildings Ranging in Size from Approximately 8,000 Sq. Ft. to 10,800 Sq. Ft. for Commercial and Light Industrial Uses and Storage on 5.4 Acres. This Request also Includes Multiple Variances which Would Allow the Applicant to Utilize an On-Site Well and Septic System Rather than a Public Water and Community Wastewater System; to Exceed 30% Lot Coverage; to Reduce the Amount of Open space Below 50%; and to Reduce the Parking Below what is Required by County Code. The Property is Located Off of State Road 14, North of the Intersection of NM 599 and SR 14 within the Community College District, Within Section 25, Township 16 North, Range 8 East.**

MS. LUCERO: Thank you, Mr. Chair. Sonny Otero, applicant, Michael

Bodelson, agent, request a master plan amendment with preliminary and final development plan approval for six additional warehouse buildings ranging in size from approximately 8,000 square feet to 10,800 square feet for commercial and light industrial uses and storage on 5.4 acres. This request also includes multiple variances which would allow the applicant to utilize an onsite well and septic system rather than a public water and community wastewater system, to exceed 30 percent lot coverage, to reduce the amount of open space below 50 percent and to reduce the parking below what is required by County Code. The property is located off of State Road 14, north of the intersection of State Road 599 and State Road 14, within the Community College District in Section 25, Township 16 North, Range 8 East, Commission District 5.

The applicant is requesting a master plan amendment with preliminary and final development plan approval for six additional warehouse buildings for a total of eight warehouses on 5.4 acres within the Community College District employment center zone. Development will be constructed in six phases. The buildings will be utilized for commercial and light industrial uses and storage. The buildings will consist of metal structures with stucco siding. Building height will not exceed 24 feet.

There are currently two 10,000 square feet warehouses and a viga storage yard as well as a telecommunications shed on the property, which are all previously approved. The viga storage area will be removed upon construction of the last two warehouses. The property is located in an area previously designated as a commercial node prior to the Community College District Ordinance. It was zoned commercial/industrial under the commercial node provisions and requirements of the County Land Development Code.

Recommendation: The applicant is requesting multiple variances to utilize onsite well and septic systems rather than public water and community wastewater systems, to exceed 30 percent lot coverage, to reduce the amount of open space below 50 percent, and to reduce the parking below what is required by Code. It is staff's position that the variances requested are not a minimal easing of the Community College District plan and ordinance, or of the County Land Development Code. Staff recommends that the requested variances be denied. The decision of the CCDRC was to recommend that the request be denied. If the decision of the BCC is to grant approval of the variances requested, staff recommends approval of the master plan amendment and the preliminary development plan approval for the proposed development with final development plan approval handled administratively, subject to the following conditions. Mr. Chair, may I enter the conditions into the record?

CHAIRMAN SULLIVAN: Yes.

[The conditions are as follows:]

1. All redline comments shall be addressed. Original redlines shall be returned.
 2. Automatic fire suppression sprinkler system will be required in all of the proposed warehouse buildings.
 3. A final inspection by the County Fire Marshal will be required.
 4. Compliance with the applicable review comments from the following:
-

- a. State Engineer's Office
 - b. State Environment Department
 - c. State Highway Department (Updated access permit)
 - d. County Fire Marshal
 - e. County Public Works
 - f. County Hydrologist
 - g. Development Review Director
 - h. Technical Review Division Director
5. The applicant shall participate in the CCD infrastructure extension policy for infrastructure improvements, operations and maintenance as applicable.
 6. A discharge permit from the Environment Department will be required when wastewater flows exceed 2,000 gallons per day.
 7. The applicant shall open discussion with the Santa Fe County Utility Department to provide water for both usage and fire protection.
 8. Areas disturbed by construction shall be revegetated within one year of completion of construction.
 9. All lighting shall be shielded and shall comply with County Code regulations. The applicant shall provide cut-sheets for light fixtures.
 10. All utilities shall be placed underground.
 11. An updated permit for the septic system from the Environment Department shall be submitted prior to final development plan recordation.
 12. The warehouse buildings shall consist of an earthtone stucco, and garage doors shall be an earthtone color.
 13. The applicant shall submit a financial guarantee for all improvements including fire protection, parking area, retention ponding and landscaping prior to grading or construction permit issuance.
 14. A detailed landscape plan shall be submitted for review and approval by staff prior to final development plan recordation. The landscape plan shall include the following:
 - a. Tree and shrub plantings shall be 50 percent evergreen
 - b. Size, number and type of proposed plantings in conformance with landscape standards
 15. The developer shall pay a fire review fee in the amount of \$300.00 in accordance with Santa Fe County Resolution 2003-47 prior to the recordation of the master plan/development plan.
 16. Business registrations must be obtained for all businesses operating onsite.
 17. Handicap parking must be provided per Code requirements.
 18. When wastewater flows reach levels that are close to system capacity, the septic will be replaced with a package plant system to be approved by the Environment Department.
 19. All signage shall comply with County Code requirements.
-

20. The applicant shall be required to extend the 25' landscape buffer all the way along State Road 14 and also to provide a 25' landscape buffer along the property line that fronts the I-25 frontage road. Planting shall be at a rate of one tree per every 500 square feet of buffer area plus three shrubs per tree. Drip irrigation shall be utilized.

MS. LUCERO: Thank you. I also have a couple of memos that came back from the County Utilities Department and from the Fire Marshal that I'll hand out at this time. [Exhibit 13]

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Questions for staff. Commissioner Duran.

COMMISSIONER DURAN: I have one for Roman. Roman, this property, my understanding is this property is in a commercial node. Is that correct?

MR. ABEYTA: Mr. Chair, Commissioner Duran, it was in a previous commercial node, but the Community College District changed that.

COMMISSIONER DURAN: It was in a previous commercial node and by virtue of adopting the Community College District it took that -- you're saying that they have to conform to the Community College District bylaws, I mean guidelines.

MR. ABEYTA: Mr. Chair, Commissioner Duran, yes. Any new development is subject to complying with the Community College District Ordinance.

COMMISSIONER DURAN: So when we approved the building that is under construction right now, I thought that we determined that it did not have to comply with the Community College District Ordinance, that a previously approved master plan, based on it being in that commercial node, allowed that the building that we just approved, allowed that building to move forward under the old -- not the old, but the ordinances that were in place when it received master plan approval several years ago.

MR. ABEYTA: Mr. Chair, Commissioner Duran, I don't remember the specifics of that but I do recall it going to the Community College District Review Committee and they approved it. So I don't remember the specifics but they did fall under the ordinance. But because it was just one additional building, I think it still met a lot of the requirements but we still made them go through the Community College District process.

COMMISSIONER DURAN: So under the old ordinances, what would be the open space requirement on that?

MR. ABEYTA: Under the old ordinance?

COMMISSIONER DURAN: Right.

MR. ABEYTA: Mr. Chair, Commissioner Duran, there were no open space requirements under the old ordinance. The County Code currently does not have an open space requirement. It turned to 50 percent once the Community College District Ordinance went into effect.

COMMISSIONER DURAN: Fifty percent.

MR. ABEYTA: That's current.

COMMISSIONER DURAN: Fifty percent, and how big is this lot?

MR. ABEYTA: Mr. Chair, this lot, I don't know the exact -- it's five acres.

5.4 acres.

COMMISSIONER DURAN: Would you agree with me that when we were adopting the Community College District Ordinance that we were dealing with large tracts of land that we were trying to -- that we were hoping would fall into the new County General Plan, when we are dealing with projects of such a large size and when we're creating districts, the idea there was to require cluster developments, to prevent sprawl, to ensure that there was adequate open space so that we didn't lose the rural character of the area being considered for a district. I'm almost sure that's what we were trying to do, and the reason I bring that up is that this property is so isolated and so far removed from the Community College District that I'm not sure that it's fair to this applicant to require that he conform to those rules and guidelines.

Number one, it's just five acres and when we were dealing with the Community College District it was thousands of acres.

MR. ABEYTA: Mr. Chair, Commissioner Duran, we did discuss this with staff and with the Planning Division because you're right. The ordinance, I think we envisioned large developments like the State Land Office, Rancho Viejo, but these properties got lumped into that and when it comes to open space and lot coverage, unfortunately, their only avenue is to request a variance but it's staff's position that those two specific requests are probably appropriate for this property because of the situation.

COMMISSIONER DURAN: I just wanted to keep things in perspective here. They're asking what seems to be a large variance to the open space under the conditions of how we develop that Community College District. They're not as great as one might think.

CHAIRMAN SULLIVAN: I would just have to respond, Commissioner Duran, that I think that the Community College District Ordinance applies to the whole Community College District and when they determined the boundaries of the ordinance, the idea was to put employment centers in areas where they had mixed uses. Now, the Thornburg development is on both sides of the highway and what we want to prevent happening is strip development on Route 14. We want to go to this employment center concept. And the applicant does have other options to do that. I think not only are they 20 percent below on the open space, they're below on the amount of parking required to meet just normal County requirements. Forget the Community College District Ordinance. So I think there are issues here of just stuffing too much into one parcel, that we need to be extremely careful about.

There's certainly other opportunities to have development out there that meets, other land that can meet these commercial needs. We're not short of commercial land. Okay, do we have other questions for staff?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Lucero, is this project viable if we deny all the variances, or does it have to go back to the drawing board?

MS. LUCERO: Mr. Chair, Commissioner Campos, if you were to deny the variances the applicant would probably have to go back to the table and revise his master plan request. It may be viable at a smaller scale without the variances.

COMMISSIONER CAMPOS: But it would require modification of the plan. The plan as it's presented today would not work without those variances.

MS. LUCERO: That's correct.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN SULLIVAN: Correct me if I'm not mistaken, Vicki, they're also planning to use a well and not the County water system, right?

MS. LUCERO: Mr. Chair, that's what they're proposing, yes.

CHAIRMAN SULLIVAN: The County water line is right on Route 14.

MS. LUCERO: That's correct.

CHAIRMAN SULLIVAN: Every other development that we've dealt with on Route 14, a condition of that has been that they follow the appropriate procedures to tie into the County water system and that individual wells not be used for commercial development. And in fact, that was one of the Thornburg, conditions of the Thornburg approval on the other side of the road, was that they utilize the County water system, yet this is going to use a well until such time as someone else pays for the water, at which time they agree to hook-up. I think this is extremely far removed from the intent and the purpose of the Community College District Ordinance.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: You know, it's late, and I don't have the mind to debate the issue. I'd like to move to table this so that the applicant can -- I think that this letter from the Fire Marshal is new information. Have you given this to the applicant?

MS. LUCERO: Mr. Chair, Commissioner Duran, the applicant does have a copy.

COMMISSIONER DURAN: When did you give it to the applicant?

MS. LUCERO: I believe it was given to the applicant today.

COMMISSIONER DURAN: And this October 10th letter from Mr. Sayre, I'd like to move to table it and allow the applicant to deal with staff a little bit more.

CHAIRMAN SULLIVAN: Okay, well we have a motion to table. So that needs a second.

COMMISSIONER CAMPOS: Mr. Chair, I would be inclined to second that if we make it clear to the developer that that the variances will not be granted and that this plan has to be withdrawn. And just give the applicant an opportunity to go back and redraw that consistent with the rules and requirements.

COMMISSIONER DURAN: I'm not sure that I'll accept your second on

that.

CHAIRMAN SULLIVAN: Well, you can't accept the second or not. But I understand what the Commissioner is saying but to table, I think the only requirement on a tabling motion is that we set a time certain for the application to be reheard.

COMMISSIONER DURAN: Which might allow them to change it.

COMMISSIONER MONTOYA: I'll second.

CHAIRMAN SULLIVAN: Okay, we have a motion and a second to table.

The motion to table CCDRC Case #Z 00-5302 passed by unanimous [5-0] voice vote.

CHAIRMAN SULLIVAN: The case is tabled for 30 days at the next --

MR. ABEYTA: Mr. Chair, there won't be a meeting in November so it will carry over until the December.

CHAIRMAN SULLIVAN: The December land use meeting.

MR. ABEYTA: Yes.

CHAIRMAN SULLIVAN: Okay. Thank you.

MR. ABEYTA: Thank you.


CHAIRMAN SULLIVAN: That will give you -- sorry, sir, that we didn't have time to hear your application but I think that will give you some time to work on the particulars of it.

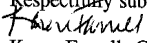
MICHAEL BODELSON: Mr. Chair, in respect for the late hour, I wouldn't do much else this evening. So I hope you guys get to bed soon.

ADJOURNMENT


Chairman Sullivan declared this meeting adjourned at approximately 10:35 p.m.

Approved by:


Board of County Commissioners
Jack Sullivan, Chairman

Respectfully submitted:

Karen Farrell, Commission Reporter

ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



Harry B. Montoya
Commissioner, District 1

Paul Duran
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3



Commissioner, District 5

Gerald T.E. González
County Manager

MEMORANDUM

To: Board of County Commissioners

From: Romella Glorioso-Moss *RG*
Community Planner, Planning Division

Via: Jack Kolkmeier *JK*
Planning Division Director

Roman Abeyta *RA*
Land Use Department Administrator

Date: October 14, 2003

RE: Pojoaque Valley Community Planning Update

BACKGROUND

From the beginning of this project, both the County Staff and the Board of County Commissioners recognize the need to involve the area's five Native American Pueblos in the planning process (Exhibit A). Several efforts were made towards achieving this objective which include:

1. County Manager's formal letter of invitation to Pueblo Governors to participate in the Traditional Communities' planning process;
2. Commissioner Montoya's meeting with Pueblo Governors and Lt. Governors to discuss common interest in his district, including the Pueblos' participation in this project's planning process; and
3. Staff regularly sending the Pueblos invitations to Committee meetings, including the meeting notes to Pueblo Governors.

Realizing the above efforts were not enough, a proposal was made in July 2003 to present to the County and Pueblo Officials, and their respective Staffs, the planning committee's work to date. It was hoped that this meeting would lead the way for a more open and direct communication, consultation, and coordination with the Pueblos. The Board of County Commissioners approved a budget of \$2,300, and the meeting (attended by 46 people, Exhibit B) was held on September 5, 2003 at the Hilton of Santa Fe. Meeting notes are available at the project's website (http://www.co.santa-fe.nm.us/community_planning/index.html) and on September 9, 2003 was mailed to all Committee Members & participants in the 09/05/2003 meeting (Exhibit C).

MEETING SUMMARY:

The Pojoaque Valley Planning Committee presented the project's vision (Exhibit D) and mission statement and objectives (Exhibit E) for the next 20 years for dealing with their Communities' growth, economic, jurisdictional, and sustainable development issues, including maintaining diverse but harmonious relationships across cultural and jurisdictional boundaries. The subsequent discussion revolved around two main topics:

1. Participation of the Pueblos in the planning process; and
2. Issues that Pueblos may be interested to participate:
 - Illegal Dumping
 - ATVs
 - Roads/ Easements
 - Water & Sewer Lines
 - Education
 - Law Enforcement
 - Emergency Response

The discussion seems to indicate a lack of understanding, or lack of clarity about how the "government-to-government" relationship actually works. This condition was exacerbated by the fact that each Pueblo government has its own protocols. In addition, the discussions indicated a low level of trust of the County by the Pueblo participants. However, at the same time, there were indications that the Pojoaque Valley Planning project may be a good vehicle for moving beyond this constraint. The statements of James Rivera of Pojoaque Pueblo, Michael Vigil of Tesuque Pueblo, and Guilbert Tafoya of Santa Clara Pueblo seem to suggest this opportunity.

RECOMMENDATIONS

How do we now proceed to take advantage of this opportunity? It seems a two-pronged approach may best serve:

1. involve the Pueblos in specific, practical activities needed for both Pojoaque Valley plan formulation and plan implementation; and
2. more generally, proceed with an activity that addresses the general need for better communications and understanding among the key stakeholders in the Valley.

For number 1, I suggest two or three specific activities that the Pueblo participants indicated they might be interested to participate in, which are also vital to our planning:

1. Improving the quality of public education in the Valley;
 2. Boundaries mapping; and
 3. Increased law enforcement for public safety.
-

The Planning Committee has already divided into several mission-generated sub-committees, two of which correspond with the above activities (1&2), while the third, was also identified by the Committee as an important topic. Therefore, this condition presents a solid foundation to build on. The earlier decision of the Tribal Summit in April, 2003 to establish a committee on cross-cultural communications between the Pueblos and the County, was re-enforced at our September 5th meeting, which also gives us a means to address the more general important issue of trust and understanding. Therefore, I suggest we immediately convene this committee. Perhaps, it would also give this more general activity some teeth, and immediate relevance, if it uses for practical purposes, or application, the 2 or 3 specific Valley Planning activities recommended above. For example, members of this cross-cultural committee would assist from the perspective of communication issues. It could considerably facilitate all these activities, and aid in their success, if the Board of County Commissioners delegates the responsibility of convening and facilitating the Cross-Cultural Communication Committee to the County planning staff.

EXHIBIT:

- A - December 10, 2002 BCC Minutes of the Meeting
 - B - Attendance (September 5, 2003)
 - C - September 5, 2003 Meeting Notes
 - D - Vision 2025
 - E - Mission Statement & Objectives
-

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XII. B. 6. **Resolution No. 2002-163. A Resolution to Recognize the Proposed Pojoaque Valley Community Planning Committee, and Authorization to Initiate a Community Plan for the Pojoaque Valley and Recognition of its Geographical Boundaries (Commission District 1) [Supporting material on file with the Land Use Department]**

CHAIRMAN DURAN: I just want to tell you that I ran into someone the other day that was at this meeting up there and they said that County staff did a wonderful job.

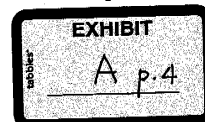
ROMELLA GLORIOSO-MOSS (Planner): Thank you, Mr. Chairman, Commissioners. The proposed Pojoaque Valley Planning Committee, composed of 47 residents, property owners and business owners in the Pojoaque Valley, is requesting the Board of County Commissioners for the following. First, recognition of the Pojoaque Valley Community Planning Committee. Second, recognition of the delineated planning boundaries, and third is authorization for the planning committee to begin the planning process.

Through several organizational and community-wide meetings which we documented, and Robert will hand them out to you as Exhibit C, the community has identified initial issues which the proposed planning committee with try to address. First, complex land ownership and use patterning. Second, problematic road access to the non-Pueblo owned properties, and the Pueblos own most of the local roads. Third, re-evaluation of the delineation of the Pojoaque Valley traditional community. Fourth, water conservation and use, which includes water rights, acequias condition, drinking water quality, wastewater treatment and disposal. Fifth, preservation of rural lifestyle and landscape. Sixth, rural agricultural and cultural resources protection. Seventh, appropriate growth management tools and techniques. Eight, affordable housing. Nine, creation and protection of recreational open spaces, and tenth, provision of adequate community facilities and services.

As the Pueblos and the valley are systemically interrelated through land use and socio-economic change and development, they significantly impact one another. The community members recognize the need to invoke in the planning process the five Pueblos surrounding the planning area—Nambe, Pojoaque, Santa Clara, San Ildefonso and Tesuque. Yet, the community recognizes that the County does not have regulatory authority related to Pueblo lands. Recommendation: The County Development Review Committee at their regular meeting on November 21, 2002 has recommended approval of the attached resolution based on Article XIII of the Land Use Development Code. Staff is recommending the same. Thank you, Mr. Chairman and Commissioner.

CHAIRMAN DURAN: Romella, the boundaries of the area that is being considered to be the boundaries of the community plan are shown where on this map? Is it the black?

MS. GLORIOSO-MOSS: The blue one.



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CHAIRMAN DURAN: The blue. Oh, okay.

MS. GLORIOSO-MOSS: That bounds the traditional communities in the Pojoaque Valley, which is Cuyamungue, El Rancho, Jaconita, Jacona, Pojoaque, and Nambe.

CHAIRMAN DURAN: And then it includes those little isolated islands of blue?

MS. GLORIOSO-MOSS: Yes. They call this Pajarito and it's a private land inholding in San Ildefonso Pueblo. Yes, we will include that.

CHAIRMAN DURAN: Is that over there my Black Mesa? Is some of it over there by Black Mesa?

COMMISSIONER TRUJILLO: There's some private—

MS. GLORIOSO-MOSS: Yes, Mr. Chairman and Commissioners.

CHAIRMAN DURAN: That's along State Road 30, right?

COMMISSIONER TRUJILLO: State Road 30 going to Española. Right.

CHAIRMAN DURAN: Okay, any questions of staff? Okay, Romella. This is a public hearing. Is there anyone out there that would like to address the Commission concerning this issue? Please step forward and state your name for the record.

VICENTE ROYBAL: Hello, my name is Vicente Roybal from El Rancho, and we'd very much like to see this come to pass so that we can have a hand in planning for the community and all the issues that make it a very complex and unique area.

CHAIRMAN DURAN: Great. We welcome it. It's worked in other areas and it's about time for your area. Please step forward and state your name for the record.

LEVI VALDEZ: My name is Levi Valdez and I live in the Pojoaque Valley and I too would like to urge support for this committee and as you have stated, it is very much needed and hopefully we can proceed with your blessing. Thank you.

COMMISSIONER TRUJILLO: Mr. Chairman, I don't know if there's any other public comment.

CHAIRMAN DURAN: Anyone else like to speak to this issue? Thank you.

COMMISSIONER TRUJILLO: I'd like to make a motion but before that I'd like to commend the community for taking this on, for giving impetus to self-determination, for putting the blueprint in place that will guide the Pojoaque Valley not only immediately but in the future for future generations. I went to the meeting last Thursday and I was impressed with the diverse representation that was there. I understand that initially there was some factionalism, some schisms and some different positions and opinions, but at that meeting everything came together. Thank you Vicente for your efforts and everybody else. Mary Williams and other people that didn't let this go by the wayside and I know that we'll succeed. I say "we" because I live there.

COMMISSIONER CAMPOS: Mr. Chairman. I'd like to ask some questions before you make a motion.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: A question for staff. This plan, will it deal with the needs for infrastructure for water and wastewater?

MS. GLORIOSO-MOSS: Yes, Mr. Chairman, Commissioner Campos. We will

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try to do that. Whatever the community needs and wants, it's their community plan; it's not our plan. Our role is only to facilitate the planning process and to give the planning methodology expertise, but whatever they want, whatever they think they need, then we will try our very best to help them, to help these communities.

COMMISSIONER CAMPOS: It's my understanding in other community plans, the community or the staff has not addressed infrastructure needs and what the infrastructure needs will be as to water, wastewater, fire, whatever. And to me, that's always been a concern, that this community planning process isn't going far enough because it just says, Okay, these are the restrictions we want, but they don't deal with This is the infrastructure we need. And we're talking about essential infrastructure. We have contamination issues out there. We have water issues out there and to me, if this plan comes back without dealing with those infrastructure issues my feeling is that it's going to be inadequate. I would have serious concerns about approving it. So I would ask that the community and the group seriously talk about infrastructure, what their needs are as far as water lines, wells, wastewater systems. And an idea of how they want to pay for them. These are expensive and I think these communities should start looking at how are we going to pay for these infrastructure.

The second issue I have for you is the role of the Pueblos. There's five out there. You look at this map and you know there's some serious jurisdictional issues. What steps do you plan to take to get input from the Pueblos? I understand that we don't have jurisdiction but it seems to me that we should at least be attempting to coordinate some effort. Are we bringing these folks in, the representatives to come in and meet?

MS. GLORIOSO-MOSS: Mr. Chairman, Commissioner Campos, there will be a tribal summit that will be conducted in the months of February, March and April and that's the starting point to get their cooperation and to coordinate. Also in planning, there is a methodology called key stakeholders analysis. And the purpose of this methodology is to identify key stakeholders that will support the project or mission and people who will antagonize or be problematic towards the achievement of the mission or objective or the process.

And I think this will be a very good methodology to use for the Pojoaque Valley Community Planning and so with this methodology we can identify these people, Pueblo people who will support this project and I'm optimistic that we can work with the Pueblos. There are Pueblos that are very environmentally aware, like people in—I don't like to name names, but I know some people who are very environmentally aware and given an award by the United Nations as the most environmentally aware person last year. So there are people like that and we can talk with them.

COMMISSIONER CAMPOS: Have you actually made contact up to this point?

MS. GLORIOSO-MOSS: Yes. Yes, Mr. Chairman, Commissioner Campos.

Yes, I did.

COMMISSIONER CAMPOS: So the Pueblo officials know that this process is going on?

MS. GLORIOSO-MOSS: Not formally, because what we thought was the best

way to approach the tribal council is to conduct these tribal summits and from there we will approach them with perhaps presenting what we're going to do.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Did you make a motion?

COMMISSIONER TRUJILLO: No, I haven't. I'd like to make a motion to go ahead with the Pojoaque Valley Community Planning process.

CHAIRMAN DURAN: I'll second that. It was about 5-1/2 years ago that we first had a meeting with the Pojoaque Valley and I'm glad to see that you're able to find some consensus and get everyone to agree that it's time to start moving in this direction.

MS. GLORIOSO-MOSS: Thank you, Mr. Chairman.

CHAIRMAN DURAN: Any other comments?

COMMISSIONER VARELA: Just that I can't believe, Mr. Chairman, that with the future meetings over four or five months that people have been talking to each other and having been as antagonistic as we were in La Cienega for five years.

MS. GLORIOSO-MOSS: It takes a long time.

CHAIRMAN DURAN: Well, congratulations.

MS. GLORIOSO-MOSS: Thank you, Mr. Chairman.

The motion to approve Resolution 2002-163 passed by unanimous [5-0] voice vote.

XII. B. 7. Resolution No. 2002-__ . A Resolution Amending Resolution 1999-137, the Santa Fe County Growth Management Plan, as Amended, to Adopt and Incorporate the El Valle de Arroyo Seco Highway Corridor Plan

ROBERT GRIEGO (Planner): Good evening, Mr. Chairman, Commissioners. Tonight is the first of two require public hearings for the El Valle de Arroyo Seco Highway Corridor Plan. The presentation is going to include a brief overview of the public process, a development plan, the purpose of the plan and the plan's main contents. The Board authorized a community planning process for El Valle de Arroyo Seco in accordance with the Santa Fe County Ordinance 1998-5, the Community Planning Ordinance. The Highway Corridor Plan emanated from the community planning process in accordance with the community planning ordinance and the Santa Fe County Growth Management Plan.

The community planning process has included extensive public outreach. Property owners, business owners and residents have been notified of the planning process through multiple mailings, flyers, newspaper advertisements and articles. Additionally, two community surveys were conducted. Over 60 community meetings were held to develop the plan. All planning meetings have been open to the public. There have been three annual community day events, specifically for the plan and two community-wide meetings to discuss the plan. The El Valle de Arroyo Seco Highway Corridor Plan addresses the concerns of the residents and

ATTENDANCE

**Pojoaque Valley Planning Committee Presentation
September 5, 2003
The Hilton of Santa Fe**

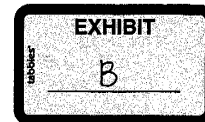
STAFF: 5
PARTICIPANTS: 39
OBSERVERS: 2
TOTAL: 46

STAFF:

Jack Kolkmeier	Santa Fe County Planning Director
Romella Glorioso-Moss	Lead Planner, Pojoaque Valley Planning Committee (PVC)
Sarah Ijadi	Co-Planner, PVC
Beth Mills	GIS Planner, PVC
Robert Griego	Advisor, PVC

PARTICIPANTS:

Amelia Garcia – Member, PVC
Ben Gomez – Vice Chairman, PVC
Bryon Gonzales - San Ildefonso Pueblo Representative
David Ortiz – Advisor, PVC
Douglas Sayre – Santa Fe County Utilities Department Assistant Director
Ed Gonzales – North Central New Mexico Economic Development District Representative
Edwin Tafoya - Lt. Governor, Santa Clara Pueblo
Elaine Best – Note Taker, PVC
Gerald T.E. Gonzalez – Santa Fe County Manager
Gibo Baca – Member, PVC
Greg Solano – Santa Fe County Sheriff
Guilbert Tafoya - Santa Clara Pueblo Representative
Hank Blackwell – Santa Fe County Fire Marshall
Harry Montoya – Santa Fe County Commissioner, District 1
Irene Tse-Pe - San Ildefonso Pueblo Representative
James Pena - San Ildefonso Pueblo Representative
James Rivera - Pojoaque Pueblo Representative
Jeff Trujillo – Santa Fe County Risk Manager
Joe Garcia – Member, PVC
John Gonzales – Governor, San Ildefonso Pueblo
Jose Aguilar - San Ildefonso Pueblo Representative
Joseph Garcia - Nambe Pueblo Representative
Ken Mullen – Member, PVC



Lannie Berger – Member, PVC
Leon Roybal - San Ildefonso Pueblo Representative
Levi Valdez – Member, PVC
Mary Louise Williams – Member, PVC
Michael Vigil - Tesuque Pueblo Representative
Narciso Quintana – Spokesman, PVC
Neil Weber - San Ildefonso Pueblo Representative
Paul Campos, Santa Fe County Commissioner, District 4
Renee Villarreal – Santa Fe County Intern
Roberto Mondragon - Pojoaque Resident
Roman Abeyta – Santa Fe County Land Use Department Administrator
Rusella Serna – Vibes Watcher, PVC
Sean Hughes - San Ildefonso Pueblo Representative
Sharon Mottola – Member, PVC
Steve Benjamin – Member, PVC
Steve Ross- Santa Fe County Attorney
Vicente Roybal-Jasso – Chairman, PVC

OBSERVERS:

Judy McGowan – Santa Fe County Planning Division
Peter Chestnut – Pueblos' lawyer (Aamodt case)

POJOAQUE VALLEY PLANNING COMMITTEE

Notes from Presentation to the Pueblos
September 5, 2003
Santa Fe Hilton Hotel

(Meeting notes by Elaine Best, Pojoaque Valley Planning Committee's (PVC) Note Taker; edited by Romella Glorioso-Moss, Lead Planner, PVC.)

The presentation was held at the Hilton Hotel, Santa Fe, New Mexico from 9 to 12 a.m. Santa Fe County Planning Director, Jack Kolkmeier was the facilitator.

The Welcome

The meeting began outside with a prayer in Tewa by Lt. Gov. Edwin Tafoya of Santa Clara Pueblo, followed by Roberto Mondragon's (Pojoaque Valley Resident) singing, and a prayer by Mary Louise Williams of the Planning Committee. The meeting was attended by 46 people (Exhibit B).

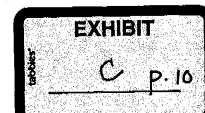
The Welcome Addresses

We moved inside and continued with welcome addresses from Santa Fe County Commissioners Paul Campos (District 4) and Harry Montoya (District 1) and Santa Fe County Manager, Gerald T.E. Gonzalez.

Paul Campos: We need to work together. This community project is an opportunity to exercise leadership and to make a difference in the years to come. In the past we were separated and this did not work. We need to come together to do what needs to be done. We need to talk with fresh minds. We need coordination and community.

Harry Montoya: Commissioner Montoya represents the district that includes the Pojoaque Valley. He has met with each Pueblos, and is in the process of formulating a memorandum of understanding (MOU) on mutual needs. This includes water, wastewater, law enforcement and preservation of the land. He asks the Pueblo officials to participate in any way they see fit. He welcomes us and expresses hope for a productive, fruitful meeting.

Gerald T.E. Gonzalez: Edwin Tafoya's prayer was long because we have a lot to be thankful for. The prayer contained silences as well as words - we need to listen to silence with our hearts and words with our heads. There are two types of relationships. A "special relationship" based on differences. Parties are incomplete and come together until they can rob the other of what they think they need. In contrast, in a "holy relationship", each looks within and sees his own completeness, and we extend this completeness by joining with the other party. We want to create and honor a holy relationship among the people of the Pojoaque Valley. The Spirit does what is needed to



bring people together. We are being called together, we are all part of the same world. We have been slow to learn the new lessons. For example, in the past, we could throw out trash and it would break down and disappear. Now there are more of us, and the things we throw away are different. We need to learn new ways. We are all each others' brothers and sisters. We are being made to see that we must communicate, with mutual respect. We can learn the lessons we are being taught by the Spirit. Then he recited a prayer from the Rig Veda:

*Let us be united;
Let us speak in harmony;
Let our minds apprehend alike;
Common be our prayer;
Common be the end of our assembly;
Common be our deliberations.
Alike be our feelings;
Unified be our hearts;
Common be our intentions;
Perfect be our unity.*

We need willing communication between willing speakers and willing listeners. We all share reverence for the place we live. It is difficult to set aside old feelings and build trust, but the holiest spot on earth is where ancient enmity has become love.

Introductions

All participants briefly introduced themselves, and Jack Kolkmeyer ended this with some comments: talk is cheap, we have all been to lots of meetings, but how many things have we actually worked on together? This planning process provides an opportunity to do something. What do you think we can work on together? Although this is a County initiated project, we like to call on you (Pueblos) to work together with us on something that is important to you. What might that point of cooperation be?

Meeting Objectives

David Ortiz (Planning Committee's Advisor):

1. To introduce the Pojoaque Valley Planning Committee (PVPC) to the County and the Pueblos. There are 76 PVPC members, of whom 49 are active. We meet at the Pojoaque Schools administration building. Membership is open to anyone who wants to participate and Pojoaque and Tesuque Pueblos have participated in some of our meetings.
2. To build trust between the County Government and Pueblo Governments. This process was initiated at the Tribal Summit of 2000.

3. To maintain a healthy relationship across cultural and political boundaries. We value our culture and respect that of our neighbors.
4. To identify common issues/ concerns. The Valley has changed, but it remains attractive and desirable. We need to get together to pursue our mutual needs, and to continue to work together, as was initiated at the first Tribal Summit (2000).

Community Planning Process

Vicente Roybal-Jasso (Planning Committee's Chairman):

During the exodus from the Cerro Grande fire, the Pueblos fed and housed people. This is an example of community. However, tragedy shouldn't be the only thing that brings us together. Community is like a gem - we need to treasure it, care for it, and keep it polished and beautiful.

Public safety is very important. We need information sharing meetings among our law enforcement entities.

The planning process officially began on January 16, 2003. It is open to the public. We make decisions by consensus. We mail progress reports to the community when we complete a milestone. The target date to finish the plan is April 2004. When our plan is complete, we will take it to the wider community and then get it adopted by the County. We have chosen the strategic planning methodology. We hope to have Pueblo representatives at the scenarios meetings to help us choose the most likely scenario.

Vision 2025

Rusella Serna (Planning Committee's Vibes Watcher) introduced the reading of the Vision Statement by saying that while it may seem unrealistic, it can inspire us. Slides of the Valley were shown during the reading of the Vision Statement.

Mission Statement and Objectives

Sharon Mottola (Member, Planning Committee) read the Mission Statement and Objectives as slides of the Valley were shown.

Discussion

Jack Kolkmeier: We would like feedback from the Pueblos. How do you feel about these statements and goals? Are they in concert with your ideas? What are your reactions? What can we cooperate on? Are you interested in involvement with this process?

Mary Louise Williams: The slides we showed were only of non-Pueblo land. They included two slides of the open space where we think there is a burial site. By purchasing this land, using tax dollars, we saved this land from having a house built on it.

Mike Vigil (Tesuque Pueblo Representative) The Aamodt case has caused distrust. Because of the real estate and construction industries, the landscape has changed a lot in the last 30 years. Money is coming in and it dictates a lot. Outsiders have come in. The County of Santa Fe favors some people. It hurts people and discriminates. Native people and Hispanics are of mixed blood. We are talking to each other. Politics can be a bad thing sometimes. Development in Santa Fe can hurt, it impacts water and scenery.

Jack Kolkmeier: Can this group be helpful for resolving some of these problems ?

Mike Vigil: This group can put pressure on the County, State and Federal governments. But politicians will decide. They have the interests of rich people.

Irene Tse-pe (Tribal Administrator, San Ildefonso Pueblo): San Ildefonso wants to provide quality of life. It wants to develop economically without impacting natural resources, and to develop plans that reflect the social and cultural values of the community. I am concerned with education - this is an area in which we can work together. The San I governor is concerned with water quality. Illegal dumping, trespassing, cutting fences, unauthorized use of the transfer station are ongoing issues that concern San I. What is the PVPC doing regarding education? What can San I do? There have been reports of discrimination in the school. We need to make the school an example of cultures working together.

Jack Kolkmeier: What would you like to do?

Romella Glorioso-Moss (Lead Planner, Santa Fe County): A good time to work together on education would be when the PVPC breaks up into subgroups.

Ed Gonzales (North Central New Mexico Economic Development District): The County and the PVPC should use proper process and protocol. Have you addressed the Tribal Councils? We should have a government-to-government relationship. The Tribal Councils and the Commissioners should meet. If there is interest, the Tribal Councils will assign individuals to work with the PVPC and the County. The Councils are the governing bodies of the tribes. Individuals are responsible to report back to them.

Jack Kolkmeier: We've had two such meetings already. It is always helpful to be reminded of protocol. We are trying to understand who we can work with about particular issues, we don't want to side-step protocol. We'd like to go to Council meetings. We are trying to open some doors.

Roberto Mondragon: It's been a long time coming for the County to communicate with the Tribes. In the past communication has been between lawyers (the Aamodt suit) instead of between other entities. We need opportunities for the Acequia Associations to

communicate with the Pueblos. We need communication between people, not between lawyers.

Jack Kolkmeier: We need direct communication. We are trying to learn how to communicate with each other. The way to build trust is to act together. Words alone are not enough.

Guilbert Tafoya (Santa Clara Pueblo Representative): This is a good chance to get to know the County. The County needs to get together with each Pueblo separately. The staff of each need to get together and decide on a good mode of communication. There should be a County staff member assigned for liaison with each tribe, for example to notify the tribes of construction plans. It is a waste of money to fight each other in court.

Jack Kolkmeier: Did you get enough information to present to a Council meeting ?

Guilbert Tafoya: I will talk to the Santa Clara governor. If the governor wants me to, I will talk to the Council. They will decide whether it is time to work together. It is good to be proactive, and not always be in conflict.

Irene Tse-pe: The governor (San Ildefonso) and Council are open to working with the PVPC. Much of the San I staff is here. It will be good to have more specifics when the PVPC meets with San I. San I will try to be more involved as the planning process moves forward.

Harry Montoya: I have met with four of the Pueblo governors and come up with a list of common interests. A memorandum of understanding (MOU) needs to be written. County staff shortages have delayed this. The MOU is in limbo. Should we continue with this ?

Myron Gonzales (Director, Cultural Resources Preservation, San Ildefonso Pueblo): The MOU is needed. It will help to find solutions. It is time to put meat in the documents and enforce the agreements. For example, we need to deal with boundary disputes. San I has the last unresolved land dispute with the Federal Government. We feel discriminated against. Community input is needed to help solve this dispute.

Jack Kolkmeier: It is all about the land. Individuals fight each other about the land. That is where animosity comes from. Should we go forth and work on an MOU ? Can we do cooperative land use planning ? Can we coordinate with the Pueblos ? Can we solve problems together ?

Myron Gonzales: I believe the Pueblos can participate from the beginning.

Gilbert Tafoya: We could also work this way, if trust can be built.

Jack Kolkmeier: We need to start with a small project, to build trust. COLTPAC, which was followed by bond issues, is an example of the County following up on a promise and building trust.

James Rivera (Pojoaque Pueblo Representative): This meeting could be a role model of a government-to-government relationship. Pojoaque Pueblo has had good communication with the County. The Pueblo is looking for economic development that is environmentally and ecologically conscious. The Pueblo employs about 1000 people, many from the local area. It is looking to bring high tech jobs to the area via the Industrial Park. The Pueblo will invite representatives to the next Council meeting.

Jack Kolkmeier: Economic development is a difficult problem. These are regional issues. We need strategies that help each other. An example of successful collaboration is the Park and Ride bus system. This was successful because of Pojoaque Pueblo participation.

Edwin Tafoya (Lt. Governor, Santa Clara Pueblo): Santa Clara is interested in Arroyo Seco, Santa Cruz and La Mesilla. We don't have lands in the Pojoaque Valley area. This process may not affect us. I am not comfortable with involvement in this process.

Jack Kolkmeier: The Arroyo Seco plan is complete. It did not have much tribal input. Robert Griego, the planner who worked with this group would like to present the plan to the Santa Clara Tribal Council. In the long run, Santa Clara may want to keep apprised of what is going on in the Pojoaque Valley plan.

Myron Gonzales: This is a shared vision. We may not be here to see the fruition of our efforts. We want to leave something for the next generation. Primary issues include view sheds and the cultural landscape.

Jack Kolkmeier: That may be a reason for Santa Clara involvement in this plan.

Edwin Tafoya: Illegal dumping is a big problem. The Pueblo needs money from the County to clean up. We also need County law enforcement assistance.

Jack Kolkmeier: This meeting is not just about Pojoaque Valley. Illegal dumping and ATV Issues keep coming up.

Edwin Tafoya: Other problems are roads, water and sewer lines on Indian Lands for subdivisions. We need County agreements on this. The County needs to clean up its act before there are Memorandums of Agreement.

Jack Kolkmeier: The Pojoaque Valley plan can be a model of how this will work, how we can collaborate.

Edwin Tafoya: Is the Arroyo Seco Plan legally set up? We don't know how to deal with this group.

Jack Kolkmeier: The Arroyo Seco plan focussed on commercial development. The planners did not work with Santa Clara, but they could now.

Rusella Serna: Illegal dumping is a very important issue to me personally.

Edwin Tafoya: What is the Jacona Land Grant planning to do ?

Gregg Solano (Santa Fe County Sheriff): Our department is very committed to preventing illegal dumping and illegal use of ATVs. We are working with land use to find out who is doing dumping. The County is helping to clean up. I am willing to use jail inmates to clean up.

We had a problem with skateboards in the Plaza. We solved this by giving them an alternative place to go. We need to find places for the ATVs. We need to sacrifice some land at various places throughout the County for this. Sheriffs confiscate ATVs and make the owners pay a fine to get them back. It would help if we could tell them a place they can go. This is a County Wide problem. No one wants an ATV park near them. We need to educate ATVusers.

Mary Louise Williams: With illegal ATV use, dumping and fence cutting it all comes down to education. We need to work with the Pojoaque School system. Fines don't work. We need to teach children what they are destroying. I have talked to one of the Biology teachers about emphasizing this. Could people from the Pueblos participate in this effort?

Edwin Tafoya: ATV users were a problem while the Santa Clara golf course was being built. Most of them were adults, not children. This sends a wrong message to their children. People are now walking and running in the Santa Clara golf course. (Note: I wasn't sure if walking and running are permitted or illegal. Elaine)

Mary Louise Williams: The Pueblos don't have staff to deal with ATVs, fence cutting, etc. Would you be willing to sell permits to people who would hike and act as stewards of the land. The money could be used to help protect and restore the land.

Myron Gonzales: There is a volunteer land stewardship program in place for archeological sites. Perhaps that could be expanded.

Edwin Tafoya: We also need to educate our own people about trash.

Gibo Baca (Member, Planning Committee: (Very emotional) I want to thank the Pueblos for their honesty. We hope you will stay and work with us. We want you to stay.

Ed Gonzales: The tribes deal with several counties and the state. Good things that come from this process need to be shared. We need to have an Indian person on the County Commission. We need to decide what parts of the Pojoaque Plan are important to us. We may need to take these issues to a political level. I am looking at a regional wastewater facility. The Aamodt settlement might cost over \$200 million. A wastewater

solution might cost over \$100 million. The tribes are concerned about emergency response. Easements must be handled at the County Commission level.

Jack Kolkmeier: Mapping needs to be done. This is a difficult problem. We need to cooperate with the Pueblos and share data. We need to open a dialogue on this issue.

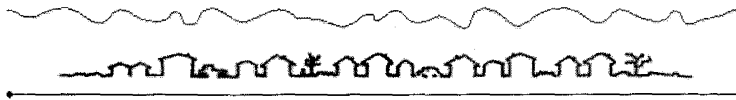
Romella Glorioso-Moss: We need to develop a map that shows the boundary conflicts between Pueblo and Traditional Communities. We need to develop land use ordinances. We want to request copies of Pueblo Land use ordinances to see how our ordinances impact each other. Also, we would appreciate it if the Pueblos would share their plans with the Traditional communities. I understand that this is a sensitive issue, but it would be helpful to have this information.

John Gonzales (Governor, San Ildefonso Pueblo): There is a lot that needs to be done. We share some history with Spanish people. We need to come together and understand each other on a basic level. When you speak of open space, whose open space are you talking about? Are residents in the traditional communities willing to provide land for open space. You can't just look to the Pueblos for what you need. From our perspective, we've identified our needs, how we bring in the County, State and Federal Governments to improve and provide for our continuing needs. We are a government that has responsibility for our people. We are prepared and waiting for mapping to happen. We have been waiting and have not seen follow-up on this. We wish the Pojoaque Valley Planning Committee luck. We are not sure if it is to our benefit to cooperate.

(Note: Governor Gonzales came to the meeting towards the end, because he had another meeting. Elaine)

Gerald T.E. Gonzalez: We need to stay open to each other and listen with our hearts.

(The meeting ended at 12:10 p.m., September 5, 2003. The participants then gathered over lunch.)



A VISION FOR THE VALLEY'S FUTURE

What follows is the vision for Pojoaque Valley as collectively expressed by those who participated in the community visioning process undertaken between March and May 2003. It portrays what the community imagines Pojoaque Valley could be like in 2025, if strategic actions are taken to turn this Vision into reality. The vision is written from the perspective of a community member living in the Valley in the year 2025. Some may feel the Vision is too optimistic, however, what seems difficult, or impossible, in the short-run becomes an exciting challenge over a period of two decades. In addition, the Vision, if it is encouraging enough bonds a community, stimulates decision-making processes and becomes a catalyst for action.

VISION 2025

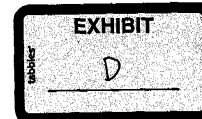
Pojoaque Valley is still home to our thriving predominantly rural communities. We remain blessed by the natural beauty that surrounds us and continue to honor our historical roots. We cherish our socio-economic and cultural diversity while nurturing and protecting the harmonious and interdependent relationships among all our people.

Pojoaque Valley continues to retain its quiet, rural character: small vegetable gardens and farm animals such as horses, cows, and chickens are a common sight; roads remain relatively narrow and typically unpaved with no billboards, vibrant and economically viable acequias water agricultural lands; cottage industries and carefully placed resource-conserving small businesses enhance economic viability while preserving open space; and star-lit skies outshine artificial light. We enjoy clean air, land, and water, and everyone knows their neighbors.

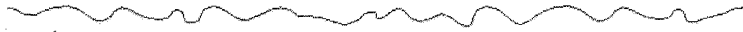
We have high quality community facilities and services that are accessible to everyone. The Valley's schools are among the best in the nation. Skilled and considerate law enforcement officers who have roots in our communities encourage respect for the law. We have excellent fire protection and guaranteed access to our properties via rural roads that are safe for us, and our children to walk, as well as ride bicycles and horses. There are effective solutions for solid and liquid waste management.

Lovely public open spaces, recreational areas, and comfortable plazas have been developed with community energy where residents of all ages gather and foster a cohesive atmosphere that distinguishes our Valley as a model of community cooperation and mutual support.

Because of an earth affirming, cooperative planning, and implementation effort, we have fulfilled our expectations for a high quality of life for our families now and for future generations.



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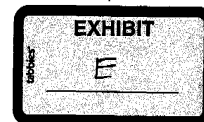



MISSION STATEMENT

Our mission is to formulate a strategic plan¹ for sustainable development² that promotes the rural quality of life in the Traditional Communities of the Pojoaque Valley³. The quality of life we want includes: a) maintained rural character of the Valley as described in our "Vision 2025"; b) harmonious relationship between Pueblo and Non-Pueblo communities; c) secured water sources and good quality drinking water; d) secured access to property; e) satisfactory level of community facilities & services, particularly the provision of appropriate liquid & solid waste management, law enforcement, safe roads and wellness facilities; f) substantial open space, organized recreational areas and shared gathering places; and g) quality public education that promotes citizenship responsibility of a democratic society⁴ within our community and prepares our children for the demands of 21st century employment.

MISSION OBJECTIVES

1. Empower the Pojoaque Valley Traditional Communities by developing an evolving planning capability, including the capacity to effectively coordinate programs and projects among key stakeholders⁵, to secure funding, and to implement this strategic plan.
2. Promote an economy that supports and revitalizes the agricultural activity in the Valley while developing other resource-conserving economic activities.
3. Identify, map and work towards resolving jurisdictional boundaries in an effort to formulate and implement County land use ordinances.
4. Develop land use ordinances that reflect a concerted and cooperative effort among the County, State, and Pueblo governments for resolving the Valley's growth management issues:
 - Maintaining the Valley's rural character
 - Maintaining adequate water supply and good water quality
 - Developing a capacity to manage solid and liquid wastes
 - Preventing loss of agricultural lands and increasing open space
 - Providing infrastructure including related public services and public safety
5. Develop a set of Local Sustainable Development Indicators⁶ that the Planning Review Committee can use to monitor and evaluate the plan's implementation.



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NOTES:

¹Strategic planning – determines where a community is going over the next 20 years or more, how it is going to get there, and how it will know if it got there or not. It is distinguished from other types of planning methodology by the structured inclusion of key factors – social, economic, cultural, political, technological, and environmental – that affect the community. These include those issues, trends, factors (in strategic planning terms are called opportunities and threats) over which the community has little or no control. Traditional planning might on occasion identify such factors, but rarely are the implications examined. In addition, they are usually considered after plan formulation, and typically reactively through a feedback loop after attempts at plan implementation.

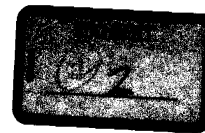
²Sustainable development – refers to a doctrine that economic growth and development must take place, and be maintained over time, within the limits set by ecology in the broadest sense – by the interrelations of human beings and their works, the biosphere and the physical and cultural laws that govern it. It provides a framework under which communities can use resources efficiently, create efficient infrastructures, protect and enhance quality of life, and create new businesses to strengthen their economies. It can help us create healthy communities that can sustain our generation, as well as those that follow ours.

³The Traditional Communities in the Pojoaque Valley – refer to the County designated traditional communities of Cuyamungue, El Rancho, Jacona, Jacanita, Nambe, and Pojoaque.

⁴Citizenship responsibility of a democratic society – refers to the obligations to contribute to the common good by performing duties to benefit the community (e.g. individual's responsibility to become informed of public policies; to participate in community decision-making, to vote in public elections, etc.). As what John D. Rockefeller, Jr., an American Philanthropist (1874-1960), once said, "*I believe that every right implies a responsibility*".

⁵Stakeholders – A stakeholder is an individual, a coalition of people, or an organization involved in or affected by a condition and its outcome(s).

⁶Local sustainable development indicators – are central to the monitoring and reporting of progress towards vision and mission achievement: "a better quality of life for people in the Valley, now and for generations to come." They cover the three pillars of sustainable development, namely social progress, economic growth and environmental protection, including Community Members' everyday concerns: health, jobs, crime, air quality, traffic, housing, educational achievement, wildlife and economic prosperity.



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October 13, 2003

Santa Fe County
Board of County Commissioners
102 Grant Ave
Santa Fe, NM 87501

Commissioners,

This letter is written in support of the proposed rain water ordinance. My staff and I have reviewed the proposed ordinance and fully support this initiative by SF County Staff and Administration. This goes well beyond the City of Santa Fe's ordinance, and I would like to see it taken further to include all structures. I hope this will be a statewide requirement in the near future.

After 51 years of doing business in SF County and promoting efficient water use, we are very aware of the need to catch and conserve "displaced" rainwater. This is especially true now due to the recent drought in New Mexico and beyond.

Feel free to contact me if I can be of any assistance with this issue. Again, my thanks and appreciation to all those who have put together this important piece of work. Please pass it!

Best regards,
Mark Wood

General Manager
Payne's Nurseries & Greenhouses, Inc.



RainCapture, Inc.
 The Water Conservation Center
 3228 Richards Ln. Santa Fe, 87507
 505-471-3410

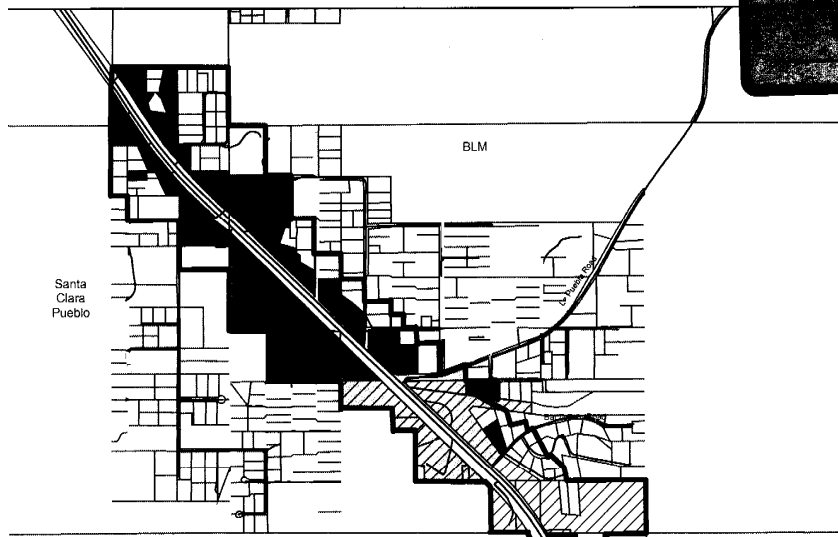
Cost/benefit analysis of cistern installation.

Home Size (sq ft)	Cistern Size (gal.)	Annual Water Savings (gal.)	Installation Price	Upkeep Cost	Amortized cost 30-year Mortgage	Water cost Savings (30-year)	Total 30-year Savings
1500	1700	12500	\$5,000	\$300	\$11,090	\$10,400	Amortize (\$690) Pay Cash \$5,100
2000	2300	16500	\$6,000	\$300	\$13,200	\$10,400	Amortize (\$2,800) Pay Cash \$4,100
2500	2800	20600	\$7,000	\$300	\$15,400	\$11,000	Amortize (\$4,200) Pay Cash \$4,700
			\$7,000	\$300	\$15,400	\$11,000	Amortize (\$4,400) Pay Cash \$3,700
			\$8,000	\$300	\$17,500	\$12,500	Amortize (\$2,900) Pay Cash \$5,200
				\$300	\$17,500	\$12,500	Amortize (\$5,000) Pay Cash \$4,200

Assumptions:

- Price of water will increase 5% per year
- Assumes mortgage rate of 6%
- Does not include value of increase in home equity
- Does not include insurance savings





Legend

- Zoning District Boundary
- Commercial
- Proposed Commercial District
- Eligible for Commercial Zoning until 12/31/06
- Institutional
- ▨ Proposed Home Business
- Other Development (Cell Tower)

0 1,000 2,000 4,000 Feet



This information is for reference only. Santa Fe County assumes no liability for errors associated with the use of these data. Users are solely responsible for confirming data accuracy when necessary.

EL VALLE DE ARROYO SECO
HIGHWAY CORRIDOR
ZONING DISTRICT

Pojoaque Pueblo

State
Land
Office

BLM





BCC Appeal

Tract "G"
Eldorado at Santa Fe

October 14, 2003

Tract G: BCC, October 14, 2003

Mr. Chairman, Commissioners, my name is Dennis Kensil and I live at 4481 Dancing Ground Road in Santa Fe.

Tract "G" is located in the Eldorado at Santa Fe subdivision at the corner of Monte Alto Road and Avenida Vista Grande. It's a parcel of land that was designated for commercial use when Eldorado was approved some 30 years ago.

There is much that the County and I agree on about on Tract "G". The County acknowledges that in 1984 a commercial project was granted final development approval recognizing one acre-foot of El Dorado Utilities' water. The County also acknowledges, after some years of confusion, that as a result of the 1984 approval, the property continues to have a "legal, non-conforming status for neighborhood commercial uses." We also agree that the property is currently entitled to water from EDU.

The appeal before you today is over *how much* water Tract "G" is now entitled to. I'm requesting that the County recognize the *one* acre-foot of water that was and has been set aside for this property since the 1984 approval.

In support of my request, I offer the following evidence:

In February 1993, the Board of County Commissioners entered into an agreement with El Dorado Utilities to resolve a dispute over how much water was available to serve new development. Existing, approved projects were listed and EDU water was set aside to serve those projects. New projects were deducted from the inventory as they moved through the Land Use Department and received final approvals. Tract G is on the May 16, 1994 inventory as a "County Approved and Filed Development" with 1 acre-foot or 3.57 hook-ups. Please see Exhibit _____.

The following exhibit, Exhibit _____ is a letter from Dan Esquibel, the Associate Planner in the Land Use Department who was responsible at that time for keeping the water inventory for the County. His statement confirms that as a project received final approval, the County acknowledged that EDU water was set aside to serve those projects.

Exhibit _____ is from El Dorado Utilities and confirms that one acre-foot of water was set aside to serve Tract G as part of the 1984 approval.

Two of the last projects to be approved prior to the moratorium were the La Paz subdivision and the Spirit Wind Ranch subdivision. La Paz received its' final approval on November 14, 1995 and 29.89 acre feet of water was deducted from the EDU inventory, leaving 385.53 acre feet for development. Spirit Wind Ranch

received its' final approval on January 9, 1996 and 9.34 acre-feet of water was deducted from the EDU inventory, leaving 302.53 acre-feet available for development. Please see Exhibits _____ and _____ which show Mr. Esquibel's memos on these projects. Both the La Paz and Spirit Wind Ranch projects have moved ahead with development while Tract G has been denied.

Staff cites the moratorium on new development in the Eldorado Utilities area as the reason why the water allocation shrank from 1 acre-foot to a quarter acre-foot. However, it was never the intent of the moratorium, the Commissioners or the Staff, to take water away from projects with final development approval. Let's look at the record and see what the Board intended.

Please see Exhibit _____.
April 24, 1996. The date the first moratorium was passed. Page 46 of the minutes. Commissioner Gonzalez, in response to a question from a planner about whether the moratorium applies to a project with a final approval, says, "I think from what I understand from staff it's all pending applications. So everyone that has master and preliminary at that level is subject to the ordinance. So anyone who has received final and is..... just going through the administrative process won't be subject to the moratorium, so your client wouldn't be subject to it."

Please see Exhibit _____.
February 11, 1997. The date the second moratorium was authorized to be published. Page 41 of the minutes. County Hydrologist Jack Frost says, in response to a question from Commission Duran about highlights of the proposed moratorium, "I can just make mention of several. One is the moratorium would require that the utility come into compliance with fire protection requirements in the code. Secondly, the moratorium that prevails now is only a moratorium on new development and applications for land divisions that were not approved prior to the first one, that would be the kinds of development utilizing Eldorado Utilities that we would propose be held until the utility can provide adequate water availability into the future."

Please see Exhibit _____.
March 11, 1997. The date the second moratorium was passed. Page 82 of the minutes. Commissioner Gonzalez to County Hydrologist Jack Frost, "Do we specifically address commercial developments in the ordinance and if so can you point that out?" Mr. Frost states, "Commissioner, no. We defined new or pending applications for land division, master plans, or subdivisions which propose to utilize Eldorado water services as those being affected by the moratorium."

Please see Exhibit _____.

March 11, 1997. Page 83 of the minutes. Commissioner Gonzales, "My only issue being that if there is a business or an individual impacted by this ordinance that can already go and get a building permit, what's the point in creating that barrier that doesn't necessary achieve the objective that we're trying to achieve in this moratorium?" The answer is from Assistant County Attorney Mary Anne Reilly, "Mr. Chairman, Commissioner Gonzales, the logic behind designing the moratorium that way is that the County has approved many lots in Eldorado that are already approved. The County has traditionally..... not wanted the burden of the moratorium to fall on people who own legal lots of record who have bought County-approved property and who are ready to build. The logic of having it fall on someone who wants to do a lot split or a subdivision, is that is development and it's going to create additional demand."

Please see Exhibit _____ .

March 11, 1997. Page 87 of the minutes. Commissioner Gonzales, "I'd like to propose an amendment that any commercial property that has final development approval prior to the adoption of this ordinance may be subdivided in accordance with County Code." And later he says, "Just to explain the motion, Mr. Chairman. As I understand it, for any other issues, there's only one piece of property, or one commercial piece of property that sits out in Eldorado that has final development plan approval, so it's not opening up the doors for all commercial development in Eldorado to be exempted, it's basically trying to clean it up in the technical language.....That's the purpose of the amendment, Mr. Chairman. It's not adding any more burden on the system than what it already had prior to tonight." The amendment passed and the owner of the Agora was able to create a lot that was sold to First National Bank. No other property owner has been able to utilize that amendment.

Please see Exhibit _____ .

February 10, 1998. The date the third moratorium was authorized to be published. Page 19 of the minutes. County Attorney Steve Kopelman states, in response to a question from Commissioner Anaya about litigation if the moratorium is extended, "Mr. Chairman, Commissioner Anaya, I believe that at this time the County has actually approved in the vicinity approximately 1,000 lots that have the right to go forward. They have final development approval and they just need to come in for building permits."

Please see Exhibit _____ .

March 2, 1998. Staff memo from County Hydrologist Jack Frost to the Board requesting a revision and renewal of the moratorium. Mr. Frost says, "Revising the moratorium will allow greater flexibility for some commercial developments which possess final County approvals and Utility commitments yet wish to modify their projects."

Please see Exhibit _____ .

April 13, 1999. Second hearing on the fourth moratorium. Page 26 of the minutes. Commissioner Gonzalez is questioning County Hydrologist Jack Frost about amendments to the moratorium that would encourage the search for new resources, and asks, "So what you're saying by creating this tool, possibly you'll have private individuals who will actually join in that effort to find new resources?" Mr. Frost responds, "Mr. Chairman, Commissioner, I think so. I think this possibly could encourage that. Commissioner Gonzalez then asks, "On the second issue, are you basically stating that if there's a land use application that's already been approved, that as long as they don't exceed what their approved water requirements are, they could alter it for other uses?" "Yes, sir," says Mr. Frost.

Please see Exhibit _____.

February 29, 2000. Staff memo from Planner Judy McGowan to the Board requesting revisions and a renewal of the moratorium. The proposed revisions "extend the moratorium indefinitely" and "would require the Board to make a finding that EDU has met technical and legal requirements for long term water supply." The revisions Ms. McGowan cite do not include limiting water to .25 acre-foot per legal lot of record nor is any hint made that Staff is contemplating this new language for the first time.

Please see Exhibit _____.

March 14, 2000. Second hearing on the fifth moratorium. Page 32 of the minutes. Ms. McGowan states, "...in your memo there are proposals for three potential amendments to the ordinance. The first amendment is some language that was developed in response to the first public hearing where a request was made to be able to sell commercial property in the area without increasing the development under the moratorium." I'd like to point out, Commissioners, that this is the amendment that allowed Gary Boyle to purchase the Agora. No other landowner has used this amendment either.

Ms. McGowan continues on to describe two more amendments, neither of which limit legal lots of record to .25 acre foot of water. Nor do the amendments she presented have anything to do with sunseting approvals or cause previously approved projects to expire. Nor do they take EDU water away from projects with final development approval. These issues are not discussed by the Staff or the Board in the hearing minutes because sunseting approvals and expirations on final development plans and reducing water budgets were not meant to be part of the moratorium. One cannot assume that because an issue is not cited or discussed, it was intended to be part of the ordinance!

Nonetheless, the 2000 moratorium did add a limitation of .25 acre-foot of EDU water per legal lot of record. This is certainly a reasonable amount of water for a residence but effectively revokes our ability to develop Tract G as a commercial project if it is applied to us. This was done without proper public notice, specific

notice to us as property owners holding a valid, final development approval or discussion by the Board.

Please see Exhibit _____.

July 10, 2001. The Board approves a request from the owners of the Agora allowing them to consolidate two lots and to remove a note on the plat that prohibited development until the EDU moratorium is lifted. No other property owner has been able to get such an approval.

In summary, it is clear from the record that the Board and a wide variety of Staff over a number of years, did not intend these moratoriums to include previously approved final developments. When a question arose, it has generally been resolved in favor of the owner of a project that holds a final development approval. The moratorium was intended to limit EDU service to new master plans, preliminary plans and demand created by new lot splits. Accommodations have been made along the way to support previously approved projects. Several of these accommodations have only benefited the owners of the Agora shopping center.

The 1993 Agreement between the County and Eldorado Utilities specifically cites Tract G as having the right to 1 acre-foot of water. No other project with final development approval that is on that list has been denied the right to develop at its' full water allocation.

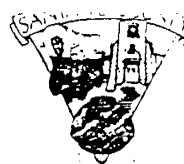
I respectfully ask that you recognize the Final Development Plan, and its' 1 acre-foot of EDU water, for Tract G in the Eldorado at Santa Fe subdivision.

BCC Appeal

Tract "G"
Eldorado at Santa Fe

Exhibit "A"

Richard D. Anaya
Commissioner, District 4
Nancy Rodriguez
Commissioner, District 2
Javier M. Gonzales
Commissioner, District 3



RICHARD D. ANAYA
Commissioner, District 4
Betty Platts
Commissioner, District 5
Domingo Sánchez, III
County Manager

ELDORADO WATER INVENTORY
MAY 16, 1995

The total amount of acre feet (A.F.) of water owned by Eldorado Utility Inc. as outlined in the March 2, 1993, Santa Fe County/Eldorado Utility Inc. agreement, is 1641.06 A.F.. Based upon a production factor of 80% of projected yield, the total volume of water available to the Utility for development is 1312.85 A.F. per annum. Below is a listing of approved developments and pending developments which reduces the projected yield per annum:

Developments calculated as of May 16, 1994.

{Hook up = .28 acre feet (A.F.) per year}

COUNTY APPROVED & FILED DEVELOPMENTS LOTS/HOOK UPS & A.F.

Eldorado Subdivision (res 2810 lots)	2237		
(12 vacant Eldorado Tracts)	12. A.F. or	42.85	(hook ups)
The Ridges		87	
Dos Griegos		95	
Cimarron		35	
Cimarron Sub. Commercial	.56 A.F. or	2	
Old Road Ranch		165	
Los Caballos Subdivision		56	
Alteza Estates Subdivision		34	
Tierra de Casta Subdivision		10	
Ranchitos de Santa Fe		11	
Weldfell Equ. Horse Fac.	.56 A.F. or	2	(hook ups)
Plaza De Amistad	11.76 A.F. or	42	(hook ups)
Cimarron Village	13.60 A.F. or	47	(hook ups)
La Sierra Subdivision		6	
Old Road Ranch Country Compound		20	
East Ranch Subdivision		41	
Belecia Estates Subdivision		44	
Track K	3.37 A.F. or	12.03	(Hook Ups)
Agora I	24.80 A.F. or	88.57	(Hook Ups)
Sierra Plaza	27.92 A.F. or	99.71	(Hook Ups)
Tierra Colinas Sub.		50	
La Paz At Santa Fe		99	
Cielo Colorado Subdivision		91	
Tract g	1.0 A.F. or	3.57	(Hook Ups)
Tract I (Avenida Compadres & Avenida Vista Grande)	1.0 A.F. or	3.57	(Hook Ups)
Horse users tract	1.0 A.F. or	3.57	(Hook Ups)
Eldorado Club House	2.75 a.f. or	9.82	(Hook Ups)
Parcel 9		1	
Parcel 14		6	
Parcel 15		19	

Exhibit 2-B

Eldorado Water reserves
May 16, 1995
page two

Parcel 16		6
Parcel 17		10
Parcel 18		2
Fire Substation	.15 A.F. or	1 (Hook up)
Eldorado Elementary school	.31 A.F. or	1 (Hook up)
Total	3483.69 lots/hook ups or	975.43 A.F.

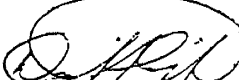
PENDING DEVELOPMENTS **LOTS/HOOK UPS & A.F.**
(Dev. Applications in the process with CDRC recommendations for approval.)

Spirit Wind Ranch		19
Sun Ranch Highlands Sub.		602
Rancho San Lucas Sub.		80
Cileo Turquesa Estates		20
Total	721 lots/hook ups or	201.88 A.F.

UTILITY WATER RESERVE BREAKDOWN IN ACRE FEET:

1. Total Utility projected yield	1312.85 A.F.
Approved Developments	975.43 A.F.
Total Utility reserve remaining	337.42 A.F.
2. Total Utility reserve remaining	337.42 A.F.
Applications in the processes	201.88 A.F.
Total Utility reserve remaining	135.45 A.F.

The above information is based on County approvals and applications for development that are in the review process. These figures may not be representative of Eldorado Utility Inc.'s water reserve figures.



Daniel A. Esquibel
Associate Planner

BCC Appeal

Tract "G"
Eldorado at Santa Fe

Exhibit "B"

October 13, 2003

Dennis Kensil
PO Box 6325
Santa Fe, New Mexico
87502

Dear Dennis:

This letter is written in response to your request about the Water Inventory Agreement between Santa Fe County and El Dorado Utilities, Inc.

In the early 1990's, the County Fire Marshal identified a problem with the El Dorado Utilities, Inc. water system, which affected fire protection in the area. This in turn affected existing and proposed developments where El Dorado Utilities, Inc. was the proposed water service provider. The County acted immediately to correct this problem. After several meetings with the OSE and the utility, the County and El Dorado Utilities, Inc. agreed on a figure relating to the amount of water that was available for development.

Once the Agreement was set, I was directed by the Land Use Administrator to produce a water tally of approved developments with approved water budgets. It took some time to get an accurate list of what the County approved and what EDU agreed to serve. These approved projects were added to the list as approved developments and the County recognized that EDU water was set aside to serve those projects when they developed. Once approved, the amount of water budgeted to serve that project was deducted from EDU's inventory. This gave the County a running tally of how much water was available for pending applications and future development.

Virtually all of the projects we were reviewing were residential projects. They ranged in size from 5 or 10 lots up to 2300 lots throughout the EDU franchise area. I kept this list current and presented it as part of my packet at public hearings to keep the County informed of approvals affecting EDU water resources.

Tract G, as a previously approved project, should have been on the water inventory list from the beginning. As a small, commercial project with a final approval dating from August 1984, Tract G was initially overlooked in the compilation done between EDU and the County. I finally added it to the list dated May 16, 1994 as having 1 acre-foot or 3.57 hook-ups available. It was my understanding that as a development with final approval, the County recognized that EDU water was set aside to serve this project.

If you have any further questions regarding this matter, please do not hesitate to contact me.

Sincerely,



Daniel A. Esquibel

1719 AGUA FRIA ST. #E
SANTA FE, NM 87505
505-577-3264

BCC Appeal

Tract "G"
Eldorado at Santa Fe

Exhibit "C"

EL DORADO Utilities, Inc.

ACCOUNTING OFFICE
333 RIO RANCHO DR., N.E.
RIO RANCHO, NEW MEXICO 87124
TELEPHONE: (505) 892-9200

October 10, 2003

Mr. Dennis Kensil
Monte Alto Homes and Land, Inc.
PO Box 6325
Santa Fe, New Mexico 87502

Re: Tract G, Unit 3, Eldorado at Santa Fe subdivision

Dear Mr. Kensil:

This letter responds to your recent inquiry regarding the status of water utility service to Tract G in Unit 3 of the Eldorado at Santa Fe subdivision (the "Property"). The Property is located within the El Dorado Utilities, Inc. (the "Utility") franchise area. The Utility provides water service pursuant to its applicable Rules and Regulations on file with the New Mexico Public Regulatory Commission. Our records indicate that two (2), eight inch (8") diameter distribution lines are adjacent to the Property. In addition, three (3), three-quarter inch (¾") diameter meters are installed on the Property. Up to one (1) acre foot of water is currently available for the Property. Water service was originally requested for the Property in 1984 in connection with the final development approval of the Eldorado Plaza project.

Sincerely,

EL DORADO UTILITIES, INC.
A New Mexico corporation,

By: 
Bill McLean, General Manager

BCC Appeal

Tract "G"
Eldorado at Santa Fe

Exhibit "D"

two years with the conditions as presented by staff.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN ANAYA: Motion and second. Is there any more discussion?
If not all those in favor [unanimous]. Opposed. Motion carries.

Thank you.

MS. BACA: Thank you.

6. **CDRC Case #SUB 1994-1. La Paz Subdivision. Eldorado at Santa Fe, applicant and Community Science Corp., agent, request final development plan and plat approval of a 99 residential lot subdivision on 335.16 acres. The property is located at the intersection of US Highway 285 and Avenida Eldorado. The property is located within the Cañada de Los Alamos Grant, Township 15 North, Range 10 East.**

MR. GARCIA: Mr. Chairman, members of the commission, at the last Board of County Commission meeting this item was tabled due to a driveway permit that hadn't been issued by the New Mexico State Highway Department and the applicant has obtained that highway permit. Staff does have that permit.

The applicant is proposing the construction of a 99 lot residential subdivision on 335 acres. The lots will range in size from 1.5 acres to 6.5 acres. Access for the subdivision will be Avenida Eldorado to the extension of Avenida Torreon into the subdivision.

Water for the subdivision will be provided by the Eldorado Utility Company. Individual on-site liquid waste disposal systems are proposed for the subdivision.

This proposal has been reviewed in accordance in pursuant to the Code's Article 5 which is the subdivision regulations.

Recommendation, on June 29, 1995 the decision of the CDRC was to recommend final development plan and plat of the La Paz Subdivision with conditions. These conditions are presented in Exhibit A.

I, also, would like to add another subdivision if this subdivision is granted approval tonight which reads, the applicant shall submit a schedule of compliance and engineer's cost estimate with security acceptable to the county legal staff, bond or letter of credit not to exceed 18 months to assure completion of on and off-site roads, installation of underground utilities, terrain management and fire protection. Upon completion the applicant shall submit certification by a registered engineer that improvements have been completed in accordance with the approved plan the acceptable security shall be delivered to the county prior to filing of the plat in the County Clerk's office.

And also another condition: The Highway 285/Avenida Eldorado intersection and Avenida Eldorado improvements shall be secured within alteration of existing road bond mortgages acceptable to County legal staff, also prior to recordation of the plat.

CHAIRMAN ANAYA: Thank you, Rudy. Are there any questions of staff?

COMMISSIONER PLATTS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Platts.

COMMISSIONER PLATTS: I'm glad to hear they got the approval from the State Highway Department.

I just wanted to ask you about the other road out, the Spur Ranch Road or whatever it's called; is that part of the approval?

MR. GARCIA: Mr. Chairman, Spur Ranch Road is not part of this approval.

COMMISSIONER PLATTS: Well, was there some other exit? I'm trying to remember what was discussed here earlier and I just wanted to get this cleared up so that I understood.

MR. GARCIA: Mr. Chairman, Commissioner Platts, I think that what you're talking about is regarding that at one time the land use staff had required a second entrance into this subdivision which was the first entrance actually was Avenida Eldorado and there was another entrance that was required. In speaking with Dave Roybal of the Highway Department and also staff with regards to the Memorandum of Understanding, the Highway and staff feel that this second entrance that was required isn't in compliance with the Memorandum of Understanding and we would like to leave it as just an emergency access.

COMMISSIONER PLATTS: That's fine. I just wanted to get it clear in my own mind. Thank you.

CHAIRMAN ANAYA: Thank you, any further questions?

COMMISSIONER GONZALES: Mr. Chairman, I'll make it very brief.

CHAIRMAN ANAYA: Commissioner Gonzales.

COMMISSIONER GONZALES: Rudy, just real quick or maybe this is a question of the applicant; did you all plan to put guest houses or provide for guest houses on your property?

MR. GARCIA: Mr. Chairman, Commissioner Gonzales, at the last CDRC meeting it was brought up to the CDRC's attention that the applicant had requested that studios be allowed and I'd like to address the question to the applicant.

COMMISSIONER GONZALES: I would just ask if we could move into this - because we've already heard the applicant's case and I don't think we need to hear their case again. They've met all the approvals I just want to ask them this question.

[Duly sworn, Mr. Mark Conkling testified as follows]

MR. MARK CONKLING: I'm Mark Conkling. In response to the your question about guest houses, we have in the covenants provision for studio space that is non-rentable that would comply with the County's requirements of where you can have extra space but not a guest house that's a rentable space.

COMMISSIONER GONZALES: But there would be then in effect a second dwelling that would be --

MR. CONKLING: No, there would not be kitchens. Where you could have

an attached studio to your home but it would not be a rentable space meaning in the definition that it would not have a kitchen or be occupiable as a habitation.

COMMISSIONER GONZALES: If it doesn't have a kitchen, will it have water hookups and require use of water and will it have a bathroom and all that?

MR. CONKLING: Commissioner, there has been a definition that staff was working on about nonrentable space and, Commissioner Platts, you had talked with me a little bit about that. Our intention was to comply with the County's definition. I'm not quite sure how you finally defined it but what I'm coming before you to tell you is that what you're writing into your ordinances is what we intent to comply with.

COMMISSIONER GONZALES: Let me just ask you this question again, real quick, do you plan to have bathroom facilities and water usage?

MR. CONKLING: There is no plan one way or the other. I don't know quite how to answer you.

COMMISSIONER GONZALES: Maybe we can get some information from staff.

MR. KOPELMAN: Mr. Chairman, Commissioner Gonzales, staff has a concern just as it did in some other cases that came before us that when you have a subdivision with 99 lots, 99 residential units that if they had one more they would be required to put in a wastewater treatment system and I think that certainly the spirit and I think the letter of the code would restrict this subdivision not to have any additional bathroom facilities, no rental units, no dwelling units. Once you put in bathroom units and you rent it out and you've got other people even if they're not living there but they're occupying it for eight or nine hours a day or more you have the same health and safety concerns as if you had 150 lots/150 dwelling units and I think that's an important point.

COMMISSIONER GONZALES: And I would agree with you and just bring out the reason that I bring this up is that because in the La Bajada case we did not allow them to -- because of this issue to have a second dwelling or even a studio space that would be allowed to put in a bathroom or utilization of any water fixtures because of the fact that the code doesn't really deal with whether that creates the 100th lot or not and because the La Paz people are requesting 99 residential lots and you're unsure if you're going to put in that or not.

MR. CONKLING: No, I want to comply. Your definition has been involving over the last several months. The intention is that however you're arriving at that now is what our intention is to comply with. If a person wants a studio space that has no bathrooms or kitchens and that's how you want to define it, that's fine with us.

COMMISSIONER GONZALES: Okay, so you would agree to a condition where --

MR. CONKLING: Sure.

COMMISSIONER GONZALES: -- in any studio space no type of bathroom facility or bathroom fixture would be allowed.

MR. CONKLING: The current state-of-the-art of your definition is fine with us.

COMMISSIONER GONZALES: No, I'm asking if you would agree to that condition that I stated?

MR. CONKLING: Yes.

COMMISSIONER GONZALES: Okay.

COMMISSIONER PLATTS: Mr. Chairman, I have to ask if it makes any difference in the long run whether the house is enlarged and you have another bedroom and bath or whether it is a separate studio. It seems to be quibbling over something that doesn't have very much meaning. I just have a little problem trying to say that you can't have a bathroom with another bedroom there whether it's attached or separate.

CHAIRMAN ANAYA: Thank you, Commissioner Platts.

Any further questions, Commissioner Trujillo.

COMMISSIONER TRUJILLO: Yes, I would just like to raise a concern in the Eldorado area. Every subdivision that we get taps into the same water utility, into the same water source. I understand that there are two wells in that area, and we don't understand the return flow and/or what the recharge is into those wells.

The water system is deficient to say the least at this point. I would just like to direct staff that at this point we need to work with Jim Corbin our water executive director to develop a comprehensive water quantitative water availability study in that area so that we understand where we're going to get water in the future. It's imperative that especially for that area that it happens.

CHAIRMAN ANAYA: Thank you, Commissioner Trujillo. I'd like to also make that an item 8 inclusive which is the Sun Ranch that's coming up if that's alright with you, sir?

COMMISSIONER TRUJILLO: Yes, it is.

CHAIRMAN ANAYA: So be the direction is given.

Any further questions?

MR. HEATON: Mr. Chairman and Commissioner Trujillo, the land use office has anticipated that request and we do have such a study going. It's moving slower than we would like but we're juggling and it is already ongoing and we do have GIS products plus some preliminary reviews being done both by the MIS department and land use at this time.

CHAIRMAN ANAYA: Thank you, Charles. Commissioner Platts.

COMMISSIONER PLATTS: One other thing and I just reiterate something that we mentioned last time that you would be agreeable to hooking into whatever sanitary sewer system make come along, when and if, that you would be willing to do that and the minutes reflect that you did agree to that. I would like to make sure that it's part of the record.

MR. CONKLING: That's certainly true, Commissioner Platts. Yes.

CHAIRMAN ANAYA: Yes. If there are no further questions, what is the pleasure of the commission?

Do we have any further input from the audience? There is none; what is the pleasure?

COMMISSIONER PLATTS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Platts.

COMMISSIONER PLATTS: Now that the La Paz Subdivision has gotten its approval from the State Highway Department, I would move approval of CDRC Case SUB 1994-1, La Paz Subdivision, with the recommendations from the staff that we have already spoken about.

CHAIRMAN ANAYA: There is a motion.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN ANAYA: Further discussion?

COMMISSIONER GONZALES: Discussion. I'd like to add an amendment to that, sir. That along with this approval process that no second dwelling be allowed onto the La Paz Subdivision at all.

CHAIRMAN ANAYA: Commissioner Platts, are you agreeable to that amendment?

COMMISSIONER PLATTS: I'm not sure just how you define that, that's all.

CHAIRMAN ANAYA: The amendment was stated that no additional dwelling.

COMMISSIONER PLATTS: I know.

CHAIRMAN ANAYA: It's a simple amendment.

COMMISSIONER PLATTS: I guess so.

CHAIRMAN ANAYA: Is it okay with you?

COMMISSIONER TRUJILLO: That's okay with me, yes.

CHAIRMAN ANAYA: Commissioner Rodriguez, discussion.

COMMISSIONER RODRIGUEZ: Thank you. I just want to make sure I understand this. The second dwelling that would mean no guest houses, no rental units, absolutely no second dwelling whatsoever other than perhaps a garage or a barn or something like that; is that what you're proposing?

COMMISSIONER GONZALES: That's what I am proposing.

CHAIRMAN ANAYA: The clarification is clear. Does that end the discussion?

MS. SELF: I would just like to make the commissioners that the definition that is used in the land use department for second dwelling unit means that the unit cannot have a kitchen or a bathroom. It could have a kitchen -- excuse me, I'll say it again. A kitchen and a bathroom. It could have a kitchen and no bathroom or it could have a bathroom with no kitchen and it wouldn't qualify as a dwelling unit currently.

If you want --

COMMISSIONER GONZALES: Well, I'm talking about structures -- all I want is one dwelling per lot.

MS. SELF: What I would recommend to the commission that the new condition say something that no structures will be allowed with additional water fixtures or will be allowed with water.

COMMISSIONER RODRIGUEZ: Mr. Chairman. To me, Orallynn, that doesn't seem to change the original request. I think Commissioner Gonzales' comments here, perhaps even his motion, is that there would be no additional structures. I don't recall what the definition of a structure is versus a dwelling in the code but it would be that only the home allowed as part of the subdivision lot be allowed and nothing added to that whatsoever. Whether it be with bathrooms or other sources of water or not. No studios for example.

COMMISSIONER PLATTS: Mr. Chairman, I think we have to be careful about the wording because perhaps another garage or utility shed or something like that -- and I think that you would have to allow for such things as that that would not require water but that ought to be allowed.

CHAIRMAN ANAYA: Commissioner Gonzales, would you clarify your amendment?

COMMISSIONER GONZALES: Yes, I think I can clarify it by saying that I support the approval with the amendment that each lot be limited to just one structure, one living structure only.

COMMISSIONER PLATTS: All right, that's the key word, I think.

CHAIRMAN ANAYA: Commissioner Trujillo, are you amenable.

COMMISSIONER TRUJILLO: I acquiesce.

CHAIRMAN ANAYA: Okay. With that then all in favor. [Unanimous] Opposed. The motion carries.

7. CDRC Case #A 1995-3. Jim Tolisano, applicant, appeals the County Development Review Committee's decision not to recognize two lots as legal lots of record.

MR. GARCIA: Mr. Chairman, I don't see the applicant, Mr. Tolisano, is here in the audience. Is there anybody here in the audience that is representing Mr. Tolisano?

COMMISSIONER GONZALES: Mr. Chairman, real quick. Before the applicant leaves on the last thing, La Paz, I do want to clarify something real quick that I was discussing with Commissioner Rodriguez in that I just want to make it sure on the living structure that that means studios and any other type of living space that there might be there.

I didn't want it to appear where you could possibly bring in galleries or whatever.

Marcos P. Trujillo
Commissioner, District 1

Nancy Rodriguez
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Richard D. Anaya
Commissioner, District 4

Betty Platts
Commissioner, District 5

Domingo Sánchez, III
County Manager

MEMORANDUM

DATE: November 14, 1995
TO: Board of County Commissioners
FROM: Rudy Garcia, Development Review Specialist III
FILE REF.: CDRC Case # Subd. 1994-1 La Paz Subdivision

ISSUE:

Eldorado at Santa Fe applicant, Community Science Corp. agent, request preliminary and final development plan and plat approval of a 99 residential lot subdivision on 335.16 acres. The property is located at the intersection of U.S. Highway 285 and Avenida Eldorado. The property is within the Canada De Los Alamos Grant, Township 15 North, Range 10 East, (Commission District 5).

SUMMARY:

The applicant is proposing the construction of a 99 residential lot subdivision on 335.16 acres. The lots will range in size from 1.5 acres to 6.85 acres in size. Access to the subdivision will be via Avenida Eldorado (third entrance to Eldorado), to an extension of Avenida Torreon into the subdivision.

Water will be provided by Eldorado Utilities Incorporated. Individual on-site liquid waste disposal systems are proposed for the subdivision.

A more detailed summary of the project is provided in the attached staff memorandum to the CDRC.

This proposal has been reviewed in accordance with the Code pursuant to Article V, (subdivision regulations).

On October 10, 1995 the B.C.C. tabled this request indefinitely until the applicant has provided a driveway permit from the New Mexico Highway Department.

REQUIRED ACTION:

The Board should review the attached material and consider the recommendation of the CDRC; take action to approve, deny, approve with conditions or modifications or to table for further analysis of this request.

RECOMMENDATION:

On June 29, 1995, the decision of the County Development Review Committee (CDRC) was to recommend final development plan and plat approval of the La Paz Subdivision subject to conditions. The conditions are presented in Exhibit A.

ATTACHMENTS:

Exhibit "A"- June 29, 1995 CDRC memorandum
Exhibit "B"- reviewing agency responses
Exhibit "C"- developers reports
Exhibit "D"- subdivision plat
Exhibit "E"- vicinity map

Marcos F. Trujillo
Commissioner, District 1

Nancy Rodriguez
Commissioner, District 2

Javier M. Gonzalez
Commissioner, District 3



Richard D. Anaya
Commissioner, District 4

Betty Flato
Commissioner, District 5

Domínguez Sánchez, III
County Manager

MEMORANDUM

DATE: June 29, 1995
TO: County Development Review Committee
FROM: Rudy Garcia, Assistant Planner
FILE REF.: CDRC Case # SUBD. 1994-1
La Paz @ Santa Fe Subdivision

On July 12, 1994 the decision of the BCC was to grant Master Plan approval of this application subject to conditions. On December 15, 1994 the CDRC granted preliminary development plan and plat approval of the subdivision subject to conditions. The applicant is now requesting final development plan and plat approval of the subdivision.

ISSUE:

The applicant is proposing the construction of a 99 residential lot subdivision on a 335.15 acres. The lots will range in size from 1.5 acres to 6.85 acres.

Primary access to the subdivision will be via Avenida Eldorado (third entrance), to an extension of Avenida Torreon into the subdivision. All roads within the subdivision will be built to County standards for a minor arterial and/or collector road status. Roads will be maintained by the homeowners association. The applicant has also provided a second access to the subdivision from U.S. Highway 285 as per code requirements.

The property is bound on the North by Avenida Eldorado with U.S. Highway 285 to the East. The Los Caballos Estates Subdivision is to the South with the Eldorado at Santa Fe Subdivision to the West.

The property slopes from Northeast to Southwest. The Canada de Los Alamos Arroyo bisects the property in a north/south direction. Copies of the submittals have been forwarded to the Staff Hydrologist and S.C.S.. Positive comments have been received from both agencies.

Water will be provided by Eldorado Utilities Inc. A Total of .30 acre feet will be allocated for each lot. A copy of a letter of service has been received from Eldorado Utilities Inc.

EXHIBIT A

CDRC
June 29, 1995
page two
La Paz Subd.

Individual on-site liquid waste disposal systems are proposed for the subdivision. The applicants submittals state that some of the soils within the property are not suitable for a conventional on-site septic and leach field systems. These areas will be required to use an evapotranspiration, Natural Sanitation Foundation or other N.M.E.D. approved system. All liquid waste disposal systems will comply with N.M.E.D. regulations. The applicant has performed an analyze on the effect of waste water discharges on groundwater quality over a 100 year time frame. The analyze demonstrates that potable water supplies now available to wells within one mile of the development shall not be contaminated during the 100 year period as a result of the proposed development.

Solid waste disposal will be provided for by Environmental Control Inc. and contracted out by the Homeowners Association. A letter has been received by Environmental Control Inc.

Positive comments have been received from N.M.E.D. and the County Subdivision Engineer.

A total of 10 fire hydrants will be located through out the subdivision. A copy of the submittals have been forwarded to the County Fire Marshal's Office. Positive comments subject to conditions have been received and enclosed in the packet for the C.D.R.C.'s review.

Two archaeological sites have been located within the property limits. According to State Historic Preservation Department these sites may be mitigated through a specific treatment plan. S.H.P.O. comments have been enclosed in the packet for the CDRC's review.

SUMMARY:

This proposal has been reviewed in accordance with the Code pursuant to Article V, (subdivision regulations).

REQUIRED ACTION:

The C.D.R.C. should review the attached material and consider the recommendation of staff; take action to approve, deny, approve with conditions or modifications or to table for further analysis of this request.

CDRC
June 29, 1995
page three
La Paz Subd.

RECOMMENDATION:

It is staff's position that the applicant has complied with the previous conditions imposed by the C.D.R.C. and, therefore staff recommends final development plan and plat approval of the subdivision, subject to the following conditions:

1. The Applicant submit engineer's cost estimate with acceptable financial security for all required improvements. Include schedule of compliance projecting completion of improvements. Upon completion, submit a certification that improvements have been completed according to the approved plans and as-built plans both sealed by registered engineer.
2. Applicant submit final homeowners documents and disclosure statement prior to recordation of the plat, to be reviewed and approved by staff.
3. Applicants place in covenants that all roads within the Subdivision will be maintained by the homeowners association.

ATTACHMENTS:

Exhibit "A"-December 15, 1994 CDRC memorandum
Exhibit "B"-reviewing agency responses
Exhibit "C"-developers reports
Exhibit "D"-subdivision plat
Exhibit "E"-vicinity map

Monroe asked Mr. Kensil if he was in concurrence with the letter from the fire department, and Mr. Kensil responded that he was.

[See Exhibit "I" for letter from El Dorado Fire and Rescue.]

Mr. Kensil stated that, if the Committee were to insist on approving staff's recommended Condition #11, he would request that it be for the Master Plan Condition only as he did not want to be tied to the preliminary and final Condition as well.

Mr. Esquibel clarified for Mr. Kensil that Condition #11 spoke to the Master Plan Condition only.

There were no persons wishing to address the Committee from the floor.

Mr. Monroe moved approval of Case SUB 1994-7, with all of staff conditions for Master Plan approval only, and including Exhibit "I.". The motion was seconded by Mr. Larragoite and carried on a 4-0 voice vote.

CDRC Case SIB 1994-1. La Paz at Santa Fe Subdivision. Eldorado at Santa Fe, applicant; Community Science Corp., agent. Request preliminary and final development plan and plat approval of a 99-lot residential subdivision on 335.16 acres. The property is located at the corner of U.S. Highway 285 and Avenida Eldorado Intersection. The property is within the Cañada de los Alamos grant, Township 15 north, Range 10 East, NMPM Santa Fe County, NM (District 5).

Mr. Esquibel presented the following report, amended as noted:

On July 12, 1994, the decision of the BCC was to grant Master Plan approval to this application subject to conditions.

Background: The applicant is proposing to construct a 99-lot residential subdivision on a 335.15 acre parcel. the lots will range in size from 1.5 acres to 6.85 acres. The average density for the subdivision is 3.33 acres.

Existing Zoning: Lots 65-99 were originally part of Eldorado Unit 3 Subdivision comprising 34 residential lots, and Tract U. This area was subsequently rezoned under the 1981 zoning requirements to the Los Caballos Equestrian Center in 1985. The applicants are now requesting a rezoning back to residential.

Access: Primary access to the subdivision is proposed via the third entrance at Eldorado (Avenida Eldorado) to an extension of Avenida Torreon into the subdivision. All roads within the subdivision will be built to County standards. It is staff's position that the developer needs to provide a second access into the subdivision from U.S. 285 as required by the Code (Article V, Section 8.1.4) and in compliance with the half-mile spacing of intersections of the MOU. Further, an upgrade to Avenida Eldorado to arterial standards from U.S. 285 to Avenida Torreon will need to occur.

Adjacent Properties: The property is bound on the north by Avenida Eldorado with U.S. Highway 285 to the east. The Los Caballos Estates Subdivision is to the south with the Eldorado at Santa Fe Subdivision (Unit III) to the west.

Terrain Management: The property slopes from northeast to southwest. The Cañada de los Alamos Arroyo bisects the property in a north/south direction. Copies of the submittals were forwarded to Soil & Water Conservation and the staff hydrologist.

Positive comments have been received from SCS and the staff hydrologist.

Water: Water will be provided by Eldorado Utilities, Inc. A total of .30 acre feet will be allocated for each lot. This would give a deduction of 29.89 acre feet from the remaining inventory of Eldorado, leaving a balance of 385.53 acre feet. A copy of a letter of service has been received from Eldorado Utilities, Inc.

Liquid & Solid Waste: Individual on-site liquid waste disposal systems are proposed for the subdivision. The applicant's submittals state that some of the soils within the property are not acceptable for a conventional on-site septic and leach field system. These areas will be required to use an evapotranspiration, Natural Sanitation Foundation, or other NMED-approved system. All liquid waste disposal systems will comply with NMED regulations.

It is staff's position that the applicant be required to analyze the effect of wastewater discharges on

groundwater quality over a 100-year time frame to demonstrate that potable water supplies now available to wells within one mile of the development shall not be caused to be unpotable during the 100-year period as a result of the proposed development.

Solid waste disposal will be provided for by Environmental Control, Inc. and contracted out by the homeowners association. A letter has been received by Environmental Control, Inc.

Positive comments of service have been received from NMED.

Fire Protection: A total of 10 fire hydrants will be located throughout the subdivision. A copy of the submittals has to be forwarded to the County Fire Marshal's Office. Positive comments subject to conditions have been received.

Archaeological: Two archaeological sites have been located within the property limits. According to State Historic Preservation Department, these sites may be mitigated through a specific treatment plan. SHPO comments have been enclosed in the packet for CDRC's review.

Recommendation: It is staff's position that if the following conditions are complied with, the applicant's proposal will meet the preliminary development plan and plat requirements of the Code. Staff recommends preliminary development plan and plat approval subject to compliance with the following conditions:

- 1) Applicant comply with the following reviewing agencies' comments and conditions prior to seeking ~~master~~ preliminary development plan review before the BCC (SCS; SHPO; County Fire Marshal; NMSHTD; NMED; Metropolitan Water Board; Staff Hydrologist; and Public Works Director).
- 2) Applicant submit cul de sac road typical meeting County standards prior to seeking BCC review.
- 3) Rural addressing department to approve street names within the subdivision.
- 4) The homeowners documents shall state homeowners association shall contract out with the trash collector (Environmental Control, Inc.). Individual lot owners shall make collection and payment arrangement through the Association. (This needs

to be referenced in the bylaws.)

- 5) The applicant shall complete numbers 7 and 34 of the Disclosure Statement and include information about the litigation of the Lamy Well.
- 6) The applicant shall place a note on the final plat and include in the homeowners documents that individual lots within the subdivision shall gain access through subdivision roads. Direct access from Avenida Eldorado, Avenida Torreon and U.S. 285 is prohibited.
- 7) The final plat content shall contain all information required under Article V, Section 5.4.6b of the Code prior to filing of the plat in the County Clerk's Office.
- 8) The applicant submit a wastewater discharge analysis as aforementioned in the Liquid & Solid Waste section of this memorandum, to be reviewed and approved by the County Hydrologist.
- 9) The applicant shall provide a second access into the subdivision (off U.S. 285) as required by the Code. The second access shall also conform with the MOU.

A 10th condition will be added to this item and presented at the CDRC meeting that responds to issues relating to the Memorandum of Understanding.*

[See Exhibit "B" to these minutes for text of Condition #10; specifically, the second Condition for Preliminary Development Plan and Plat Approval.]*

Mr. Esquibel pointed to the subject property on a map, and staff's proposed secondary access, to elaborate on Condition 9. He said it was staff's position that such an access would be needed "in order to help in the transportation network, as required by the Memorandum of Understanding, and provide the network to get onto U.S. 285 without bottlenecking and hazardous traffic off of the other access points."

Responding to questioning from Mr. Larragoite, Mr. Esquibel stated that a master plan had been done for Los Caballos Equestrian Center under current Code, adding, "I'd like to [refer to it as] the old Code, but it's the same Code with continued revisions to several sections, and that particular zoning was done under a prior establishment of the Code."

BCC Appeal

Tract "G"
Eldorado at Santa Fe

Exhibit "E"

have to have a secondary access.

COMMISSIONER GONZALES: That was my concern because I didn't want the applicant to come forward with another recommendation of requiring a secondary access and then the commission overturning that recommendation. So I'd like to see some type of possible commitment on their part.

COMMISSIONER RODRIGUEZ: I would give staff that direction and in addition to that I would like to ask Rick Brenner and others that we discussed today that as those requirements come forth for the developments that hopefully you would be willing to work and cooperate with these other developers and find a suitable solution. You are all neighbors and are all impacted by this.

COMMISSIONER GONZALES: Oralynn, do you understand that we wouldn't like this to happen again where you come forward and then the commission may possibly overturn you but we feel comfortable that as you push for this and as your voice grows louder for the secondary access, that the commission will support the staff.

MS. GUERRERORTIZ: Thank you very much.

COMMISSIONER GONZALES: Jim, you've got to go back and it's good for one client and possibly bad for another. But Rick is the one that is smiling.

6. **CDRC Case #SUB 1994-4. Spirit Wind Ranch. Steven and Rosalie Harris, applicants, and James Siebert, agent, request final development plan and plat approval for a 19-lot residential subdivision on 85.4 acres. The property is located west of Lamy, directly north of CR 33 and approximately 3,500 feet east of US 285, within the Bishop John Lamy Grant, Township 14 North, Range 10 East and Township 15 North, Range 10 East.**

MS. PENNY ELLIS GREEN (Land Use Staff): Madame Chair and commissioners, on October 26, 1995 the decision of the CDRC was to recommend final development plan and plat approval of this project subject to conditions. The applicant is proposing a 19 lot residential subdivision on 85.4 acres with five guesthouses to be located on lots of five acres or more. The lots will range in size from 2.93 acres to 9.06 acres with an average lot size of 4.5 acres.

The BCC should review the attached material and consider the recommendation of staff; take action to approve, deny, approve with conditions or modifications or to table for further analysis of this request.

On October 26, 1995 the CDRC met and acted upon this case. The decision of the CDRC was to recommend final development plan and plat approval subject to the following conditions:

1. Fire flow and pressure is to be tested before any building permits are issued. If at

- any time fire flow or pressure does not meet standard no further building permits will be issued until adequate fire protection service is resumed.
2. A driveway permit is to be obtained prior to road construction.
 3. There will be a note on the final plat that there will be no further subdivision of land and no swimming pools within the subdivision. This will also be noted in the disclosure statement.
The applicant shall address all staff redline comments on the plans, disclosure statement and covenants prior to submittal for recordation. All redlines must be resubmitted to staff.
 5. All infrastructure including road improvement, street signage, utilities and fire protection systems must be installed prior to plat recordation or construction estimate prepared by a registered engineer and approved by the subdivision engineer shall be submitted along with the financial guarantee acceptable to Santa Fe County in the amount of the approved construction estimate prior to plat recordation. Prior to final release of the financial guarantee or plat recordation, at built plans by a registered engineer shall be submitted to the land use department."
 6. The applicant will place a sign on the easement on the northwest corner of the property restricting access to US 285. The wording and positioning of this sign will be approved by Land Use Staff.

COMMISSIONER GONZALES: Thank you; any questions of Penny?

COMMISSIONER PLATTS: I would just like to ask if there was anything more that could be done or any more assurance that that access road to 285 can't be -- what can be done to prevent people from using that road. I know that is a problem and I don't know that there's much you can do other than the sign.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Platts, the applicant has noted in the disclosure statement, covenants and on the plat that the residents of the Spirit Wind Subdivision have no legal rights to use this and the access will be vacated.

COMMISSIONER PLATTS: Thank you.

COMMISSIONER GONZALES: Any other questions?

MS. GUERRERORTIZ: At this time I would like to recommend an additional condition that is not before you.

7. Request that the owner/applicant/seller place water restrictions on this property restricting water use to .25 acre feet per year per lot except those lots that are over five acres and they would be .586 acre feet per year per lot.

There is obviously concern about water in that area and I'd like to in the future place this condition on every subdivision. [Inaudible] and also to require low-flush toilets and water conservation appliances.

COMMISSIONER GONZALES: Has that been accepted by the applicant?

MS. GUERRERORTIZ: Yes. The only other thing the applicant wanted to ask was if in fact the Public Utility Corporation had a problem with this that -- if they found

it illegal that we would remove it.

[Duly sworn, Mr. Jim Siebert testified as follows]

MR. SIEBERT: Jim Siebert. Regarding the water situation, certainly I understand it and as this condition will be applied across the board and with the caveat that if the Commission finds that it is not legal the condition will be dropped.

COMMISSIONER GONZALES: Commissioners, questions of the applicant? Okay anyone in the audience who would like to speak in favor of this? Anyone opposed?

[Duly sworn, Ms. Kathy Pilnock testified as follows]

MS. KATHY PILNOCK: My name is Kathy Pilnock and I'm here as the president of the Lamy Community Association. At its April of '94 meeting the Lamy Community Association voted to oppose the Spirit Wind Ranch Subdivision for the following reasons: 1. Soil type maps indicate that the soils in this area are unsuitable for septic tanks therefore, alternative systems may be required. We believe that this indicates the unsuitability of this site for development of this density and we wondered who would be monitoring these alternative systems and keeping an eye on them. I know that the county staff can not take on extra load and the Environment Department is overloaded with their work.

The Association also cited the number of people in that area which will impact traffic and a plan is needed before any additional development is allowed in the area. The size of lots in the area are 10 or more acres. And the owners of the 10 acre lots have expressed fear that this increase in density will be incompatible with the surrounding use of land. Although the developer calls the subdivision rural, with its restrictions on cats and dogs the Association hardly in keeping with a rural tradition.

Water availability, because of two previous items involving water availability in the Eldorado area it seems the County is still unsure about the actual amount of water that is still available in Eldorado.

I have a question concerning the agreement with Eldorado Utilities; I wonder if the agreement takes 90 days to terminate and does it not allow the County to question water availability? The utility apparently has not lived up to its responsibilities in providing water.

I don't know if you'd like to answer that now.

Additionally, the communities of Lamy and Galisteo have been fighting what we believe to be illegal wells, for what seems like forever at least 10 years now. And the latest information that I have right now and I'm sure if anything were to change I would have been notified, and that the State Engineer has asked for an injunction of activity on the unpermitted use of well RG 18556. That litigation is still pending. Additionally a well RG 18554 which is located on a county industrial this summer was illegally enlarged.

It is difficult for our communities to keep fighting these lengthy battles in order to protect our water supply. The County Commission keeps approving lots based on the Eldorado Water. With each subdivision and lot approved it give the utility more incentive to keep on fighting and our water is limited.

I believe that at the very least the applicant should be asked to provide disclosure of litigation as part of the development. We would respectfully request that you deny this request.

MR. KOPELMAN: The first question is about termination. The agreement itself survives for 90 days and as a practical matter I'm not sure that the County has to wait the 90 days.

COMMISSIONER GONZALES: Is there anyone else that would like to speak in opposition? If not, what is the pleasure of the commission?

COMMISSIONER RODRIGUEZ: Mr. Chairman.

COMMISSIONER GONZALES: Commissioner.

COMMISSIONER RODRIGUEZ: I move that we grant the approval for final development plan a plat for the 19 lots and the conditions including the conditions recommended by Orallynn that has to do with restrictions of water use and also the requirement that should the water company be there they hook up.

COMMISSIONER GONZALES: Is there a second?

COMMISSIONER PLATTS: Second.

COMMISSIONER GONZALES: All those in favor. [Unanimous] Opposed.
The motion passes.

7. **CDRC Case #V SUB 1995-6 Gilbert and Estella Espinoza request a variance of the density requirements of the County Code to allow a .658 acre lot split for the purpose of a family transfer. The property is located at the southeast corner of the intersection of Camino de los Lopez and Rufina Street in Section 7, Township 16 North, Range 9 East.**

MR. GARCIA: Mr. Chairman, members of the commission, on November 30, 1995 the decision of the CDRC was to recommend approval of a variance of the density requirements of the County Code to allow a .658 acre lot split for purpose of a family transfer.

The variance standards of the Code are quite specific in relation to what qualifies for a variance or waiver of the rules. The Code states that "wherein the case of proposed development it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the propose of the Code, an applicant may file a written request for a variance."

The Code states that, "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified."

Marcos P. Trujillo
Commissioner, District 1

Nancy Rodriguez
Commissioner, District 2

Javier M. Gonzalez
Commissioner, District 3



Richard D. Anaya
Commissioner, District 4

Betty Platts
Commissioner, District 5

Domingo Sánchez, III
County Manager

MEMORANDUM

DATE: January 9, 1995
TO: Board of County Commissioners
FROM: Penny Ellis-Green, Development Review Specialist I
FILE REF.: CDRC CASE # SUB 1994-4 Spirit Wind Ranch

ISSUE:

Steven and Rosalie Harris, applicant. James Siebert, agent. Requests final development plan and plat approval for a 19 lot residential subdivision on 85.4 acres.

The property is located just west of Lamy, directly north of County Road 33 and approximately 3500 feet east of US 285, within the Bishop John Lamy Grant, Township 14 North, Range 10 East and Township 15 North, Range 10 East (Commission District 5)

SUMMARY:

On October 26, 1995 the decision of the CDRC was to recommend final development plan and plat approval of this project subject to conditions.

The applicant is proposing a 19 lot residential subdivision on 85.4 acres with 5 guesthouses to be located on lots of 5 acres or more. The lots will range in size from 2.93 acres to 9.06 acres with an average lot size of 4.5 acres.

Access

Access to the subdivision will be via County Road 33 which is a two lane paved roadway with 200 feet of right-of-way.

There is an existing dirt road which leads from the northwest corner of this project to Highway 285. While the residents of this subdivision have no legal right to use this road, staff are concerned that it will be used by residents wishing to go north

BCC
Spirit Wind Ranch
January 9, 1995
Page Two

on Highway 285. Other than placing a sign on the dirt road on the northwest of the property the applicant has offered no solution to control this problem

Water

Water for the development will be supplied by Eldorado Utilities Inc., the applicant has submitted a letter of service from the utility company stating that they are capable and willing to serve the subdivision for 19 lots and 5 guesthouses.

Liquid waste

The applicant is proposing the use of individual septic systems within the subdivision, to be approved by the Environment Department. In areas of severe soil limitations alternative wastewater systems may be necessary.

All preliminary development plan and plat conditions required to be addressed prior to final development plan approval have been complied with.

A more detailed summary is provided in the CDRC memorandum attached in Exhibit A.

REQUIRED ACTION:

The BCC should review the attached material and consider the recommendation of Staff, take action to approve, deny, approve with conditions or modifications or to table for further analysis of this request.

RECOMMENDATION:

On October 26, 1995 the CDRC met and acted upon this case. The decision of the CDRC was to recommend final development plan and plat approval subject to the following conditions:

1. Fire flow and pressure is to be tested before any building permits are issued. If at any time fire flow or pressure does not meet standard no further building permits will be issued until adequate fire protection service is resumed.
2. A Driveway permit is to be obtained prior to road construction.

BCC
Spirit Wind Ranch
January 9, 1995
Page Three

3. There will be a note on the final plat that there will be no further subdivision of land and no swimming pools within the subdivision. This will also be noted in the disclosure statement.

4. The applicant shall address all staff redline comments on the plans, disclosure statement and covenants prior to submittal for recordation. All redlines must be resubmitted to staff.

5. All infrastructure, including road improvements, street signage, utilities and fire protection systems must be installed prior to plat recordation, or a construction estimate prepared by a registered engineer and approved by the Subdivision Engineer shall be submitted along with a financial guarantee acceptable to Santa Fe County in the amount of the approved construction estimate prior to plat recordation. Prior to final release of the financial guarantee or plat recordation, as-built plans sealed by a New Mexico registered engineer shall be submitted to the Land Use Department.

Staff would recommend the following additional condition be added:

6. The applicant will place a sign on the easement on the northwest corner of the property restricting access to US 285. The wording and positioning of this sign will be approved by Land Use Staff.

ATTACHMENTS:

Exhibit "A" - October 26, 1995 CDRC memorandum

Exhibit "B" - October 26, 1995 CDRC minutes

Exhibit "C" - Reviewing Agencies responses

Exhibit "D" - Developers report and plans

Exhibit "E" - Vicinity map

Marco P. Trujillo
Commissioner, District 1

Nancy Rodriguez
Commissioner, District 2

Javier M. Gonzalez
Commissioner, District 3



Richard D. Anaya
Commissioner, District 4

Betty Flatts
Commissioner, District 5

Domingo Sánchez, Jr.
County Manager

MEMORANDUM

DATE: October 26, 1995
TO: County Development Review Committee
FROM: Penny Ellis-Green, Development Review Specialist I
FILE REF.: CDRC CASE # SUB 1994-4 Spirit Wind Ranch

ISSUE:

Steven and Rosalie Harris, applicant; James Siebert, agent. Requests final development plan and plat approval for a 19 lot residential subdivision.

The property is located just west of Lamy, directly north of County Road 33 and approximately 3500 feet east of US 285, within the Bishop John Lamy Grant, Township 14 North, Range 10 East and Township 15 North, Range 10 East (Commission District 5)

SUMMARY:

On February 14, 1995 the decision of the BCC was to grant preliminary development plan approval for this application subject to conditions. Minutes from this meeting are attached in Exhibit C. The applicant is now requesting final development plan and plat approval for the subdivision. The project was previously called the Cerro Colorado Subdivision.

The applicant is proposing a 19 lot residential subdivision on 85.4 acres with 5 guesthouses to be located on lots of 5 acres or more. The lots will range in size from 2.93 acres to 9.06 acres with an average lot size of 4.5 acres.

All preliminary development plan and plat conditions required to be addressed prior to final development plan approval have been complied with.

EXHIBIT "A"

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Existing development

The 85.4 acre site is currently vacant with one narrow and one broad ridge, arroyos and wide flat drainages. The drainageway bisects the property in a north south direction. The property is bounded to the north by residential property and to the east by the Weldfeld Equestrian Center.

Access

Access to the subdivision will be via County Road 33 which is a two lane paved roadway with 200 feet of right-of-way. The original plan had proposed two cul-de-sacs within the subdivision. The present plan provides for a looped roadway. The applicant states that the roads within the subdivision will be constructed to Santa Fe County standards with a 50 foot right-of-way and 24 foot of 6" base course surface. The roads will be maintained by the Spirit Wind Ranch Homeowners Association.

A traffic analysis was submitted by the applicant. The report indicates that County Road 33 can handle the traffic generated by the new subdivision with an additional improvement of a 30 foot radius at the intersection of Cerro Alto and County Road 33. The report states that the intersection of County Road 33 and US 285 has ample reserve capacity.

The applicant has stated that a contribution of \$100.00 per lot will be given to the County prior to recording the final plat, to be used for the preparation of a regional traffic study. This application has been reviewed by Santa Fe County Public Works Department who have requested that the access road be paved from the existing County Road 33 pavement to the edge of the right-of-way. Rural addressing for the street names has been completed by the applicant.

There is an existing dirt road which leads from the northwest corner of this project to Highway 285. While the residents of this subdivision have no legal right to use this road, staff are concerned that it will be used by residents wishing to go north on Highway 285. No solution has yet been proposed to control this problem.

Water

Water for the development will be supplied by Eldorado Utilities Inc., the applicant has submitted a letter of service from the utility company stating that they are capable and willing to serve the subdivision for 19 lots, 14 guesthouses and fire protection, (Exhibit D). Eldorado Utilities Inc. has recently provided information

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Page Three

on current number of water hookups, commitments and water rights. This information is under review by County Staff.

Liquid and solid waste

The applicant is proposing the use of individual septic systems within the subdivision, to be approved by the Environment Department. In areas of severe soil limitations alternative wastewater systems may be necessary. These systems will be the responsibility of each lot owner. The Homeowners Association will contract with a private company for the collection of solid waste. Positive comments have been received from the Environment Department.

Fire protection

Eldorado Utility Inc.'s letter does not specifically state that they are capable of providing fire protection to the subdivision. Staff requires this prior to plat recordation. This application has been reviewed by the County Fire Marshall and Eldorado Fire and Rescue. The applicant has redrawn the fire protection plan to include a total of 7 hydrants as requested.

Archaeology

Lot 8 of the subdivision contains an archaeological site which meets the State Historic Preservation Office's criteria for 'significant'. The applicant states that a separate covenant will be recorded with the warrant deed for this lot. This site is also shown on the plans and plat and is noted within the covenants. When the plat is recorded a copy of the covenants and final plat will be sent to the State Historic Preservation Office. This application has been reviewed by the State Historic Preservation Office who have stated that no further additional treatment of this site is necessary (Exhibit A).

Terrain management

A 48,000 cubic foot gabion centralized stormwater detention pond is proposed near the middle of the site within the drainage easement, which will be maintained by the Homeowners Association. Seven railroad tie check dams will be located within the development for erosion control. Slopes on the property range from 2% to 25% and greater in some areas. This application has been approved by Subdivision Engineer.

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Guesthouses

Minimum lot size in this area with a community water system is 2.5 acres per dwelling. A second dwelling unit is only allowed on lots that are twice the minimum lot size. The applicant proposes to allow guesthouses on 5 of the lots each of which is 5 acres or larger in size.

School impact

The applicant has submitted a letter to the Santa Fe School District advising of this subdivision. No comments have been received from the school district.

REQUIRED ACTION:

The CDRC should review the attached material and consider the recommendation of Staff, take action to approve, deny, approve with conditions or modifications or to table for further analysis of this request.

RECOMMENDATION:

It is Staff's opinion that the application is in accordance with Article V (subdivision regulations) of the County Land Code.

Staff recommends final development plan and plat approval of the subdivision subject to the previous and following conditions:

1. Fire flow and pressure is to be tested before any building permits are issued. If at any time fire flow or pressure does not meet standard no further building permits will be issued until adequate fire protection service is resumed.
 2. A driveway permit is to be obtained prior to road construction.
 3. There will be a note on the final plat that there will be no further subdivision of land and no swimming pools within the subdivision. This will also be noted in the disclosure statement.
 4. The applicant shall address all staff redline comments on the plans, disclosure statement and covenants prior to submittal for recordation. All redlines must be resubmitted to staff.
-

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Spirit Wind Ranch
October 26, 1995
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5. All infrastructure, including road improvements, street signage, utilities and fire protection systems must be installed prior to plat recordation, or a construction estimate prepared by a registered engineer and approved by the Subdivision Engineer shall be submitted along with a financial guarantee acceptable to Santa Fe County in the amount of the approved construction estimate prior to plat recordation. Prior to final release of the financial guarantee or plat recordation, as-built plans sealed by a New Mexico registered engineer shall be submitted to the Land Use Department.

ATTACHMENTS:

Exhibit "A" - Reviewing Agencies responses
Exhibit "B" - Developers report and plans
Exhibit "C" - Minutes to CDRC and BCC meetings
Exhibit "D" - Letter of service from Eldorado Utilities Inc.
Exhibit "E" - Vicinity map

Chairman Woods said Ms. Bennett has the right to appeal this decision to the BCC. Mr. Montoya has the same rights.
Mr. Garcia said informed the participants that they have 30 days in which to file an appeal.

3. CDRC Case #SUB 1994-4. Spirit Wind Ranch. Steven and Rosalie Harris, applicants. James Siebert, agent, request final development plan and plat approval for a 19 lot residential subdivision on 85.4 +/- acres. The property is located within Lot 18 of the Eldorado Subdivision off CR 33 within the Bishop John Lamy Grant, Township 14 North, Range 10 East and Township 15 North Range 10 East.

No one requested the reading of the entire report and Ms. Ellis-Green presented the following summary:

"On February 14, 1995 the decision of the BCC was to grant preliminary development plan approval for this application subject to conditions. The applicant is now requesting final development plan and plat approval for the subdivision. The project was previously called the Cerro Colorado Subdivision.

"The applicant is proposing a 19 lot residential subdivision on 85.4 acres with five guesthouses to be located on lots of five acres or more. The lots will range in size from 2.93 acres to 9.06 acres with an average lot size of 4.5 acres.

"All preliminary development plan and plat conditions required to be addressed prior to final development plan approval have been complied with.

"It is staff's opinion that the application is in accordance with Article V of the County Land Code. Staff recommends final development plan and plat approval of the subdivision subject to the previous and following conditions:

- "1. Fire flow and pressure is to be tested before any building permits are issued. If at any time fire flow or pressure does not meet standard no further building permits will be issued until adequate fire protection service is resumed.
- "2. A driveway permit is to be obtained prior to road construction.
- "3. There will be a note on the final plat that there will be no further subdivision of land and no swimming pools within the subdivision. This will also be noted in the disclosure statement.
- "4. The applicant shall address all staff redline comments on the plans, disclosure statement and covenants prior to submittal for recordation. All redlines must be resubmitted to staff.
- "5. All infrastructure including road improvement, street signage, utilities and fire protection systems must be installed prior to plat recordation or construction estimate prepared by a registered engineer and approved by the subdivision engineer shall be

submitted along with the financial guarantee acceptable to Santa Fe County in the amount of the approved construction estimate prior to plat recordation. Prior to final release of the financial guarantee or plat recordation, at built plans by a registered engineer shall be submitted to the land use department."

There were no questions of the staff and the applicant was invited to podium.

Duly sworn, Mr. Jim Siebert of 915 Mercer, Santa Fe, said the applicant was in agreement with all conditions.

Responding to a member's question, Mr. Siebert said from the northern end of the subdivision to 285 there was a legal right of access. The developer vacated that legal right of access and that vacation is clearly stated in the covenants and the plat that the residents of the proposed subdivision have no right to use that roadway. Mr. Siebert explained that the roadway can not be gated because other people use it and it is used as an equestrian trail.

Ms. Self explained that staff has not completed its evaluation of the water availability at this point. She said that investigation will be completed within a month's time.

Member Martinez asked Mr. Siebert if he received a response from Santa Fe Public Schools. Mr. Siebert said he did not think he received a response regarding this project; however, he did receive a thank you for the information letter regarding a different project from the district.

There was no one wishing to address this case.

Member Monroe said he was uncomfortable taking action on this case when staff has not completed its investigations regarding water. Mr. Garcia explained that the County has an agreement with the Eldorado Water Utility regarding an inventory of available water. This project, stated Mr. Garcia, was included in the inventory.

Member Monroe moved to approve CDRC Case 1994-4 with all staff conditions. His motion was seconded by Member Martinez.

Member Vigil pointed out that as developments are approved in this corridor it would behoove the County to compile an inventory of the area and intersection with 285.

Chairman Woods recommended that the CDRC encourage the BCC to conduct a corridor study of the 285 area.

Member Montoya asked staff to send a message to the school district to respond to the developer's reports.

The motion passed by unanimous voice vote.

the Highway Department's driveway regulations were met, and it became necessary, then, for us to make modifications thereto in conjunction with our widening project...we would make the necessary changes associated with the widening project to those accesses."

Ms. Boyce remarked, then, that the Interim Plan and MOU would not hold up the Highway Department from widening U.S. 285 should that become necessary, and Mr. Bracher responded that he saw no reason why they would.

Mr. Larragoite asked Mr. Bracher if he thought the Description of Studies and Understandings presented by Mr. Siebert contained realistic time frames for completion and were the responsibilities laid out properly. Mr. Bracher prefaced his remarks by stating that, following receipt of this document from Mr. Siebert at an earlier date, he prepared comments and presented them to top level management at the Highway Department, but had not yet received a response. He stated, however, that he had had concerns about the delineation of responsibilities "and felt that we needed to define administrative responsibilities and financial responsibilities, and in some cases those are two different things." Mr. Bracher added that the time frames "looked reasonable."

CDRC Case #SUB 1994-4. Spirit Wind Ranch Subdivision. Steven and Rosalie Harris, applicants, James Siebert, agent. Request preliminary development plan and plat approval of a 19-lot subdivision on 85.4+/- acres. The property is located just west of community of Lamy off State Road 533. The property is within the Bishop John Lamy Grant Township 14 North, Range 9 East, NMPM Santa Fe County NM (District 5)

Mr. Esquibel presented the following report:

Background: The proposal is for the preliminary development plan and plat approval of a 19-lot residential subdivision on 85.4 ac. The property is located along the north side of State Road 533 (road to Lamy), approximately 3,500' east of the U.S. 285/State Road 533 intersection. Access will be provided directly off State Road 533.

The proposal shows the subdivision lots to be served by three internal subdivision roads, Cerro Alto, Cerro Blanco Ct. and Cerro Negro Ct. (Cerro Alto Ct. and Cerro Blanco Ct. are cul de sacs.) The roads are proposed to be constructed to county standards for a local road. No road within the subdivision will exceed 11% grade.

It is staff's position that Cerro Alto Rd. and Cerro Negro Ct. make up one big cul de sac road which exceeds the 500' length requirement of the code. Cerro Blanco Ct. also exceeds the 500' length requirement. In order to eliminate this problem, staff recommends that Cerro Alto Ct. and Cerro Blanco Ct. be connected to form a loop road within the subdivision, versus the two cul de sacs. A loop road will also provide better internal traffic circulation within the subdivision. The applicant will also need to provide coordination of roads with surrounding property as required by the County Code (Article V Section 8.1.3) and address issues related to impacts to U.S. 285 as stipulated in the MOU.

A preliminary traffic study has been submitted by the applicant. Staff's review found the study to be deficient with regard to impacts for the proposed guest houses in the subdivision. It is staff's position that the applicant needs to address this issue or eliminate the proposal for guest houses.

The applicant has only obtained responses from two of the five departments that comment for the New Mexico State Highway and Transportation Department (NMSHTD), Project Development and Drainage. Project Development has concerns regarding the use of the existing U.S. 285 turn-out as a means of a short cut for northbound U.S. 285 traffic. The U.S. 285 turn-out is on a horizontal curve and there is a grade difference between the highway and the right of way that may give poor sight distance. Furthermore, the developer should provide additional information concerning impacts to U.S. 285 and provide for improvements.

Positive comments have been received from Drainage.

A copy of the applicants' submittals has been forwarded to the County Public Works Department; no response has been received to date.

Adjacent Properties: The property is bound on the north, south and west by residential properties, and to the east by Wildfell Equestrian Center (horse boarding and riding facility).

Terrain Management: The property has one drainage way running in a north-south direction. Slopes on the property range from 2% to 25% and greater in some areas, with soils ranging from slight to severe.

The proposal states that "check dams will be constructed along the barrow ditches of roads which exceed an 8% grade. Cut and fill slopes created for the construction of the roadways will be reseeded. A drainage easement has been incorporated in the subdivision design, which includes an especially wide easement at the south end of the drainage to accommodate the sheet-flow nature of storm water in this area."

Negative comments have been received from Soil and Water Conservation Service (SCS). SCS states that the plan lacks: 1) "the depiction of the 100 year flood zone and lots affected by its high waterline; 2) hydraulic computations for various culverts; and 3) a statement in the disclosure statement citing all lots affected by the 100 year flood zone."

Positive comments have been received from the County Hydrologist. Communication between staff and the County Hydrologist regarding SCS comments revealed that the property did not contain a FEMA-delineated 100-year flood zone running through it, and that the hydraulic computations for the various culverts requested by SCS were not required by the Code.

The terrain management plan did not include guest house impacts.

It is staff's position that the terrain management plan complies with the requirements of the code with the exception of addressing the guest house impacts for preliminary development plan and plat approval. It is recommended that the applicant resolve the issues stated by SCS.

Water: The applicant is proposing to connect the subdivision to the Eldorado Utility, Inc. water system. The applicant has submitted a letter of service from the Utility Company stating that they are capable and willing to serve the subdivision. The amount of water that will be deducted from the Eldorado water reserves upon final approval of this development will be 9.34 acre feet per year based on .28 acre feet per year per lot. The remaining balance of the Eldorado water reserves is 302.53 acre feet or 1,080.4642 hookups for future development. The amount of water deducted will allow for the construction of 14 guest houses.

Liquid & Solid Waste: The applicant is proposing the use of individual on-site New Mexico Environmental Department (NMED) approved septic systems and/or alternative sewer systems for the subdivision. Solid waste will be contracted out by the homeowners association to a private trash collection company. Trash collection and billing of the lot owners will be made through the Association. A letter of services from Environmental Controls, Inc. stating that they will provide service to the subdivision has been submitted by the applicant.

Positive comments have been received from NMED. It is staff's position that the liquid and solid waste plan complies with the requirements of the Code.

Archaeology: The applicants' archaeology report (prepared by Archaeological Research Technology, Inc.) states that small sites were located at the north end of the tract. These sites were investigated and mitigated through the report. No further testing of these sites was recommended by the consulting archaeologist. A more substantial site was located at the westernmost boundary toward the middle of the tract. Disturbance of this area will be prohibited, regulated through a provision on the final subdivision plat.

Comments received from the Office of Cultural Affairs Historic Preservation Division (SHPO) state that it is their opinion that the proposed subdivision has the potential to adversely affect significant archaeological resources. SHPO is requesting that the developer prepare a treatment plan for their review, and that the plan must be approved by them prior to final approval of the subdivision.

Fire Protection: The proposal states that the fire hydrants have been located within 500' of every building site.

A copy of the applicants' subdivision proposal has been forwarded to the County Fire Marshal's offices for review and comments. Fire Marshal comments will be presented at the meeting.

Staff's review found that the Eldorado Utility, Inc.'s letter of service for the subdivision does not include fire protection as a service they are capable of providing. It is staff's position that a new letter of service from the utility company needs to be submitted which states that the utility company can also provide fire protection to the development.

Preliminary homeowners restrictive covenants, Disclosure Statement, Bylaws, and Articles of Incorporation have been submitted. Staff's review of the homeowner documents found the following deficiencies: the covenants referenced the Extraterritorial Zoning Ordinance instead of the County Code; the Disclosure Statement was deficient in answering seven of the questions required by the Code (Article V, Section 10, items c, d, e, 10.2.11, 10.2.13, 10.2.16, and 10.2.18). Furthermore, the Disclosure Statement did not include a statement regarding the litigation of the Lamy well, and the Bylaws did not include how the subdivision roads are to be maintained, or include the collection of solid waste.

Submittal and notice requirements have been addressed.

Recommendation: It is staff's position that the proposal can comply with the requirements of the Code for preliminary development plan and plat approval provided that the applicant complies with the following conditions:

1. Applicant to comply with all reviewing agencies comments and conditions (SCS, NMED, NMSHTD, SHPO, Santa Fe County Metropolitan Water Board, Santa Fe County Fire Marshal Office, Santa Fe County Public Works Department, and Santa Fe County Hydrologist) prior to seeking preliminary development plan and plat review before the BCC.
2. Applicant shall submit a revised traffic study or addendum addressing guest house impacts prior to seeking preliminary development plan and plat review before the BCC.
3. Applicant shall submit a revised terrain management plan addressing guest house impacts prior to seeking preliminary development plan and plat review before the BCC.
4. Applicant shall submit a revised letter of service from Eldorado Utility, Inc. which includes fire protection.
5. Applicant shall submit revised homeowners documents addressing the concerns and deficiencies stated and referenced in this report prior to seeking preliminary development plan and plat review before the BCC.

6. Applicant shall revise the internal subdivision roads to create a loop road within the development prior to seeking preliminary development plan and plat review before the BCC.
7. The preliminary plat shall contain the following information:
 - a. street names and widths;
 - b. minimum setback lines;
 - c. total acreage, number of lots, the minimum and typical lot area.
8. The applicant shall address which lots within the subdivision will be allowed guest houses prior to seeking preliminary development plan and plat review, before the BCC.

A 9th condition will be added to this item and presented at the CDRC meeting that responds to issues relating to the Memorandum of Understanding.*

[See Exhibit "B" to these minutes for text of Condition #9.]*

Mr. Monroe referred to a statement in staff's report which stated that, according to the proposal, fire hydrants had been located within 500' of each building site. He said this was not the case, and in fact one additional hydrant would be required to bring all building sites to within 500' of a hydrant.

Mr. Monroe asked that a March 14, 1994 letter from the El Dorado Fire and Rescue be added as a tenth condition to this proposal.

[See Exhibit "E," attached.]

Present and previously sworn was agent Jim Siebert.

Referring to the second condition of approval, Mr. Siebert stated that the required documentation was submitted on April 27, 1994 and accepted by the Highway Department.

Referring to the fourth condition of approval, Mr. Siebert referred to a letter dated October 26 from the Eldorado Utility indicating that the system complied with PUC rules and regulations. He said letters had also been attached from the Fire Marshal and Fire

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Eldorado at Santa Fe

Exhibit "F"

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would suggest a six month period rather than a year time frame for the moratorium and I think the reason for that is to keep a goal out in front of people. If it's one year, what I've seen too often is that the real work begins at about the nine month period and then you come up to the year period and it's extended one more year. If you have six month period then the real work will start at about three months from now. So it's important to kind of keep that pressure up and keep that goal in mind.

One of the things that was spoken about was setting benchmarks or targets and maybe that is one way of quantifying your progress in this and I think staff could say they need this kind of information and if you get us this kind of information then you've met one level of commitment and then from that point establish another target. So at every step in the process actually quantify goals that are achievable.

The critical factor that you need to keep in mind here is that people are living out there that are dependent upon water and there's also people out there that are part of the construction industry that builds roads, homes and utilities that are also dependent upon the water for their livelihood.

I've seen a need here for everybody to cooperate to proceed down towards the common goal. There are personalities that are involved in this process and I would hope that those kind of personality conflicts could be set aside and that need to achieve a common goal would be the overriding mandate in this process.

I do have one particular problem. I represent someone that has 19 lots approved for final and we are in the process of finalizing the engineering and putting together the letter of credit and recording the plat. We're not a recorded plat but we don't require any action so I'm not too sure where that 19 lot subdivision fits in the process and I didn't know whether there's a way to take that into consideration in the ordinance or not.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN ANAYA: Yes.

COMMISSIONER GONZALES: Jim, just real quick, I think when you said that they've already received final approval?

MR. SIEBERT: That's correct. They've received final plat.

COMMISSIONER GONZALES: I think from what I understand from staff it's all pending applications. So everyone that has master and preliminary at that level is subject to the ordinance so anyone who has received final and is still through the process and just going through the administrative process won't be subject to the moratorium, so your client wouldn't be subject to it.

MR. SIEBERT: I see. I'm sure he'll appreciate that. He was caught in two moratoriums in the past. One for fire protection and one for traffic so it has taken him over three years to get to that process. I appreciate that and I'm sure he does.

The final comment, is that where there's regulatory time frames that hopefully the ordinance could take that into account. For example, if you have a year or a year half from preliminary plat to final plat to get that recorded or you have five years for the master plan,

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Eldorado at Santa Fe

Exhibit "G"

in Rio Arriba County. Then once the regulations are in place the moratorium expires. This is a different type of moratorium having to do with the ability or lack of the ability of the water company to actually be able to provide adequate water. There is no requirement per se.

This matter has been litigated, as you know. We've been in court with Joe Miller and Pat Coughlin on this very question as to the legality of the moratorium. The District Court held in favor of the County saying the moratorium is legitimate and valid. So staff now would like some direction from the Commission if we could get it as to what direction the Commission would like to see us proceed in regard to this ordinance.

The present moratorium ordinance expires at the end of April. Staff was concerned that we bring something forward and have this public hearing prior to expiration of the moratorium ordinance.

CHAIRMAN ANAYA: Is that clarification, Commissioner Duran?

COMMISSIONER DURAN: Jack, can you give us a little information on what you plan on entering into this document, so of the highpoints?

MR. FROST: I can just make mention of several. One is the moratorium would require that the utility come into compliance with fire protection requirements in the code. Secondly, the moratorium that prevails now is only a moratorium on new development and applications for land divisions that were not approved prior to the first one, that would be the kinds of development utilizing Eldorado Utilities, that we would propose be held until the utility can provide adequate water availability into the future.

Regarding water conservation, the people who carried the utility through last summer by their conservation did an admirable job and we feel that the conservation requirements and restrictions of the last moratorium could be eased considerably. Finally, we would make the utility more responsible for water conservation and water use awareness in the area.

COMMISSIONER DURAN: So, what you would suggest is that they come into compliance with the Fire Protection Codes and that would -- the hydrants right now would be part of that?

MR. FROST: Yes, sir. To my knowledge, the hydrants have not been tested for a year.

CHAIRMAN ANAYA: Are there any other points of clarification?

COMMISSIONER TRUJILLO: Yes, Mr. Chairman, I find it a little bit nefarious that the utilities company is stifling any sort of activity in that area. This process has been in place for a year. The utility company has not made any efforts to address the problem. They played games that are surreptitious, not only for the last year but for the twenty years before that. I don't see any movement in the situation regarding the infrastructure in the area, regarding the water sustainability in the area. I hear things from the State Engineers Office. One person says something. The attorney says something else. There's a schism there.

I think all the parties need to get together. Santa Fe County, State Engineers Office,

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Eldorado at Santa Fe

Exhibit "H"

1364693

MR. CARRIS: Right, if I do it myself.

COMMISSIONER GONZALES: So the ordinance doesn't really, in your case, establish its objective.

MR. CARRIS: Right. We've held out coming before the Commission because we thought the issue would be resolved by now, the moratorium. That's where we stand. That's why we bring up the issue at this point.

COMMISSIONER GONZALES: Thank you.

CHAIRMAN ANAYA: Thank you, Jim. Okay, with that then, Commissioner Duran?

COMMISSIONER DURAN: Mr. Chairman, I just have one question. Mr. Carris, is the possibility of condominiumizing phase I ever come across your mind?

MR. CARRIS: We had not looked into that because of the requirements of the band, which is a lending institution on what they can and can't do that are over and above our abilities.

COMMISSIONER DURAN: That would give simple title.

MR. CARRIS: Right. That has been brought up, and we haven't researched it at that point. That hasn't been option from the bank's perspective at this point.

COMMISSIONER GONZALES: Mr. Chairman, are we still open for public comment?

CHAIRMAN ANAYA: No, that's it. He was the last one. Did you get sworn in, Kathy?

[Duly sworn, Kathy Pilnock testified as follows:]

KATHY PILNOCK: My name is Kathy Pilnock and I live in Lamy. I just wanted to state that as Mr. Miller pointed out, the wells that he is considering over to the utility are in the same aquifer as the Lamy well. Even if the redrill a well in the old spot, they're still going to be very sensitive to drought and are going to end up being in the same situation as not only Eldorado's Lamy well was this summer, but as our own community well was in that there's not a lot of water available when there's a drought. I just wanted to remind you about that. Thank you.

CHAIRMAN ANAYA: Thank you, Kathy. With that then, Commissioners.

COMMISSIONER GONZALES: Mr. Chairman, I have a question for the staff concerning again commercial developments. I was just looking at the [inaudible] do we specifically address commercial development in the ordinance and if so can you point that out?

MR. FROST: Commissioner, no. We defined new or pending applications for land division, master plans, or subdivisions which propose to utilize Eldorado water services as those properties being affected by the moratorium.

COMMISSIONER GONZALES: Jack, let me ask for your help in understanding. I'm not sure, and again, this was just brought up tonight, so how would this ordinance affect Mr. Carris or people in his situation where there's an issue where they're

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Eldorado at Santa Fe

Exhibit "I"

1364693

already allowed a building permit to basically hook up to EDU, since we're referring to them as EDU, but the ordinance prevents a lot split. How is that issue as you see it, and are there other situations, because I know we talked about commercial development, where we had said, well, if you're going -- new additional hook-ups, it still continues to create the problems, however this Commission has exempted building permits from being a part of the moratorium. In Mr. Carris' case, as he's described it and I understand it, he's allowed a building permit, so he will be allowed a hook-up to EDU, but yet he's prevented from doing a lot split, and if I understand the ordinance right, the moratorium on the lot splits was to prevent hook-ups to the EDU until there was long term sustainability of the water system according to our code. Is that correct?

MR. FROST: Yes, sir. I think it has to do with the current status of that project. I know it's being discussed by staff at the table right this minute.

COMMISSIONER GONZALES: My only issue being that if there is business or an individual impacted by this ordinance that can already go and get a building permit, what's the point in creating that barrier that doesn't necessarily achieve the objective that we're trying to achieve in this moratorium? That's the only issue I have. It's like, basically allowing someone two building permits on a five acre lot and not letting them subdivide down to 2 1/2 acres because there's a moratorium on.

MS. REILLY: Mr. Chairman, Commissioner Gonzales, the logic behind designing the moratorium that way is that the County has approved many lots in Eldorado that are already approved. The County has traditionally, the Commission in our last go-round on this and staff, has not wanted the burden of the moratorium to fall on people who own legal lots of record who have bought County-approved property and who are ready to build. The logic of having it fall on someone who wants to do a lot split or a subdivision, is that is development and it's going to create additional demand.

If Mr. Carris is entitled to get a building permit, he's entitled to get a building permit. However, if he splits his lot, he's going to create an additional demand because there are now two lots, County-approved, that are eligible for service. So there's a geometric progression of the demand placed on this insufficient supply of water.

COMMISSIONER GONZALES: Let me ask you this again, though, because I don't understand how he creates more demand if currently, he already has the capability of hooking up to the system. Right now, under our code, he is allowed to get a building permit that would allow him to hook up into the system right now. So he doesn't even need to come in for a lot split if he wanted to own the building and lease it to whoever he wants to lease it to. So I don't understand how that demand argument would work in that particular case.

MS. REILLY: Well, I must say we're at somewhat of a disadvantage of not knowing the technical details of the plan when we answer the question. And the question is being answered in a somewhat hypothetical situation. But I suspect the reason for wanting to do a lot split, instead of a rental agreement, or some other more typical -- if this is a

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Tract "G"
Eldorado at Santa Fe

Exhibit "J"

a resolution.

MR. FROST: Yes, sir, but keep in mind that we rely heavily on other agencies' recommendation in addition to our own.

COMMISSIONER TRUJILLO: But the fact of the matter, excuse me, Mr. Chairman, is that they can come forth and provide the information that they have regarding water availability and providing water that they have for their development and they're going to provide to the utility company. The decision will not be made by the County entity by itself, you'll depend on the State Engineer and other pundits in that area.

MR. FROST: Yes, sir. But we shouldn't fool ourselves, for example in the case of one of the new wells that either the utility or Joe Miller owns. It's unclear. A well would have to be produced for a year to determine its water rights and its capability. We could not make that determination in 90 days if it's a new well. And that would not be from my ruling, that would be from the State Engineer's perspective. So keep that in mind.

CHAIRMAN ANAYA: Thank you, Jack. With that then, Commissioners.

COMMISSIONER GONZALES: Mr. Chairman, I'd like to ask for an amendment before we move for the final vote. This deals again with the issue of Mr. Carris and lots of discussion from the staff. I'd like to propose an amendment that any commercial property that has final development plan approval prior to the adoption of this ordinance may be subdivided in accordance with the County Code.

CHAIRMAN ANAYA: Okay, is that in the form of a motion?

COMMISSIONER GONZALES: In the form of a motion.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER GRIÑÉ: Second.

CHAIRMAN ANAYA: Second, the motion.

COMMISSIONER GONZALES: Just to explain the motion, Mr. Chairman. As I understand it, for any other issues, there's only one piece of property, or one commercial piece of property that sits out in Eldorado that has final development plan approval, so it's not that this Commission is opening up the doors for all commercial development out in Eldorado from being exempted, it's basically trying to clean it up in the technical language so that we can hopefully help out one of Commissioner Griñé's constituent's out there in trying to deal with this situation. That's the purpose of the amendment, Mr. Chairman. It's not adding any more burden on the system than what it already had prior to tonight. It's the same level. The system will be allowed the same level of activity prior to this ordinance.

CHAIRMAN ANAYA: Thank you for the clarification, Commissioner Gonzales. On the amendment, all in favor signify by saying "aye." [Unanimous 4-0] Opposed? Motion carries.

COMMISSIONER GONZALES: Mr. Chairman, with that, I'd like to move for approval of Ordinance No. 1997-5 as presented by staff.

CHAIRMAN ANAYA: Motion for approval as amended.

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Tract "G"
Eldorado at Santa Fe

Exhibit "K"

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help from agencies, large landowners and developers in the area.

So I'm seeking your approval to go ahead with a new moratorium and many of among staff and the Commission have already discussed the County taking some initiative on this issue.

CHAIRMAN GONZALES: Are there any questions of Jack?

COMMISSIONER ANAYA: Mr. Chairman, Jack, or maybe Steve you can answer this for me. Being that there is litigation from some of the concerned people to lift the moratorium, can you tell me what the status is on the litigation as far as say, Joe Miller and people outside of that area that were kind of promised by the utility to hook up? Steve, do you know anything? Maybe it's too recent. The suit was filed in September 1997.

MR. KOPELMAN: Mr. Chairman, Commissioner Anaya, I have talked with Matt Spangler, who is the attorney representing Eldorado Utilities, Inc. and at this point it's still in the early discovery stages. It's really too early to evaluate it but the basic thrust of the litigation, and I believed it was filed by Joe Miller and Pat Coughlin and some of their companies is that the utility has somehow defrauded them, or breached a representation in making a commitment to them to provide water service and then not being in a position where it can deliver in accordance with County code and state law. So it's still pretty early in the process and we'll try to monitor their litigation to the extent that we can.

COMMISSIONER ANAYA: Do you feel though that granted all the approvals that have been approved by the County Commission, do we, as County Commissioners and staff, expose ourselves to any type of litigation in supporting the furtherance of the extension of the moratorium?

MR. KOPELMAN: Mr. Chairman, Commissioner Anaya, I believe that at this time the County has actually approved in the vicinity approximately 1,000 lots that have the right to go forward. They have final development approval and they just need to come in for building permits. Having said that though, I believe that we're in a very strong position legally to continue the moratorium. We already have a ruling from District Court Judge Michael Vigil that the moratorium was an appropriate and reasonable exercise of this Commission's legislative authority and police power. I believe that based on all the technical information we have and the information that I've been given by the County Hydrologist and the State Engineer's Office, I believe that this is very defensible and if the Commission decided to readopt the moratorium that we would prevail in a court of law.

COMMISSIONER ANAYA: So the ball is actually in Eldorado Utilities' court.

MR. KOPELMAN: That's true, Commissioner.

CHAIRMAN GONZALES: Any other questions?

COMMISSIONER TRUJILLO: Mr. Chairman, what efforts has the County, what efforts are we making to work with the utility to direct us in a direction that will lift the moratorium, that will provide potable water to that subdivision? How is Santa Fe County playing a proactive role to rectify this problem? To give them moratorium on top of

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Tract "G"
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Exhibit "L"

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. Grifé, Jr.
Commissioner, District 5

David Wolf
County Manager

MEMORANDUM

DATE: 3-2-98
TO: County Commission
VIA: Diana Lucero, Acting Land Use Administrator
FROM: Jack P. Frost, County Hydrologist
SUBJECT: Request to Renew Eldorado Moratorium

CAPTION: Request to publish title and general summary of "An Ordinance Amending and Replacing Ordinance 1998-_. Declaring a Moratorium on New Subdivisions Serviced by El Dorado Utilities Inc. and Encouraging Conservation Measures Within the El Dorado Utilities Inc. Service Area".

This action is requested for the following reasons:

- Without this moratorium the Land Use Department will receive numerous applications for new subdivisions in this area. Without long term water availability, staff must deny these applications, they will be appealed up, and the Commission will be required to hear separate variance requests overriding the State Engineers and County hydrologist's opinions.
- Drought conditions identical to 1996 exist now and El Dorado Utility's most important well is already in decline. The Utility has been reviewed by three separate agencies which all find the system lacks adequate capacity in times of drought for existing customers and legal lots of record.
- Revising the Moratorium will allow greater flexibility for some commercial developments which possess final County approvals and Utility commitments yet wish to modify their projects.
- The debate about this moratorium will provoke greater awareness about these water issues and will cause needed conservation in the area and greater County.

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Eldorado at Santa Fe

Exhibit "M"

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water supply by allowing new subdivisions to come in with water rights or with a new source of water that we wouldn't jeopardize existing conditions in the Eldorado area where people are currently hooked up to the water system?

MR. FROST: Mr. Chairman, Commissioner, that would require, if they met this test, still require a site-specific investigation and a review of how it fits the whole water picture out there.

COMMISSIONER GONZALES: And assuming that those tests were met, you're saying that it could be reasonable that we wouldn't further adverse the population out there, as far as the water conditions?

MR. FROST: Mr. Chairman, Commissioner, it's a possibility. It would have to be studied site-specifically. But we are encouraging and looking for new resources. The County is. The district is. The utility has taken some initiative in that direction.

COMMISSIONER GONZALES: So what you're saying by creating this tool, possibly you'll have private individuals who will actually join in that effort to find new resources.

MR. FROST: Mr. Chairman, Commissioner, I think so. I think this possibly could encourage that.

COMMISSIONER GONZALES: On the second issue, are you basically stating that if there's a land use application that's already been approved, that as long as they don't exceed what their approved water requirements are, they could alter it for other uses?

MR. FROST: Yes sir. Mr. Chairman, Commissioner, with a commercial application, in securing an approval from the County there is a use list. There's an issue out there right now regarding creating a theater complex. The use list had in mind smaller retail operations. I don't know how this will solve that particular problem because there's also the case of not having a legal lot of record there at this time. But there's a lot of more generally zoned commercial property salted around in the greater development and it's possible that for example, a party could possess two smaller commercial lots and they would like to do a lot line adjustment and combine and they could potentially keep their water budget the same as the sum of the two individual projects. And there's a bit of awkwardness in how the moratorium treats that now.

So of the two, I see how the second suggested exemption might fit some needs out there right now.

COMMISSIONER GONZALES: I guess I'd ask, has the County Attorney's Office reviewed the language here? Would you like to make an opinion about it?

MS. BROWN: Mr. Chairman, I've reviewed it about three and a half minutes ago while we were sitting here during the meeting. And I think, Commissioner, you're raising a number of good points. We have not had a chance as staff to even discuss this with each other. Unfortunately, the proposed changes, my understanding from Jack, came in very late before the meeting. So I didn't look at them until Jack's presentation.

We could perhaps move forward tonight with the ordinance as proposed, unless you

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Tract "G"
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Exhibit "N"

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. Grifé, Jr.
Commissioner, District 5

Samuel O. Montoya
County Manager

Memo

To: Board of County Commissioners
From: Judy McGowan, Planner *JM*
CC: Jack Kolkmeier, Planning Division Director
Estevan Lopez, Land Use Administrator *ERL*
Date: February 29, 2000

Re: An Ordinance Amending And Replacing Ordinance 1999-4 And Declaring A
Moratorium On New Subdivisions, Land Divisions And Master Plans For Projects Served By
El Dorado Utilities Inc. And Encouraging Conservation Measures Within The El Dorado
Utilities Inc. Service Area

Background:

On February 8, 2000 the Board authorized publication of title and general summary for this proposed Ordinance. The original moratorium Ordinance was enacted in 1996 and has been replaced with a new 12 month moratorium ordinance every year since.

The proposed Ordinance repeats and updates the findings of Ordinance 1999-4 which it replaces and incorporates all prior findings of the Board regarding the County's ongoing concerns about the adequacy of the long-term water supply for developments served by El Dorado Utilities Inc.

County legal staff has indicated that, if the Board chooses, the Ordinance could be amended to extend the moratorium indefinitely until such time as the Board is satisfied that developments in the El Dorado Utilities Inc. service area can comply with state and county standards for water supply, rather than merely extending the moratorium for another twelve months. Ending the moratorium would require the Board to make a finding that EDU has met technical and legal requirements for long term water supply and then to repeal this Ordinance.

Notice of the public hearings has been published in the New Mexican and the Eldorado Sun. The draft Ordinance was sent to State agencies for review as required by the State subdivision Statute.

Action Requested:

Hear public comment and consider Ordinance 2000 - __ Amending And Replacing Ordinance 1999-4 And Declaring A Moratorium On New Subdivisions, Land Divisions And Master Plans For Projects Served By El Dorado Utilities Inc. And Encouraging Conservation Measures Within The El Dorado Utilities Inc. Service Area

Recommendation:

This is the first public hearing. Staff recommends that the Board consider the following amendments to the Ordinance after hearing all public comments.

Delete Section C. 8: (page 4, line 28) and insert the following new section:

8. County staff shall present updates describing any changes in conditions to the Santa Fe County Board of County Commissioners approximately 180 days from the effective date of this Ordinance and annually thereafter until such time as the Ordinance is amended or its application is discontinued.

Delete Section C. 9 (page 4, line 31) and insert the following new section:

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.

BCC Appeal

Tract "G"
Eldorado at Santa Fe

Exhibit "O"

DRAFT

drafted some language which would effect that change for your consideration.

As I said, this is the second public hearing. In the memo, the ordinance has not been amended at all since the first public hearing, but in your memo there are proposals for three potential amendments to the ordinance. The first amendment is some language that was developed in response to the first public hearing where a request was made to be able to sell commercial property in the area without increasing the development under the moratorium. So the proposed amendment for that is to amend Section C.1, and add a new section basically saying that there would be no new or pending applications for land divisions, master plans or subdivisions, which propose to utilize the EDU water services, except as noted below. That exception is that a single division of land, according to Article II, Section 2.3.1a VII or VII -- we really do need to reorganize the County Land Development Code -- shall be permitted for commercially zoned property to create a tract for an existing commercial building subject to the following conditions. A. This is for the purpose of sale, and B. The plat will contain a note that no development will be permitted on the new vacant tract until this ordinance as amended is lifted.

The next two potential amendments would go together, and that would be to effect a longer time frame than the twelve months for the ordinance. That would delete the current Section 8 and add a new Section 8, That the County staff shall present updates describing any changes and conditions to Santa Fe County Board of County Commissioners, approximately 180 days from the effective date of this ordinance and annually thereafter until such time as the ordinance is amended or its application is discontinued. And then Section 9 could be amended to say that the 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 a 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.

The reason for the language was to provide both an annual update, so that there was an opportunity for both the Board and the public to be aware of what was going on as far as progress in water supply in Eldorado, but at the same time not require that the ordinance be redrafted every year to provide a mechanism for that.

Just one note, the current ordinance is in effect until April 15. If you should pass this ordinance tonight, it will be filed tomorrow and would take effect on April 15, 2000.

CHAIRMAN GRINÉ: On March 15 or April 15?

MS. MCGOWAN: April 15.

CHAIRMAN GRINÉ: Okay. Any questions of Judy?

COMMISSIONER DURAN: Mr. Chairman, Judy, so nothing has really changed out there? The water situation is still the same. They have not been able to provide information that indicates that they have come up with more water?

MS. MCGOWAN: I'm probably not the best person to answer this, but it is my understanding that although they have made some progress on drilling new wells that are

BCC Appeal

Tract "G"
Eldorado at Santa Fe

Exhibit "P"

two years if possible.

CHAIRMAN DURAN: Commissioner Sullivan, if it was one year he could come in in a year and if he felt that he needed another year we would grant him that option?

COMMISSIONER SULLIVAN: I think we should perhaps check with legal counsel. The other year would still be an option, would it not?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I believe this Commission does have the authority to extend it for one year, with a condition that if it's not done within one year, then the applicant has the right to come back and request an additional year. I think that's within your jurisdiction.

CHAIRMAN DURAN: Would that be your amendment?

COMMISSIONER SULLIVAN: Yes.

CHAIRMAN DURAN: Would that be okay?

COMMISSIONER TRUJILLO: Yes.

CHAIRMAN DURAN: And that's okay with the second. Any further discussion?

The motion passed by majority [3-1] voice vote with Commissioners Trujillo, Duran and Sullivan voting in the affirmative and Commissioner Campos voting against.

CHAIRMAN DURAN: If you don't do it in a year, get a hold of Land Use and they'll tell you what you need to do to come in to ask for another year.

MR. BURKE: Okay. Thank you for your time.

CHAIRMAN DURAN: Thank you.

- X. D. 6. **CDRC Case #MIS 01-5280. Agora Plat Vacation. Agora I and Agora II, LLC, applicant, request approval to vacate a previous plat for the purpose of consolidating two lots and to remove a note on the previous plat which prohibits development on the lots until the Eldorado Moratorium is lifted, in accordance with Article V. Section 5.7 of the Land Development Code. The property is located northwest of the intersection of US 285 and Avenida Vista Grande, within projected Section 9, Township 16 North, Range 10 East**

MS. ELLIS-GREEN: Thank you, Mr. Chairman, Commissioners. On March 14, 2000, the BCC approved Ordinance 2000-02, which extended the Eldorado moratorium. And exemption was included in this ordinance to allow for the creation of a single lot for an existing commercial building. That exemption states a single division of land under Article II, Section 2.3.1.a 7 or 8 of the Land Development Code shall be permitted for commercially zoned property to create a tract for an existing commercial building subject to the following conditions:

1. That this is for the purpose of sale.
-

2. That the plat will contain a note that no development will be permitted on the vacant tract until this ordinance as amended is lifted.

In accordance with Ordinance 2000-02, the Land Use Administrator approved a summary review subdivision, which divided the Agora property into two lots. On April 24, 2000 the following note was added to the plat: "This subdivision is subject to the Santa Fe County Ordinance 2000-02. No development shall be permitted on lot 33A-2 until this ordinance is lifted."

The applicant purchased both of the lots and is now requesting to consolidate the lots and to remove the note on the plat. Article V, Section 5.7 of the Code states any final plat filed in the office of the County Clerk may be vacated or a portion of the final plat may be vacated if the owners of the land propose to be vacated, sign an acknowledged statement declaring the final plat or a portion of the final plat to be vacated, and the statement is approved by the Board.

The applicant is therefore requesting that the BCC approve the statement to vacate a portion of the previous plat to allow the Land Use Administrator to approve the proposed plat, which shows one 9.57-acre tract, and the removal of the note. If this request is approved, the applicant is required to amend the existing master plan and to indicate that only one lot exists, and this process can be handled administratively.

Recommendation: Staff recommends approval of the partial plat vacation subject to the following conditions:

1. All other plat consolidation requirements are met.
2. The plat shall be recorded in the office of the County Clerk.
3. The master plan shall be amended and recorded to indicate that only one lot exists.

Thank you.

CHAIRMAN DURAN: Any questions of Penny?

COMMISSIONER TRUJILLO: Penny, Mr. Chairman, just one question.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: You say remove a note from the previous plat which prohibits development until the Eldorado moratorium is lifted. Where's the water going to come from for this lot?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, there's no actual proposal. What the applicant previously had done was to divide the land and that was an exemption allowed under the Eldorado moratorium. But to prevent the vacant lot then being developed, there's an understanding that a quarter acre-foot of water per lot could be used, even on EDU. So to prevent that loophole of having that lot developed with a quarter acre-foot, that note was put on the plat.

Now the applicant wants to go back and consolidate the lot so there is only one lot, and go back to the original standing on this lot. So therefore remove that note.

COMMISSIONER TRUJILLO: I understand.

CHAIRMAN DURAN: What development right then would exist?

MS. ELLIS-GREEN: Mr. Chairman, the same as existed before April 2000. There's an existing master plan on that lot. Phase I has been built out. Phases II and III, I

believe have not been built out, so it would still fall under the Land Development Code. Any more water being used would need to prove a 100-year water supply. So it would be exactly the same as existed in April 2000.

CHAIRMAN DURAN: Okay. Any other questions of Penny?

COMMISSIONER CAMPOS: I have a question. Ms. Ellis, initially this was one lot and it broke off into the lot with a property and a vacant lot.

MS. ELLIS-GREEN: That is correct.

COMMISSIONER CAMPOS: That's correct? The ordinance talks about the creation of a single lot for an existing commercial building. So the other lot had no existing commercial building.

MS. ELLIS-GREEN: That's correct. The lot—that section of the ordinance was created to allow, for example, the existing commercial building was the Agora shopping center, would be to allow that piece of property to be divided off for the purpose of sale. In this case, the applicant purchased the Agora shopping center and then later purchased the vacant lot as well. So now it's a whole tract.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: Any other questions of Penny?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: So Penny, there's no requirement now in a consolidation that it be for the purpose of sale. There were two requirements initially, the purpose of sale and it claimed it contained a note that no development would be permitted on the vacant tract until this ordinance as amended is lifted. Those were requirements when it was originally divided. Is that correct?

MS. ELLIS-GREEN: That's correct.

COMMISSIONER SULLIVAN: Those requirements don't apply to a reconsolidation.

MS. ELLIS-GREEN: No.

COMMISSIONER SULLIVAN: I just want to be clear that this is for the purpose of sale. It is not a requirement on the applicant now.

MS. ELLIS-GREEN: No, Mr. Chairman, Commissioner Sullivan, there had been a requirement but now the applicant wants to go back to having one lot, the same master plan and remove that note.

COMMISSIONER SULLIVAN: And staff's recommendation?

MS. ELLIS-GREEN: Staff recommends approval of this.

CHAIRMAN DURAN: Is the applicant here? Please come forward and state your name for the record and let the recorder swear you in please.

GARY BOYLE: Gary Boyle. I live at 830 Acequia Madre, Santa Fe.

[Duly sworn, Gary Boyle testified as follows:]

CHAIRMAN DURAN: Do you have anything to add for the record, Mr. Boyle?

MR. BOYLE: Just to say that in late—just to add a little background. In late

'99 and early 2000, when we were talking to Dos Griegos people about purchase of the center, and they were looking for a buyer, there was only one piece on the table at that point in time, only one piece under contract, and that was the current center sitting on four acres of land. There was no negotiation in any serious manner and no contract on the empty land. That was to be kept by Dos Griegos at that point in time.

But we needed to have a legal lot of record to consummate the sale, hence the request by Alex Kosanteros of Dos Griegos before the Commission in late February that there'd be a friendly amendment to the moratorium to allow him to make this sale. And in fact, the minutes of that minute, just to quote say, this is Alex Kosanteros before the Commission: There is a portion of vacant land that remains undeveloped and will remain undeveloped within the law of the ordinance and the moratorium. And he goes on and says The sole purpose is for financing the Agora shopping center and for selling, trading and buying at this point in time. As such, I'm requesting for either administratively or through a friendly amendment to allow an additional lot split to take place.

And then Chairman Grifé says, Are there any questions? There were no questions and that was the end of the subject. And as Penny has described, when the moratorium wording was actually put together and approved two weeks later, there was an addition put in there, an addition to the idea of subject to the moratorium, and that was no development and that was because of the reason that Penny described.

When we put this lot together, as we're now requesting, that issue of the quarter acre-foot is moot; it doesn't matter anymore and is really not a practical matter. So that's why we're requesting that both the lot consolidation be approved as well as the note taken off. Any development—I'm just going to make one more comment about development. We do have a plan before Land Use to finish the center at some point in the future, hopefully sooner rather than later, because we believe the supermarket needs to be expanded and certain other services need to be added to what exists presently.

If that's done, our plan is to use a water recycling plant, which is being used in other places in this country, and we would make the capital investment to do that. It would be absolutely water neutral. There'd be no new use of the aquifer or no new connection, even the quarter acre-foot, to EDU. We would be using the water that we already have allocated to the center. So any development that takes place would be absolutely water neutral. And that's all I have to say.

CHAIRMAN DURAN: That's great. Any questions of Mr. Boyle?

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

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Boyle, do you have the requirement to report your water usage to the County?

MR. BOYLE: No, I don't.

COMMISSIONER CAMPOS: So the County really doesn't know whether you're within or without the budget?

MR. BOYLE: I submitted recently, I think it was either March or April, in a presentation to Land Use staff, and actually Katherine Yuhus was there. All of our records,

going back to the beginning of the center, which was '95 to date, and would be glad to do that. I've done it by tenant and for the total of the center and we have for all those years, have been under actually, slightly under our allocation.

Our allocation is 4.4 acre-feet and at the maximum, we were probably just about four acre-feet in usage in an annual level.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Any other questions of Mr. Boyle. Thank you, Gary. This is a public hearing. Is there anyone out there that would like to speak for or against this issue? If not, what's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Move for approval of CDRC Case MIS 01-5280, the Agora Plat.

CHAIRMAN DURAN: There's a motion to approve. Is there a second?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: With conditions?

COMMISSIONER TRUJILLO: Yes, with the conditions that are delineated by staff.

COMMISSIONER CAMPOS: What about conditions of reporting of the County as to water usage on an annual basis?

COMMISSIONER TRUJILLO: Is that one of the conditions?

COMMISSIONER CAMPOS: No.

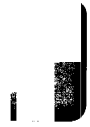
COMMISSIONER TRUJILLO: It's not?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, it's not one of the suggested conditions. The applicant does have water restrictions, recorded water restrictions, and if there is any additional development that certainly would be a condition of approval.

COMMISSIONER TRUJILLO: I don't see any reason why we need to put that condition in. The applicant articulated that there usage of water is less than the allocated water for that development.

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

CDRC Case # A-03-5720
Route A to Homes



Harry A. Montoya
Commissioner District 1

Fred Duran
Commissioner District 2

Michael D. Arana
Commissioner District 3



Paul Campos
Commissioner District 4

Jack Sullivan
Commissioner District 5

Gerald E. Gonzalez
County Manager

MEMORANDUM

DATE: October 14, 2003
TO: Board of County Commissioners
FROM: Jan Daniels, Development Review Specialist I
VIA: Roman Abeyta, Land Use Administrator
Joe Catanach, Development Review Director
FILE REF.: CDRC CASE # APP 03-5720 Monte Aito Homes & Land, Inc. Appeal

ISSUE:

Dennis Kensil, agent for Monte Alto Homes and Land, Inc. is appealing the County Development Review Committee's decision that the Final Development Plan for Tract "G" of the Eldorado at Santa Fe Subdivision has expired.

The property is located at 2 Monte Alto in the Eldorado at Santa Fe Subdivision, within Section 17, Township 15 North, Range 9 East. (Commission District 5).

SUMMARY:

On August 28, 2003, the CDRC denied the referenced appeal (refer to meeting minutes attached as Exhibit I).

In 1984, the Final Development Plan for Tract "G" of the El Dorado at Santa Fe Subdivision was approved by the CDRC for Neighborhood Center District use (grocery store, service station, restaurant, retail shop, and office space) giving the 4.88-ac parcel 1-ac/ft of water. Through the years Santa Fe County has continued to recognize the legal non-conforming status for neighborhood commercial use of the property.

On October 30, 2001, Ordinance 2001-14 (Exhibit "E") was enacted by the Santa Fe County Board of Commissioners to amend and replace Ordinance 2001-4, which, in turn, amended and replaced Ordinance 1996-4 (Exhibit "H"). Ordinance 2001-14 declared a moratorium on new subdivisions, land divisions, and master plans for projects served by El Dorado Utilities, Inc. encouraged conservation measures within the EDU service area, and established provisions under which development could proceed.



CDRC
 October 14, 2003
 Monte Alto Homes & Land Appeal
 Page 2

On July 8, 2003, the Land Use Administrator issued a letter (Exhibit "D") to Mr. Kensil stating that the Final Development Plan for Tract "G" in El Dorado at Santa Fe subdivision had expired, and any development or applications for development of Tract "G" would require submission of a development plan subject to the El Dorado Moratorium (Ordinance 2001-14) and the existing County Land Development Code. The letter also confirms that the legal nonconforming status for neighborhood commercial use of the property is still recognized.

Based on the moratorium ordinance, Mr. Kensil's water allocation for development of Tract "G" has decreased from 1 ac/ft per year to 0.25 ac/ft per year for water service from the El Dorado Water Utility. Therefore, he can no longer proceed with development of the Tract as such. However, the moratorium ordinance does allow the applicant to utilize a well subject to a geo-hydrological water availability report demonstrating a 100 year water supply to support the proposed development.

July 31, 2003, Mr. Kensil wrote a supporting letter (Exhibit "B") in addition to his original letter of intent. He stated six items as evidence as to why the Final Development Plan for Tract "G" should not have expired. Additionally, he attached a chronological list of letters demonstrating the sequence of events on the progress of Tract "G".

REQUIRED ACTION:

The BCC should review the attached material and consider the recommendation of staff; take action to approve, deny, approve with conditions or table for further analysis of this request.

RECOMMENDATION:

Staff's position is the legal non-conforming status for neighborhood commercial use of the property is still in effect. However, the 1984 development plan has expired. The applicant may submit an updated development plan subject to compliance with current requirements (refer to letter from Land Use Administrator attached as Exhibit "D").

Staff recommends denial of the requested appeal.

ATTACHMENTS:

- Exhibit "A" - Applicant's letter of intent
- Exhibit "B" - Applicant's letter offering evidence for review
- Exhibit "C" - Land Use Administrator's letter of expiration to Mr. Kensil's attorney
- Exhibit "D" - Land Use Administrator's letter of expiration to Mr. Kensil
- Exhibit "E" - SFC Ordinance No. 2001-14
- Exhibit "F" - Vicinity map
- Exhibit "G" - Site plan
- Exhibit "H" - SFC Ordinance No. 1996-4
- Exhibit "I" - August 28, 2003 CDRC minutes



SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

Rudy R. Fernandez
DISTRICT NO. 1
Samuel J. Garcia
DISTRICT NO. 2
Jerome D. Block
DISTRICT NO. 3

Patrick X. Ortiz
COUNTY MANAGER

September 18, 1984

Robert Gibbens, President
Rational Alternatives
2103 Avenida Vista Grande, El Dorado
Santa Fe, New Mexico 87504

Dear Mr. Gibbens:

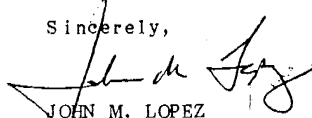
The CDRC at their regularly scheduled meeting of August 30, 1984 have granted final approval to your request for the El Dorado Plaza Neighborhood Center District.

The conditions of approval are as follows:

1. That an estimate for proposed improvements be submitted to the Land Use Office;
2. That a letter of credit be submitted to the Land Use Office;
3. That all leasees obtain Business Registration Licenses;
4. That acceleration and deceleration lanes be provided for on Monte Alto St. after completion of the project;
5. That the proposed ingress from Avenida Vista Grande be withdrawn and not a part of this proposal;
6. And that staff set a proportionate share to be paid by the developer for future traffic signaling.

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

Sincerely,


JOHN M. LOPEZ
Assistant Land Use Administrator

JML:mlj

P.O. Box 276, 102 Grant Avenue

Santa Fe, New Mexico 87504-0276

EXHIBIT

2



ELDORADO WATER INVENTORY
MAY 16, 1995

The total amount of acre feet (A.F.) of water owned by Eldorado Utility Inc. as outlined in the March 2, 1993, Santa Fe County/Eldorado Utility Inc. agreement, is 1641.06 A.F.. Based upon a production factor of 80% of projected yield, the total volume of water available to the Utility for development is 1312.85 A.F. per annum. Below is a listing of approved developments and pending developments which reduces the projected yield per annum:

Developments calculated as of May 16, 1994.

{Hook up = .28 acre feet (A.F.) per year}

COUNTY APPROVED & FILED DEVELOPMENTS LOTS/HOOK UPS & A.F.

Eldorado Subdivision (res 2810 lots)	2237		
(12 vacant Eldorado Tracts)	12. A.F. or	42.85	(hook ups)
The Ridges		87	
Dos Griegos		95	
Cimarron		35	
Cimarron Sub. Commercial	.56 A.F. or	2	
Old Road Ranch		165	
Los Caballos Subdivision		56	
Alteza Estates Subdivision		34	
Tierra de Casta Subdivision		10	
Ranchitos de Santa Fe		11	
Weldfell Equ. Horse Fac.	.56 A.F. or	2	(hook ups)
Plaza De Amistad	11.76 A.F. or	42	(hook ups)
Cimarron Village	13.60 A.F. or	47	(hook ups)
La Sierra Subdivision		6	
Old Road Ranch Country Compound		20	
East Ranch Subdivision		41	
Belecia Estates Subdivision		44	
Track K	3.37 A.F. or	12.03	(Hook Ups)
Agora I	24.80 A.F. or	88.57	(Hook Ups)
Sierra Plaza	27.92 A.F. or	99.71	(Hook Ups)
Tierra Colinas Sub.		50	
La Paz At Santa Fe		99	
Cielo Colorado Subdivision		91	
Tract g	1.0 A.F. or	3.57	(Hook Ups)
Tract I (Avenida Compadres & Avenida Vista Grande)	1.0 A.F. or	3.57	(Hook Ups)
Horse users tract	1.0 A.F. or	3.57	(Hook Ups)
Eldorado Club House	2.75 a.f. or	9.82	(Hook Ups)
Parcel 9		1	
Parcel 14		6	
Parcel 15		19	

EXHIBIT

3

Eldorado Water reserves
May 16, 1995
page two

Parcel 16		6
Parcel 17		10
Parcel 18		2
Fire Substation	.15 A.F. or	1 (Hook up)
Eldorado Elementary school	.31 A.F. or	1 (Hook up)

Total 3483.69 lots/hook ups or 975.43 A.F.

PENDING DEVELOPMENTS LOTS/HOOK UPS & A.F.
(Dev. Applications in the process with CDRC recommendations for approval.)

Spirit Wind Ranch		19
Sun Ranch Highlands Sub.		602
Rancho San Lucus Sub.		80
Cileo Turquesa Estates		20
<u>Total</u>	721 lots/hook ups or	201.88 A.F.

UTILITY WATER RESERVE BREAKDOWN IN ACRE FEET:

1. Total Utility projected yield	1312.85 A.F.
Approved Developments	975.43 A.F.
<u>Total Utility reserve remaining</u>	<u>337.42 A.F.</u>
2. Total Utility reserve remaining	337.42 A.F.
Applications in the processes	201.88 A.F.
<u>Total Utility reserve remaining</u>	<u>135.45 A.F.</u>

The above information is based on County approvals and applications for development that are in the review process. These figures may not be representative of Eldorado Utility Inc.'s water reserve figures.


Daniel A. Esquibel
Associate Planner



BOARD OF
COUNTY
COMMISSIONERS

June 17, 1992

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

Mr. Dennis Kensil
Monte Alto Homes, Inc.
PO Box 6325
Santa Fe, NM 87502

Dear Mr. Kensil:

Pursuant to your request, please be advised that building permits for lots of record in the Eldorado at Santa Fe Subdivision are not being delayed or withheld pending Santa Fe County's review of Eldorado Utilities water rights.

The amount of water that was estimated to be presently available was determined after taking all previously approved development into account.

If you have any questions regarding this matter, please do not hesitate to contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Gilbert Chavez".

GILBERT CHAVEZ
Land Use and Code Administrator

:mlj



WARRANTY DEED

848894

Robert Gibbens as Personal Representative of The Estate of Helen Gibbens Wilson, deceased, for consideration paid, grant to Monte Alto Homes Inc., a New Mexico corporation

whose address is PO Box 6325, Santa Fe, NM 87502

the following described real estate in Santa Fe County, New Mexico: Tract G, Unit 3, Eldorado at Santa Fe, as shown and delineated on the plat thereof (Known as Sheet 12) filed July 22, 1974 as Document No. 366,746 and recorded in Eldorado Plat Book 05, Pages 1-4, records of Santa Fe County, New Mexico. SUBJECT TO: Reservations, restrictions and easements of record.

with warranty covenants. WITNESS my hand and seal this 24 day of August, 19 92. Robert Gibbens (Seal)

ACKNOWLEDGMENT FOR NATURAL PERSONS

STATE OF NEW MEXICO COUNTY OF Santa Fe as. The foregoing instrument was acknowledged before me this 24 day of August, 19 92 by Robert Gibbens as Personal Representative of The Estate of Helen Gibbens Wilson. My commission expires 04/29/94. Notary Public

ACKNOWLEDGMENT FOR CORPORATION

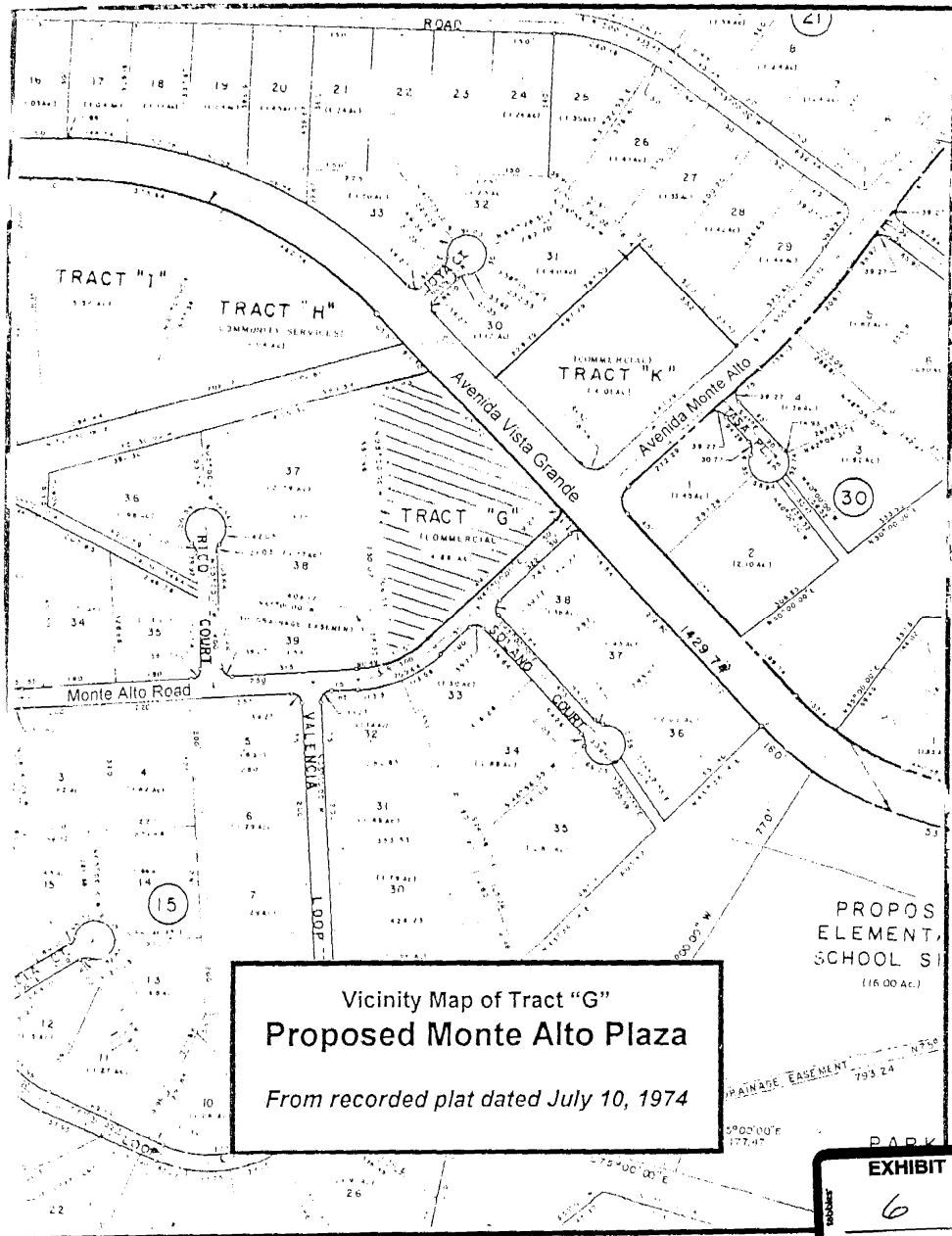
STATE OF NEW MEXICO COUNTY OF SANTA FE hereby certify that this instrument was filed for record on the 1 day of August, 19 92, at 3:02 o'clock P.M. and was duly recorded in book 844 of the records of Santa Fe County. Witness my Hand and Seal of Office. Deput

STATE OF NEW MEXICO COUNTY OF SANTA FE as. The foregoing instrument was acknowledged before me this 24 day of August, 19 92 by Monte Alto Homes Inc., a corporation, on behalf of said corporation. Notary Public



EXHIBIT 5





Vicinity Map of Tract "G"
Proposed Monte Alto Plaza
From recorded plat dated July 10, 1974

PARK
EXHIBIT
 6



**JAMES W. SIEBERT
AND ASSOCIATES**

LAND PLANNING
URBAN, TOWN & VILLAGE PLANNING
ECONOMIC FEASIBILITY ANALYSIS
PUBLIC / PRIVATE PARTNERSHIPS

October 09, 1990

Gilbert Chavez
County Land Use Administrator
Santa Fe County
P.O. Box 276
Santa Fe, NM 87502

Dear Gilbert,

On behalf of Bob Gibbens, I am requesting an administrative opinion on the status of the zoning and development plan approval on Tract G in the Eldorado Subdivision. This tract was previously approved for commercial development in 1984. A copy of the letter from Santa Fe County verifying the CDRC's approval of the final development plan is attached.

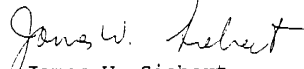
This use was approved under Article III, section 4 of the Land Development Code prior to the most recent amendments to the commercial zoning section of the Code. Article I, section 12.1 states the following:

"a non-conforming use may continue until it is removed, abandoned, or otherwise ceases, but it is not the intention of the Code to encourage the survival of Nonconforming uses. A nonconforming Use may not be substantially enlarged upon, expanded or extended;..."

For the purpose of this opinion, the applicant would not expand the use beyond that approved by the County Commission and CDRC. I am unaware of any recessionary clause in the previous commercial zoning requirements and standards.

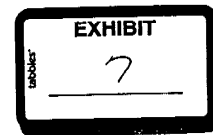
Would you please research the file and notify me as soon as possible on the existing status of the zoning and development plan on Tract G within the Eldorado Subdivision.

Sincerely,


James W. Siebert

xc: Bob Gibbens

1810 ST. FRANCIS DR. / SANTA FE, NM 87501 / (505) 983-5528



BOARD OF COUNTY COMMISSIONERS

Raymond M. Chavez

District No 1

Nancy Rodriguez

District No 2

Linda Grill

District No 3



GIL D. TERCERO
COUNTY MANAGER

October 16, 1990

Mr. James Siebert
1510 St. Francis Drive
Santa Fe, NM 87501

Dear Mr. Siebert:

Pursuant to your letter of October 19, 1990 in which you request an administrative opinion on the zoning status of Tract G located within the Eldorado Subdivision, please be advised of the following:

On August 30, 1984, the 4.88 acre tract located in the southwest corner of the intersection of Avenida Vista Grande and Avenida de Monte Alto, was granted final development plan approval by the CDRC for construction of the Eldorado Neighborhood Plaza Center District (a copy of CDRC minutes of that meeting are enclosed).

The development was to allow for 20,000 square feet of building area. Pursuant to the memo from John Lopez, former Assistant Land Use Administrator, to the CDRC, the uses proposed include a grocery store, service station, restaurant, retail shop and office space.

It would be my opinion that the approval granted to this property still remains valid. The 1984 file is available in our office for your review.

If you have any questions, please do not hesitate to contact me.

Sincerely,

GILBERT CHAVEZ
Land Use and Code Administrator

:mlj

P.O. Box 276, 102 Grant Avenue

Santa Fe, New Mexico 87504-0276

(505) 98-



Marces P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Richard D. Anaya
Commissioner, District 4

Joe S. Griñá, Jr.
Commissioner, District 5

Samuel O. Montoya
County Manager

August 1, 2000

Dennis Kensil
PO Box 6325
Santa Fe, NM 87502

Re: Tract G in Unit 3, Eldorado at Santa Fe.

Dear Mr. Kensil:

The following is a response to your letter dated July 25, 2000 regarding the above referenced property:

1. Article V, Section 5.2.7 of the County Land Development Code states that master plans are valid for a period of 5 years. Therefore the 1984 approval on this property has expired.
2. A commercial approval on tract K created a small scale commercial district at the intersection of Avenida Vista Grande and Avenida Monte Alto. This development was granted master plan zoning approval in January 1994 and is subject to the Eldorado Moratorium. The time during which the Moratorium ordinance is in effect is not used in calculating the period of validity of a master plan, therefore the Tract K commercial approval has run for 2 years 3 months. Once the moratorium is lifted, the applicant would have the remaining 2 years, 9 months to act.
3. Any property located within the small scale commercial district which was created by the Tract K zoning has the potential of commercial zoning, all current requirements of the County Land Development Code need to be met. Property within the district is not automatically zoned commercial. If all commercial zoning expires within the small scale district, the district would no longer exist.
4. Since Tract K zoning is still in effect, no response is necessary.

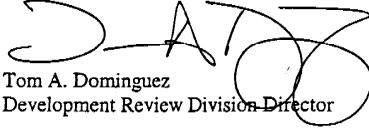
Please note that a rezoning of any property is at the discretion of the Board of County Commissioners. Staff will make a recommendation to the County Development Review Committee and Board of County Commissioners after all reviews are complete and public comments have been made.

102 Grant Avenue • P.O. Box 276 • Santa Fe, New Mexico 87504-0276 • 505-986-6225 • F



If you have any further questions please do not hesitate to contact Penny Ellis-Green at 986-6221.

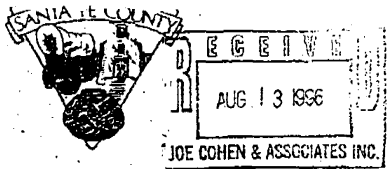
Sincerely

A handwritten signature in black ink, appearing to read 'TAD', with a large circular flourish at the end.

Tom A. Dominguez
Development Review Division Director

cc Penny Ellis-Green, Development Review Specialist III

Marcos P. Trujillo
Commissioner, District 1
Nancy Rodriguez
Commissioner, District 2
Javier M. Gonzales
Commissioner, District 3



Richard L. Anaya
Commissioner, District 4
Bobby 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:

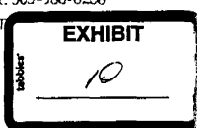
With regards to your letter of August 1, 1996, please refer to the EZ Subdivision Regulations page 26, Section 3.3.5 - "All final plats shall be recorded within 18 months of the date of final approval by the BCC, otherwise such approval shall become null and void unless an extension of time is applied 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 Guerrerortiz, P.E.
Development Review Division Director



ROTH, VANAMBERG, ROGERS, ORTIZ, FAIRBANKS & YEPA, LLP

CHERYL DEMMERT FAIRBANKS (NM)
RAYMOND Z. ORTIZ (NM,DC)
CARL BRYANT ROGERS (NM,MS)
F. JOEL ROTH (NM)
RONALD J. VANAMBERG (NM)
DAVID R. YEPA (NM)
DAVID T. GOMEZ (NM)
ASSOCIATE

ATTORNEYS AT LAW
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SANTA FE, NEW MEXICO 87504-1447
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FAX (505) 983-7508

347 EAST PALACE AVENUE
SANTA FE, NEW MEXICO 87501
ALBUQUERQUE OFFICE
1201 LOMAS BLVD., NW, SUITE C
ALBUQUERQUE, NM 87102
(505) 242-7352
FAX (505) 242-2283

February 25, 2003

Steve Kopelman, Esq.
Acting County Manager
Santa Fe County
Post Office Box 276
Santa Fe, New Mexico 87504-0276

Re: Dennis Kensil/Monte Alto Homes, Inc. –
Tract G in the Eldorado Subdivision

Dear Steve:

I have been asked by Dennis Kensil to address an issue with you concerning Tract G in Unit 3, Eldorado at Santa Fe. A vicinity map of Tract G is enclosed for your reference.

In 1984 Tract G was owned by Bob Gibbens. On August 30, 1984, Tract G, which is a 4.88 acre tract, was granted final development plan approval by the CDRC for construction of the Eldorado Neighborhood Center District. The development was to allow for 20,000 square feet of building area with uses consisting of a grocery store, service station, restaurant and office spaces. See Exhibit A which is a letter from Gilbert Chavez to Jim Siebert in response to Jim Siebert's correspondence which is Exhibit B. In 1992, Tract G was purchased by Monte Alto Homes, Inc. On July 25, 2000, Mr. Kensil wrote to Penny Ellis Green and asked for clarification on the status of Tract G and also the status of Tract K which is also owned by Monte Alto Homes. See Exhibit C. On August 1, 2000, Tom Dominguez responded (Exhibit D) apparently as to Tract G that "Master Plans are valid for a period of five years. Therefore the 1984 approval of this property has expired." As stated in Mr. Chavez's letter, this was a final approval. According to the County's policy as indicated in Exhibit E (a letter from Guerrerortiz to Joe Cohen), there is no plat filing deadline for approvals prior to July 1, 1996 and therefore the final approval on Tract G should remain in full force and effect.

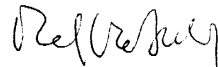
I ask that you review this situation and call me if you have any questions.

Thank you very much.



Steve Kopelman, Esq.
February 25, 2003
Page 2

Sincerely,



Ronald J. VanAmberg

RJVA:chm
Enclosures

cc: Dennis Kensil

S:\VanAmberg\Kensil\Kopelman ltr 2-21-03.doc

ROTH, VANAMBERG, ROGERS, ORTIZ, FAIRBANKS & YEPA, LLP

ATTORNEYS AT LAW

CHERYL BENNERT FAIRBANKS (NM)
RAYMOND Z. ORTIZ (NM,DC)
CARL BRYANT ROGERS (NM,MS)
F. JOEL ROTH (NM)
RONALD J. VANAMBERG (NM)
DAVID R. YEPA (NM)
DAVID T. GOMEZ (NM)
ASSOCIATE

P.O. BOX 1447
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SANTA FE, NEW MEXICO 87501

ALBUQUERQUE OFFICE
1201 LOMAS BLVD., NW, SUITE C
ALBUQUERQUE, NM 87102
(505) 242-7352
FAX (505) 242-2283

March 21, 2003

Dennis Kensil
635 Caminito Del Sol
Santa Fe, NM 87505

Dear Dennis:

Today I received a telephone call from Joe Catanach with the County. He recited to me that he had received the package submitted to him. He noted Gilbert Chavez's letter which approved the commercial development for your property. He noted that Tom Dominguez was of the opinion that the commercial development approval had expired. He believed that the letter from Oralynn didn't have any applicability because that related to subdivisions. Joe agrees with Tom Dominguez's position.

I asked Joe if there was a specific provision in the code which would cause commercial development approvals to expire. He relies upon the 1992 amendment to the code which provides that master plan approvals expire after five (5) years. He admitted that there is no provision which specifically applies to commercial development approvals, but apparently lumps all approvals in with master plan approvals and says that by 1997 your approval expired. He asked me why I was relying on Oralynn's letter and I explained that Oralynn's letter related to final approvals and that my understanding was that the development approval obtained for your property was a final approval. I asked him if there was anything further that you needed to do as a result of this approval and his comment was no, only obtain a building plan.

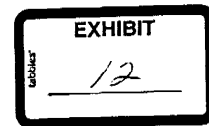
As you know, a master plan is not a final approval and gives you absolutely no rights for development. I do not see Joe's position that the 1992 ordinance which relates to the expiration of master plans somehow translates into the expiration of all approvals that have been given by the County.

Sincerely,



Ronald J. VanAmberg

RJVA:chm



Harry B. Montoya
Commissioner, District 1

Paul Duran
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

MAY 3 2003

May 29, 2003

Ron VanAmberg
P.O. Box 1447
Santa Fe, NM 87504-1447

Re: Monte Alto Homes and Land, Inc. (Dennis Kensil)

Dear Mr. VanAmberg:

This letter concerns your request for clarification on the status of approval of Tract "G" in the Eldorado Subdivision. In 1984 Tract "G" was granted Development Plan approval for Neighborhood Center District Uses (grocery store, service station, restaurant, retail shop and office space) by the County Development Review Committee. It is our determination that Tract "G" maintains a legal non-conforming status for neighborhood commercial uses. However, the Development Plan approval has expired. Therefore, a new application must be submitted for review and approval under current land development code regulations for Tract "G."

If you have any questions concerning this issue please contact me at 986-6336 or , if you would like information on how to proceed with the Development Plan Process please contact Vicki Lucero at 986-6222.

Sincerely

Roman Abeyta
Land Use Director

cc Sophia Collaros, Assistant County Attorney
Vicki Lucero, Development Review Supervisor



ROTH, VANAMBERG, ROGERS, ORTIZ, FAIRBANKS & YEPA, LLP

ATTORNEYS AT LAW

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RONALD J. VANAMBERG (NM)
CARL BRYANT ROGERS (NM,MS)
RAYMOND Z. ORTIZ (NM,DC)
CHERYL DEMMERT FAIRBANKS (NM)
DAVID R. YEPA (NM)
DAVID T. GOMEZ (NM)
STEPHANIE PHO-POE KIGER (NM)
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1201 LOMAS BOULEVARD, N.W.
SUITE C
ALBUQUERQUE, NEW MEXICO 87102
(505) 242-7352
FAX (505) 242-2283

June 26, 2003

Stephen C. Ross, Esq.
County Attorney
and
Sophia Collaros, Esq.
Assistant County Attorney
Santa Fe County
P. O. Box 276
Santa Fe, NM 87504-0276

Re: Dennis Kensil

Dear Steve and Sophia:

Thank you and the Land Use staff for meeting with myself and Dennis Kensil on June 25, 2003. The discussion centered around Tract G, which is owned by Monte Alto Homes, and whether given the final approvals that it received Tract G was entitled to the water usage from Eldorado Utilities, Inc. (EUI), which was the approved source at the time of the approval. The purpose of this letter is to try to articulate more clearly what Dennis and I were trying to convey at the meeting.

First, some comments on the moratorium language itself. In paragraph 5 of page 4 of the ordinance the language is to the effect that

“Changes can be made between commercial uses, but any change that requires new zoning is not permitted. The amount of water that the development has for this purpose shall be based upon the amount of water proposed in the water budget when the project was approved by Santa Fe County.”

This would appear to imply that when Tract G obtained its approval, there was approval for the water associated with the development. Changes can be made between commercial uses, which is what we are proposing.



When the moratorium hit, it affected every proposed development which did not have final approval which, under current New Mexico law, is probably allowed. Under New Mexico law, however, it is not permissible to take away property rights unless compensation is paid. Further, it is certainly questionable whether an ordinance may affect the rights of some and not affect the rights of others who otherwise find themselves in similar positions.

Residential subdivisions and lot splits approved prior to the moratorium have all been acknowledged to possess the right to develop residentially using the EUI system, because that was the water source which supported the original development. Denying development to these previously approved lots, unless the owners found a different water source, would be changing the rules after the game is over. It would also effectively destroy the ability to use the lots because of the 12-1/2 acre density requirement in this area.

Concerning the approval of commercial uses such as that received by Tract G, the identical circumstances exist. Tract G was a legal lot of record and obtained final approval for zoning and development. The development was slated to be a gas station, restaurant and retail. The water source upon which this approval was based was EUI. This was the commitment made by EUI and the commitment which was accepted by the County. This commitment of water to this project should have been, and in fact was, cataloged as an obligation of EUI and one which came well before many other subsequent development approvals over the years. We believe that at this point a property right was created not only in the lot but in the use which was approved and the water which supported this approval. Now denying the right to use the water which was accepted as supporting the final approval of the development removes the heart from the approval. The amount of water which went along with the approval was the amount reasonably attributable to restaurants, retail stores and gas stations. This was the amount which was committed to by EUI.

We suggest that by denying access to sufficient water from EUI to support the development violates the property right which was created with the final approval. Further, allowing residential lots to develop at their approved capacity using EUI water and denying Tract G the ability to develop at its approved level implicates certain equal protection issues.

This should not be a major issue. Tract G is unique in that it received final approval for zoning and specific development. Other projects which are languishing only

Steven C. Ross, Esq.
Sophia Collaros, Esw.
June 26, 2003
Page 3

received master plan approvals. The situation involving Tract G appears to be virtually unique.

Further, the original development approval involved uses which required considerable water and would have presented a significant impact on the community. Dennis is willing to compromise to reduce the impact of the development and better serve the community by developing office space which would accommodate, hopefully, a number of Eldorado residents who otherwise have to travel to Santa Fe. His proposed change in commercial use would reduce water requirements to only one (1) acre foot, an amount which would not have supported the previously approved development. This proposal reduces the water usage, visual and traffic impact, provides a needed service and should be completely defensible because of the prior final approvals.

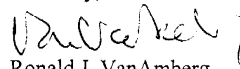
It is reasonable to have commercial developments meet current safety and health issues by complying with the current code provisions – just as a residential lot owner applying for a building permit would also have to satisfy current requirements. Restricting Tract G to one-quarter (1/4) acre foot of water attempts to apply a residential use need to a commercial use need and does not affect the quality of the development which complying with updated development requirements would accomplish.

Dennis also asked that I enclose a letter from Bill McLean to Dennis which addresses the issue of Tract G's entitlement to water. Hopefully this will be of some assistance to you.

Obviously this is an important issue to Dennis and I believe his proposal is a reasonable compromise which I request that the County accept.

Again, thank you for discussing this issue with us and if you have any questions or concerns please feel free to contact Dennis or myself.

Sincerely,



Ronald J. VanAmberg

RJVA:chm
Encl.

cc: Dennis Kensil

EL DORADO Utilities, Inc.

July 18, 2000

ACCOUNTING OFFICE
333 RIO RANCHO DR., N.E.
RIO RANCHO, NEW MEXICO 87124
TELEPHONE: (505) 892-9200

Mr. Dennis Kensil
Monte Alto Homes
P.O. Box 6325
Santa Fe, New Mexico 87502

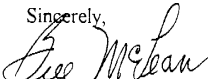
Dear Dennis:

Pursuant to your letter concerning Tract "G", Unit 3, Eldorado at Santa Fe, we would like to make the following observations:

1. Tract "G" should not be affected by the County Moratorium. It was part of the original subdivision which was not included in the Moratorium. The Tracts were all discussed and accounted for in the correspondence which led to the Moratorium. Tract "G" is not a new tract or subdivision, therefore it should be excluded, as all other lots in the original subdivision were excluded.
2. The El Dorado Fire Chief, Guy Monroe, has an agreement with El Dorado Utilities, Inc., to test all fire hydrants twice a year. Previous tests clearly indicate that the hydrants surrounding Tract "G" exceed all County limits of flow and residual pressure.
3. El Dorado Utilities, Inc., has the present pumping capacity to serve in excess of 4,000 customers. At present we serve less than 2,500 customers.
4. El Dorado Utilities, Inc., presently has a storage capacity of 2,530,000 gallons which is 2.3 times the American Water Works Association standard. This capacity could serve 5,500 customers.
5. Analyzing items 2, 3 and 4 above it is evident that fire protection exceed all flow, pressure and storage requirements. It would also indicate that there is plenty of water for Tract "G".

After reviewing your letter with our legal staff, they were a bit alarmed that the County staff would consider the Moratorium in this light. They felt if this sort of information was being disseminated by the County it could be injurious to the Utility's income, real estate values and general misunderstanding with the public concerning the water and Moratorium.

If we can be of further assistance to you, please contact us.

Sincerely,

Bill McLean
Agent

cc: Matthew Spangler

Harry B. Montoya
Commissioner, District 1

Paul Toussaint
Commissioner, District 2

Michael L. Anaya
Commissioner, District 3



Paul Campos
Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Gerald T. Gonzalez
County Manager

July 8, 2003

Mr. Dennis Kensil
Monte Alto Home and Land, Inc.
P.O. Box 6325
Santa Fe, NM 87502

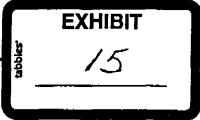
Re: Tract G

Dear Mr. Kensil:

Thank you for meeting with County staff on June 25, 2003. The information you provided was useful in my consideration of your request that the final development plan for Tract G along with its water allocation from El Dorado Utilities, Inc. ("EDU") be recognized as valid under the County Code and Ordinance 2001-14, the El Dorado Moratorium. After reviewing all of this information, and conferring with our legal department, I regret to inform you that your final development plan for Tract G has expired, and any development or applications for development of Tract G require submission of a development plan subject to the El Dorado Moratorium and the existing County Land Development Code ("Code").

This decision is based on the fact that the initial final development plan for Tract G was granted by the CDRC in 1984. 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 information that was submitted in consideration of the 1984 approval is outdated. This information included, but was not limited to, the commitment from El Dorado Utilities ("EDU") to provide water service to the property.

Since 1984, Santa Fe County and the Office of the New Mexico 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 determination 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. Also, all commercial projects that have a valid final development plan approval that have not been built prior to 1996 will be limited to 0.25 acre ft. per year from EDU. Section C.6 of the El Dorado Moratorium supports this position as it states, "In no case will building and development permits be allowed in which more than 0.25 acre feet per year per legal lot of EDU water service is required."



June 26, 2003
Monte Alto Homes
Tract G
Page two

Furthermore, Article II, Section 2.3.1b requires the Code Administrator to review all building permits for compliance with the requirements set forth in the Code, one of which is a 100-year water supply.

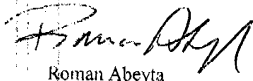
As mentioned in our meeting on June 25th, you do have options for developing your property. As stated in the letter sent to you dated May 29, 2003, the property does have a legal non-conforming status for neighborhood commercial uses. Therefore, you may submit an updated development plan for Tract G. All current code requirements and the provisions of the El Dorado Moratorium must be complied with, thus your development plan approval will be limited to uses or a phase of development that will utilize less than 0.25 acre ft. of water per year from EDU.

Another development option available to you is for you to submit a master plan that proposes the use of an individual well. A geohydrology test meeting all Article VII, Section 6 of the County Code must be submitted, and all other code requirements must be complied with. Joe Catanach, Development Review Division Director can meet with you to discuss your options in greater detail.

Finally, 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

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SANTA FE COUNTY
Ordinance No. 2001 - 12

2014430

AN ORDINANCE AMENDING AND REPLACING ORDINANCE 2001-4 AND DECLARING A MORATORIUM ON NEW SUBDIVISIONS, LAND DIVISIONS AND MASTER PLANS FOR PROJECTS SERVED BY EL DORADO UTILITIES INC. AND ENCOURAGING CONSERVATION MEASURES WITHIN THE EL DORADO UTILITIES INC. SERVICE AREA AND TO ESTABLISH PROVISIONS UNDER WHICH DEVELOPMENT CAN PROCEED

Introduction

This Ordinance amends and replaces Santa Fe County Ordinance 2001-4. Ordinance 2001-4 was enacted following Ordinance 1996-4 and subsequent ordinances replacing Ordinance 1996-4 in response to a seasonal drought and evidence that El Dorado Utilities, Inc. (EDU) was experiencing a water supply shortfall. Evidence compiled and opinions rendered by County staff, consultants, and the Office of the State Engineer demonstrate the potential for a long term water supply shortfall for existing customers and undeveloped legal lots of record, and point out the lack of a reliable source of supply for future development relying on the EDU system. The findings of moratorium Ordinances 1996-4, 1997-5, 1998-4, 1999-4, 2000-2, 2000-14 and 2001-4 are herein incorporated by reference.

A. THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS HEREBY FINDS:

1. El Dorado Utilities Inc. is a water utility providing service within the County (see attached map).
2. Water sales in 1999 were about the same as 1998, whereas the number of customers steadily increased at an average of about 10 to 12 per month. Building and real estate activity on existing lots is brisk according to the County building permits desk.
3. Groundwater use in the EDU service area increased five fold from 1985 to 1995. According to EDU estimates, at build out water requirements of the system will more than double from 1995 levels.
4. Although the County has experienced a modest real estate slowdown in recent years, the Eldorado area share of total County permits for single family construction was about the same from 1995 through 1997. In 1998 and 1999 the Eldorado fire district exceeded others in the County for residential development permits issued.
5. EDU has exaggerated its true, legal water producing capabilities. The utility has made no new submittals since 1996 to the County to demonstrate long-term water availability.



- 1 6. The Findings of Ordinance 1996-4, 1997-5, 1998-4 and 1999-4 list additional, older data
2 supporting other estimates of EDU well production potential and water rights. Estimates of the
3 Office of the State Engineer (OSE), Public Regulatory Commission (PRC) and Santa Fe County
4 are lower than EDU's assertions.
- 5 7. EDU well #9, the Lamy well, went dry in the spring of 1996 and lost capacity in 1999. The
6 Lamy valley aquifer relies on seasonal recharge from Galisteo Creek. Water supply from the
7 Lamy well in 2000 continues to be subject to drought and declining production. Because it is
8 drought sensitive, regulatory agencies will not include it in estimates of reliable reserves.
- 9 8. Several of EDU's active wells have suffered significant declines in average production over
10 time, according to the State Engineer records. As much as one third to one half of the early
11 production capability, and water column, has been lost in several wells.
- 12 9. EDU's Torreon well (well #13) has been designated by the OSE as supplemental to well #2.
13 Together these wells can share the historical beneficial use established in well #2. The net result
14 is that minimal new water production has been added. A new well replacing an exploratory well
15 has been drilled and tested, but has no additional water rights and again is supplemental to
16 existing wells.
- 17 10. The Santa Fe County Land Development Code requires that new development prove the
18 availability of a 100 year water supply; the availability of groundwater sources must be shown in
19 specific wells.
- 20 11. EDU's consultant, Westwater Associates, states that " long term tests of existing and
21 additional wells, (and) close monitoring in test wells will be necessary in order to model or
22 provide estimates of future long term resource potential".
- 23 12. There has been no demonstration or report submitted by EDU or others analyzing the
24 sustainable and reliable ground water supply that incorporates the facts of water production and
25 use over the last ten years. Based on estimates by the OSE, the County Hydrologist, and the
26 PRC, EDU lacks the demonstrated capacity and water rights to serve demand projected for build
27 out of lots already approved in the service area.
- 28 13. EDU's Updated Master Plan estimates ultimate build out, or "all known proposed and
29 infill" service to be 3740 connections, a 55% increase from current connections (2404). The
30 Master Plan estimates that 2055 acre feet per year will be required at that level of service. For
31 comparison purposes, research by the OSE and County Hydrologist estimate that EDU has
32 demonstrated the beneficial use of from 350 to 800 AFY. It is unlikely that EDU will establish
33 by beneficial use the water rights they declare.
- 34 14. County Staff estimates roughly 400 undeveloped approved and buildable lots exist in
35 EDU's service area unaffected by this Ordinance.
- 36 15. A February 9, 1996 OSE memorandum indicated that the OSE will continue to give
37 unfavorable opinions on new subdivisions which propose EDU as a source of supply unless and
38 until it receives information which demonstrates that EDU can assure the required water
39 availability.
- 40 16. An April 18, 1997 letter from the State Engineer concludes that until the water
41 availability issue is resolved the OSE Subdivision Review Bureau will be unable to issue a
42 positive review finding.
- 43 17. Other communities in the watershed are also concerned about water resource issues. It is
44 difficult to isolate Cañada de los Alamos, Eldorado and Cernillos water issues from the greater

1 watershed. Issues concerning groundwater appropriations in one area affect others in the
2 watershed.

3 13. For the sole purpose of providing guidance to EDU and future applicants for development
4 approval, Appendix A in the 1997 ordinance is herein incorporated by reference, which lists
5 suggested activities to assist the County in evaluating water availability and fire protection
6 capabilities in the EDU service area.

7
8 **THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS THEREFORE**
9 **CONCLUDES AND DECLARES:**

10
11 1. The continuing growth and corresponding water demand in the area, the presence of
12 hundreds of legal lots awaiting EDU service, the uncertain present and future production
13 capacity of EDU and the failure of EDU to properly develop reserve groundwater production
14 raise ongoing and unresolved concerns about the adequacy of EDU as a water supplier for new
15 development.

16 2. These concerns are directly linked to the public health, safety and welfare.

17 3. Voluntary water awareness and conservation efforts shall continue to be encouraged in the
18 EDU service area.

19
20 **C. NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
21 **COMMISSIONERS OF SANTA FE COUNTY:**

22
23 1. No new or pending applications for land divisions, master plans or subdivisions which
24 propose to utilize EDU water services will be deemed complete until water supply
25 requirements of the County Land Development Code, the County Fire Code, and this
26 Ordinance are satisfied, except as noted in Section 3 below. No new or pending
27 applications for land divisions, master plans or subdivisions which propose to utilize EDU
28 water services will be processed by the County Land Use Administrator, the County
29 Development Review Committee, or the Santa Fe County Board of County Commissioners
30 until deemed complete. For valid master plans, the time during which this Ordinance is in
31 effect shall not be used in calculating the period of validity of an approved master plan in
32 accordance with the Santa Fe County Land Development Code.

33 2. New subdivision, land division and master plan applications which do not rely on EDU
34 water service will be processed subject to the Santa Fe County Land Development Code, as
35 amended.

36 3. A single division of land per Article II, Section 2.3.1.a., vii or viii of the County Land
37 Development Code shall be permitted for commercially zoned property to create a tract for
38 an existing commercial building, subject to the following conditions:

39 a. This is for the purpose of sale, and


40 b. The plat will contain a note that no development will be permitted on the vacant
41 tract until this Ordinance, as amended, is lifted.

42 4. If an applicant has a well(s) and water rights that are transferred to the EDU water
43 system, he or she can then take service for the development of the amount of water
44 transferred minus 20% to account for leakage from EDU. The applicant shall furnish
45 funds for the County to hire an independent hydrologist to prepare the geohydrological

- 1 report and to determine whether production from the well will impact EDU or any other
2 water user in the area. Only applicants whose wells do not impact EDU or any other
3 water user and who can demonstrate a 100-year water supply for the proposed
4 development in accordance with Article VII, Section 6.4.2 shall be allowed to proceed with
5 their application under this section. At least two weeks prior to drilling a well and
6 conducting any geohydrologic investigations of the area, the applicant shall provide written
7 notice to the County Hydrologist so that public notice of the impending project can be
8 given.
- 9 5. Developments that already exist and are using EDU can reallocate the water they receive
10 from EDU on their property without being subject to the 100-year proof of water required
11 by the County Code. This could be based on re-use of water, implementation of water
12 conservation measures or unused capacity. This provision is limited to expansion of
13 existing development. Changes can be made between commercial uses, but any change that
14 requires new zoning is not permitted. The amount of water that the development has for
15 this purpose shall be based on the amount of water proposed in the water budget when the
16 project was approved by Santa Fe County.
- 17 6. Building and development permit applications on legal lots of record will be acted upon
18 by the Santa Fe County Land Use Administrator. In no case will building and development
19 permits be allowed in which more than 0.25 feet per year per legal lot of EDU water service
20 is required, unless the provisions of #5 above are met.
- 21 7. Based on conservation information available from EDU, the County, and the
22 community, residents within the EDU service area are encouraged to continue water use
23 and conservation measures. Water users not subject to covenanted water use restrictions
24 are encouraged to target their consumption to fall within 0.22 acre feet per year (71,682
25 gallons per year).
- 26 8. The provisions of this Ordinance shall apply within the service area of any successor to
27 EDU if the ownership, name or management of EDU changes while this ordinance is in
28 effect.
- 29 9. If any provision of this ordinance is adjudged or declared to be illegal, the remainder of
30 the ordinance, not so adjudged, will remain in force and effect.
- 31 10. County staff shall present updates describing any changes in conditions to the Santa Fe
32 County Board of County Commissioners approximately 180 days from the effective date of
33 this Ordinance and annually thereafter until such time as the Ordinance is amended or is
34 repealed.
- 35 11. This Ordinance shall remain in effect until the Santa Fe County Board of County
36 Commissioners, County technical staff and the State Engineer are satisfied that
37 developments which propose EDU as the water supply are in full compliance with state and
38 county standards, at which time the Board shall pass a resolution discontinuing the
39 application of this Ordinance.

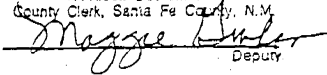
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PASSED AND APPROVED this 20th day of October, 2001, by the Santa Fe County Board of County Commissioners.


PAUL DURAN, CHAIRMAN




REBECCA BUSTAMANTE
COUNTY CLERK

COUNTY OF SANTA FE ^{118,600}
STATE OF NEW MEXICO)
I hereby certify that this instrument was filed
for record on the 20 day of November
20 01 at 2:10 o'clock PM
and was duly recorded in book 2014
page 430-435 of the records of
Santa Fe County
Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.

Deputy

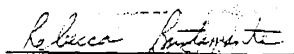
APPROVED AS TO LEGAL FORM AND SUFFICIENCY:


STEVEN KOPELMAN, COUNTY ATTORNEY

CERTIFICATE OF FILING

I, Rebecca Bustamante, County Clerk, do hereby certify that the foregoing ordinance, designated as Ordinance, No. 2000 - 12, was filed in my office on the 20th day of November, 2000, in Book Number 2014 at Page 430-435.

SANTA FE COUNTY CLERK


REBECCA BUSTAMANTE



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Notice:

To be published two times in the Public Notice section of the Legal Ads of the paper on October 29, and November 5, 2001:

**SANTA FE COUNTY BOARD OF COMMISSIONERS
PUBLIC NOTICE**

Notice is hereby given that a public hearing was held before the Board of County Commissioners (BCC) on the 10th day of July, 2001 and the 22nd day of October 2001 at 5:30 p.m. in the County Commission Chambers of the Santa Fe County Courthouse, corner of Grant and Palace Avenues, Santa Fe, New Mexico and the BCC adopted Ordinance 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 El Dorado Utilities, Inc. and Encouraging Conservation Measures Within The El Dorado Utilities Inc., Service Area and to Establish Provisions Under Which Development Can Proceed."

Santa Fe County Ordinance 2001-14 will become effective on December 20, 2001. Copies are available at the Santa Fe County Land Use Department, 102 Grant Ave., Santa Fe.

Please forward affidavit of publication to the County Land Use Administrator, P.O. Box 276, Santa Fe, New Mexico 87504-0276.

Monte Alto Homes and Land, Inc.



Register: Land Investments: Tract "G" Development Expense

From 07/01/1999 through 10/13/2003

Sorted by: Date, Type, Number/Ref

Date	Ref.	Payee	Account	Memo	Decrease	C	Increase	Balance
07/27/1999	2370	Office Court Compan...	Charter Bank				382.73	382.73
08/18/1999	2385	El Dorado Utilities	Charter Bank				30.27	413.00
09/01/1999	2392	Sommer, Fox & Udall	Charter Bank [split]				418.64	831.64
09/10/1999	2403	El Dorado Utilities	Charter Bank				30.30	861.94
10/15/1999	2429	El Dorado Utilities	Charter Bank				30.30	892.24
11/08/1999	2437	El Dorado Utilities	Charter Bank				30.30	922.54
12/09/1999	2462	Sommer, Fox & Udall	Charter Bank [split]					922.54
12/09/1999	2463	James Siebert & Ass...	Charter Bank				1,635.26	2,557.80
12/20/1999	2472	El Dorado Utilities	Charter Bank				30.30	2,588.10
12/29/1999	2476	Del Rio Surveys	Charter Bank	18 Avila road s...			425.25	3,013.35
01/10/2000	2480	El Dorado Utilities	Charter Bank				30.30	3,043.65
02/01/2000	2503	Sommer, Fox & Udall	Charter Bank [split]					3,043.65
02/16/2000	2505	James Siebert & Ass...	Charter Bank				1,139.21	4,182.86
03/01/2000	2512	El Dorado Utilities	Charter Bank				30.50	4,213.36
03/02/2000	2522	El Dorado Utilities	Charter Bank				30.30	4,243.66
04/10/2000	2548	El Dorado Utilities	Charter Bank				30.30	4,273.96
05/15/2000	2577	El Dorado Utilities	Charter Bank				30.30	4,304.26
06/20/2000	2599	Neb Ark Courier	Charter Bank				10.00	4,314.26
06/26/2000	2603	Neb Ark Courier	Charter Bank				10.00	4,324.26
06/28/2000	2606	Bryan Lappe	Charter Bank				165.00	4,489.26
07/05/2000	2617	El Dorado Utilities	Charter Bank				30.30	4,519.56
08/02/2000	2630	Glorieta Geoscience, ...	Charter Bank [split]				207.29	4,726.85
08/03/2000	2635	Citicorp VISA	Charter Bank [split]				255.79	4,982.64
08/03/2000	2636	Community Sciences	Charter Bank	Eldorado map ...			343.58	5,326.22
08/03/2000	2640	El Dorado Utilities	Charter Bank				60.60	5,386.82
08/07/2000	2644	Rubin, Katz & Alley	Charter Bank				532.80	5,919.62
08/10/2000	2645	James Siebert & Ass...	Charter Bank				3,346.49	9,266.11
08/15/2000	2646	Robert Hostick	Charter Bank				494.81	9,760.92
08/17/2000	2647	Santa Fe County Tre...	Charter Bank [split]	application fee			250.00	10,010.92
08/31/2000	2656	Citicorp VISA	Charter Bank [split]				151.62	10,162.54
09/03/2000	2664	El Dorado Utilities	Charter Bank				30.30	10,192.84
09/12/2000	2666	Morey Walker	Charter Bank				2,554.50	12,747.34
09/12/2000	2667	Rubin, Katz & Alley	Charter Bank				552.42	13,299.76
09/14/2000	2674	Glorieta Geoscience, ...	Charter Bank [split]				586.74	13,886.50
09/20/2000	2677	Neb Ark Courier	Charter Bank				10.00	13,896.50
10/02/2000	2682	El Dorado Utilities	Charter Bank				30.30	13,926.80
10/16/2000	2690	Rubin, Katz & Alley	Charter Bank				397.89	14,324.69
11/17/2000	2706	El Dorado Utilities	Charter Bank				30.30	14,354.99
12/06/2000	2720	El Dorado Utilities	Charter Bank				30.30	14,385.29
12/07/2000	2726	Santa Fe County Tre...	Charter Bank [split]	application fee				14,385.29

Register: Land Investments:Tract "G" Development Expense

From 07/01/1999 through 10/13/2003

Sorted by: Date, Type, Number/Ref

Date	Ref.	Payee	Account	Memo	Decrease C	Increase	Balance
01/09/2001	2738	Rubin, Katz & Alley	Charter Bank			62.27	14,447.56
01/09/2001	2739	Cassutt, Hays and Fri...	Charter Bank			1,936.98	16,384.54
02/05/2001	2749	El Dorado Utilities	Charter Bank			30.50	16,415.04
02/08/2001	2756	Cassutt, Hays and Fri...	Charter Bank			1,651.98	18,067.02
02/12/2001	2757	Rubin, Katz & Alley	Charter Bank			69.72	18,136.74
02/12/2001	2758	Rogers & Company	Charter Bank			10,000.00	28,136.74
02/19/2001	2759	James Siebert & Ass...	Charter Bank			208.75	28,345.49
03/01/2001	2764	Santa Fe Permaculture	Charter Bank			159.66	28,505.15
03/09/2001	2776	Glorieta Geoscience, ...	Charter Bank [split]			1,113.75	29,618.90
03/09/2001	2777	Glorieta Geoscience, ...	Charter Bank			539.05	30,157.95
03/12/2001	2778	Rubin, Katz & Alley	Charter Bank			103.78	30,261.73
03/19/2001	2780	SW Geophysical Ser...	Charter Bank			2,075.53	32,337.26
03/25/2001	2787	Rogers & Company	Charter Bank			9,436.53	41,773.79
04/09/2001	2791	Glorieta Geoscience, ...	Charter Bank			2,624.19	44,397.98
04/17/2001	2793	Rubin, Katz & Alley	Charter Bank			29.27	44,427.25
04/17/2001	2794	Sommer, Fox & Udall	Charter Bank [split]			49.23	44,476.48
05/07/2001	2803	Santa Fe County Tre...	Charter Bank [split]	application fee			44,476.48
05/18/2001	2812	Glorieta Geoscience, ...	Charter Bank			129.78	44,606.26
06/28/2001	2827	Rosanna Vazquez	Charter Bank			111.76	44,718.02
07/10/2001	2831	El Dorado Utilities	Charter Bank			30.30	44,748.32
09/13/2001	2850	Rosanna Vazquez	Charter Bank			303.35	45,051.67
09/25/2001	2855	El Dorado Utilities	Charter Bank			60.60	45,112.27
10/05/2001	2862	Glorieta Geoscience, ...	Charter Bank [split]			121.87	45,234.14
10/20/2001	2872	El Dorado Utilities	Charter Bank			30.30	45,264.44
11/06/2001	2880	Rogers & Company	Charter Bank			2,500.00	47,764.44
11/06/2001	2881	El Dorado Utilities	Charter Bank			30.30	47,794.74
12/07/2001	2894	Santa Fe County Tre...	Charter Bank [split]	application fee			47,794.74
12/27/2001	2901	El Dorado Utilities	Charter Bank			30.30	47,825.04
01/25/2002	2921	B&A Transmission a...	Charter Bank			2,980.00	50,805.04
02/08/2002	2928	Santa Fe County Tre...	Charter Bank [split]	application fee			50,805.04
02/25/2002	2934	Rogers & Company	Charter Bank			2,920.00	53,725.04
03/04/2002	2943	El Dorado Utilities	Charter Bank			30.30	53,755.34
03/29/2002	2961	El Dorado Utilities	Charter Bank			30.30	53,785.64
03/31/2002	2963	El Dorado Utilities	Charter Bank			30.30	53,815.94
04/24/2002	2969	Jorge Gonzales	Charter Bank	Rancho San Lu...		266.10	54,082.04
05/09/2002	2972	Santa Fe County Tre...	Charter Bank [split]	Tract G, 2nd half		45.49	54,127.53
05/10/2002	2973	Cuddy, Kennedy	Charter Bank			80.63	54,208.16
06/10/2002	2981	El Dorado Utilities	Charter Bank			60.60	54,268.76
06/26/2002	2992	James Siebert & Ass...	Charter Bank [split]			501.37	54,770.13
07/05/2002	2995	PNM	Charter Bank			23.54	54,793.67

Monte Alto Homes and Land, Inc.

10/13/2003

Register: Land Investments:Tract "G" Development Expense

From 07/01/1999 through 10/13/2003

Sorted by: Date, Type, Number/Ref

Date	Ref.	Payee	Account	Memo	Decrease	C	Increase	Balance
07/05/2002	2997	El Dorado Utilities	Charter Bank				30.30	54,823.97
08/13/2002	3013	PNM	Charter Bank				7.66	54,831.63
08/13/2002	3014	El Dorado Utilities	Charter Bank				30.30	54,861.93
08/21/2002	3017	Essential Utilities	Charter Bank				406.23	55,268.16
08/28/2002	3022	PNM	Charter Bank				7.77	55,275.93
08/29/2002	3027	Rogers & Company	Charter Bank				326.10	55,602.03
10/03/2002	3033	PNM	Charter Bank				9.72	55,611.75
10/03/2002	3035	El Dorado Utilities	Charter Bank				30.30	55,642.05
10/31/2002	3047	PNM	Charter Bank				10.28	55,652.33
10/31/2002	3048	El Dorado Utilities	Charter Bank				30.30	55,682.63
11/29/2002	3054	PNM	Charter Bank				10.18	55,692.81
11/29/2002	3055	El Dorado Utilities	Charter Bank				30.30	55,723.11
12/09/2002	3061	Santa Fe County Tre...	Charter Bank [split]	Tract G, 1st half			51.43	55,774.54
12/18/2002	3064	PNM	Charter Bank				7.66	55,782.20
12/18/2002	3065	El Dorado Utilities	Charter Bank				30.30	55,812.50
01/23/2003	3084	El Dorado Utilities	Charter Bank				30.30	55,842.80
01/23/2003	3085	PNM	Charter Bank				7.68	55,850.48
02/25/2003	3098	El Dorado Utilities	Charter Bank				30.30	55,880.78
02/25/2003	3099	PNM	Charter Bank				7.68	55,888.46
03/14/2003	3103A	Roth, Van Amberg &...	Charter Bank [split]				150.00	56,038.46
03/31/2003	3109	PNM	Charter Bank				18.06	56,056.52
03/31/2003	3110	El Dorado Utilities	Charter Bank				30.36	56,086.88
05/09/2003	3127	Santa Fe County Tre...	Charter Bank [split]	Tract G, 2nd ha...			51.41	56,138.29
05/22/2003	3131	PNM	Charter Bank				16.71	56,155.00
05/22/2003	3132	El Dorado Utilities	Charter Bank				60.72	56,215.72
06/02/2003	3136	El Dorado Utilities	Charter Bank				30.36	56,246.08
06/17/2003	3141	PNM	Charter Bank				7.68	56,253.76
07/16/2003	3157	Roth, Van Amberg &...	Charter Bank [split]				400.08	56,653.84
07/26/2003	3163	El Dorado Utilities	Charter Bank				30.36	56,684.20
08/07/2003	3167	PNM	Charter Bank				7.78	56,691.98
08/28/2003	3169	Roth, Van Amberg &...	Charter Bank [split]				401.68	57,093.66
09/02/2003	3175	PNM	Charter Bank				7.79	57,101.45
09/02/2003	3177	El Dorado Utilities	Charter Bank				30.36	57,131.81

2996/
ACCOUNT NUMBER

2 Monte Alto Road
SERVICE ADDRESS

09/16/2003
SERVICE TO

Thank You!

10.12

\$

09/16/2003

98430705

\$0.00

\$20.24 *

\$9.54

0

0

0

\$0.00

\$0.00

10/27/2003

\$

30.36

10.12

\$

30.36

THIS MONTH USAGE
THIS MONTH LAST YEAR USAGE
LAST MONTH USAGE

—0 GAL.
0 GAL.
0 GAL.

Please clear up your past due amount as soon as possible.

*pd 10.36
3188
10.7.03*

EL DORADO UTILITIES, INC., 333 Rio Rancho Drive NE, Rio Rancho, NM 87124
BILLING OFFICE: 505-988-1918 • NEW INSTALLATIONS & EMERGENCY 505-466-4749

2997 /
ACCOUNT NUMBER

2-A Monte Alto Road
SERVICE ADDRESS

09/16/2003
SERVICE TO

Thank You!

LAST PAYMENT RECEIVED	09/16/2003	\$	10.12	
METER NUMBER	98430706			
ADJUSTMENTS			\$0.00	
ADJUSTED PREVIOUS BALANCE			\$20.24	*
SYSTEM CHARGE			\$9.54	
PRESENT READING			0	
PREVIOUS READING			0	
COMMODITY CHARGE			\$0.00	Water 0.00
TAX			\$0.58	Pumping 0.00
CURRENT BILL				Sewer 0.00
PAST DUE AFTER				
TOTAL AMOUNT DUE	10/22/2003	\$	10.12	
				\$ 30.36
THIS MONTH USAGE			0 GAL.	
THIS MONTH LAST YEAR USAGE			0 GAL.	
LAST MONTH USAGE			0 GAL.	

Please clear up your past due amount as soon as possible.

EL DORADO UTILITIES, INC., 333 Rio Rancho Drive NE, Rio Rancho, NM 87124
BILLING OFFICE: 505-988-1918 • NEW INSTALLATIONS & EMERGENCY 505-466-4749

2998 / ACCOUNT NUMBER

2-B Mopie Alio Road SERVICE ADDRESS

09/16/2003 SERVICE TO

LAST PAYMENT RECEIVED

09/16/2003

\$

10.12

Thank You!

METER NUMBER

98430707

ADJUSTED PREVIOUS BALANCE

\$0.00

SYSTEM CHARGE

\$20.24 *

PRESENT READING

0

COMMODITY CHARGE

\$0.00

TAX

\$0.58

CURRENT BILL

10/22/2003

\$

10.12

PAST DUE AFTER

10/22/2003

\$

30.36

TOTAL AMOUNT DUE

0 GAL.
0 GAL.
0 GAL.

Water 0.00
Pumping 0.00
Sewer 0.00

THIS MONTH USAGE

THIS MONTH LAST YEAR USAGE

LAST MONTH USAGE

EL DORADO UTILITIES, INC., 333 Rio Rancho Drive NE, Rio Rancho, NM 87124
BILLING OFFICE: 505-988-1918 • NEW INSTALLATIONS & EMERGENCY 505-466-4749

MEMORANDUM FOR THE RECORDS

2996 / ACCOUNT NUMBER | 2 Monte Alto Road SERVICE ADDRESS

12/15/1998 SERVICE TO

Thank You!

LAST PAYMENT RECEIVED		0.00	
METER NUMBER	98430705		
ADJUSTMENTS		0.00	
ADJUSTED PREVIOUS BALANCE		0.00	
SYSTEM CHARGE		3.38	*
PRESENT READING	0		
PREVIOUS READING	0		
COMMODITY CHARGE		0.00	Water 0.00
TAX		0.19	Pumping 0.00
			Sewer 0.00
CURRENT BILL			
PAST DUE AFTER	01/24/1999	\$	3.57
TOTAL AMOUNT DUE		\$	3.57

THIS MONTH USAGE 0 GAL.
 THIS MONTH LAST YEAR USAGE 0 GAL.
 LAST MONTH USAGE 0 GAL.

pa ✓ # 2231
2/5/99

EL DORADO UTILITIES, INC.
 BILLING OFFICE: 505-988-1918, EXT. 9040
 NEW INSTALLATIONS & EMERGENCY 505-466-4749

2997 / ACCOUNT NUMBER | 2-A Monte Alto Road | 12/15/1998
 SERVICE ADDRESS | SERVICE TO

LAST PAYMENT RECEIVED 0.00
 METER NUMBER 98430706
 ADJUSTMENTS 0.00
 ADJUSTED PREVIOUS BALANCE 0.00 *
 SYSTEM CHARGE 3.38
 PRESENT READING 0
 PREVIOUS READING 0
 COMMODITY CHARGE 0.00
 TAX 0.19
 CURRENT BILL 3.57
 PAST DUE AFTER 01/24/1999 \$
 TOTAL AMOUNT DUE \$ 3.57

Thank You!

Water 0.00
 Pumping 0.00
 Sewer 0.00

THIS MONTH USAGE 0 GAL.
 THIS MONTH LAST YEAR USAGE 0 GAL.
 LAST MONTH USAGE 0 GAL.

EL DORADO UTILITIES, INC.
 BILLING OFFICE: 505-988-1918, EXT. 9040
 NEW INSTALLATIONS & EMERGENCY 505-466-4749

REMAIN THIS PORTION FOR YOUR RECORDS

2998 / ACCOUNT NUMBER | 2-B Monte Alto Road SERVICE ADDRESS

12/15/1998 SERVICE TO

Thank You!

LAST PAYMENT RECEIVED	98430707	\$	0.00	
METER NUMBER				
ADJUSTMENTS			0.00	
ADJUSTED PREVIOUS BALANCE			0.00	
SYSTEM CHARGE			0.00	*
PRESENT READING	0		3.38	
PREVIOUS READING	0			
COMMODITY CHARGE			0.00	Water 0.00
TAX			0.00	Pumping 0.00
			0.19	Sewer 0.00
CURRENT BILL				
PAST DUE AFTER	01/24/1999	\$	3.57	
TOTAL AMOUNT DUE		\$	3.57	
THIS MONTH USAGE			0	GAL.
THIS MONTH LAST YEAR USAGE			0	GAL.
LAST MONTH USAGE			0	GAL.

EL DORADO UTILITIES, INC.
 BILLING OFFICE: 505-988-1918, EXT. 9040
 NEW INSTALLATIONS & EMERGENCY 505-466-4749



MONTE ALTO
Homes and Land, Inc.

November 11, 1998

Bill McLean
Eldorado Utilities, Inc.
333 Rio Rancho Drive, NE
Rio Rancho, New Mexico 87124

Dear Bill:

Enclosed please find checks # 2171, 2172 and 2173 made payable to Eldorado Utilities, Inc. in the amount of \$285.00 each for the installation and deposit of three water meters on Tract "G", Unit 3 Eldorado at Santa Fe.

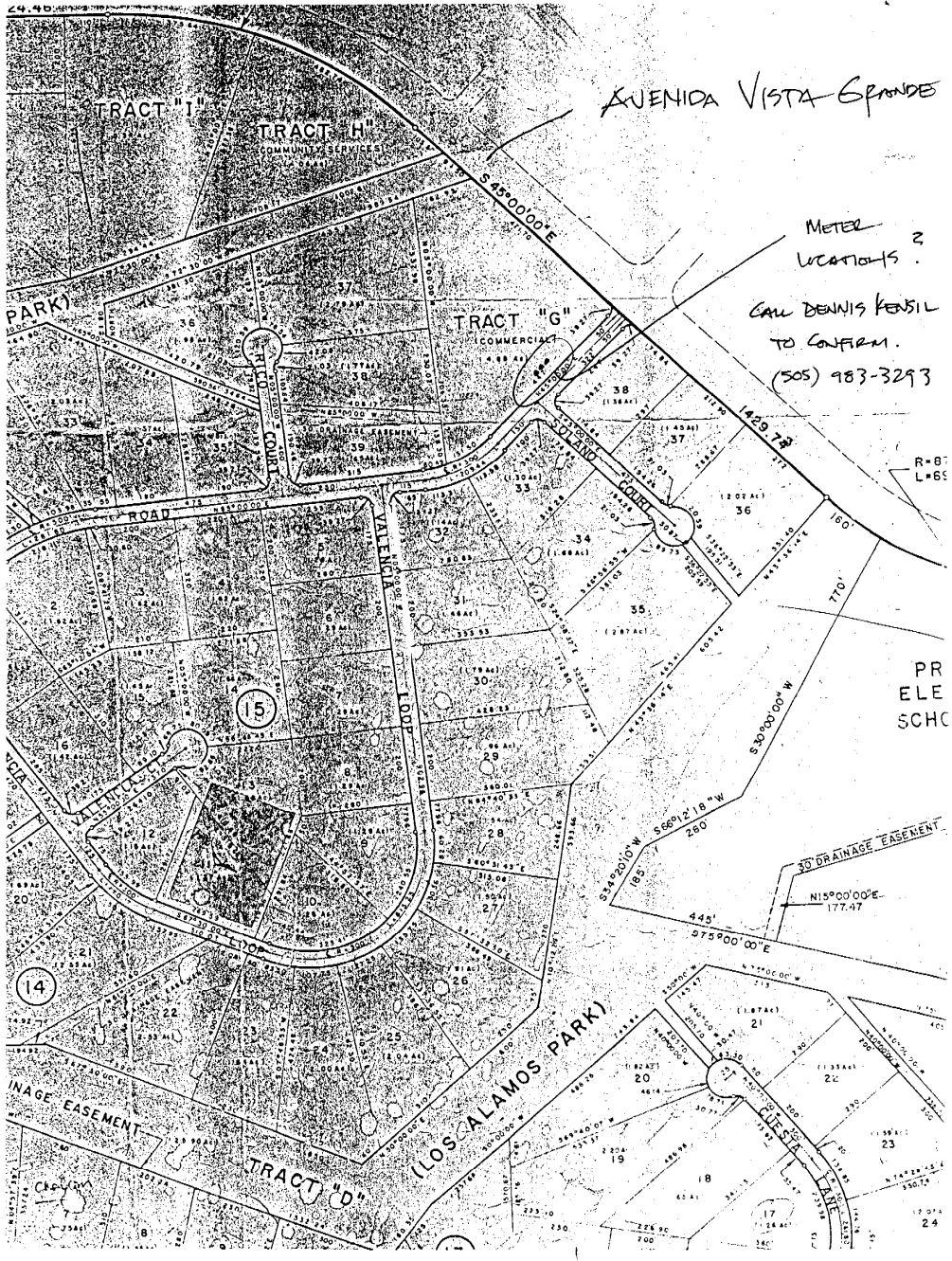
Prior to the installation, I will need to talk to you, Kate or Joe Ben about the placement of the meters. My thought is that the meters will be placed side by side near the middle of Tract "G" on the assumption that any future entrance to the property would be opposite Solano Court. Do you have an opinion on this?

Call when you can.

Sincerely,

A handwritten signature in cursive script that reads "Dennis Kensil".

Dennis Kensil



AVENIDA VISTA GRANDE

METER
LOCATIONS ?

CALL DENNIS KENSIL
TO CONFIRM.
(505) 983-3293

R-87
L-68

PR
ELE
SCHC

30' DRAINAGE EASEMENT
N15°00'00"E
177.47

INAGE EASEMENT

TRACT "D"

(LOS ALAMOS PARK)

TRACT "I"

TRACT "H"
COMMUNITY SERVICES

TRACT "G"
COMMERCIAL

PARK)

ROAD

AVENIDA LOS ALAMOS

AVENIDA VISTA GRANDE

AVENIDA VISTA GRANDE

14

15

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260

275

213

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ELDORADO Utilities, Inc.

A DIVISION OF AMREP CORPORATION

NATIONAL ADMINISTRATIVE OFFICE
333 RIO RANCHO DR., N.E.
RIO RANCHO, NEW MEXICO 87124
(505) 892-9200

APPLICATION FOR WATER SERVICE

DATE: 11/6/98

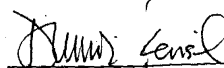
CUSTOMER: MONTE ALTO HOMES & LAND, INC.

STREET ADDRESS: 2 MONTE ALTO RD.

MAILING ADDRESS (If Different from Street Address) PO Box 6325,

SANTA FE, NEW MEXICO 87502

1. The undersigned () Owner or () Tenant, hereby request water service from the mains of El Dorado Utilities, Inc., and agrees to pay all charges for services provided during time in possession of above described property.
2. Enclosed is payment in the amount of \$ 35.00
3. This deposit may be held for the term of service rendered by the company to the Customer, or may be refunded after the Customer's credit as been established to the satisfaction of the Company.
4. Interest at the rate of nine (9) percent per annum shall be paid on all deposits.



APPLICANT

DEPOSIT ACCEPTED BY:
FOR TRANSMITTAL TO EL DORADO UTILITIES INC.

BUILDING CONTRACTORS
RECOMMEND THAT YOU INSTALL A
WATER PRESSURE REDUCER VALVE
IN YOUR HOME.

EL DORADO Utilities, Inc.

ACCOUNTING OFFICE
333 RIO RANCHO DR., N.E.
RIO RANCHO, NEW MEXICO 87124
TELEPHONE: (505) 892-9200

APPLICATION FOR WATER CONNECTION

DATE: 11/6/98
LOCATION: TRACT "G", UNIT 3
STREET ADDRESS: 2 MONTE ALTO RD

The undersigned, DENNIS KENSIL
of MONTE ALTO HOMES & LAND, INC.
is building a residence, location as above, and is desirous of having connection to the Eldorado Utilities Corporation water system made to this location.

The undersigned owner hereby requests water service from the maing of Eldorado Utilities, Inc. and agrees to pay all charges for service connection and water and service provided during the time that he remains owner of said property.

The total charge covering the cost of service connection and meter is \$250.00.



APPLICANT

BY: RECEIVED FOR TRANSMITTAL TO
ELDORADO UTILITIES, INC.

MONTE ALTO HOMES & LAND INC. 3-95
P. O. BOX 6325 PH. 505-983-3293
SANTA FE, NM 87502

2171

DATE 11/6/98

95-7242/3070

PAY
TO THE
ORDER OF

EL PASO UTILITIES, INC

\$ 205.-

TWO HUNDRED & EIGHTY FIVE

DOLLARS

CHARTER
BANK

505-982-2534
1881 ST. MICHAEL'S DRIVE
SANTA FE, NM 87501

FOR SERVICE & DEPOSIT - 2 MONTE ALTO RD

Sumi Kensi

⑈002171⑈ ⑆307072427⑆ 0022024361⑈

ELDORADO Utilities, Inc.

A DIVISION OF AMREP CORPORATION

NATIONAL ADMINISTRATIVE OFFICE
333 RIO RANCHO BL. N.E.
RIO RANCHO, NEW MEXICO 87124
(505) 892-8200

APPLICATION FOR WATER SERVICE

DATE: 11/6/98


CUSTOMER: MONTE ALTO HOMES & LAND, INC.

STREET ADDRESS: 4 MONTE ALTO RD

MAILING ADDRESS (If Different from Street Address) PO Box 6325,

SANTA FE, NEW MEXICO 87502

1. The undersigned () Owner or () Tenant, hereby request water service from the mains of El Dorado Utilities, Inc., and agrees to pay all charges for services provided during time in possession of above described property.
2. Enclosed is payment in the amount of \$ 35.00
3. This deposit may be held for the term of service rendered by the company to the Customer, or may be refunded after the Customer's credit as been established to the satisfaction of the Company.
4. Interest at the rate of nine (9) percent per annum shall be paid on all deposits.



APPLICANT

DEPOSIT ACCEPTED BY:
FOR TRANSMITTAL TO EL DORADO UTILITIES INC.

BUILDING CONTRACTORS
RECOMMEND THAT YOU INSTALL A
WATER PRESSURE REDUCER VALVE
IN YOUR HOME.

EL DORADO Utilities, Inc.

ACCOUNTING OFFICE
333 RIO RANCHO DR., N.E.
RIO RANCHO, NEW MEXICO 87124
TELEPHONE: (505) 892-9200

APPLICATION FOR WATER CONNECTION

DATE: 11/6/98
LOCATION: TRACT "G", UNIT 3
STREET ADDRESS: 4 MONTE ALTO RD

The undersigned, DENNIS KENSIL
of MONTE ALTO HOMES & LAND, INC.
is building a residence, location as above, and is desirous of having connection to the Eldorado Utilities Corporation water system made to this location.

The undersigned owner hereby requests water service from the maing of Eldorado Utilities, Inc. and agrees to pay all charges for service connection and water and service provided during the time that he remains owner of said property.

The total charge covering the cost of service connection and meter is \$250.00.



APPLICANT

BY: RECEIVED FOR TRANSMITTAL TO
ELDORADO UTILITIES, INC.

MONTE ALTO HOMES & LAND INC. 3-95
P. O. BOX 6325 PH. 505-983-3293
SANTA FE, NM 87502

2172

DATE 11/6/98 85-7242/3070

PAY TO THE ORDER OF EDUARDO UTILITIES, INC

\$ 205.-

Two hundred & Eighty Five

DOLLARS

CHARTER BANK
FOR SAVINGS FSB
505-982-2534
1881 ST. MICHAEL'S DRIVE
SANTA FE, NM 87501

OR SERVICE & DEPOSIT 4 MONTE ALTO RD

Jimmie Kensil

⑈002172⑈ ⑆307072427⑆ 0022024361⑈

ELDORADO Utilities, Inc.

A DIVISION OF AMREP CORPORATION

NATIONAL ADMINISTRATIVE OFFICE
333 RIO RANCHO DR., N.E.
RIO RANCHO, NEW MEXICO 87134
(505) 897-9200

APPLICATION FOR WATER SERVICE

DATE: 11/6/98

CUSTOMER: MONTE ALTO HOMES & LAND, INC.

STREET ADDRESS: 6 MONTE ALTO RD.

MAILING ADDRESS (If Different from Street Address) PO BOX 6325,

SANTA FE, NEW MEXICO 87502

1. The undersigned () Owner or () Tenant, hereby request water service from the mains of El Dorado Utilities, Inc., and agrees to pay all charges for services provided during time in possession of above described property.
2. Enclosed is payment in the amount of \$ 35.00
3. This deposit may be held for the term of service rendered by the company to the Customer, or may be refunded after the Customer's credit has been established to the satisfaction of the Company.
4. Interest at the rate of nine (9) percent per annum shall be paid on all deposits.


APPLICANT

DEPOSIT ACCEPTED BY:
FOR TRANSMITTAL TO EL DORADO UTILITIES INC.

BUILDING CONTRACTORS
RECOMMEND THAT YOU INSTALL A
WATER PRESSURE REDUCER VALVE
IN YOUR HOME.

EL DORADO Utilities, Inc.

ACCOUNTING OFFICE
333 RIO RANCHO DR., N.E.
RIO RANCHO, NEW MEXICO 87124
TELEPHONE: (505) 892-9200

APPLICATION FOR WATER CONNECTION

DATE: 11/6/98
LOCATION: TRACT "A", UNIT 3
STREET ADDRESS: 6 MONTE ALTO RD

The undersigned, DENNIS KENSIL
of MONTE ALTO HOMES & LAND, INC.
is building a residence, location as above, and is desirous of having connection to the Eldorado Utilities Corporation water system made to this location.

The undersigned owner hereby requests water service from the maing of Eldorado Utilities, Inc. and agrees to pay all charges for service connection and water and service provided during the time that he remains owner of said property.

The total charge covering the cost of service connection and meter is \$250.00.


APPLICANT

BY: RECEIVED FOR TRANSMITTAL TO
ELDORADO UTILITIES, INC.

MONTE ALTO HOMES & LAND INC. 3-95
P. O. BOX 6325 PH. 505-983-3293
SANTA FE, NM 87502

2173

DATE 11/6/98 95-7242/3070

PAY TO THE ORDER OF EL PASADO UTILITIES, INC.

\$ 205.-

TWO HUNDRED & EIGHTY-FIVE

DOLLARS

CHARTER BANK
FOR SAVINGS
FSB
505-982-2534
1881 ST. MICHAEL'S DRIVE
SANTA FE, NM 87501

OR Service & Deposit - 6 MONTE ALTO RD

Sumi Kensis

⑈002173⑈ ⑆307072427⑆ 002202436⑈



MONTE ALTO
Homes and Land, Inc.

October 14, 2003

Dear Commissioners:

My name is Mary Anne Stickler and I reside at 2017 Valle Vista in Santa Fe. I am the President of Monte Alto Homes and Land, Inc. which owns Tract G. I lived with family in Eldorado on Monte Alto Road for almost 12 years and am personally familiar with many of the neighbors of Tract G and with the specific nature of our appeal before you now.

I have a long and well-documented personal history of working with residents in the Eldorado and Simpson ranch to resolve difficult planning and development issues. As a professional land developer and home builder for over 20 years, I have both resided in Eldorado and have actively participated in an on-going process with residents and property owners to revolve contentious development issues and create workable planning policies for the future.

I respectfully submit the following chronology as evidence of my involvement in community planning, not just for my own property known as Tract G, but for regional planning issues as well:

- Fall 1997** Monte Alto Homes is represented on the ECIA-sanctioned "Planning and Zoning Study Group" by my husband, Dennis Kensil.
- Jan. 1999** Monte Alto Homes is represented on the ECIA long-range planning committee by Mary Anne Stickler.
- April 1999** ECIA long-range planning committee focuses on a proposal to build more storage units within Eldorado, for which there is much opposition.
- Fall 1999** Mary Anne Stickler represents Monte Alto Homes and Land and, with a consensus of all large-tract property owners within Eldorado, submits two separate proposals to the Eldorado Community Improvement Association (ECIA). Both proposals are considered by the community at large and subsequently denied by the ECIA Board of Directors.

1. Proposal that the community purchases the remaining undeveloped "commercial tracts" for the enjoyment of the ECIA members. - DENIED
2. Proposal to develop site-specific uses and architectural restrictions for each tract and convey enforcement authority of the restrictions to the homeowners association. – DENIED

- Winter 2000** The ECIA-sanctioned Long Range Planning Committee is dissolved after making a recommendation to the ECIA that supports Contemporary Community Planning according to county ordinance 1998-5. The ECIA takes NO action on our recommendation.
- Jan.2000** Mary Anne Stickler represents MAHL at the commencement of the Highway 285 South Corridor Planning effort. I am still active to this day and am committed to seeing the completed plan approved within the coming months.
- May 2000** I represent MAHL at an ad hoc meeting for Community Planning called by Howard and Rhoda Sherry in an attempt to move Contemporary Planning forward as "at large" citizens.
- July 2000** In the absence of any productive efforts on the part of the community to plan for the development of the "commercially-designated" tracts within Eldorado, MAHL announces our intention to develop a professional office campus called "Monte Alto Plaza" on Tract G, with our commercial zoning, approved use list and 1 acre foot of water in place. Our plans include both wastewater recycling and rainwater catchment systems. We begin an intensive series of meetings, hearings and mailings to inform both the neighbors and the greater Eldorado community and to address specific concerns about the project. This intense dialogue continues for most of a year. We also approach the county staff, again, about the possibility of splitting Tract G into 4 residential lots and are turned down, as in the past, by county staff.
- Feb. 2002** Mary Anne joins representatives from throughout the Simpson Ranch area to meet with Jack Kolkmeier to ask for county support in initiating a Contemporary Community plan.
- May 2000** The BCC adopts a resolution to create the Simpson Ranch Contemporary Community district which, in spite of the current problems, still has the support of MAHL.
-

Currently:


Despite an almost 3-year struggle to fight invasive cancer, I continue to be an active member of both the Highway 285 South Corridor Plan and have a continuing and pro-active interest in building consensus to develop a comprehensive community-wide plan which the county will recognize.

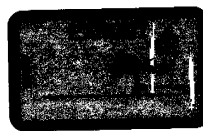
In regard to the development of Tract G, I have re-contacted as many neighbors of the Tract G neighbors over the last week as I could reach in order to find support for protecting my 1-acre-foot water allocation and to keep alive the hope that there can be a peaceful resolution on the final use for Tract G.

The simple reality is that, with a 4.88 acre tract that has commercial zoning, an approved use list and only ¼ acre foot of water, I have limited flexibility in reaching a consensus-driven decision as to the final development of Tract G. However, with my property rights in tact and my 1-acre-foot water allocation, the opportunity may exist for Monte Alto Homes, Santa Fe County and the neighbors of Tract G to find a final resolution to this long-standing dispute.

I ask you to respect the county's existing commitment, honor the county code and provide us with the best chance of peacefully resolving the best and highest use for Tract G by voting in favor of our appeal tonight.

Thank you for your attention and consideration to my request.


Mary Anne Stickler
President



John and Linda Pruett
2 Rico Ct.
Santa Fe, NM
87508

County Commission
Santa Fe County
New Mexico

Mr. Chairman and County Commissioners:

For sixteen years, we have lived in Eldorado at #2 Rico Court, just west of commercial tract G. Naturally, we have enjoyed the vacant status of tract G all these years, but acquiesce to the fact that someday this property will be developed.

Mary Anne Stickler and Dennis Kensil have made a good faith effort to devise a commercially feasible plan which fits the neighborhood. All legitimate rights to commercial water assigned to this tract should be honored. We support their right to pursue the American entrepreneurial dream.

Sincerely,

John and Linda Pruett

Good afternoon (evening) Mr. Chairman and Commissioners:

My name is Ruth Jacobs and I am a 20-year resident of Eldorado. My home is the only residence that is located adjacent to Tract G so I have a great interest in how this commercial tract is developed. I am here tonight to lend support to Mary Anne Stickler and Monte Alto Homes in what I feel is her right to use the amount of water that was originally allocated when this tract received final approval. The fact that this property has not been developed should in no way be used as a basis to either deny or to reduce the amount of water that was originally allocated.

If I had purchased a lot in Eldorado 20 years ago, but was just now attempting to build my retirement home, I would find it unacceptable, if not illegal, to be told, "Sorry, you didn't build your home when we thought we had enough water. We have serious water issues now so if you want to build just half of your house using only half of your allocation, that's okay." I don't see this as an issue of "use it or lose it" since this proposed development was allocated water from a privately owned water system which today provides water to the majority of homes and businesses in the Eldorado water district. Our water situation is quickly approaching a crisis. Wise water management is crucial and individual sacrifices are being made. Just because I have lost my lawn and a few favorite fruit trees, does not give me the right to support an action that could result in a loss of another's rights. I see this as a black and white issue. Water that was legally allocated should not now be denied because of our current situation.

Some of the people who have spoken tonight seem to be more focused on how they will be personally impacted by a project at this site rather than the real issue: water. It would be okay with them to restore the rights of the developer if the water were to be used in a manner that supported their personal vision. This concerns me deeply. I have seen the plans for the proposed Monte Alto Plaza. I feel the plans reflect the high standards of integrity and commitment for water and energy conservation that has built the reputation of Monte Alto Homes and Mary Anne Stickler to the highest level. This project is designed to use the minimal amount of water and still reflect Eldorado's character in a manner that is far more restricted than what the county allows.

There has been discussion about splitting this parcel and re-zoning it residential. I urge neighbors to closely study the implications of this, particularly if these residential lots are not accepted into the ECLA. The Santa Fe County building codes are far less restricted than the covenants and building guidelines in Eldorado. Of specific concern should be issues of style, building heights, color, fencing, outdoor lighting, modular construction, signage and business use, as well as storage of RV's.

Regardless of what is eventually built on this parcel, the main issue now is whether Monte Alto Homes is entitled to the amount of water that was legally allocated when this parcel was granted Final Approval. And if, in your interpretation, it is not – what is the basis for denial? Will other uncompleted projects with Final Approval be stripped of their water also?

10-14-03

To: The Board of County Commissioners:

Re: Monte Alto Homes Tract G

Gentlemen:

My name is Jean Crawford, and I have resided in Eldorado at Santa Fe since 1981. After attending one of the informational meetings on the proposed Monte Alto Project in 2000, I would like to state my support for the original approved plan of Tract G, including the water allotment. Approving one thing and later changing it to another is not a policy that I support.

Sincerely,



Jean Crawford
10 Enebro Road
466-1000

October 10, 2003

To Whom It May Concern:

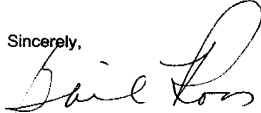
My name is Gail Roos and I currently reside at 114 Barranca Drive in Santa Fe. From 1979-1989 I lived in Eldorado. Although I now live in Santa Fe, I continue to own a residential lot in Eldorado and have also made other real estate investments in the subdivision over the years.

I believe that Monte Alto Homes and Land is legally entitled to use one acre foot of water for the development of Tract G. I am concerned that the county is contemplating denying Mary Anne Stickler's and Dennis Kensil's rights as granted in the final approval for this property.

I believe that there is a need for local jobs and services within Eldorado, and that Monte Alto Homes and Land will use their land and their water budget to create an appropriate development.

I ask the commissioners to support this appeal.

Sincerely,

A handwritten signature in cursive script that reads "Gail Roos". The signature is written in black ink and is positioned above the printed name.

Gail Roos



Drums,
muffled & distant,
echo through the canyons...
and punctuate the exultant
gathering of ancient spirits
as they honor and celebrate
the advent of the millennium.



Dear Mary Anne & Dennis,
Bonnie and I wish to assure you
that we admire & will back,
in our small way, any/all of your
commercial ventures in Eldorado,
our beautiful, golden oasis.

You've always sought the best..
in your lives, designs, building,
homes, environment, and
most of all, an unmatched quality
of life for all of us in Eldorado.

Thank you and Good Fortune
on your endeavors.

Thad January 29, 2001

Resident Support for Monte Alto Plaza

The following quotes are excerpts from letters of support from Eldorado residents:

"As we now work out of our Eldorado residence, it is wonderful not to leave the subdivision for any small needs, or spend time in heavy traffic or at the gas pump. The rural quality has changed with the subdivision build out, and it is naïve to tout "rural" in a subdivision of 2800 large lots and a population over 5000. In our growing community, it is so pleasant to have "normal" services...We support this proposal on a corner already planned for commercial use."

"I am a homeowner located adjacent to the proposed site...The professional office development that is being proposed by Monte Alto Homes & Land is appropriate for that site and I see numerous benefits the community will gain, the obvious being the convenience of its proximity to the Montessori and elementary schools for the children of prospective tenants; employment opportunities; eliminating some commuting to town; and the opportunity for home-based businesses to have working space in their own community."

"We do not feel the type of development you are proposing would take away from the residential character of Eldorado."

"Having seen homes built by Monte Alto Homes, we are confident that this project will be accomplished with the care and thoughtfulness shown in their past projects, with the needs of the community taken into consideration. We have seen the plans of the project and note that the builders have designed it to blend into the existing neighborhood."

"I have reviewed the Monte Alto Plaza proposal. I believe that this kind of development is exactly what is needed in Eldorado."

"I have lived in Eldorado since 1992 and I fully expect for there to be services developed in the portions of Eldorado that were designated "commercial". I think there is a real need for a diverse mix of small business and multi-use property to add to the health and vitality of our community."

"Monte Alto Homes has been active for many years in Eldorado, and has always taken great care to maintain the quality of life we enjoy here. Properties developed by this firm have consistently been sensitive to the special environment in Eldorado."

"When we purchased a building lot and built in Eldorado in 1994 we did so after studying the community's covenants and the approved master plan. We did not want to locate in a housing development at the edge of Santa Fe City but wanted to move into an area that would become its own community. We were convinced that business development and community services like churches and senior care would soon follow on land that had been set aside for that purpose."

"Congratulations on your proposed office development planned for Eldorado. It will be a much-needed addition for our community when completed...This area out here is large enough to support commercial usages so we do not have to rely on having to travel to Santa Fe."

Subj: **Re: Inquiry from Monte Alto Homes & Land**
Date: **10/14/2003 8:27:29 AM Mountain Standard Time**
From: Zeoguy
To: Prepmom3

Dear Mary Anne,
I have had calls from three people to whom you addressed your email. Some of them are your neighbors. Both they and Rhoda and I support your petition to split the lot into 4 residential lots. We know that the houses that you would build would enhance the community. We also support having them included into the ECIA.
Rhoda and Howard Sherry

Tuesday, October 14, 2003 America Online: Prepmom3



**JAMES W. SIEBERT
AND ASSOCIATES, INC.**

915 MERCER STREET * SANTA FE, NEW MEXICO 87501
(505) 983-5588 * FAX (505) 989-7313
jwsiebert@aol.com

MEMORANDUM

Date: September 22, 2003
To: Dominic Gonzales
From: James W. Siebert
Re: Response to County Hydrologist Comments, Luna Rosa Equestrian Center

1. The estimate of water availability as calculated by Stephen Wust still exceeds the amount of water permitted for annual use for a 72-12-1 domestic well. A reduction in the water availability does not affect the viability of the project.
2. Information was sent to Stephen Wust regarding the viability of adjoining wells. This letter from Meghan Hodgins to Jim Siebert with a copy to Stephen Wust is enclosed.
3. The following is a description of plumbing fixtures for the equestrian facilities.

Arena

Bathrooms
1 Urinal
2 Toilets
1 Handicap toilet
2 Washbasins
1 Utility basin sink
Shower stall for horses
30 Nelson troughs for horses

Sargant
wustres.doc

Luna Rosa
September 22, 2003
Page Two

Residential Dwellings

1 Toilet
1 Washbasin
1 Kitchen sink
1 Dishwasher
1 Shower/Tub
1 Water softner

3b. A water budget of .25 acre feet per year per dwelling seems excessive since the average per household use in Eldorado is approximately .19 acre feet per year, and this includes exterior landscaping. In this case landscaping is calculated under a separate category in the budget.

A modified water budget using .25 acre feet per year per dwelling is described below:

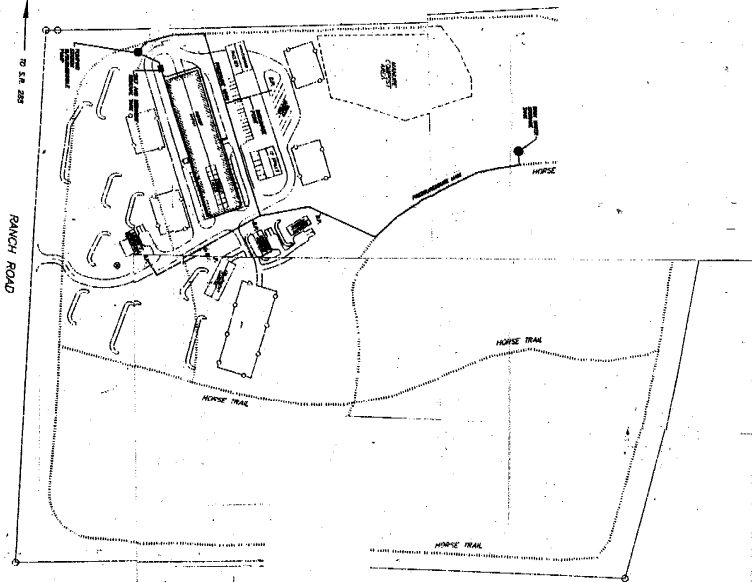
Residential dwellings: .25 acre ft.x dwellings=	.75 ac. ft.
Equestrian use:	.75 ac. ft.
Landscape	<u>.80 ac. ft.</u>
Total	2.3 ac. ft.

If credit is given for water harvesting the landscape use can be reduced by 186,030 gallons per year. This would reduce the water budget to: **1.73 acre feet per year.**

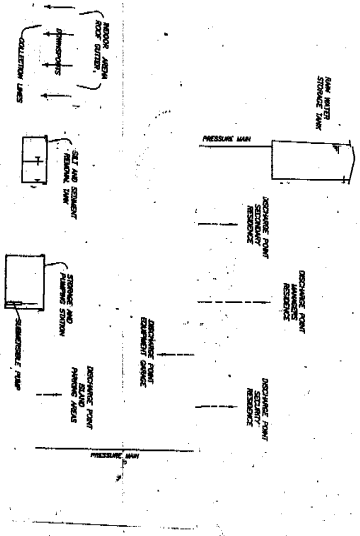
3c. A water harvesting system is proposed as shown on C-2 of the plan set submitted with the application. Also enclosed is a spreadsheet estimating the water capture in a drought year. In addition to the active system a series of passive berms capture water immediately adjacent to the landscape locations. These berms are shown in the landscape Plan, and on the Grading and Drainage plan.

Xc: Stephan Wust

**RAIN WATER COLLECTION
TREATMENT AND EFFLUENT
SYSTEM**



**SCHEMATIC DIAGRAM
RAIN WATER COLLECTION
AND TREATMENT FACILITY**



**SYSTEM DESCRIPTION
AND
OPERATION**

1. RAIN WATER WILL BE COLLECTED FROM THE ROOF TOPS
2. RAIN WATER WILL BE STORED IN THE STORAGE TANK
3. THE RAIN WATER STORAGE TANK WILL BE AUTOMATICALLY FILLED
4. THE RAIN WATER STORAGE TANK WILL BE AUTOMATICALLY FILLED
5. DISINFECTANT PUMPS ARE LOCATED UNDER THE TANK



JAMES K. SEIBERT
LICENSED PROFESSIONAL ENGINEER
STATE OF TEXAS
NO. 12345


LAND ROSS
RESIDENTIAL FACILITY
RAIN WATER COLLECTION
AND DISCHARGE

DATE	BY	REVISION
07/20/00	JKS	ISSUE FOR PERMIT
07/20/00	JKS	REVISED PER COMMENTS



UTILITIES DEPARTMENT

2 October 2003

TO: Dominic Gonzales, Land Use Department
FROM: Stephen Wust, County Hydrologist 
RE: CDCR Case #Z03-5150 Luna Rosa Equestrian Facility
Memorandum from James Siebert dated 22 September 2003

I have reviewed the referenced memo submitted as an update of the original permit application. This update has sufficiently addressed all of my concerns.

- 1) The Geohydrologic Report was originally considered sufficient. Even though I recalculated the water availability, it was still adequate for the proposed water budget.
- 2) The OSE had raised questions regarding the viability of nearby wells, and how this may affect the interpretation of the potential yield of the site well. Meagan Hodges of GGI, in a memo dated 5 August 2003, addressed the OSE questions.
- 3) The water budget has been updated to provide more detail.
 - a) The water budget gives a listing of the facilities that will be using water on the property.
 - b) The budget now includes 0.25 acre-feet use per dwelling, as recommended in my original evaluation.
 - c) I did not receive a copy of the original plan set, so did not see the water harvesting system that the update refers to. I will accept your evaluation that such a system was included in plans and is acceptable.

In the update (Siebert memo dated 22 September) it states "If credit is given for water harvesting....reduce the water budget to: 1.73 acre-feet per year." I do not know specifically what is meant by "credit" but I assume they are proposing that water harvesting will reduce their demand on their water supply. This is good, because their stated usage for landscaping of 0.80 acre-feet per year seems excessive.

I recommend that the permit includes use restrictions of 0.25 acre-fee per year per dwelling, 0.75 acre-feet per year for all equestrian use, and 0.25 acre-feet per year (from the water supply) for landscaping. I saw no indication that the development will include metering, so I recommend that the facility be included in the County metering program.

If you have any questions, please call me at 992-9876 or email at swust.

*Roger and Janna Ayres
PictureMaker Quarter Horses
81 Ranch Rd
Lamy, NM 87540*

September 24, 2003

*RE: Luna Rosa LLC
Ranch Road, Lamy*

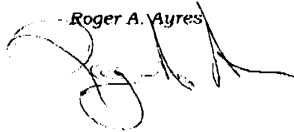
Dear CDRC Members

We are in receipt of the project proposal for the Luna Rosa Development from Mr. Jim Siebert; Development Plan dated July 01, 2003 and Building Elevations dated July 07, 2003. We are extremely pleased that this proposed plan takes into consideration the proximity to our residence, the layout of the terrain and water drainage.

The project plan currently locates the buildings in such a way as to be visually unobtrusive to us as well as surrounding properties. We applaud this commitment to the neighborhood and look forward to welcoming Luna Rosa as our new neighbors.

Respectfully,

Roger A. Ayres



1) Monte Alto Playa
Well transferred to EDU #4 in order

2) MLS is 12.5 acres on well
- or 2.5 acres on EDU
- Maratrum



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APR 2002

SANTA FE COUNTY
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 EL DORADO UTILITIES INC. AND ENCOURAGING CONSERVATION MEASURES WITHIN THE EL DORADO UTILITIES INC. SERVICE AREA AND TO ESTABLISH PROVISIONS UNDER WHICH DEVELOPMENT CAN PROCEED

Introduction

This Ordinance amends and replaces Santa Fe County Ordinance 2001-4. Ordinance 2001-4 was enacted following Ordinance 1996-4 and subsequent ordinances replacing Ordinance 1996-4 in response to a seasonal drought and evidence that El Dorado Utilities, Inc. (EDU) was experiencing a water supply shortfall. Evidence compiled and opinions rendered by County staff, consultants, and the Office of the State Engineer demonstrate the potential for a long term water supply shortfall for existing customers and undeveloped legal lots of record, and point out the lack of a reliable source of supply for future development relying on the EDU system. The findings of moratorium Ordinances 1996-4, 1997-5, 1998-4, 1999-4, 2000-2, 2000-14 and 2001-4 are herein incorporated by reference.

A. THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS HEREBY FINDS:

1. El Dorado Utilities Inc. is a water utility providing service within the County (see attached map).
2. Water sales in 1999 were about the same as 1998, whereas the number of customers steadily increased at an average of about 10 to 12 per month. Building and real estate activity on existing lots is brisk according to the County building permits desk.
3. Groundwater use in the EDU service area increased five fold from 1985 to 1995. According to EDU estimates, at build out water requirements of the system will more than double from 1995 levels.
4. Although the County has experienced a modest real estate slowdown in recent years, the Eldorado area share of total County permits for single family construction was about the same from 1995 through 1997. In 1998 and 1999 the Eldorado fire district exceeded others in the County for residential development permits issued.
5. EDU has exaggerated its true, legal water producing capabilities. The utility has made no new submittals since 1996 to the County to demonstrate long-term water availability.

- 1 6. The Findings of Ordinance 1996-4, 1997-5, 1998-4 and 1999-4 list additional, older data
2 supporting other estimates of EDU well production potential and water rights. Estimates of the
3 Office of the State Engineer (OSE), Public Regulatory Commission (PRC) and Santa Fe County
4 are lower than EDU's assertions.
- 5 7. EDU well #9, the Lamy well, went dry in the spring of 1996 and lost capacity in 1999. The
6 Lamy valley aquifer relies on seasonal recharge from Galisteo Creek. Water supply from the
7 Lamy well in 2000 continues to be subject to drought and declining production. Because it is
8 drought sensitive, regulatory agencies will not include it in estimates of reliable reserves.
- 9 8. Several of EDU's active wells have suffered significant declines in average production over
10 time, according to the State Engineer records. As much as one third to one half of the early
11 production capability, and water column, has been lost in several wells.
- 12 9. EDU's Torreon well (well #13) has been designated by the OSE as supplemental to well #2.
13 Together these wells can share the historical beneficial use established in well #2. The net result
14 is that minimal new water production has been added. A new well replacing an exploratory well
15 has been drilled and tested, but has no additional water rights and again is supplemental to
16 existing wells.
- 17 10. The Santa Fe County Land Development Code requires that new development prove the
18 availability of a 100 year water supply; the availability of groundwater sources must be shown in
19 specific wells.
- 20 11. EDU's consultant, Westwater Associates, states that " long term tests of existing and
21 additional wells, (and) close monitoring in test wells will be necessary in order to model or
22 provide estimates of future long term resource potential".
- 23 12. There has been no demonstration or report submitted by EDU or others analyzing the
24 sustainable and reliable ground water supply that incorporates the facts of water production and
25 use over the last ten years. Based on estimates by the OSE, the County Hydrologist, and the
26 PRC, EDU lacks the demonstrated capacity and water rights to serve demand projected for build
27 out of lots already approved in the service area.
- 28 13. EDU's Updated Master Plan estimates ultimate build out, or "all known proposed and
29 infill" service to be 3740 connections, a 55% increase from current connections (2404). The
30 Master Plan estimates that 2035 acre feet per year will be required at that level of service. For
31 comparison purposes, research by the OSE and County Hydrologist estimate that EDU has
32 demonstrated the beneficial use of from 350 to 800 AFY. It is unlikely that EDU will establish
33 by beneficial use the water rights they declare.
- 34 14. County Staff estimates roughly 400 undeveloped approved and buildable lots exist in
35 EDU's service area unaffected by this Ordinance.
- 36 15. A February 9, 1996 OSE memorandum indicated that the OSE will continue to give
37 unfavorable opinions on new subdivisions which propose EDU as a source of supply unless and
38 until it receives information which demonstrates that EDU can assure the required water
39 availability.
- 40 16. An April 18, 1997 letter from the State Engineer concludes that until the water
41 availability issue is resolved the OSE Subdivision Review Bureau will be unable to issue a
42 positive review finding.
- 43 17. Other communities in the watershed are also concerned about water resource issues. It is
44 difficult to isolate Cañada de los Alamos, Eldorado and Cerrillos water issues from the greater

1 watershed. Issues concerning groundwater appropriations in one area affect others in the
2 watershed.

3 18. For the sole purpose of providing guidance to EDU and future applicants for development
4 approval, **Appendix A** in the 1997 ordinance is herein incorporated by reference, which lists
5 suggested activities to assist the County in evaluating water availability and fire protection
6 capabilities in the EDU service area.

7
8 **THE SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS THEREFORE**
9 **CONCLUDES AND DECLARES:**

10
11 1. The continuing growth and corresponding water demand in the area, the presence of
12 hundreds of legal lots awaiting EDU service, the uncertain present and future production
13 capacity of EDU and the failure of EDU to properly develop reserve groundwater production
14 raise ongoing and unresolved concerns about the adequacy of EDU as a water supplier for new
15 development.

16 2. These concerns are directly linked to the public health, safety and welfare.

17 3. Voluntary water awareness and conservation efforts shall continue to be encouraged in the
18 EDU service area.

19
20 **C. NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
21 **COMMISSIONERS OF SANTA FE COUNTY:**

22
23 1. No new or pending applications for land divisions, master plans or subdivisions which
24 propose to utilize EDU water services will be deemed complete until water supply
25 requirements of the County Land Development Code, the County Fire Code, and this
26 Ordinance are satisfied, except as noted in Section 3 below. No new or pending
27 applications for land divisions, master plans or subdivisions which propose to utilize EDU
28 water services will be processed by the County Land Use Administrator, the County
29 Development Review Committee, or the Santa Fe County Board of County Commissioners
30 until deemed complete. For valid master plans, the time during which this Ordinance is in
31 effect shall not be used in calculating the period of validity of an approved master plan in
32 accordance with the Santa Fe County Land Development Code.

33 2. New subdivision, land division and master plan applications which do not rely on EDU
34 water service will be processed subject to the Santa Fe County Land Development Code, as
35 amended. However, no density adjustments beneath 12.5 acres per dwelling unit, the basic
36 Basin Fringe Hydrologic Zone Minimum Lot Size, will be considered and these approvals
37 will be contingent upon acceptable site specific hydrology reports, water use covenants, and
38 proper well drilling and construction techniques which protect and optimize the source of
39 supply. Cluster housing is encouraged for those developments that proceed under these
40 conditions.

41 Notwithstanding the above, if a comprehensive watershed-wide hydrologic study is
42 conducted and clearly demonstrates to the reasonable satisfaction of the State Engineer
43 and County Hydrologist that there is adequate long term water availability to allow density
44 below 12.5 acres, such densities may be allowed.

- 1 3. A single division of land per Article II, Section 2.3.1.a., vii or viii of the County Land
2 Development Code shall be permitted for commercially zoned property to create a tract for
3 an existing commercial building, subject to the following conditions:
- 4 a. This is for the purpose of sale, and
- 5 b. The plat will contain a note that no development will be permitted on the vacant
6 tract until this Ordinance, as amended, is lifted.
- 7 4. If an applicant has a well(s) and water rights that are transferred to the EDU water
8 system, he or she can then take service for the development of the amount of water
9 transferred minus 20% to account for leakage from EDU. The applicant shall furnish
10 funds for the County to hire an independent hydrologist to prepare the geohydrological
11 report and to determine whether production from the well will impact EDU or any other
12 water user in the area. Only applicants whose wells do not impact EDU or any other
13 water user and who can demonstrate a 100-year water supply for the proposed
14 development in accordance with Article VII, Section 6.4.2 shall be allowed to proceed with
15 their application under this section. At least two weeks prior to drilling a well and
16 conducting any geohydrologic investigations of the area, the applicant shall provide written
17 notice to the County Hydrologist so that public notice of the impending project can be
18 given.
- 19 5. Developments that already exist and are using EDU can reallocate the water they receive
20 from EDU on their property without being subject to the 100-year proof of water required
21 by the County Code. This could be based on re-use of water, implementation of water
22 conservation measures or unused capacity. This provision is limited to expansion of
23 existing development. Changes can be made between commercial uses, but any change that
24 requires new zoning is not permitted. The amount of water that the development has for
25 this purpose shall be based on the amount of water proposed in the water budget when the
26 project was approved by Santa Fe County.
- 27 6. Building and development permit applications on legal lots of record will be acted upon
28 by the Santa Fe County Land Use Administrator. In no case will building and development
29 permits be allowed in which more than 0.25 feet per year per legal lot of EDU water service
30 is required, unless the provisions of #5 above are met.
- 31 7. Based on conservation information available from EDU, the County, and the
32 community, residents within the EDU service area are encouraged to continue water use
33 and conservation measures. Water users not subject to covenanted water use restrictions
34 are encouraged to target their consumption to fall within 0.22 acre feet per year (71,682
35 gallons per year).
- 36 8. The provisions of this Ordinance shall apply within the service area of any successor to
37 EDU if the ownership, name or management of EDU changes while this ordinance is in
38 effect.
- 39 9. If any provision of this ordinance is adjudged or declared to be illegal, the remainder of
40 the ordinance, not so adjudged, will remain in force and effect.
- 41 10. County staff shall present updates describing any changes in conditions to the Santa Fe
42 County Board of County Commissioners approximately 180 days from the effective date of
43 this Ordinance and annually thereafter until such time as the Ordinance is amended or is
44 repealed.

1 11. This Ordinance shall remain in effect until the Santa Fe County Board of County
2 Commissioners, County technical staff and the State Engineer are satisfied that
3 developments which propose EDU as the water supply are in full compliance with state and
4 county standards, at which time the Board shall pass a resolution discontinuing the
5 application of this Ordinance.

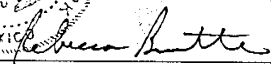
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10 PASSED AND APPROVED this 22nd day of October, 2001, by the Santa Fe County
11 Board of County Commissioners.

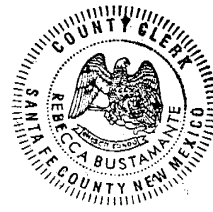


PAUL DURAN, CHAIRMAN

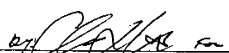


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REBECCA BUSTAMANTE
COUNTY CLERK

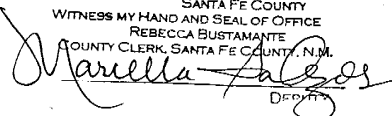


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28 APPROVED AS TO LEGAL FORM AND SUFFICIENCY:

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STEVEN KOELMAN, COUNTY ATTORNEY

1178 560
COUNTY OF SANTA FE
STATE OF NEW MEXICO } ss
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE 30 DAY OF Oct A.D.
2001 AT 11:10 O'CLOCK a.M.
AND WAS DULY RECORDED IN BOOK 2000
PAGE 211-215 OF THE RECORDS OF
SANTA FE COUNTY

WITNESS MY HAND AND SEAL OF OFFICE
REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.


DEPUTY


CERTIFICATE OF FILING

39 I, Rebecca Bustamante, County Clerk, do hereby certify that the foregoing ordinance, designated
40 as Ordinance, No. 2001-14, was filed in my office on the 30 day of Oct, 2001, in
41 Book Number 2000 at Page 211-215.

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SANTA FE COUNTY CLERK





REBECCA BUSTAMANTE

AFFORDABLE HOUSING UNITS



Distribution of Affordable Housing Units - Windmill Ridge Unit 3

<i>Income Category</i>	<i>CCD Number of Required Units - WMR3</i>	<i>Units Required as Carryover from WMR1</i>	<i>Units Provided in WMR2 Toward Carryover</i>	<i>Total Number of Units Remaining for WMR3</i>
0-60%	8	9	2	15
61-80%	8	6	6	8
81-100%	9	0	0	9
Total	25	15	8	32



MEMORANDUM
Santa Fe County Utilities Division

TO: Roman Abeyta, Land Use Director and
Vicki Lucero, Development Review Specialist

FROM: Douglas M. Sayre, Utilities Department Deputy Director *Douglas M. Sayre*

SUBJECT: CCDRC Case #Z 00-5302 Sandia Vista Commercial Property

DATE: October 10, 2003

1) **ISSUE:** Review of Sandia Vista Commercial Property Master Plan Amendment and Final Development Plans

Sheet No 2--Existing Conditions: This sheet does not accurately depict the location, the size, and ownership of the water systems in and around this property. On the Southeast and East side of the property, the County Utilities Department has 8" waterlines with fire hydrants at each end. There is no County waterline or hydrant on the north side of the property. There is a 2" private commercial waterline to serve the closed Wolf Canyon restaurant with a non-frczcz 1" landscape hydrant on the north side.

The size and the location of the fire protection waterline to the building(s) needs to be identified.

Sheet No 5--Preliminary Utility Plan: The fire protection water system utilizing the Utility Department water system is not defined nor detailed adequately as to size and type of pipe, connection to buildings, and what means of backflow protection and metering will be provided.

The potable water system to serve the buildings is likewise not defined nor detailed adequately as to size and type of pipe, connection to buildings, and what means of metering is to be provided.

Sheet No 6--Landscaping Plan: The landscaping irrigation water system needs to be detailed as where the water is coming from-- the well we suspect.

Sheet No 8--Fire Protection -Unit "B" Plan: The fire protection line connection proposed is not in accordance requirements of the Santa Fe County Utilities. First the Utilities Department needs to know the demand flow required by all the buildings so that the line, meter and backflow prevention device can be sized. The connection needs to be detailed and shown with a gate valve and the system layout to all the buildings needs to be shown. The Utilities Department is especially concerned the County water system be protected from any and all possible backflow from the fire protection system; therefore a much more detailed set of plans need to be submitted before any Utilities Department approval of this system can be considered.

General Comments:

Presently the Santa Fe County Utilities Department has no service agreement with Sonny Otero for the Sandia Vista Center. Mr. Otero needs to request service from the SFC Utilities Department at which time we can discuss the most practical and feasible manner to provide water service to this development.

Based on the need for fire protection service as well as domestic potable water, the most practical means of providing the required service would be to have sufficient water rights transferred from the existing commercial well (about 0.5 acre feet based on the proposed water budget of 121,000 gallons annually) to the County, and a service agreement for the needed fire and domestic service be worked out with the developer and the Utilities Department.

Harry B. Montoya
Commissioner, District 1

Paul Duran
Commissioner, District 2

Mike D. Anaya
Commissioner, District 3



Paul Campos
Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Estevan R. Lopez
County Manager

To: Commissioner Anaya
From: Hank Blackwell, Fire Marshal
Date: October 14, 2003
Subj.: Sonny Otero Properties, SR 14

Renee Nix

Per your request, the following information is provided which outlines some of the major issues and concerns that our department has with the above projects:

Building one was approved based upon the information provided us by Mr. Otero that the structure was to be used solely as a storage garage for his personal vehicles. Currently, this structure is being utilized as commercial structure/multiple-use occupancy to the best of our knowledge. Mr. Otero has an office for his business, and we believe there to be another commercial business renting from Mr. Otero in the rear of this building. The interior changes in this building have not been reviewed nor inspected by this office nor have we been notified of these changes. We expect that the interior changes may not meet current life safety or fire codes. Mr. Otero was notified on several occasions, and repeatedly given our contact information, in order to notify us if indeed there were departures in this building from its original approved use.

Building two sprinkler plans have not been properly submitted and three site visits were made to personally request that these plans be submitted. To date, this has not occurred. The fragmented information we have received does not include hydraulic calculations, sprinkler head information sheets nor stamps/approval from a licensed engineer. We have been informed that this building will be divided into at least five different occupancies for rental income. We have yet to see these plans or any information necessary to insure compliance.

Due to these problems as well as the proposed addition of six more structures, we are not comfortable with the life safety and fire protection needs and requirements for the existing structures. The additional six structures will create additional demand for fire flow as well as access requirements, which are currently not met. Due to the serious nature of the above issues, as well as the resulting increase in risk to both the public as well as our responding personnel, this office recommends denial of this project.

Cy:
Stan Holden, Chief
Buster Patty, Captain
Renee Nix, Inspector
La Cienega Fire District
File

Hb/goden/LC/Otero/1003