

SANTA FE COUNTY

REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

November 14, 2006

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

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

Members Present:

- Commissioner Harry Montoya, Chairman
- Commissioner Virginia Vigil, Vice Chairman
- Commissioner Paul Campos
- Commissioner Jack Sullivan
- Commissioner Mike Anaya

Members Absent:

[None]

V. Invocation

An invocation was given by Jonas Romea of the Cathedral Basilica of St. Francis of Assisi.

VI. Approval of the Agenda

- A. Amendments
- B. Tabled or withdrawn items
- C. Consent Calendar: Withdrawals

ROMAN ABEYTA (County Manager): Thank you, Mr. Chairman. I have two amendments that staff is proposing. The first it to item XI. Staff and Elected Officials' Items, A. Water Resources Department, 1. The consideration of publication of title and general summary rescinding the Eldorado moratorium. Mr. Chairman, staff is requesting that this item be tabled at this time. It's been brought to my attention that there was a process that the

Commission had given staff to follow regarding this item and the process was that we were going to get information regarding the Eldorado Utilities and the water system. We were going to analyze that information then have a discussion with the BCC around that, at which point the BCC would give us direction as to how to proceed. So it's based on that direction that the Commission gave staff several months ago, it seems to me that item XI. A. 1 is premature at this time.

We did receive information this past week that we had been looking for regarding the water situation in Eldorado. We would like time to review that information and then have a discussion with the Board as soon as the next administrative meeting, and then depending on where that discussion leads, put this request for title and general summary on the agenda for the land use meeting in December. So that's staff's recommendation. I would defer to the Commission as to whether or not you want to table this item at this time.

The only other change to the agenda, Mr. Chairman, is under Public Hearings, A. Land Use Department, item number 11, CDRC Case Z/DP #05-5220 has been tabled. Other than that we have no further changes and stand for any questions that this Commission may have.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Abeyta, as far as the Eldorado moratorium issue, is there a new geo-hydro study available?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, it's my understanding that there is information that includes some hydrology information that was submitted. I don't know whether or not there was a new hydrology study that was submitted but Dr. Wust, our Utilities Director probably has that answer.

STEPHEN WUST (Water Resources Director): Mr. Chairman, Commissioner Campos, in the information packet we just received from Eldorado Water and Sanitation District yesterday there was a summary of some of the work they're doing and in that it said that they hope to have their water study done in 2007. And that was the one that they had planned to contract for I believe this year or last year. The only other study recently that's been done is our hydrological model and that's a more regional thing in scope. The one specific to that area it looks like 2007 done by the Water and Sanitation District.

COMMISSIONER CAMPOS: Sometime in 2007?

DR. WUST: That's what their summary said, yes.

COMMISSIONER CAMPOS: Sometime in 2007 - middle? Late?

DR. WUST: It didn't say that from what I read.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN MONTOYA: Any other discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I was just wondering, Roman, so you think it's better to postpone this than to hear it now and then we can come back to this?

MR. ABEYTA: Mr. Chairman, Commissioner Anaya, yes. Staff would like to be able to analyze the information that was just provided and then have a discussion. We don't think we necessarily need to wait to have this discussion until a new study is done but we would at least like to be able to review the information that we have to date and provide an update to

the Commission, and then at that point talk about whether or not we want to move forward with publishing title and general summary.

COMMISSIONER ANAYA: And apparently you just received some information?

MR. ABEYTA: Yes, and like I said, we feel that we can have this discussion in two weeks with the Commission. It would be an informational item, an update, and then get direction from the Commission at that point as to how you would like us to proceed.

COMMISSIONER ANAYA: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. I'll just say that I would hope that we do have that meeting and discussion in a month. It's a little frustrating waiting over a year to get the data that we had contracted out to do, that Santa Fe County was responsible for. Now we're going to wait another year for Eldorado to get their data to us. It's going to be another year before we can have any sort of discussion. So I would appreciate that we move forward on this at the next meeting and not be delayed any further for any sorts of reasons because we don't have enough data. When do we have enough data, I guess is my question. So with that, I'd like a motion.

COMMISSIONER SULLIVAN: Mr. Chairman, the Consent Calendar items?

CHAIRMAN MONTOYA: There's only on Consent.

COMMISSIONER SULLIVAN: I'd like to withdraw it.

CHAIRMAN MONTOYA: Oh, you want to pull it. Okay. All right. Any other - there's nothing else to pull off Consent.

COMMISSIONER CAMPOS: Just one. Jack got it.

COMMISSIONER SULLIVAN: I was getting withdrawal. I had to take something off.

CHAIRMAN MONTOYA: Okay. Could I have a motion then?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Motion to approve the agenda as amended, including the withdrawal of Consent item X. A, tabling of XI. A and the tabling of XII. A. 11, I believe.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion and second. Further discussion?

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

VII. Approval of the Minutes

None were presented.

VIII. Matters of Public Concern -NON-ACTION ITEMS

CHAIRMAN MONTOYA: If there's anyone that would like to address the Commission on any issue that they would like to discuss, now is the time to bring that forward.

IX. Matters from the Commission

A. Resolution 2006-184. A Resolution in Support of the Agricultural Revitalization Initiative (Commissioner Montoya)

CHAIRMAN MONTOYA: I've included in your packet a resolution for your consideration and approval of the use of and actually reuse of some of the agricultural lands that are currently vacant or not being utilized. They would also provide the utilization of the acequias and use of water rights that again, currently may not be being utilized. I would stand for any questions that you may have on this agricultural revitalization initiative.

I'd like to ask those people that are here - I see Paul White and Lynn and others that are part of this. Would you please stand up? These are the people that have been involved in and supportive of this resolution. I'd like to recognize my dad who's in the baseball cap also in support of this.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: So this is just to support our continuing - support the agricultural community and everything that they do?

CHAIRMAN MONTOYA: Exactly. Exactly.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Give me some ideas of what the County might do to further the goals of this resolution.

CHAIRMAN MONTOYA: Well, what we have been asked is if we could assist in maybe the identification and possibly acquisition of properties which then this group could potentially use. For example, the Potrero in Chimayo is a perfect example of that. We purchased that for open space. We have water rights for that property. So that is a potential site that this group could, if they decided to utilize that site for agriculture, could use that for agricultural purposes. If there's other lands within the whole Pojoaque Valley, particularly in the Pojoaque Valley where this group is interested in, is that if we could acquire again for open space and then utilize it for agricultural purposes, that we would look at the acquisition of those properties as well.

COMMISSIONER CAMPOS: Now, this group would be the only eligible group? Or how would you decide who would actually manage or farm a particular piece of property?

CHAIRMAN MONTOYA: You know, at this point, to my knowledge, this is the only group that has expressed any sort of initiative and even some foresight in terms of trying to really sustain some of the agricultural lands and reinvigorate some of the agricultural business that used to go on in the community, which is now kind of dying. So I would say that this group would be a part of this. I would not say that they would be exclusively the only ones that would be able to participate in this sort of initiative. I think anyone who would want to join the group – they're not an exclusive group, so it's certainly something that's open to anyone that would be interested in doing this.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, one of the areas in which water rights are at a surplus is in the area of agriculture.

CHAIRMAN MONTOYA: Don't say that too loud.

COMMISSIONER VIGIL: Okay. And this resolution does intend to support, identify locations that have water rights attached. Does this organization intend to maintain those water rights only for agricultural purposes?

CHAIRMAN MONTOYA: That is the whole purpose of this group being formed, is because of the potential loss of agricultural water rights, the surface water rights. And that certainly is a threat to people that are not using their land for agricultural purposes and this group is trying to preserve those agricultural water rights for that use.

COMMISSIONER VIGIL: And the parameters for this is the Pojoaque Basin. So this would not extend to any other basins?

CHAIRMAN MONTOYA: At this point no, not with this group. This group is focusing strictly on the Pojoaque Basin. But I think this is a resolution that, say, if there's other areas in your district that would be interested in this type of an initiative, that it could easily be expanded to include those areas as well.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, thank you. I sit on the – I'm vice chairman of the Agricultural and Rural Affairs Steering Committee for the National Association of Counties and this is a topic that we talk about all the time is that our agricultural lands are disappearing. So I'm glad you brought this forward. This is a good resolution and I strongly support this, and this is not only in New Mexico and in our small communities, but we're losing it throughout the country. So thank you for bringing this forward and I strongly support it.

CHAIRMAN MONTOYA: Thank you, Commissioner Anaya. Commissioner Campos.

COMMISSIONER CAMPOS: I was just pointing out that there were some persons in the audience who'd like to address the Commission.

KAY MATTHEWS: Good afternoon. My name is Kay Matthews and I'm on

the Steering Committee of the Agriculture Revitalization Initiative. I just wanted to clarify a couple of points. While we are focusing on the Pojoaque Basin at this point because it's an area that's extremely at risk because of infill development and the nearness to an urban area in the county, we are looking, taking a broader look at all of northern New Mexico and all the state, actually. But we want to start in an area that we think is critical and where a lot of the founding members of the group reside and own land and they're conversant with the land and the water rights in that area. But we are interested in bringing people from all over the state.

Also we function as a coalition, so there are numerous organizations who are already addressing a lot of these issues, be it Farm to Table or the acequias in New Mexico, the acequia association, everybody who has a stake in keeping water rights in agricultural use. So we've brought a lot of those groups together so the outreach will be broad, ultimately. So we kind of have a two-fold goal to go ahead and set up this clearinghouse of information and to work on a pilot project in the Pojoaque Basin.

CHAIRMAN MONTOYA: Okay. Thank you, Kay. Any other discussion?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second, Commissioner Vigil. Any other discussion?

The motion to approve Resolution 2006-184 passed by unanimous [5-0] voice vote.

CHAIRMAN MONTOYA: Thank you all for coming this afternoon. I appreciate it.

X. Consent Calendar

A. Findings of Fact

1. CCDRC Case #06-5140 Keith and Patricia Burks Land Division

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. I asked that this item be withdrawn because I am not in agreement with paragraph 10. I saw no evidence in this particular hearing, and it's in my district so I recall it pretty well, that there was any extraordinary hardship on the part of the applicant. The applicant was granted three lots and didn't seem to demonstrate any hardship at all. So I just brought it forward so that we would vote separately on it from the agenda, because I don't feel that this case showed a hardship, because of non-self-inflicted conditions. That's all I have.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I would concur with the comments of Commissioner Sullivan. This case did not meet any of the legal standards for the granting of a variance. It was gratuitous. It was simply given because people wanted to give them a variance,

but there was no meeting of the legal requirements. When that occurs it seems to me that this body is without real jurisdiction to approve something. It didn't abide by its own rules. It didn't abide by the state law. So I would think that Commissioner Sullivan is right, that this should not be approved and that we don't have jurisdiction to even approve this at this point.

CHAIRMAN MONTOYA: Any other discussion? Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I would just ask, who drafts the orders? And perhaps they could request most of our memories with regard to this case. I don't want to take action on something that I don't have all the information on. Is this drafted by our Land Use Department or our Legal Department?

STEVE ROSS (County Attorney): Mr. Chairman, Commissioner Vigil, they are drafted by the Land Use Department and reviewed by Legal.

COMMISSIONER VIGIL: Okay. Do you, Mr. Ross, recall this case and if you do, can you speak to the hardship issue that has been brought up?

MR. ROSS: Mr. Chairman, Commissioner Vigil, no, I don't specifically recall this case. I probably could recall it if I look at the minutes.

CHAIRMAN MONTOYA: So, Commissioner Sullivan, what you're saying is you want to reverse the decision to approve this.

COMMISSIONER SULLIVAN: Well, the decision, Mr. Chairman, of course was made by the Board. What we're dealing with now is the order. I don't think the decision the Board made was on the basis of extraordinary hardship and I don't even recall that being brought forward as a reason for approving that particular lot split.

CHAIRMAN MONTOYA: So you're saying strike number 10.

COMMISSIONER SULLIVAN: I think number 10 is not applicable to this order. I don't think it was demonstrated nor was it even discussed.

CHAIRMAN MONTOYA: So that's different than turning this thing down. We can't really turn this down, can we? It has to be brought forward for discussion by someone who voted in the majority to reconsider.

MR. ROSS: Mr. Chairman, state statute requires an order be entered after a decision in a land use case, a written decision and that's what these are. It wouldn't necessarily be a reconsideration of the results because the results, the variance was granted. We have to memorialize that decision in this manner. So it wouldn't really be a motion to reconsider the underlying decision, which has already been made. What's before you now is whether this form of order is acceptable and does it reflect your decision.

CHAIRMAN MONTOYA: Okay. And what you're saying, Commissioner Sullivan, is number 10 does not reflect.

COMMISSIONER SULLIVAN: That's my recollection, yes, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'm going to have to disagree. I think when we take these items into consideration, and correct me if I'm wrong, Mr. Kolkmeier, isn't the applicant required to submit the statement of hardship within their packet of information when we're looking at these divisions, and wouldn't the statement of hardship have been a part of this

record?

JACK KOLKMEYER (Land Use Administrator): Mr. Chairman, Commissioner Vigil, good afternoon. I believe that's correct that that's what a variance is, but also I believe that - I don't know who exactly drafted this ordinance from my department. It was either Mr. Catanach or Ms. Cobau. I can go get them if you'd like specific information on this and want to talk about that. But it's my recollection and as far as I know from the collaboration with the attorney's office that this is supposed to be a record of what happened at that meeting and that if it didn't - if they didn't say that there was specific hardship, that might not have been mentioned at the meeting and therefore not in the notes, the order.

But it is a basic, fundamental principle of why we grant variances. See what I mean? There's two different - maybe they didn't address that and so therefore it's not addressed in the order because it wasn't specifically addressed by the applicant. But it is supposed to be a fundamental principle of granting variances.

COMMISSIONER VIGIL: My question, Mr. Kolkmeier would be specific to the process Land Use does. When this applicant would come before us, in most of the review cases that I have there is statements of hardship, and it becomes part of the packet of information. If it's discussed or not is dependent on the way the process and the public hearing goes. But it makes sense to me, at least when I read these, that that statement of hardship is a part of the record, even if it isn't addressed, but it's part of the packet and it also makes sense to me that if it is part of the record through the packet information that that would be a part of the order as you speak to, because variances are dealt with in principle for those purposes.

So I don't recall this case specifically. I'm getting some recollection about part of this transfer going to members of the Burks family and I do remember water being a huge discussion in that but I also don't recall if a statement of hardship was part of the packet of information.

MR. KOLKMEYER: Mr. Chairman, Commissioner Vigil, nor do I, so I think we'd have to go back and look for that. And I guess I'd have to ask Legal for their opinion here. Should this order be - if this is the question that they're raising should be go back and redo the order and resubmit it? If the question of hardship hasn't been addressed in the order and therefore is being questioned, was it addressed in the application? Should we consider redoing the order and bringing it back? I guess that would be my question because I need some advice from you. We'd be happy to do that, go back and look at that if that is the procedure we should follow.

MR. ROSS: Mr. Chairman, do you want me to address the question?

CHAIRMAN MONTOYA: Sure.

MR. ROSS: Generally, outside the EZ we don't request the applicant submit letters describing the hardship. That's a requirement of the EZ Code. That being said, you could as a Board, however, infer hardship from the facts and circumstances that you heard from the applicant during the meeting.

MR. KOLKMEYER: Mr. Chairman - thank you, Mr. Ross, because I think that's helpful also to clarify part of it. Our Development Review Director just gave me their

application and in fact there is a statement of hardship in their application. It states, the applicant stated that their main intention is to provide their children with an affordable housing option to remain in the Santa Fe area. They just request in order to deed each of the children their own lot. And they were unable to do it in any other way other than this method.

COMMISSIONER VIGIL: Okay. I just agree that a statement of hardship being part of the packet should be a part of the order. So I'm not in agreement with removing item 10.

CHAIRMAN MONTOYA: Okay. Any other discussion? Could we have a motion?

COMMISSIONER VIGIL: I move that we approve this order as presented to us without any amendments.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second by Commissioner Anaya. Further discussion?

The motion to approve the findings of fact passed by majority 3-2 voice vote with Commissioners Campos and Sullivan voting against.

IX. Other Matters from the Commission

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: No matters as of yet, Mr. Chairman. I would like to be called on after.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Just one item. Today we had a meeting with the mayor of Edgewood who was here earlier at our meeting and Councilor Ring to discuss the wastewater facility that Edgewood is trying to get funded for and putting together, and I would just like Roman Abeyta to continue those discussions with them to see what good Santa Fe County could possibly get out of the wastewater system if we were to decide to help fund. Thank you, Mr. Chairman. That's all I had.

CHAIRMAN MONTOYA: Thank you, Commissioner Anaya. Commissioner Campos.

COMMISSIONER CAMPOS: I'll pass for now.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. I just want to say thank you to the voters of Santa Fe County for showing their support of both our EMS gross receipts tax initiative and the judicial complex bond issue. Everyone, I think worked very hard in getting the issues out. There were plenty of pros and cons, plenty of discussions in the papers and public meetings. I think in the end people made their decision and made their choice. I expect there were those who didn't favor it but I appreciate those who did because I felt that

they were both needed projects. So again, thanks to those who supported those projects. It's now our responsibility to use that money wisely and to build facilities that the taxpayers are going to be proud of and to provide the services that we promised.

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

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Sorry Mr. Chairman, but I do also want to thank the voters in Santa Fe County especially in my district for electing me for another four year term as your Santa Fe County Commissioner. You know in the past my door has always been open to the public and to my constituents to come and speak with me on any issues and I will continue to have my door open and again, I want to thank the constituents and the people of Santa Fe County for electing me for another four years. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Congratulations, Commissioner Anaya.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I also would like to congratulate you, Commissioner Anaya and you too Commissioner Montoya for another term. It's been a pleasure working with you thus far and I think because we have a consistency in the Commission we're going to be moving at a faster pace, and because the voters were so generous in allowing us to enact the GRT and the general obligation bond. I look forward to moving forward with those.

I also want to make a comment and congratulate Valerie and her Clerk's team. This was the first time we've had to deal with paper ballots. I had heard so many fears throughout the County about long lines and people just not wanting to wait and what paper ballots were going to do and her team really adjusted to this huge change that we had to deal with with this previous election. And what I hear, when it comes to the general election, we're going to have to step up to the plate because the requirements on the staff of the Clerk's office for this transition was huge. I think she put a good team together and they worked very hard and there were many nights that they were here very late once the early vote started. And Valerie, please extend congratulations to your entire squad there for doing such an excellent job. I was very impressed with the diligence and the dedication of your employees.

CHAIRMAN MONTOYA: Commissioner Campos. You can't pass anymore. This is it, Buddy.

COMMISSIONER CAMPOS: I pass.

CHAIRMAN MONTOYA: I just had a couple of things also. First I would like to than the voters also. I really appreciate the confidence that 60 percent showed in us being able to implement the emergency medical services tax. Certainly the 51 percent that we received, I believe. Was it 51 or 52 finally, that we received for the general obligation bond? Fifty-two percent. I can assure the other 48 percent as Commissioner Sullivan said, we will spend that money wisely in terms of what we're planning to do with the judicial complex and we'll ensure that the constituents and the citizens of Santa Fe County have a complex that they're going to be proud of for years to come. It's not going to be something that we're going to outgrow in four or five years. We're talking about probably 40, 50 years, just as what we

just completed with the complex that we're currently in.

I want to also congratulate Commissioners Anaya and Vigil on their appointment to NACo vice chair positions. Commissioner Anaya with the Rural Action Caucus and Commissioner Vigil with the Justice Committee. So congratulations on your appointments in those vice chair positions. Santa Fe County is well represented there and these are national positions that probably not very many counties are as fortunate as we are to have the representation that we do on there.

I do have one not-so-good issue and that's when I get calls from constituents coming to do business in this building in Santa Fe County, they typically come from 20, 25 miles away. Probably spend another 20, 25 minutes trying to find parking, and then once they do find parking, especially if it's in front of the building and told that they can't park there because the Treasurer's office is reserving parking spaces, I have an issue with that. I wanted to know, is there something that's being done to alleviate that or at least welcome people to Santa Fe County without them feeling that they're not welcome to this facility?

MR. ABEYTA: Mr. Chairman, this item was brought to my attention this week by also somebody who called into the office. I'll be meeting with the Treasurer and we'll be discussing whether or not we could reserve one or two spaces for other County business, other than just paying taxes. If not then we will try to figure something out in our office, or maybe during this time period we can validate parking at the Sandoval garage or something as well as for people who are here paying their taxes. But that's something that we will address in the next day or two with the Treasurer.

CHAIRMAN MONTOYA: Okay. I would appreciate that so that we don't have those types of situations come up. That's all that I've got. I'd just like to welcome Bill Heinbach again from the Los Alamos National Laboratory for being here. Appreciate your presence as usual.

XI. B. Matters from the County Manager
1. Update on Various Issues

MR. ABEYTA: Thank you, Mr. Chairman. I have a couple of things I want to update the Commission on. First of all, in regards to the two initiatives that just recently passed, the new judicial complex and the EMT tax, staff is planning on providing a presentation to the Board on the 28th of November in two weeks regarding the judicial complex and what our plans are for proceeding now that the tax has past. So we will have a presentation for you on the 29th in regards to the new judicial complex.

Regarding the EMT tax we have started discussions with the Regional Emergency Communications Center staff, the RECC, and we're going to talk with the City of Santa Fe and the RECC regarding the drafting of a new JPA for the RECC. As the Commission is aware we passed a resolution directing staff to cover the cost of the RECC and become the fiscal agent of that district, that staff. So we're working with the City and the RECC

regarding that transition and I'll keep the Board posted and updated as to how those negotiations are going on that process.

Staff is proposing, Mr. Chairman that we only have one meeting in December. The administrative meeting in December scheduled for the 26th, which is the day after Christmas, because of its close proximity to Christmas we usually land up canceling that meeting. Staff is proposing the same thing. What we will do though is we may start the meeting early if there are administrative items that need to be taken care of before the end of the year. Unless of course the Commission wants to have the meeting on 26th or schedule it for another date. To my knowledge we don't have a lot of things that we need to take care of on the 26th so I would just defer to the Commission as to whether or not you want to have a meeting on the 26th.

CHAIRMAN MONTOYA: Is there any opposition to not having a meeting on the 26th? Seeing none -

MR. ABEYTA: So Mr. Chairman, we may start the land use meeting an hour or two early if we do have items that need to be taken care of before the end of the year, but like I said, to date, I'm not aware of anything that's really pressing or a lot of items that are pressing that we couldn't take care of between three and five like normal.

CHAIRMAN MONTOYA: Okay. So then we'll have the last meeting on the 12th.

MR. ABEYTA: We will have the last meeting on the 12th.

CHAIRMAN MONTOYA: For 2006. Okay.

MR. ABEYTA: Yes, Mr. Chairman. Earlier this week, Mr. Chairman, I received a visit from Gregory Wang who is our lobbyist with the Ferguson Group for the BDD project. He would like to schedule a visit to Washington with the City and County in March, the week of the 20th, March 20th, and we'd return on March 23rd. So that's something that I will be contacting each of you about individually and seeing who wants to attend that trip in March.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I think that those representatives on the BDD Board should be required to go. March 20th through the 23rd. And that would be Commissioner Campos and Commissioner Sullivan. And he's nodding no.

COMMISSIONER SULLIVAN: I'm just nodding because there will be reappointments in January; we may not be on there.

COMMISSIONER VIGIL: Well, but I think that most of the work that will be done that will need to be discussed will be from this previous year. I know that Commissioner Sullivan has gone before and I'd like to see Commissioner Campos go. I nominate him. Anyway, I recognize that everyone has to look at their schedule and probably individual polling would work. I just think it creates a larger benefit for those people who have actually worked on the BDD Board to be there in Washington.

MR. ABEYTA: Mr. Chairman, we'll poll the Commission in the next few

weeks to see who we're going to get to represent the County for that trip.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On that same issue, I think what we want to do in the interim is determine specifically what we want to accomplish and what issues the BDD staff wants us to address. At each of the meetings I know Councilor Wurzbarger brings up at each meeting the offer to help out in anyway necessary. Going to Dallas and working with the EPA or BLM or Washington and very frequently the staff will say, Don't upset the applecart. Let us work through these issues at a staff level. If we start getting pressure from higher levels then sometimes the staff retreats into a corner.

So that said, if the purpose is to go and just say please give us money, I think that's fine. We ought to know from where, from what fund. Do we have an application in? Are we tracking some kind of legislation? We need to be fairly specific. I think we've been pretty broad in the past, just kind of showing up and talking to some of the governmental employees. We did, when I went, discuss the San Juan/Chama permit, the perpetuity permit, which has since been approved. So that was a specific item that we did go to one governmental agency to discuss and it wasn't just our showing up there caused that permit to be approved but it certainly didn't hurt.

So if we can identify those issues and cross check it with the staff, I think that's important. And then focus our time there on these things where we can be helpful, because in some cases we may not be so helpful. We may be doing just the opposite. That's always my concern, particularly until we have the environmental documentation approved.

CHAIRMAN MONTTOYA: Okay. Roman.

MR. ABEYTA: Thank you, Mr. Chairman. Our Land Use Director and our Planning Division Director have met with Mary Helen Follingstad, our RPA Director, and they're requesting a study session with the BCC in the next week or two. I will poll each of the members of the BCC. The purpose of the study session is to start discussing the County's position relative to annexation. So like I said, we will be polling the Commission to see when we can get together to meet and discuss what the County's position relative to that is.

CHAIRMAN MONTTOYA: I'll just add that the reason for this being that at the last RPA meeting that we had, Councilor Ortiz did bring up the fact that no one from the County has really said we object to x, y, and z as part of the annexation. Is there anything that the County objects to? We have not really had that discussion as a Commission. I think we need to have that discussion because if there is something that we object to then we should know up front going into these meetings before we start talking about annexation, well, hey, x is out of the question. We don't think that's an appropriate place to be annexed. So that would be the purpose of this work study session, to try to determine are there sites that the City has identified that we may have a little bit of difficulty with. So you'll let us know.

MR. ABEYTA: Yes, Mr. Chairman. I'm going to get together with the

RPA Director in the next day or two and we'll come up with some potential dates and then poll the Commission to see what their availability is.

A couple of reminders, Mr. Chairman, for the BCC. One is we need to reconvene our Board meeting on the 9th where we opened the election canvassing. We need to close that on the 17th. That's this Friday at 4:00 pm. So far we do have three Commissioners that have said they will attend. That's Commissioner Anaya, Commissioner Campos and Commissioner Sullivan. So it looks like we will have a quorum for the 17th at 4:00 pm and it will be here in the chambers.

CHAIRMAN MONTOYA: Okay.

MR. ABEYTA: And finally, Mr. Chairman, I just want to remind the Commission that on January 1st we will be swearing in all the newly elected officials countywide so we're starting to meet and put together the agenda for that ceremony. Again, it will be January 1st for the elected officials. And other than that, Mr. Chairman, those are all the updates that I have from the County Manager's office.

CHAIRMAN MONTOYA: Okay. Roman, for that day, I would just ask if maybe you could get Justice Patricio Serna for my swearing in. Commissioner Anaya, did you have anyone that you were going to ask?

COMMISSIONER ANAYA: Mr. Chairman, I'm still debating on who to ask. There's a few. Maybe I could get all of them to do it. I haven't made up my mind yet who I'd like to - they're all good. So I'll let Roman know after.

CHAIRMAN MONTOYA: Okay. That will be what? At noon again, Roman? Or what time are we going to start?

MR. ABEYTA: We usually start at noon, so we're shooting for noon again, because it's kind of hard to get people here any earlier, especially on New Years Day.

CHAIRMAN MONTOYA: Okay. Any questions for Roman?

COMMISSIONER SULLIVAN: And in the interim, we're having a Commission meeting at 10:00 am.

CHAIRMAN MONTOYA: On the first?

COMMISSIONER SULLIVAN: On the first.

CHAIRMAN MONTOYA: Reorganization.

COMMISSIONER CAMPOS: Sounds like a coup attempt.

CHAIRMAN MONTOYA: Anything else, Roman?

XI. C. Matters from the County Attorney

1. Executive Session

- a. Discussion of Pending or Threatened Litigation**
- b. Limited Personnel Issues**
- c. Discussion of the Purchase, Acquisition or Disposal of Real Property**

MR. ROSS: Mr. Chairman, we need an executive session to discuss pending or threatened litigation, limited personnel issues, and discussion of purchase, acquisition or disposal of real property.

CHAIRMAN MONTOYA: Okay. So items XI. C. 1. a, b, and c.

COMMISSIONER CAMPOS: Move to go into executive session where we'll discuss a, b, and c.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion, Commissioner Campos, second, Commissioner Vigil.

The motion to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2 and 8) to discuss the matters delineated above passed upon unanimous roll call vote with Commissioners Campos, Montoya, Sullivan, Vigil and Anaya all voting in the affirmative.

CHAIRMAN MONTOYA: How long do we need?

MR. ROSS: Mr. Chairman, I'm not expecting this will be a length session and just for your information, land use cases have been advertised for 5:00, if you want to start early.

CHAIRMAN MONTOYA: Okay. So we will be back no later than 5:00.

[The Commission met in executive session from 3:50 to 5:25.]

COMMISSIONER ANAYA: I move to come out of executive session where we discussed pending or threatened litigation, limited personnel issues, and discussion of purchase, acquisition or disposal of real property.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second by Commissioner Vigil.

The motion to return to regular session passed by unanimous [5-0] voice vote.

XII. PUBLIC HEARINGS

A. Land Use Department

- 1. Second Public Hearing for Ordinance No. 2006-10. An Ordinance Amending the Santa Fe County Land Development Code (Ordinance 1996-10, as Amended). To Add a New Section 9, Tres Arroyos del Poniente Zoning District (TAP) to Article XIV, Traditional and Contemporary Community Zoning Districts [Exhibit 1: Amended TAP Zoning Boundary Map and Description]**

JUDY MCGOWAN (Planning Director): Mr. Chairman, I'd like to take a little time to address a couple of things first. This is the second public hearing. [inaudible] and you have the CDRC recommendation.

Since the first public hearing all the property owners in the area and [inaudible] including right-of-ways have been noticed and a legal notice has been placed in the *New Mexican* for two consecutive weeks prior to this hearing to meet the statutory requirements.

A couple of issues came up in the public hearing last time and then since I've heard from a couple of people with suggestions for changes. So I did submit a page called proposed amendment to the TAP Ordinance, the County Code version, which you should have in your packet, and I'll go through that real briefly. Also what I placed at your places up there and also made available to the attorneys and the record keeper is that the GIS Department has done the final exact boundary of the TAP Zoning District, so this amended map reflects that, and there is also an attachment, Exhibit A, which is the verbal description of the boundary which matches the map. And I've also done some amendments to the road and trails map, correcting the boundary on that and making sure that we have the latest version of roads that are actually built in the area which is changing quite rapidly on that map.

So I'm asking for the authority, if you chose to approve the ordinance tonight, have the authority to make typographical and graphic, including the final changes to the map, making sure the adoption date and the ordinance number are on the maps and that any little pieces that someone spots are corrected before we record the ordinance.

The second item in your packet was the proposed amendments and as I said, we sent out public notice and received very little comment back on this ordinance. There's been a little bit more comment for the EZ version having to do with the urban area but actually very little comment on that ordinance also. The amendments in your packet, there's a section that would be added, a commentary section to page 2 explaining that the land use table has the principal uses in it, not accessory uses, and accessory uses are handled a different way, and there's a section in the draft ordinance about accessory uses. That's a clarification.

The TAP land use table proposed amendments are also clarifications. Under single-family dwellings I've added the words "attached and detached", because there's been some confusion about that, people thinking that townhouses are multi-family when in fact they

attached single-family, because they each have their own lot. And then under restaurants, there was just a cross reference in there to see home restaurants and that's a mistake. There is no home restaurant category or reference.

Under the supplemental use regulations, we had a property owner point out that under Section F where it said the roads should be ditches and shoulders, ditches and grassy swales, rather than curb and gutter, and I had said except in New Village. But in fact the Extraterritorial Subdivision Regulations, road standards require curb and gutter on small lots whether they're in a New Village or just in a cluster development. So I've added small lot or cluster developments to that section to clarify that.

At the first public hearing, the issue got raised by the Board about whether the maximum .25 acre-foot a year per lot of water that is in the draft could be reduced further. And I asked for opinions from both the County Hydrologist and County Attorney's office about that issue and their recommendation was that it not be reduced, that it be left simple with the .25 acre-foot a year maximum, which is already a limit that doesn't currently exist in the County Code. And I believe the rationale for that was that first of all, that the Board has the opportunity on a case by case basis, based on the facts of the specific development proposal to place that limitation now without putting anything in the ordinance and that since this area is primarily or largely developing now on wells and septic tanks, some are on County water and you can place whatever restrictions that need to happen through the water budget there. But on the wells and septic tanks, the County currently allots the density by quarter acre-foot of water and there might be requests for higher density if we lower that quarter acre-foot to below .25 acre-foot. That was the recommendation of the hydrologist.

The County Attorney did propose or approve some clean-up in that water and wastewater section and that's on the amendment page also. We wanted to make sure we were talking about residential lots, not every legal lot of record, because commercial lots are done through a water budget, not through the .25 acre-foot limit. And then Section E. was a question or confusion that arose in the hallway outside the meeting. It wasn't brought up in your public hearing. There was a misunderstanding about what graywater reuse meant. So I called NMED to get the appropriate language to clarify. So this clarification says that if you're using a sewer system where the County and the state have approved centralized effluent reuse or preservation of return flow credits, you might not require graywater reuse in that development and also referencing the appropriate permits for graywater systems.

The confusion arose because La Pradera is doing a sewer system that reusing effluent. That is not technically a graywater system under NMED regulations.

And then finally tonight, came up a reminder of a further amendment that I would like to propose that's a very simple one. On page 11, section 9.8 D, subsection 11, which is home occupations, there is a prohibition against three-axel vehicles in home occupations, and it's been pointed out - and it also specifically mentions backhoes. Backhoes are not three-axel vehicles, so I would be proposing to just delete the word backhoe from there.

I have the maps up on the power point if we wanted to look more specifically at the maps or just have them more available and other than that, that's the only presentation I had.

CHAIRMAN MONTROYA: Okay, any questions for staff? So this is our second public hearing, so if there's anyone here that's here to speak on behalf or in opposition, if you would please come forward, of the Tres Arroyos Plan.

TOM TERWILLIGER: My name is Tom Terwilliger. I spoke to you previously on this so I'll be very brief. I just want to reiterate my enthusiasm for this ordinance. As I mentioned last time, this ordinance, based on the approved TAP plan that you and the EZA approved last year and County staff has done a spectacular job in brushing up the language on trails and the use table that gave you a little bit of an amendment on, open space, home occupations and so forth. This has been before the community in August and the community has been notified twice about this. Very few additional comments have come in as Judy pointed out.

Those of us who have been participating in the last few months are uniformly enthusiastic about this plan and we strongly encourage you to adopt the ordinance now. I just want to spend two more minutes and thank all the people that are involved in this. The people who have been involved in the planning group over the last seven years, there are too many to name but without that whole group we couldn't have put this together and it's been a very long process and involved a lot of people and a lot of people's time and it's very much appreciated, all that time.

I also want to thank in particular County staff. Beth Mills participated very extensively in the early parts of this and Judy McGowan has spent a great deal of time on this plan, in particular in the last year, has spent a tremendous amount of effort and I think has done an absolutely spectacular job. Thank you.

CHAIRMAN MONTROYA: Thank you, Tom. Thank you for your contributions as well. Anyone else who would like to speak on behalf of the plan?

DAVID GOLD: My name is David Gold. I'm here as representing the West Santa Fe Association and also the Puesta del Sol Homeowners Association. First of all, like Tom, I have to thank several of the people. One of them is Tom himself who has done a remarkable job, without whom this wouldn't have happened. Judy McGowan has done an amazing job of converting the plan into a viable ordinance. This level of detail and the scope that she applied to it is brilliant. She did a great job. I want to thank every individual participant. I'd like to thank this Commission for creating the Community Planning Ordinance in the first place, under which this was done. It's a great ordinance. And I'd like to thank Commissioner Vigil who actually went to some of our meetings and helped untangle some of the embroilments that were occurring.

As I said, this plan has done an excellent job, this ordinance has done an excellent job of converting the plan into a viable legal document which will improve the level of trails, open space, water usage, lighting, everything that affects the quality of life in our area. I've looked at the amendments and also agree with them and also even the backhoe

amendment. It's good. A lot of my neighbors actually own backhoes. In fact, I own a backhoe. It's not a home occupation. It's out there.

The only other comment I have is that one thing that's not covered and I wouldn't want to hold up the plan for but I want to bring to the attention of the Commission is we have had issues with serial subdivisions in our area recently where certain agreements that were made with neighbors were not followed. It would definitely be appropriate to have an ordinance that deals with serial subdivisions, I feel, not just in the TAP area but in the entire EZ and even to improve some of the language for the County. But I wouldn't want to hold up this plan for that ordinance. And with that, that's all I have to say. Thank you very much.

CHAIRMAN MONTOYA: Thank you, David. Appreciate it. Okay, anyone else like to come forward and speak on behalf of this plan, or in opposition? Seeing none, this public hearing is closed. Any questions from the Commission? Staff, any last comments? Judy.

MS. MCGOWAN: Mr. Chairman and Commissioners, just one final comment. I just verified with the attorney that if you're going to approve the ordinance you need to approve Exhibit A, the verbal description of the boundary along with the ordinance. And any amendments.

CHAIRMAN MONTOYA: And any amendments? Okay.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I'm actually again honored and privileged to make this motion before the Commission. I did work with this community on this plan and it's been a long time working and David Gold and Mr. Terwilliger were exemplary representatives of their neighborhood associations and actually the entire northwest quadrant. Many negotiations went into this. Mediation was required and Judy, thank you so much and please thank Beth Mills and Mr. Kolkmeier, your entire Land Use Division, for working on this. It's wonderful to have a product like this and I'm always very proud of the fact that Santa Fe County has taken it upon themselves to plan for the future of our communities and to include such amenities and open space and trails and the predictability for what the future of Santa Fe County will be like is phenomenal to me with us incorporating these kinds of plans into our future.

With that, Mr. Chairman, I move that we approve the amendments to this TAP plan to include Exhibit A and any typographical changes that are required to the map.

CHAIRMAN MONTOYA: We have a motion by Commissioner Vigil.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second by Commissioner Campos. Further discussion?

COMMISSIONER SULLIVAN: Including the amendments.

CHAIRMAN MONTOYA: Including any amendments.

COMMISSIONER VIGIL: Amendments. Yes.

COMMISSIONER CAMPOS: Fine with the second.
CHAIRMAN MONTOYA: Any other discussion?

The motion to approve Ordinance 2006-10 passed by unanimous [5-0] roll call vote with Commissioners Anaya, Campos, Sullivan, Vigil and Montoya all voting in the affirmative.

CHAIRMAN MONTOYA: Thank you, Judy.

MS. MCGOWAN: Thank you very much. I won't go into the Oscar speech. It's already been done.

COMMISSIONER VIGIL: Judy, is the final hearing?

MS. MCGOWAN: This is the final hearing. Yes, it is.

COMMISSIONER VIGIL: Thank you.

- XII. A. 2. Ordinance No. 2006-__ . An Ordinance Amending Article XIV, Ordinance 2000-8, of the Santa Fe County Land Development Code, Ordinance 1996-10 to Include the Los Cerrillos Traditional Community Zoning District Map and to Clarify Density within the Los Cerrillos Traditional Community Zoning District FIRST PUBLIC HEARING [Exhibit 2:Support Letter; Exhibit 3:Committee Letter]**

ROBERT GRIEGO (Senior Planner): Mr. Chairman, Commissioners, this the first of two required public hearings for the proposed ordinance amendment. For this presentation I'd like to first presentation I'd like to first present the background and identify the major issues with the existing ordinance, and then I'd like to present the proposed ordinance amendments to the Board. I'd like to inform the Board about the public process for the proposed ordinance amendment.

We have a power point but we could maybe bring that out for the mapping purposes. Mr. Chairman, Commissioner, the Los Cerrillos Community Plan was adopted by the Board in 1999. The Los Cerrillos traditional community zoning district ordinance was adopted by the Board in 2000. The Los Cerrillos Community Plan was actually the first community plan that was adopted by the Board and the ordinance was the first ordinance, traditional and community planning zoning district ordinance that was adopted by the Board.

The ordinance was intended to enact the policies as outlined in the plan and establish density within the designated zones in the ordinance. The Los Cerrillos traditional community boundary was part of the traditional community plan and the actual plat was recorded by the County Clerk. The Los Cerrillos Community Plan also identified zoning districts within the Los Cerrillos traditional community planning boundary. The Los

Cerrillos traditional community zoning district map in the plan was actually hand-drawn as a part of that process and the hand-drawn map was not included in the ordinance, and that's part of the major issue that we have that there was not a zoning district map for the ordinance.

The Los Cerrillos Ordinance only referred to the Los Cerrillos traditional community boundary map as a zoning district. So that was a mistake that we need to rectify at this point. The Los Cerrillos traditional community zoning district map was not included so we have a draft of that map in your packet. Within the zoning district we have four subdistricts, the townsite zone, the village zone, the traditional community zone and the commercial district. These zoning districts are identified in the ordinance but they were not shown in a map.

Another issue with regard to the ordinance is that the ordinance identified the townsite of Cerrillos plat. This was an 1800s townsite plat. It was recognized in the community plan in the ordinance but there were some problems with it. The townsite plat showed the existence of really small lots, 25 X 100 plats which were not necessarily legal lots of record. The Land Development Code only recognized these lots if they were required prior to the Code in 1981.

There was a section in the ordinance also which described the legal lots of record. Section 2.2 of the ordinance has a very ambiguous definition of what a legal lot of record is and it's been confusing as these developments come in. The County Land Development Code Ordinance 1996-10 defines legal lots of record and the proposed ordinance amendment would not need to redefine legal lots of record for this area. We need to be clear about what legal lots of record are and we don't need different definitions.

So finally, the proposed Los Cerrillos traditional community zoning district ordinance amendments are as follows: Clarify the ordinance language and correct some of the formatting throughout the document. Section 2.1 of the ordinance, location of district, we would add the Los Cerrillos traditional community zoning district map and remove the reference to the Los Cerrillos traditional community boundary as recorded by the Clerk. That traditional community boundary map is still identified in the ordinance, but not as a zoning district map.

Section 2.2 of the ordinance, we'd like to clarify density for the commercial district. There were some ambiguities in regard to that and Section 2.3, clarify legal lot of record to address the issue that I spoke of a minute ago. Section 2.5, the commercial district, we'd like to remove the reference to the townsite of Cerrillos plat, book 20, page 47 and include the Cerrillos traditional community zoning district map, the commercial area on that map.

And finally, Section 2.7, home occupations, we'd like to clarify home occupations to be consistent with the Code, to be allowed throughout the zoning district and clarify standards regarding parking for home occupations.

Finally, I wanted to inform the Board that we did go through a public notice process for the proposed ordinance. Notice was sent out to property owners within the

traditional community zoning district boundary and a community meeting was held in the community on September 26, 2006. The community and the planning committee reached consensus to make the proposed changes to the ordinance. There was also notice of the community meetings posted at the Cerrillos post office and the CDRC unanimously recommended approval to the Board at the last CDRC meeting in October. That concludes my presentation and I stand for questions from the Board.

CHAIRMAN MONTOYA: Any questions for Robert?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Robert, so basically you're trying to eliminate the 25 X 100 lots.

MR. GRIEGO: Mr. Chairman, Commissioner Anaya, if there are legal lots of record, we want to recognize those legal lots of record. The problem was the townsite plat was platted over the entire community, so people may not have had legal lots of record but they were using the townsite plat of Cerrillos to identify those smaller lots. So we're recognizing these lots if they were identified, if it was a legal lot of record according to the County. So we're not eliminating these small ones if they were legal lots of record.

COMMISSIONER ANAYA: Thank you, Mr. Chairman, Thanks, Robert.

CHAIRMAN MONTOYA: Okay. Any other questions for Robert. Seeing none, this is the first public hearing for this ordinance. If there's anyone that would like to, please come forward, to speak either on behalf or in opposition to this ordinance.

THOMAS WARREN: Honorable Commissioners, my name is Thomas Warren. I am a resident of Los Cerrillos. I was one of the co-chairs of the original planning committee, along with Nancy Cortez in developing a plan for the County that would fit the needs of our traditional village. What you have before you is a correction of a mistake that was made, and I support the correction 100 percent. The traditional village of Cerrillos really wanted to stay the way it was, but it isn't going to happen. So we had to take steps to make a plan that would fit our future and our future is in this plan. We really want to curtail large-scale development. We want the people of the village to have their own homes and to be able to the kinds of things they've always been doing. So I stand here in support of the changes that are necessary for our plan. Thank you.

CHAIRMAN MONTOYA: Thank you, Thomas. Next please.

COMMISSIONER VIGIL: Mr. Chairman, if I might be excused just for about half an hour. I'll be back for the next hearing.

CHAIRMAN MONTOYA: Okay. We'll see you in a little bit, Commissioner.

[Commissioner Vigil left the meeting at 5:55.]

ROSS LOCKRIDGE: My name is Ross Lockridge and I'm from Cerrillos, and I was with the original planning committee. I support this correction of our ordinance. Yolanda Sandoval couldn't be here this evening. She was also one of the original people who worked a three-year stint on our plan, and she sent a very brief letter that she would

like read by me.

Dear Commissioners, due to a previously scheduled trip I am unable to attend the meeting tonight but would like to voice my support for the amendment to the Los Cerrillos traditional community zoning district ordinance. We have recently discovered a major problem with the ordinance as adopted and would like to prevent further development that is contrary to the intent of our community plan. I along with other community members have been working with staff to resolve these problems. I ask you to please vote in favor of the amendment. Yolanda Sandoval.

I think that I probably should give this for Yolanda, put this into the record, along with a copy of the letter that the committee I think has sent to all of you. So thank you all.

CHAIRMAN MONTOYA: Thank you, Ross. Appreciate it.

ANN MURRAY: My name is Ann Murray. I'm been a resident of Cerrillos for 34 years. I participated in the planning process and I also support the amendments to the ordinance that better reflect the intention of our community plan.

CHAIRMAN MONTOYA: Okay. Thank you, Ann. Anyone else like to come forward to speak on behalf of or in opposition to this amendment to the plan? Okay, seeing none, this public hearing is closed. Robert, would you like to summarize? Any questions, actually, before we move on? Robert.

MR. GRIEGO: Mr. Chairman, this is the first of two public hearings and we will come back at the next public hearing but what we're trying to correct some of the mistakes in the first traditional contemporary community zoning district ordinance that was created by the County.

CHAIRMAN MONTOYA: Okay. So the next hearing will be December 12th then?

MR. GRIEGO: Yes, Mr. Chairman.

CHAIRMAN MONTOYA: All right. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: It looks like item 3, the Turquoise Trail public improvement district pursuant to whatever, is going to take a long time. I was wondering if we couldn't move to the cases that will move a little quicker and put this at the end.

CHAIRMAN MONTOYA: You want to go on to 4?

COMMISSIONER CAMPOS: I think a lot of these cases are pretty straightforward and we could move through them very quickly.

CHAIRMAN MONTOYA: Okay. Any objections to that? Seeing none, we'll move on to item #4 then. Actually, before we move on to item #4, I would like to ask staff - I believe it was at the land use hearing in October where we heard that Madrid Cingular cell tower. If we could bring that up. I'd like to bring that up for reconsideration as an individual who voted in the majority on that. If we could bring that up for the December 12th land use meeting.

SHELLEY COBAU (Review Division Director): Mr. Chairman, we can accommodate that request. As long as we can posting notices out in time I think we should be able to accommodate that request.

CHAIRMAN MONTROYA: Okay. Thank you.

**XII. A. 4. CDRC Case No. V 06-5510 Carmelita Gurule Variance.
Carmelita Gurule, Applicant, Thomas Maestas, Agent, Request a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 1.59 Acre into Two Lots. The Property is Located at 250A and 250B State Road 76, within Section 6, Township 20 North, Range 9 East (Commission District 1)**

JOHN LOVATO (Review Specialist): Mr. Chairman, Commissioners. On September 21, 2006 the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of the applicant's request with staff conditions. The applicant is requesting a variance of Article III, Section 10, Lot size requirements of the Land Development Code in order to allow a land division of 1.59 acres into two lots. This property is located in the Basin Hydrologic Zone where the minimum lot size is 2.5 acres per dwelling unit.

The property is approximately one-quarter mile outside the boundary of the traditional community of La Puebla and Cuarteles. There are currently two legal non-conforming dwellings, a well and a septic system on the property. The applicant is making this request in order to put the two existing residences on separate lots. The applicant states that she is requesting this variance with the intention of getting her affairs in order for her last will and testament.

The applicant also states that she does not plan to convey the land and will hold the title to both lots until such time that her will is to be administered.

Recommendation: Staff recommends denial of the request for a variance, based on Article III, Section 10 of the Land Development Code, which states that the minimum lot size in this area is 2.5 acres per dwelling unit. If the decision of the BCC is to recommend approval of the request, staff recommends the following conditions be imposed. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. A plat must be submitted for administrative review and approval; and an easement provided for the existing well. Water use shall be restricted to 0.25 acre-feet per lot. A water meter shall be installed on both lots. Annual water meter readings shall be submitted to the Land Use Administrator by January 31st of each year. Water restrictions shall be recorded in the Santa Fe County Clerk's office.
2. No additional dwellings will be allowed on the property.

3. The existing driveway will serve both homes.
4. The applicant shall submit an updated Environmental Department Liquid Waste Permit showing correct lot size and correct number of homes.
5. The property shall be divided into two equal parcels, and no further division of this land shall be permitted; this shall be noted on the plat.
6. Failure to comply with all conditions shall result in administrative revocation of the appeal.

CHAIRMAN MONTOYA: Any questions for staff? Seeing none,
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Is this in a traditional community? These
lots splits would take it down to about three-quarters of an acre per lot. Is this in the
traditional?

MR. LOVATO: Mr. Chairman, Commissioner Sullivan, it is not in the
traditional community.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other questions? Commissioner
Anaya.

COMMISSIONER ANAYA: How far is it away from the traditional? You
said it but I forgot.

MR. LOVATO: Mr. Chairman, Commissioner Anaya, it is approximately a
quarter mile to a half a mile away.

COMMISSIONER ANAYA: Okay.

CHAIRMAN MONTOYA: And I'll just add that this tract happens to have
fallen on a piece that when the traditional community boundaries were drawn arbitrarily
they were left out of the traditional community. Otherwise, pretty much everything
adjacent to this property is in the traditional community. This is one of those that fell into a
donut hole, if you will, again, when the boundaries were being drawn with the traditional
community. Any other questions? Is the applicant here?

[Duly sworn, Thomas Maestas testified as follows:]

THOMAS MAESTAS: My name is Thomas Maestas. I live at 901 Ninth
Avenue Northeast, Rio Rancho, New Mexico 87124.

CHAIRMAN MONTOYA: Okay. Thomas is there anything that you wanted
to add to the packet of information that we received?

MR. MAESTAS: I think the only comment I have is on page number 2,
item number 5 of the recommendation. It states that the property shall divided into two
equal parcels. I'd like to have that possibly be changed. The applicant is elderly and unable
to come tonight. As you see in Exhibit D, she wishes that the line go through the well so
that both properties are co-owners of the existing well. Also I'd like to put on the record
that each dwelling does have its own septic system, not just one.

CHAIRMAN MONTOYA: And they're sharing a well?

MR. MAESTAS: Yes.

CHAIRMAN MONTOYA: So that's why she put the boundary -

MR. MAESTAS: She wanted to make sure that in the future that both her children who would inherit the land would share the well and all the maintenance.

CHAIRMAN MONTOYA: Any questions for the applicant?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Tomas, I didn't quite understand. So the line on Exhibit D, that's not equal parts.

MR. MAESTAS: Yes.

COMMISSIONER ANAYA: You want it to go right over the well house.

MR. MAESTAS: Yes. That line, right where it says well, that line that says North 78° 26'30" West 134.41 would be the property line.

COMMISSIONER ANAYA: And both those dwellings have been there and both of those dwellings have septic systems you said?

MR. MAESTAS: Yes.

COMMISSIONER ANAYA: How long have they been there?

MR. MAESTAS: They've been there since 1978. We submitted aerial photos with the packet that they were there since the - 1978 or '79 is when the aerial photo was taken so they were existing prior to that and around that time is when I think they were established.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Thanks, Tomas.

MS. COBAU: Mr. Chairman, I'd just like to point out that one of the staff conditions is that an easement be provided around that well in the event that in the future the property changes hands so that the well could be contained within an easement. And the division of the property shown on Exhibit D looks like tract B-1 is .78 acres and tract B-2 is .83 acres, which is a tenth of an acre within being exactly in half.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: The question I had is the two dwellings that are on the site now are legal non-conforming, which means they came in before the Code took effect. And in order for - is it your mother?

MR. MAESTAS: No, I'm just the land surveyor for -

COMMISSIONER SULLIVAN: You're the land surveyor. Okay. In order for her to get her will in order, is there some problem that she would not be able to convey those two dwellings to somebody, or is she thinking of doing a family transfer? What's the problem with the will that requires that these be split up?

MR. MAESTAS: Mr. Chairman, Commissioner Sullivan, I don't believe there's really a problem. She just wants to clarify exactly, separate the properties so in her will they can be conveyed as separate properties. I don't think there's really a problem that I'm aware of as far as -

COMMISSIONER SULLIVAN: So the property - you're a surveyor - the

property could still be conveyed now, it's just that it would have two dwellings on it and it would be one parcel. Is that right?

MR. MAESTAS: Yes, but she just wants to be able to convey them to two separate people. Her kids.

COMMISSIONER SULLIVAN: Is there – these are family members?

MR. MAESTAS: Yes. Family members.

COMMISSIONER SULLIVAN: But she's not requesting a family transfer?

MR. MAESTAS: No. She doesn't want to convey the property. With a family transfer the property would have to be conveyed upon approval of the plat.

COMMISSIONER SULLIVAN: To a family member.

MR. MAESTAS: To a family member and she does not want to convey them until her last will and testament.

COMMISSIONER SULLIVAN: Well, let me check with staff. I don't think it has to be conveyed immediately to a family member. Is that right? Somebody on staff. On a family transfer, the statement was that she doesn't want to do a family transfer because it would have to be conveyed immediately to a family member.

MS. COBAU: Mr. Chairman, Commissioner Sullivan, that's correct. It would require immediate conveyance and it would be shown on the well sharing agreements and all the associated documents who it would be conveyed to.

COMMISSIONER SULLIVAN: Okay, so she would have to convey it immediately.

MS. COBAU: That's correct.

CHAIRMAN MONTOYA: Other questions? Okay. This is a public hearing so if there's anyone that would like to speak on behalf of or in opposition to this case if you'd please come forward. Seeing none, the public hearing is closed.

CHAIRMAN MONTOYA: Thomas, is there anything else you have to add? Any closing statements?

MR. MAESTAS: No, sir. No, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Thank you. Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had a question for you, Mr. Chairman. I didn't quite understand, you had mentioned that this had been inadvertently left out of the traditional community. I was looking at Exhibit H and it seems like there are quite a few parcels between this parcel and the traditional community boundary. I was just trying to get a clarification by what you meant, whether it just got left out or somehow overlooked.

CHAIRMAN MONTOYA: Part of the research – because I've had a number of residents that have contacted me regarding the traditional community in Cuarteles and La Puebla and as far as I can tell, any of the research regarding the boundaries here, how they were drawn and how they came about, nobody really knows. No one has really, in the community, come forward – I know that's probably about five or six years ago, before I was on the Commission, they attempted to do one of the

community plans but never were told that we didn't have the staff to provide them the resources to do that plan, so that was never done in order to correct the boundaries on the traditional historic community.

COMMISSIONER SULLIVAN: So your feeling is that all Cuarteles should be in the traditional community?

CHAIRMAN MONTOYA: Yes, because if you go through there it's pretty much like going through a traditional historic community.

COMMISSIONER SULLIVAN: Not this particular lot but the whole area.

CHAIRMAN MONTOYA: Exactly. Exactly.

COMMISSIONER SULLIVAN: Okay. Thanks. Any other questions for the applicants of for staff? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, from the testimony I heard I move for approval with the conditions.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya. I'll second for discussion. Any further discussion?

The motion to approve CDRC Case #V 06-5510 failed by a 2-2 voice vote with Commissioners Sullivan and Campos voting against. [Commissioner Vigil was not present for this action.]

CHAIRMAN MONTOYA: So the motion dies on a 2-2 tie. So you can get with staff, Thomas, in terms of the next step.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: If it's your position that this entire area should be different than what it is, have you thought of a legislative solution to the problem?

CHAIRMAN MONTOYA: I'm not sure that it has to go through a legislative process. I think the traditional historic community boundaries were drawn by the Commission back in 1980.

COMMISSIONER CAMPOS: But they could be amended.

CHAIRMAN MONTOYA: By us. Yes.

COMMISSIONER CAMPOS: That's a legislative solution. I'm not sure if it's appropriate. There's always water issues and wastewater issues, pollution issues, water table – all kinds of things you've got to consider before you take that leap, I would think.

CHAIRMAN MONTOYA: Yes, because that's something that we can look into, maybe in terms of having staff look at the boundaries.

MR. KOLKMEYER: Mr. Chairman, we had – the only one of these kinds of adjustments that we've made that I can remember was a small piece of property like this that was just outside of Chimayo. It was adjacent to it and it was the same reason, and we just went back and we adjusted that through an ordinance change. But we didn't realize

how many of them were and we're starting to see more and more of these and probably what we need to do is look at La Puebla, Cuarteles, and Santa Cruz and maybe find out where these mistakes are and correct them all at one time. Then we wouldn't even have this problem as it came up this evening. We'll look into that, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Thank you for that suggestion, Commissioner Campos.

XII. A. 5. EZ CASE # DL 06-4500 Leyba Family Transfer. Jerry and Pauline Leyba applicants, Bernie Alarid (Alarid and Associates) agent, request plat approval of a Family Transfer Land Division to divide 2.48 acres into two lots, within the Valle Lindo Subdivision. The lots will be known as Lot 2-A (1.24 acres more or less) and Lot 2-B (1.24 acres more or less). The property is located at #7 Calle Prado, via Highway 14, within Section 25, Township 16 North, Range 8 East, (5-Mile EZ, District 5)

JOSE LARRAÑAGA: (Review Specialist): Thank you, Mr. Chairman. On September 14, 2006 the Extraterritorial Zoning Commission met and acted on this case. The decision of the EZC was to recommend approval of the applicant's request with all staff conditions.

The property is located in an approved subdivision within the Basin Hydrologic Zone. The minimum lot size within the Basin Zone is 2.5 acres with water restrictions. Under the EZO Family Transfers of half the minimum lot size (1.25 acres), are allowed. Therefore creation of these lots can be approved with .25 acre-feet per year water restrictions.

The following Lots are proposed: Lot 2-A, 1.24, Lot 2-B, 1.24-acres more or less, vacant. This application was reviewed for the following: access, water supply, liquid waste, solid waste, fire protection, terrain management, archeological review, environmental review.

It is Staff's opinion that this application conforms to applicable provisions of the Extraterritorial Subdivision Regulations, Section 3.3.6. Therefore, staff recommends approval of this request with the following conditions. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. Common access roads must have a minimum 38-foot easement and must be developed to Santa Fe County Common Roadway Standards prior to recording the plat of survey or the applicant must provide Santa Fe County with a certified engineer's cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing 0.25 acre-feet per year per lot. Water meters must be installed

to each lot at the time of development and meter readings must be submitted to the Land Use Administrator annually by January 31st of each year.

3. Water supply to these lots are governed by the La Cienega Watershed Conditions.
 - a. Connection to County Water Utility - Lot owners, their successors and assignees shall agree to connect to the county water utility when service is available within 200 feet of the property line of the land being divided, which 200 feet shall be measured along platted easements to the nearest property line. The landowners, successors, and assignees agree not to oppose the creation of an improvement district pursuant to section 4-55A-1 ET. SEQ. NMSA 1978 (1997 Repl. Pamp.), as those sections may be appropriate. Alternatively, this condition does not preclude any other means of financing than the improvement district method. The line extension within said 200 feet shall be done in accordance with the applicable rules and regulations and tariffs of the Santa Fe County Water Company.
 - b. Encouragement for Shared Wells - To the greatest extent feasible, lot owners should use shared wells to minimize expenses related to the interim water supplies.
 - c. Design and Construction - At the time a line extension is made pursuant to paragraph 1 above, The distribution system within the land divided shall be designed to meet the minimum fire flow requirements of the Santa Fe County Water Utility, exclusive of any reservoir capacity.
 - d. Disconnection from Domestic Wells - At the time the connection is made to the Santa Fe County Water Utility, lot owners their heirs, successors, and assignees, agree to disconnect any domestic wells created under NMSA Section 72-12-1 NMSA 1978 (1997 Repl. Pamp.) and to discontinue use of said wells except in emergency circumstances.
 - e. Easements - Lot owners shall dedicate a 15-foot wide utility easement along all property lines for the installation of infrastructure and water distribution lines for the county utility system.
 - f. Well Design - A good faith effort shall be made to drill all wells 50 feet into the Tesuque formation and to connect a seal to prevent mixing of waters between the Tesuque and Ancha formations. A suggested well design is available from the County Land Use Department.
4. As per ESR regulations, a solid waste fee is assessed for all newly created parcels. The fee for this subdivision is \$78.04.
5. Approval from the New Mexico Environment Department for the proposed liquid waste disposal system must be obtained prior to building permit.
6. Applicant must contact Rural Addressing for the assignment of addresses for the proposed lots.
7. Applicant shall sign Fire Department Affidavit.
8. A retention pond in accordance with the Santa Fe County Regulations will be

required for both lots.

9. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Jose E. Larrañaga, Development Review Specialist with the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

CHAIRMAN MONTOYA: Okay. Questions for staff? Commissioner Campos.

COMMISSIONER CAMPOS: Just a suggestion. I think this is appropriate to move forward but we do need public comment. If there is no opposition I'd be ready to make a motion to approve the conditions.

CHAIRMAN MONTOYA: Okay. All right. Is the applicant here? Is there anything that you have to add to what's in our packet of information here?

PAUL VIGIL: No, sir.

CHAIRMAN MONTOYA: Okay. This is a public hearing. At this point I would like invite people that would like to speak either on behalf of or in opposition to this case, would you please come forward. Seeing none, this public hearing is closed.
Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I'd like to make a motion to approve the family transfer with the conditions set by staff, suggested by staff.

CHAIRMAN MONTOYA: Okay, motion by Commissioner Campos.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Second by Commissioner Anaya. Discussion?

The motion to approve EZ Case #DL 06-4500 passed by unanimous [4-0] voice vote. [Commissioner Vigil was not present for this action.]

- XII. A. 6. EZ CASE # DL 06-4510 Kinkade Family Transfer. Jerry Kinkade applicant, Bernie Alarid (Alarid and Associates) agent, request plat approval of a family transfer land division to divide 3.269 acres into two lots, within the Carlson Subdivision. The lots will be known as Lot C-1 (2.019 acres more or less) and Lot C-2 (1.25 acres more or less). The property is located off the East Frontage Road at 29 Comanche Road, via Rattlesnake Road, within Section 34, Township 16 North, Range 8 East, (5-Mile EZ, District 5)**

MR. LARRAÑAGA: Thank you, Mr. Chairman. On September 14, 2006 the Extraterritorial Zoning Commission met and acted on this case. The decision of the EZC was to recommend approval of the applicants request with all staff conditions.

There are currently two dwellings and a horse barn on the property. The property is located within an approved subdivision (Carlson), in the Basin Hydrologic Zone. The minimum lot size within the Basin Zone is 2.5 acres with water restrictions. Under the EZO Family Transfers of half the minimum lot size (1.25 acres), are allowed. Therefore creation of these lots can be approved with .25 acre-feet per year water restrictions. The two existing dwellings are permitted. The applicant plans to build a residence for his son on the proposed lot. Upon completion of the residence the applicant will move a mobile home off the property therefore the proposed lots will then have one dwelling per lot.

This application was reviewed for the following: access, water supply, liquid waste, solid waste, fire protection, terrain management, archeological review, environmental review.

It is Staff's opinion that this application conforms to applicable provisions of the Extraterritorial Subdivision Regulations, Section 3.3.6. Therefore, staff recommends approval of this request with the following conditions. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. Common access roads must have a minimum 38-foot easement and must be developed to Santa Fe County Common Roadway Standards prior to recording the plat of survey or the applicant must provide Santa Fe County with a certified engineer's cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing 0.25 acre-feet per year per lot. Water meters must be installed to each lot at the time of development and meter readings must be submitted to the Land Use Administrator annually by January 31st of each year.
3. Water supply to these lots are governed by the La Cienega Watershed Conditions.
 - a. Connection to County Water Utility - Lot owners, their successors and assignees shall agree to connect to the county water utility when service is available within 200 feet of the property line of the land being divided, which 200 feet shall be measured along platted easements to the nearest property line. The landowners, successors, and assignees agree not to oppose the creation of an improvement district pursuant to section 4-55A-1 ET. SEQ. NMSA 1978 (1997 Repl. Pamp.), as those sections may be appropriate. Alternatively, this condition does not preclude any other means of financing than the improvement district method. The line extension within said 200 feet shall be done in accordance with the applicable rules and regulations and tariffs of the Santa Fe County Water Company.
 - b. Encouragement for Shared Wells - To the greatest extent feasible, lot owners should use shared wells to minimize expenses related to the interim water supplies.
 - c. Design and Construction - At the time a line extension is made pursuant to

paragraph 1 above, The distribution system within the land divided shall be designed to meet the minimum fire flow requirements of the Santa Fe County Water Utility, exclusive of any reservoir capacity.

- d. Disconnection from Domestic Wells – At the time the connection is made to the Santa Fe County Water Utility, lot owners their heirs, successors, and assignees, agree to disconnect any domestic wells created under NMSA Section 72-12-1 NMSA 1978 (1997 Repl. Pamp.) and to discontinue use of said wells except in emergency circumstances.
 - e. Easements – Lot owners shall dedicate a 15-foot wide utility easement along all property lines for the installation of infrastructure and water distribution lines for the county utility system.
 - f. Well Design – A good faith effort shall be made to drill all wells 50 feet into the Tesuque formation and to connect a seal to prevent mixing of waters between the Tesuque and Ancha formations. A suggested well design is available from the County Land Use Department.
4. As per ESR regulations, a solid waste fee is assessed for all newly created parcels. The fee for this subdivision is \$78.04.
 5. Approval from the New Mexico Environment Department for the proposed liquid waste disposal system must be obtained prior to building permit.
 6. Applicant must contact Rural Addressing for the assignment of addresses for the proposed lots.
 7. Applicant shall sign Fire Department Affidavit.
 8. A retention pond in accordance with the Santa Fe County Regulations will be required for both lots.
 9. The applicant, upon completion of construction if residence on Tract C-2. will remove a dwelling off of Tract C-1. Only one family dwelling per tract will be permitted. The applicant must submit an affidavit affirming this condition prior to plat recordation.
 10. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Jose E. Larrañaga, Development Review Specialist with the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

CHAIRMAN MONTROYA: Okay. This also has staff approval. Any questions of staff? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jose, don't we normally have a condition that no further divisions of the lots will be permitted and that that will be shown on the plat of record? I'm looking for that here. I just don't see it. Maybe I missed it.

MR. LARRAÑAGA: Mr. Chairman, Commissioner Sullivan, we have a warranty deed on this property showing that this was recorded with the County Clerk back

in '79. I do not have a plat in there stating that no further subdivision.

COMMISSIONER SULLIVAN: I'm just saying that I would suggest if you don't have it here, it's a 3.2-acre lot and if it's going to be further divided that one of the conditions be that no further division of each lot be permitted and that that be shown on this plat of record.

CHAIRMAN MONTOYA: Okay, we'll add that as a condition, Commissioner.

COMMISSIONER SULLIVAN: That would be my suggestion. I wondered if staff had any comments on that?

MR. LARRAÑAGA: Mr. Chairman, Commissioner Sullivan, actually Tract C-1 is 2.019 acres so a family transfer wouldn't be able to take place. You'd have to have 2.5 acres for another family transfer so in effect, they wouldn't be able to come in and subdivide again. Tract C-1 is 2.019 and then Tract C-2, with this land division would be 1.25 acres.

CHAIRMAN MONTOYA: So they can't subdivide anymore.

MR. LARRAÑAGA: They wouldn't be able to come in for another family transfer to subdivide this property.

COMMISSIONER SULLIVAN: Well, unless the Commission waived it. So I think that's a useful thing to show on the plat, as long as the applicant is in agreement with it.

CHAIRMAN MONTOYA: On both plats?

COMMISSIONER SULLIVAN: Yes, on both plats.

CHAIRMAN MONTOYA: Okay. Any other questions for staff? If the applicant would come forward please.

[Duly sworn, Jerry Kinkade testified as follows:]

JERRY KINKADE: Jerry Kinkade, 29 Comanche Road, Santa Fe, 87508.

CHAIRMAN MONTOYA: Mr. Kinkade, are you in agreement with the condition that Commissioner Sullivan is suggesting?

MR. KINKADE: That no further subdivision? Yes, I am.

CHAIRMAN MONTOYA: Is there anything else that you'd like to add to what's been provided to us in the packet?

MR. KINKADE: No, Mr. Chairman. I have a son who is disabled and that's the reason I'm subdividing this so that he will have a home some day.

CHAIRMAN MONTOYA: All right. Any questions for the applicant? Okay, seeing none, thank you, Mr. Kinkade. This is a public hearing. If there's anyone that would like to speak on behalf of or in opposition to this, if you'd please come forward. Seeing none, this public hearing is closed.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'd move to approve the Kinkade family transfer with conditions as proposed by staff and the one proposed by Commissioner

Sullivan.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Commissioner Campos with the motion, second by Commissioner Sullivan. Further discussion?

The motion to approve EZ Case #DL 06-4510 passed by unanimous [4-0] voice vote. [Commissioner Vigil was not present for this action.]

- XII. A. 7. EZ Case DL 06-4530, Pomonis/Wikoff Land. Daniel Pomonis and Denise Wikoff applicants, request plat approval of a Land Division to divide 5.0 acres into two tracts, within the Alameda Ranchettes Subdivision. The tracts will be known as Tract C-1 (2.50 acres more or less) and Tract C-2 (2.5 acres more or less). The property is located on Sloman Court, via Sloman Lane (County Road 70-A), within Section 25, Township 17 North, Range 8 East, (5-Mile EZ, District 2)**

MR. LARRAÑAGA: Thank you, Mr. Chairman. On September 14, 2006 the Extraterritorial Zoning Commission met and acted on this case. The decision of the EZC was to recommend approval of the applicant's request with all staff conditions. The property is within an approved subdivision in the Basin Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 10 acres. Lot size may be reduced to 2.5 acres with water restrictions. The access to this property crosses the Arroyo de Los Frijoles, which is a 100-year flood zone.

The application was reviewed for the following: Access, water supply, liquid waste, solid waste, terrain management, fire protection, archeological review, environmental review. Access to the property crossed over a 100-year flood zone that does not have an all-weather crossing. Staff does not support increasing density in areas that do not have adequate access for emergency vehicles. Therefore staff recommends denial of this. If this request is approved, staff recommends the following conditions be imposed. Mr. Chairman, may I enter the conditions into the record.

[The conditions are as follows:]

1. On site road shall be in compliance with minimum road standards prior to recording plat or submit a financial surety. Access roads shall have a minimum 50-foot road easement.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing 0.25-acre feet per year per lot. Water meters must be installed to each lot at the time of development and meter readings must be submitted to the Land Use Administrator annually by January 31st of each year.

3. A shared well agreement shall be approved by the County and recorded with the plat. The plat shall indicate shared well easements.
4. The applicant must contact Rural Addressing for assignment of addresses for the proposed tracts.
5. The applicant shall submit access permit as approved by Public Works Department.
6. ESR requires a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$43.00 per lot.
7. The applicant must obtain approval from the NMED for the proposed liquid waste disposal plan.
8. Submit a school impact report per County code prior to plat recordation.
9. Submit a disclosure statement as per County code.
10. Fire Department Affidavit shall be signed and recorded with the Plat.
11. A retention pond in accordance with the Santa Fe County Regulations will be required for both lots.

CHAIRMAN MONTOYA: Questions for staff? Commissioner Anaya.

COMMISSIONER ANAYA: Jose, how many people live in that area? Exactly.

CHAIRMAN MONTOYA: Not more or less.

MR. LARRANAGA: There's probably about 100 lots back in there.

COMMISSIONER ANAYA: That cross that floodplain?

MR. LARRANAGA: Yes.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN MONTOYA: Any other questions for staff? Okay, if the applicant would come forward please and be sworn in.

[Duly sworn, Phil Pomonis testified as follows:]

PHIL POMONIS: Coming here, I'm looking for my daughter and son to get a family split on five acres they've had. We've owned that land, I bought that land in 19-early '60s. That's almost 50 years we've had it taxed and everything else and I had it both names. I guess it should have been divided, but under the Code of the County which calls for 2.5 acres, which when they split would equal 2.5 acres each and maybe I made a mistake when sometimes you don't do the right thing or whatever, but I would like to see them - I would like to break it up and each take their parcel and go and I hope you will look at it the same way. Thank you.

CHAIRMAN MONTOYA: Thank you, Mr. Pomonis.

MR. P. POMONIS: Excuse me, I'm partially blind, so I don't maneuver too good.

CHAIRMAN MONTOYA: Okay. No problem. Take your time.

[Previously sworn, Daniel Pomonis testified as follows:]

DANIEL POMONIS: Well, Commission, I'd like to thank you and I'd like to ask for your support today. My sister and I would like to simply split a five-acre lot that was given to us by my father and we both would like to have an individual interest so down the road, depending on the circumstances we could do what we like with this property. I'd

hopefully like to build on there eventually. There is nothing unique about this property and we aren't asking for any form of variance or anything special. This property is just pretty simple. The lots are both 2.5 acres. The County has a concern about the 100-year floodplain, which I understand but yet that floodplain is crossed, as I said, there's at least 100 lots there, maybe one or two cars per day would cross hundreds of times daily across that particular flood zone.

As far as I think the impact on the density, by creating one more lot I don't think we're going to create a lot more density there and I don't think it's going to really affect the water, because in the last few years there's been quite a bit of development in this particular area. I just gave you a picture, I'm standing on my lot, which is Lot C in the Alameda Ranchettes, and that picture is taken there. Recently, there has been 19 2.5-acre lots that have been allowed on Penny Lane. I'm sure you probably heard about this. It was done in 2004 or 2005, that they allowed 19 2.5-acre lots. That particular subdivision butts up right to the Alameda Ranchettes lots A and B. It's the property that is butted right next to it. And since there's been this decision to go on in growth, and have this growth, I would just ask for your support in what we're trying to pursue here in just splitting one lot. If you have any questions I'd be glad to answer them for you.

CHAIRMAN MONTOYA: Any questions for Mr. Pomonis? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, thank you. Do you have – right now you have a permit to drill a well. Do you have a well on the property already?

MR. POMONIS: No, sir, we don't. And as I understand it, if we were to proceed we would have to share a well for those two lots. We don't have anything right now in mind. We're just trying to get this cleared up now.

COMMISSIONER ANAYA: And you agree with all the conditions?

MR. POMONIS: Sure.

COMMISSIONER ANAYA: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant? Commissioner Sullivan.

COMMISSIONER SULLIVAN: The intent is to transfer from your father to you and your sister. Is that it?

MR. POMONIS: Well, no the land was transferred from my father to my sister and I, but he gave us a five-acre lot between both of us. His intentions were originally to give us both 2.5-acre lots we'd both have an individual interest in. When he did give us the land in the title he just gave us the title, he just gave us the five acres, thinking that since it was a 2.5-acre split and wasn't asking for a variance of any sort there would never be really a problem; we could pursue that when we wanted to.

So that's kind of how that pursued. His intention was for us to have 2.5-acre lots apiece. We decided we wanted to do that and that's why we're here today.

COMMISSIONER SULLIVAN: Couldn't you still do a family transfer?

MR. POMONIS: No, I've been told that we cannot do a family transfer. I don't know why it isn't a family transfer but I talked to the County to ask them why we – we

wouldn't even have to be going through this procedure. But it was given to my sister and I, five acres from my father, and then my sister and I wanted to make 2.5-acre lots. I don't know the whole history on family transfers or what that consists of. It's just a 2.5-acre lot, five acres. We're not asking for any variance, anything special. There's nothing unique about the property.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Nothing further.

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant?

Seeing none, thank you Mr. Pomonis. This is a public hearing. If there's anyone who would like to speak on behalf or in opposition to this case please come forward. Seeing none, this public hearing is closed. Any further questions for the applicant or for staff? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, from the testimony that I have heard, I move for approval of this case with the conditions.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya. I will second for discussion. Any further discussion?

The motion to approve EZ Case #DL 06-4530 failed on a 2-2 voice vote with Commissioners Sullivan and Campos voting against.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Can he go back and do the family transfer?

CHAIRMAN MONTOYA: I guess staff has told him that he can't.

COMMISSIONER CAMPOS: That's not the issue anyway. It's a safety issue. It's crossing the 100-year plain.

- XII. A. 8. CDRC CASE # V 06-5450 Claudia Puertas Variance: Claudia Puertas, applicant, requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow a second dwelling unit on 2.3 acres. The property is located at 23 Caminito de Pinon, within Section 27, Township 17 North, Range 10 East (Commission District 4) [Exhibit 4: Opposition Letter]**

JAN DANIELS (Review Specialist): Thank you, Mr. Chairman. The property is located in the Mountain Hydrologic Zone where the minimum lot size is 80 acres per dwelling unit per Article III, Section 10, Lot size requirements of the Code, with a maximum adjustment of 20 acres with water restrictions.

There is currently one home and two septic systems on property. The home is served by an onsite well. The applicant states that she would like to place a temporary,

second dwelling unit on the property for the sole purpose of housing her elderly mother for whom she will provide care. The applicant also states that her mother is currently unable to work and therefore unable to rent a home of her own or pay to live in an assisted living facility. The applicant states that denial of the proposed variance would inflict a financial hardship on both her and her mother.

Staff recommends that the request for a variance be denied, based on Article III, Section 10 of the Land Development Code, which states the minimum lot size in this area is 20 acres per dwelling with water restrictions. If the decision of the BCC is to approve the request, staff recommends that the following conditions be imposed. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. A temporary permit will be issued for a period of two years, to be approved for consecutive two-year periods by the CDRC. The applicant at that time just prove the hardship still exists.
2. Water use shall be restricted to 0.25 acre-feet per year per dwelling unit. The applicant shall install water meters for both homes. Annual water meter readings shall be submitted to the Land Use Administrator.
3. The applicant must submit a revised liquid waste permit from the New Mexico Environment Department showing the correct lot size and number of dwelling units.
4. No further dwellings shall be placed on the property.
5. The existing driveway will serve both homes.
6. The applicant must follow all other building permit regulations including construction of a retention/detention pond.
7. Failure to comply with all conditions shall result in administrative revocation of the temporary permit.

CHAIRMAN MONTOYA: Questions for staff? Seeing none, would the applicant please come forward and get sworn in.

[Duly sworn, Claudia Puertas testified as follows:]

CLAUDIA PUERTAS: I just submitted the application to request that I might put a temporal mobile home on my lot. It's because there are some times that my mom doesn't feel good and I would like to have her in the same place that I'm living. The other reason is there are some times that I work like around 12:00 or 1:00 at night. That way I can have her with my kids. Another thing is there's like three or four neighbors that have two or three permanent homes on their property so I don't see a reason my I can't have just a temporal mobile home on mine.

CHAIRMAN MONTOYA: Okay. Questions for the applicant? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Ms. Puertas, do you own any other property in the area?

MS. PUERTAS: No.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN MONTOYA: This is a public hearing so at this time I'd like to ask people that would like to speak either on behalf of or in opposition to this case, if you'd please come forward.

[Duly sworn, Patricia Oliver Wright testified as follows:]

PATRICIA OLIVER WRIGHT: I'm Patricia Oliver Wright and I live at 37 Caminito de Pinon in Santa Fe County, 87505. Mr. Chairman, Commissioners, I would just like to ask my neighbors who are here also opposing this variance to stand. They did not want to speak. [Six people stood.] Thank you. Then also if I might I'd like to read a letter into the minutes that we have put together outlining some of the reasons why we are opposing this variance, and I would like to point out the photos attached to your letter.

Claudia Puertas, 23 Caminito de Pinon is requesting that she be allowed a temporary development permit to place a second home at this address. The undersigned feel that this appeal should be denied by the Board of County Commissioners due to the reasons outlined in our letter of August 11th, and I'll just briefly go over those reasons. As was stated previously, there's one home for 20 acres with water restrictions. Allowing another home will increase traffic in this small subdivision where there is only one access in and out. It will also, we feel, adversely affect the wells in the vicinity and I know of two personally that have gone out and have had to be replaced in the past two years

The property was purchased by Claudia Puertas within the past year and the site had already been prepared for another home to be placed, as well as another septic tank being placed on the property. I personally would not be here protesting if it were a situation where a long-time New Mexico family were using the property to help other family members but this is a recent resident who's come in for this purpose.

We feel that placing another mobile home on the property will adversely impact the property values, that County staff has already recommended denial of this appeal. We also feel that granting a temporary approval for two years would just prolong this process. We feel that the applicants are disingenuous in their claim of hardship. They state that providing for an elderly mother can only be accomplished in this way but which we do feel there are other ways it can be accomplished. They can add to their existing structure. We feel also that once the requested structure is installed there really isn't a viable mechanism for going back after two years and taking a second look at this.

Also on August 17th the CDRC did deny this request and the site for the new home has already been cleared since that time without a permit and the debris that you see in the photo has not been removed from the site. So we the undersigned sincerely request that you uphold the Code and deny the variance. The undersigned are Ben Quarles, Jim and Patricia Wright, Mr. and Mrs. Wallin, Sharon Argenbright and Richard and Carroll Cadena. Thank you.

[Commissioner Vigil rejoined the proceedings.]

CHAIRMAN MONTOYA: Okay. Thank you. Any questions? Anyone else like to come and speak on behalf of or in opposition to this case?

[Duly sworn, Richard Cadena testified as follows:]

RICHARD CADENA: Richard Cadena, 31 Caminito de Pinon, Santa Fe, New Mexico, 87505. Good evening, Mr. Chairman. My name is Richard Cadena and I agree with everything we put in this letter and I respectfully recommend that the Commission consider our request and deny this lady's appeal. It should be pointed out that this was administratively denied and the CDRC board denied it. Ms. Puertas is correct in that there is a few people that do have illegal residences there but it is my understanding that the County is looking at these illegal residences right now and they have to be removed by the coming spring. And I talked to a person in Land Enforcement named Rick Lovato and that's the information he gave. Thank you very much. I appreciate your attention.

CHAIRMAN MONTOYA: Thank you, Mr. Cadena. Anyone else wish to come and speak no behalf of or in opposition to this case?

[Duly sworn, Sharon Argenbright testified as follows:]

SHARON ARGENBRIGHT: Sharon Argenbright, 48 Caminito de Pinon, 87505. Commissioners, I had to pay \$12,000 to have a new well because my last one went dry living on the street and I don't want to have to do that again. Thank you.

CHAIRMAN MONTOYA: Thank you, Sharon. Anyone else would like to speak on behalf of or in opposition to this case? Seeing none, this public hearing is closed. Any questions for the applicant or for staff? What are the wishes of the Commission?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I have a question for the applicant. Claudia, do you live by yourself or do you have a family?

MS. PUERTAS: I live with my husband.

COMMISSIONER ANAYA: So you and your husband.

MS. PUERTAS: Yes.

COMMISSIONER ANAYA: And your mother couldn't come live with you?

MS. PUERTAS: Yes. The only thing is she's an old lady and she wants to have her own space. So I was trying to explain that to her because we have the mobile home we own, it's not too small so she will be able to live with us but she doesn't want to do something that she doesn't want to do in my house because all she wants to do, she wants to do it in her house.

COMMISSIONER ANAYA: She wants her own place.

MS. PUERTAS: Yes.

CHAIRMAN MONTOYA: Any other questions? Could we have a motion?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: So you have a baby. You have one kid. Two kids. Oh, okay.

MS. DANIELS: Mr. Chairman, may I also point out, Commissioners that the County has developed a system to monitor these temporary mobile homes and we do keep an eye on them and a few months before they're due to be renewed we do send notices now and

when the hardship is over the trailer will be removed.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Sorry for coming in late, but what was the hardship?

MS. DANIELS: Mr. Chairman, Commissioner Anaya, her mother can't afford to live alone. She just doesn't have the money and she's old and she wants to live out there with her daughter but she wants her own place, like at night to sleep in her own bed. That's all.

JAMES WRIGHT: Mr. Chairman, my name is James Wright and I'm with my neighbors and I just wanted to say that this is [inaudible] case. There's about six to eight cars parked at that residence every day and there's a lot of traffic coming in and out. So it's not just the husband and wife living there with two children. Thank you.

CHAIRMAN MONTOYA: Okay. Any other questions?

COMMISSIONER ANAYA: So do we need to put more homes there?

CHAIRMAN MONTOYA: Or more cars.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Move to deny the appeal.

CHAIRMAN MONTOYA: Motion by Commissioner Campos to deny the appeal.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Second by Commissioner Sullivan. Further discussion?

The motion to deny CDRC Case #A/V 05-5450 passed by unanimous [4-0] voice vote with Commissioner Vigil abstaining.

COMMISSIONER VIGIL: I'm going to abstain, Mr. Chairman, because while I read the packet I didn't participate in all of the hearing but I do believe the denial did pass. Is that correct?

CHAIRMAN MONTOYA: Correct. The motion has passed, four in favor with one abstention.

XII. A. 9. CDRC Case # S 06-5400 Rancho San Lucas Subdivision. Monte Alto Homes Inc., (Mary Anne Stickler, President) applicant, Jim Siebert, agent, request final development plan and plat approval for a 29-lot residential subdivision on 128.16 acres. The property is located in Eldorado, south of Avenida Eldorado on Spur Ranch Road, within Sections 19, 29, & 30, Township 15 North, Range 10 East (Commission District 5) [Exhibit 5:Reviewing Agency Letters ; Exhibit 6:EAWSO Letter; Exhibit 7:State Engineer Office e-mails]

MS. COBAU: Mr. Chairman, members of the Commission, I have a couple of items of correspondence that I'd like to have handed out before we begin. On November 9, 2004 the Board of County Commissioners met and acted on this case. The decision of the BCC was to grant master plan, preliminary development plan and preliminary plat approval for a 29-lot subdivision and to deny the applicant's request for a variance to allow conventional septic systems rather than a community liquid waste disposal system.

On September 21, 2006 the County Development Review Committee met and acted on this case. The decision of the CDRC was to grant final development plan and plat approval with the stipulation that the plat not be recorded until the water rights transfer is completed.

The applicant is requesting final development plan and plat approval for a 29-lot residential subdivision on 128.16 acres. The lots vary in size from 2.5 acres to 5.31 acres, with an average lot size of 4.42 acres. The property is in the Basin Fringe Zone where the minimum lot size is 12.5 acres per dwelling unit with 0.25 acre-foot per year per lot water restriction. Open space of 41.49 acres will be provided, which is 32 percent of the total area. The site is accessed via Spur Ranch Road.

The subdivision's lot layout has been modified slightly to provide larger lots which can be serviced by conventional septic systems. The subdivision request was reviewed for the following: existing conditions and adjacent properties, roads and access, water, fire protection, liquid and solid waste, terrain management, archeology, signage and lighting, HOA documentation and affordable housing.

Staff's position is that the subdivision is in accordance with Article III, IV, and VII of the Code for final development plan and plat submittals. Staff recommends approval of the application for final development plan and plat for a 29-lot subdivision on 128.16 acres based on the following conditions. Mr. Chairman, may I enter the conditions?

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Department
 - c) State Department of Transportation
 - d) County Hydrologist
 - e) County Fire Marshal

- f) County Public Works
 - g) County Housing Administrator
 - h) Santa Fe-Pojoaque Soil and Water Conservation District
 - i) County Technical Review
 - j) State Historic Preservation Division
2. Development, including placement of fill and stormwater conveyance structures in the regulatory floodplain must adhere to local, state, and federal criteria regarding floodplain development. No structures of any kind, including fences, will be permitted in the floodplain without prior analysis to determine the effects of such obstructions on the computed water surface elevation, flow velocity, and conveyance capacity of the floodplain.
 3. Each lot owner must comply with County water harvesting requirements set forth in Ordinance 2003-6.
 4. Submit exterior lighting cut sheets and provide a detail of the proposed street light.
 5. The applicant shall submit a cost estimate and financial surety for the completion of required improvements as approved by staff prior to plat recordation.
 6. A liquid waste permit must be obtained from the Environment Department for the proposed septic systems prior to issuance of building permits.
 7. Road name and rural addressing must be approved by the County prior to recording the final plat.
 8. Water use on this property will be restricted to 0.25-acre foot per year per lot. Water restrictive covenants must be recorded with the final plat. A water meter must be installed for each lot and annual readings must be submitted to the County Hydrologist by January 31st of each year. The water service agreement between the developer and the EAWSD must be referenced on and recorded with the final plat.
 9. The Subdivision Restrictive Covenants, Subdivision Disclosure Statement, and a Fire Affidavit must be recorded with the final plat.
 10. All archeological sites, drainage courses, trails, utility easements, stormwater management facilities, and well sites must be placed within easements and recorded on the final plat.
 11. No further division of this land will be allowed; this shall be noted on the final plat and in the Subdivision Disclosure Statement.
 12. All redline comments must be addressed, and original redlines must be returned.
 13. The well and water rights shall be transferred to the water system of the Eldorado Area Water and Sanitation District such that any water from the onsite well may commingle within EAWSD distribution system. This will require a permit from the OSE to expand the place of use for the existing water rights permit. Alternatively, the applicant may present a design for a self-contained water system to be operated by EAWSD.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had one question. When this was brought forward I think in 2004, I believe it was for an 85-lot subdivision in two phases, as I recall. Some 80 lots. And there was also – correct me if I'm wrong – a request for a waiver for the requirement for a wastewater treatment system to serve those lots. As you indicated the master plan was approved but the waiver was denied so that at least it was my anticipation that this would come back with a wastewater treatment system, a subdivision with a wastewater treatment system. I see now that it's 29 lots but it's all individual septic tanks on the lots, is my understanding.

It seems to me, what's your thought? That this is a fairly different master plan than what was considered by the Commission in 2004. It seems that the applicant should be coming through for a revised master plan. Would that be appropriate?

MS. COBAU: Mr. Chairman, Commissioner Sullivan, the original submittal with the increased density required an advanced or connection to a community septic. The current submittal has lots that are large enough to support the use of conventional septic. Regarding the need for a master plan amendment, Article V, Section 5.2.6 of the Code talks about amendments in future phase approvals to master plans and I'll read to you item B. of that.

The Code Administrator may approve minor changes to the master plan. Any substantial change in land use or any increase in density or intensity of development in the approved master plan requires approval of the County Development Review Committee and the Board. It was staff's feeling that because the density was decreasing in this case that it wasn't an increase in density and therefore staff administratively decided that the applicant would not be required to submit a master plan amendment.

COMMISSIONER SULLIVAN: So you felt that the operative word is minor. You felt this was a minor change because there was a reduction in density. I guess I'd take a different spin on it. I would feel that 29 septic systems in the aquifer is fairly major and it's a different concept than was brought to the Commission previously.

MS. COBAU: Mr. Chairman, Commissioner Sullivan, there's no criteria in the Code because these lots meet the size criteria for conventional septic. There's not an item in the Code that would require us to have anything other than conventional septic in this case.

COMMISSIONER SULLIVAN: No, I understand that the proposal currently meets – what's being suggested, 29 septic systems meets the Code. What I'm saying is that this is, at least in my opinion a very different master plan from what was presented to us before which was, I thought was going to take place with a wastewater treatment system, which is certainly far more desirable than 29 more septic tanks polluting the aquifer. So I think what you're saying is it's a judgment call on what's a minor change.

MS. COBAU: That's correct. It was staff's interpretation of the Code that because there was a substantial density decrease rather than a density increase that we allowed it to go forward.

COMMISSIONER SULLIVAN: Mr. Chairman, I for the record wouldn't agree that's minor but I appreciate staff's clarification of that.

CHAIRMAN MONTOYA: Okay. Other questions for staff? Okay, seeing none, would the applicant come forward please.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer, Santa Fe. Commissioner Sullivan raised the issue of this originally began as 85 lots and it did and that was actually a master plan that was approved approximately 10 years ago. What happened is that his is one half of that master plan and it came back in subsequently for a 49-lot subdivision. And the rather lengthy review of the hydrology, to satisfy the provisions of the Eldorado moratorium, this has taken six years to get this subdivision through. Three and a half of those years were dealing with the transfer of water rights from the State Engineer's office and the County Hydrology. In order to satisfy the concerns of the County Hydrologist who was Dr. Wust at the time we reduced the number of lots from 49 to 29. So that's kind of the long history of this project.

One thing that's come up recently is initiating a trail. The neighbors would like to have a trail on the north side. We have provided for a trail through the open space here. There's a high power line and the way it actually works, I guess is there's a trail on the ground now that people are informally using. I'd just like to go on the record that the applicant agrees to set that aside as a trail easement to allow for the continuation of its current use.

With regard to the septic system, the density has gone from approximately 2.5-acre lots now to 4.4-acre lots. It would be at this density an extremely expensive proposition to put in a community wastewater system, nor is it required by Code. We're significantly over the density that's required by Code before you'd have to install a community wastewater system.

The other thing I wanted to mention is that when it did go from 49 lots to 29 lots it's something that was supported by the neighbors and to my knowledge it's still supported by the neighbors. And with that I will say we're in agreement with all conditions except condition number 13 which states that applicant is responsible for a transfer of whatever would be needed in terms of water rights and commingling of the water that's currently in the well, which is 8.7 acre-feet, which is sufficient to supply this project. But that's something that's really beyond her control, that she is more than willing to transfer the water rights to the Eldorado Area Water and Sanitation District, transfer the well to the district, but it's really beyond her control to go beyond that. I think you have a letter in your packet from the district and while we certainly don't agree with the tone of that letter it's a reaffirmation that the district is ready, willing and able to provide Rancho San Lucas with the water that's been requested.

Mr. Sommer is here to address any further questions you should have in terms of the well and the water rights, and I'll stand for any questions you may have.

COMMISSIONER SULLIVAN: Madam Chair.

COMMISSIONER VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me ask, since Mr. Siebert brought up about condition 13, let me ask staff, could you give us a little background on condition 13 and why this was originally recommended for denial by the CDRC and seems now to be recommended for approval?

MS. COBAU: Madam Chair, Commissioner Sullivan, at the time of the CDRC hearing there was substantial concerns regarding floodplain, outstanding water issues as well as transportation issues. We had a negative letter from the State Highway Department. We had no design for the all-weather crossing on Spur Ranch Road. Subsequently, plans have been submitted which address the Spur Ranch Road crossing. An updated traffic impact analysis was submitted to the Highway Department and they have just recently this week provided a revised letter, which is in the information that was handed to you.

Staff has worked with the applicant, with the applicant's agent, with the County Hydrologist and with Legal staff to develop that 13th condition and to modify what was recommended by the CDRC and Land Use staff at this time with recommending approval of this project.

COMMISSIONER SULLIVAN: With condition 13?

MS. COBAU: With condition 13.

COMMISSIONER SULLIVAN: And as I understand it, that's a condition that's currently part of the so-called moratorium ordinance, which of course isn't a moratorium but is conditions of development that requires a transfer. Is that what's in that current ordinance?

MS. COBAU: Madam Chair, Commissioner Sullivan, that's correct. I believe that Karen Torres, the County Hydrologist is here and she can speak to the geo-hydro issues.

COMMISSIONER SULLIVAN: Okay. I just wanted to clarify that, but were we to do something with condition 13 to tinker or fine-tune it or something we would have to go back and amend the ordinance first, which we talked about a little bit earlier in tonight's meeting and we're going to discuss at a later date. Is that correct?

KAREN TORRES (County Hydrologist): Commissioner Sullivan, I believe that would be correct.

COMMISSIONER SULLIVAN: Okay. That answers my question on item 13. Then explain to me what the issues were. In reading some of the documents I saw that there were some concerns, at least in an earlier document about the water rights, some being transferred, some six acre-feet, and others being a domestic well permit, if I understood it correctly. Could you explain what the situation there is?

MS. TORRES: Certainly, Madam Chair, Commissioner Sullivan. When I was reviewing this development permit one of my jobs of course is to review it for compliance with not only the Land Use Code but any applicable ordinances that apply in this area. The Eldorado moratorium does apply in this area. Under the particular condition of that moratorium they were seeking service from Eldorado. Under item four in that moratorium, I don't know if you have copies of that. I do have extra ones if you'd like to see it. The language in the moratorium states that a well and water rights – if an applicant has a well and water rights that are transferred at the time EDU water system he or she can take service for that development. So one of my questions was, by transfer what was the intent of that ordinance? Was that merely a change in title of that well and those water rights to Eldorado, or is it a transfer such that it will enable Eldorado to utilize that well and those water rights within their water system. That was one of the questions that I did have for Legal.

When I was looking at the water rights permit that's associated with this development it was very limited. It was only approved for 5.7 acre-feet. It could only be utilized for that development. The water rights associated could only be diverted from that well and it would in no way enable Eldorado to utilize that water, at least as the permit stood. And additionally, the needs of the development was for 8.7 acre-feet so I wasn't sure of that discrepancy. There's an underlying domestic permit that is associated with that well to make up that additional amount of water to meet their 8.7 acre-feet.

So as far as compliance with the moratorium, it wasn't clear to me how this well and these water rights would integrate into Eldorado, essentially giving them the supply necessary to serve this development.

COMMISSIONER SULLIVAN: Can a 72-12-1 permit be transferred?

MS. TORRES: It might be able to be utilized within Eldorado, but it would be the only one that could be utilized. The State Engineer would have to make that determination and because my past life was working for them I have some inside knowledge but I have no authority over there any longer.

COMMISSIONER SULLIVAN: So it would be up to the applicant then to clarify that, if this condition remained in here. Would that happen before recordation?

MS. TORRES: That is an issue with this. At what point should these water rights be transferred to Eldorado enabling this development to take service. Whether it's before plat recordation or after. I honestly don't know what the best answer is for that.

COMMISSIONER SULLIVAN: I guess my concern would be that if it happened afterwards and the State Engineer were to deny all or some of those water rights, and the applicant had already sold some of these lots, or all of them, somebody might be coming back to the County to say, well, you approved it, now give us water. It seems like you ought to cross those T's and dot those i's before you record the plat, would certainly be my suggestion.

MS. TORRES: That's what I would like to see. But there's other issues too as far as whether or not Eldorado will even take this well on as a supplemental well to them, but I might add that this permit that is for the development has already been approved by the State Engineer for that certain amount so there would not have to be a re-evaluation of this permit. So it would just simply be expanding the place of use.

COMMISSIONER SULLIVAN: The permit for the 8.7 acre-feet or for the 5.7 acre-feet?

MS. TORRES: Well, for the 5.7. The additional three acre-feet, that is to be determined, whether or not that can be utilized.

COMMISSIONER SULLIVAN: Okay. So right now the applicant is not in agreement with that but I wanted to get the water part clarified, Madam Chair, and I don't know if Mr. Siebert has some more of his presentation.

COMMISSIONER VIGIL: Mr. Siebert, Mr. Sommer, do you want to respond?

KARL SOMMER: Yes, I do, briefly. Madam Chair, my name is Karl Sommer and my mailing address is Post Office Box 2476, Santa Fe, New Mexico. I represent Ms. Stickler and her company with respect to this issue. When it came up, I went to the State

Engineer's office to clarify. The gentleman, Mr. Vince Chavez, who handles this region and the utility system, I met with him and went over, point by point, the issue. And I sent him an e-mail today and he responded back and I'd like to just share with you what he said. I laid out for him in my conversation exactly the circumstances and I said to him in point #7, and I'll make this part of the record in confirming my conversation.

Ms. Stickler has an agreement from Eldorado Utilities to provide water to the project pursuant to which Ms. Stickler would transfer the rights to use the well as part of the Eldorado system to provide 8.7 acre-feet for the project. She would transfer the McKee rights - that's the 5.7 that she talked about, that Ms. Torres talked about, and the well would be hooked up to the system. The three acre-feet domestic well would be diverted and delivered to the property through the system. I put in there, point #8, the County Hydrologist believes a new permit is required because that's the essential issue here, whether a new permit is required and maybe I've overstated that, listening to Ms. Torres tonight.

Number 9 I said, I understand from our conversation that so long as the total diversion from the well by the utility does not exceed 8.7 acre-feet, and the total delivery of water to the project does not exceed 8.7 acre-feet, then the existing permit will suffice from the State Engineer's standpoint.

Number 10. I understand that the ownership of the 72-12-1 permit may have to stay with the landowner but the right to use the water can be incorporated in an agreement with the utility that conforms to the requirements of paragraph 9 above, which I talked about. It's my understanding that the State Engineer can work with this arrangement. I understand that this can be handled by the utility when it files an application for the change of ownership to incorporate a supplemental well as part of its system and the right to combine and commingle the waters.

Mr. Chavez wrote back, Dear Karl, in response to your e-mail I would like to confirm that you have accurately represented what we discussed in our conversation. I just want to clarify the statements made in number 10. In order for the utility to be able to connect the well to the system they need to file an application for a permit to add the supplemental well and combine and commingle the waters. So what he has confirmed for me specifically in the circumstance to answer Commissioner Sullivan's question, and I'm not going to speak for him; his words speak for himself. Under this circumstance Ms. Stickler is required to transfer ownership of the rights and the well, subject to the agreement about the 72-12-1 to the system. The system will have to file an application to change the ownership, commingle the waters and add the well to their system. And that's the utility's responsibility. It's not within our purview to do that.

So the long and short of it is, the well as currently configured with the two permits in place can be incorporated. The utility has to incorporate it as a supplemental well. It will provide the water necessary for this development and I think that the question of the timing is we will do what we have in our power to do, which is sign a deed over, sign the change of ownership form, and execute the agreement regarding the well, so that the company can incorporate it. And then the company has got to take it from there.

We don't have any problem transferring all those assets and signing those agreements

prior to recordation. The question arises - well, prior to taking service from the company, should there be this approval to supplement their system in the utility's hands, and as Mr. Siebert indicated, we don't have any power over that. We have an agreement where we transfer the rights to them, transfer the right to divert the water, transfer the right to use it on the property and we should be at that point able to move forward.

If we haven't transferred the rights and we haven't signed the agreements then obviously we shouldn't be able to move forward. So I would like to be specific about my request. Condition 13 should say, from our standpoint, that the well, the agreement and the water rights have to be taken care of by Ms. Stickler vis-à-vis the company, and the remainder of 13, that's up to the utility company to take care of. Obviously the utility company is going to take and use this well. We've drilled it, equipped it and made sure that they could use it. They're going to make it part of their supplemental system.

I think that where we are as a policy matter is just this. The Eldorado ordinance related to the conditions of approval out there is to make sure that people who are going to use the system provide the system with water necessary to do that, and then the system manages how that water gets used. The idea was not to allow people to hook up to the water system, the Eldorado water system, without proving that they had the water and without proving that the water was available. I think we've done that. We've spent a long time and a lot of money doing it. And that's why we have this question about #13. I hope that clarifies that.

I'd like, if I may, make part of the record this e-mail. *[Exhibit 7]*

COMMISSIONER VIGIL: Would anyone like a copy of that e-mail?

COMMISSIONER SULLIVAN: Yes, I'd like to see it. Mr. Sommer, so if the Commission were to change condition 13 to your language, which I don't recall exactly but which was we'll sign the papers and give it to them and what they do with it is their business, sort of. In your professional opinion, would that meet the requirements of the Eldorado moratorium ordinance?

MR. SOMMER: Madam Chair, Commissioner Sullivan, in my opinion it does. It's that we have transferred the water rights to a well and we have transferred that well and those rights and the ability to use that well to the system. And it's up to them to manage their system the way they do.

COMMISSIONER SULLIVAN: Okay. And you have, do you not, a letter from Eldorado saying they will accept the system? Did I see that in the packet somewhere?

MR. SOMMER: I haven't read the letter specifically myself this evening, but it is in their packet and they will accept the well.

COMMISSIONER SULLIVAN: So it would not seem to be too difficult if they've already agreed to accept it, to consummate this process before recordation, would it? They've already agreed by letter to accept what your client has proposed.

MR. SOMMER: Well, it's simply not within our control, and if they decided for whatever internal reason they weren't going to file the application within the time frame that Ms. Stickler has to move forward then it would become a problem for us.

COMMISSIONER SULLIVAN: Well, my only concern is that we often get

individual staff opinions from the State Engineer but until a permit is applied for or a change of ownership is applied for and it's acted upon it's not final of course. So although I certainly appreciate this gentleman's opinion that you're going down the right track, I would still feel it's in the County's and the public's best interest that this be finalized before the subdivision moves forward, and I don't see how that could be too much of a problem because you've already done some work in getting the district to agree to accept the system.

MR. SOMMER: Here's the practical problem. You're placing the property owner in a position where they have, by your suggestion, transferred all their assets, all of the water rights, the well, the rights, signed over agreements, and have no power to do anything more because those assets are no longer in their possession, and not able to record the plat. Which means everything is out of their hands and they have nothing at all. I don't think that's what the ordinance contemplates.

COMMISSIONER SULLIVAN: You couldn't, as a skilled attorney, craft an agreement that said that this transfer was subject to approval by the State Engineer so that your client can move forward with the project?

MR. SOMMER: What we would be doing is, by the interpretation, transfer means we'd have to sign the deed over. And if sign the deed over in any way that's conditional, it doesn't meet the requirements of transfer. And if we get rid of the water rights then all of our ownership of those rights is gone and we have no recorded plat. So everything that the applicant is required to do in terms of transferring them, they've done it and they got an agreement to provide the water, they should be able to record the plat, because they've gone through all that.

You can place an applicant in a position of having no leverage and no ability to move forward. It's a no-man's land for an applicant. Well, frankly, I think it's unfair to the applicant to have to do that. Certainly I could craft an agreement that says the transfer is conditional. I could craft all kinds of things but I can't get the utility company to sign it necessarily.

COMMISSIONER SULLIVAN: Have you discussed this with them?

MR. SOMMER: I haven't discussed it with them. I can't force them to sign anything and –

COMMISSIONER SULLIVAN: No, I understand, but I'm just going by the fact that they seem to be favorably disposed to incorporating your well into the system.

MR. SOMMER: And I think that where we are, to be frank and fair to Ms. Torres and staff in their evaluation here, you're in an area of what does the moratorium require. And in order to interpret that, look at the policy behind the moratorium and it was to make people go get their water rights, make them transfer it, make them show that there's a 100-year supply of water available, and then they can use the system. That's what she has done for the last six years. I think we meet the policy of the law and I think we meet the letter of the law.

COMMISSIONER SULLIVAN: And what would you – really just one last suggested question, Madam Chair. Again, it sounds like we need to do some further work on this condition 13 because you're not in agreement with it and it sounds like it needs some legal interpretation. But suppose there were to be some, as a part of this crafting some agreement that the applicant – an approval conditioned, as it were, that the applicant would only go forward

with as many lots as were transferred, as water were transferred. So suppose the State Engineer for some reason said it's only 5.7 acre-feet instead of 8.7, then a condition would be that the number of lots that could be platted and sold would be a number commensurate with that amount of water. If everything went through fine then it would be 8.7 acre-feet and there wouldn't then be any problem.

I'm still looking for a fail-safe for the County here so that we don't get involved in having to deal with applicants who said I was told, I had a commitment for water but now I can't get a meter. I don't think the County should be put in that position. So would crafting some kind of language along that lines work to you?

MR. SOMMER: Well, the only objection I have to that, Madam Chair, is this. We've gone through a very lengthy process at the State Engineer's office and we have confirmed it over and over again that we have the right to divert 8.7 acre-feet of water from this well. That's what's required for this development. The moratorium says prove up the water, get the right to divert the water to the system, and then you can move forward. It doesn't add this other condition that says if the utility has some problems with its own water rights, then you'll pull back the number of lots that are approved. You can imagine the number of problems that a utility might have with its water rights. This particular utility, at least in the eyes of the County, has had problems over the years in proving up their water. To place us with the burden of saying, well, we will voluntarily back off from the number of lots, I think what we've done, Madam Chair and members of the Commission, is abided by the law, and to add a condition that says, well, we can snatch your approval back if the utility has a problem, I don't think that we could accept that.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Sommer. Thank you, Commissioner Sullivan. I'll just put our attorney on notice to perhaps be able to respond to some of these issues. Did you want to say something?

MS. COBAU: Commissioner Vigil, if condition 13 were to remain, if the applicant were to agree to that condition and the transfer of ownership of the well did not occur, County staff would have the ability to revoke the plat.

COMMISSIONER VIGIL: That might perhaps be able to satisfy Commissioner Sullivan, this phased-in components that you were talking about. This is a public hearing. Does anyone else from the applicant want to speak? Did you?

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

MARY ANN STICKLER: My name is Mary Ann Stickler and I am the applicant. I reside at 2017 Valle Vista in Santa Fe, 87505.

I think Commissioner Sullivan has touched on exactly the critical issues which have to do with the interpretation of the moratorium. And as the applicant, I do feel strongly that we have met all of the requirements of the moratorium to both prove up – well, firstly, to drill the well – prove up the adequate 100-year water supply and purchase and transfer the adequate water rights. That is what's required by the moratorium of the applicant. This was sufficient to satisfy Dr. Wust when he was the case planner assigned to this project at the time I was applying for preliminary approval. I received positive reviews from both Vicki Lucero and

Stephen Wust and at that time the subdivision was 29 lots and we had made only a very minor adjustment to some lot configurations since that time.

So it's even a more minor adjustment from what Shelley recalled from her having reviewed my file, again, making us in total compliance with the Code and our ability to use individual septic systems. So we have followed letter by letter, Code by Code and complied with wastewater, traffic, water supply, everything, in the strictest development area in the county, making this a project that literally has undergone the strictest scrutiny of any subdivision every in Santa Fe County and ever before you. And we won that approval from the Board of County Commissioners at preliminary plat.

Since the time of having those approvals nothing substantial has changed in my application and it's been very distressing to have new staff members literally invent interpretations of Code that just simply aren't there. We have abided by the Code. This interpretation of Karen Torres' seems to be Karen's alone. She told me in August that she was seeking a legal opinion from County staff to support her own interpretation and to date has not been able to provide a legal opinion to support that. It seems to be her interpretation and hers alone.

Up until that point I'd already spent upwards of \$300,000 just simply to comply with County Code, including the terms of the moratorium. And since August to meet with staff repeatedly and address their concerns and bring my consultants back in to rehash the issues that were sufficiently brought to the standards of Stephen Wust and Vicki Lucero have cost me almost another \$10,000, just simply because of new staff personal interpretations of wording that is not included in the County Code.

So I would ask that you would please vote for my approval of final plat for the subdivision for Rancho San Lucas this evening and I would ask that you please limit the language in condition number 13 just to the first sentence, which is that the applicant will transfer the water and water rights to the water district. That meets the compliance with the moratorium and to that extent, I'm willing to include condition number 13 in the approval. To the extent that any requirements are made of me that dependent on the performance of the water district are completely inappropriate to include in my application. Thank you.

COMMISSIONER VIGIL: Thank you, Ms. Stickler. This being a public hearing, is there anyone here who would like to speak on behalf or against this project? I see one hand up. Anyone who would like to speak please take a seat up front and after the other speaker finished you can begin. Please state your name and your address and be sworn in.

[Duly sworn, Rose Marie Bigoni testified as follows:]

ROSE MARIE BIGONI: My name is Rose Marie Bigoni. My address is 28 Camino Caballo, Lamy, 87540 in the subdivision of Tierra de Casta. Good evening, Madam Chair and Commissioners. Approximately two years ago, Mary Ann Stickler presented her revised plan to the residents of four adjacent subdivisions, Tierra de Casta, Ranchitos de Santa Fe, Los Caballos and Tierra Colinas. The reduction of the number of lots to 29 was very well received and people were excited that she had drilled a well that seemed to be an excellent producer of water.

My property actually borders two lots of her plat, lots 6 and 7 of Rancho San Lucas border my property which is E-5/6 in Tierra de Casta. I have reviewed this plan thoroughly. I have reviewed the covenants. Mary Ann Stickler has been available for the past couple of years, has answered all the questions from the community and she is very well respected as a developer in the area. I support this subdivision. It has been well thought out and I urge you to approve it. Thank you.

COMMISSIONER VIGIL: Thank you, Rose Marie. Next speaker please come to the podium. State your name and address for the record and raise your right hand to be sworn in.

[Duly sworn, Janet Caldwell testified as follows:]

JANET CALDWELL: I'm Janet Caldwell. I live at 12 Camino Potrillo in the Ranchitos de Santa Fe Subdivision. I'm not here to say yes or no I approve or not because I don't know that much about this subdivision. I got a letter in the mail, a registered letter about three weeks ago stating that this meeting would be here tonight. We were aware of the previous plan for 85 lots that I think was not approved or they changed because of the water problems, but my biggest concern is the Ranchitos de Santa Fe Subdivision was put in as an equestrian community and we have certain trails that a lot of us have ridden for quite some time and we're worried because I haven't seen the final plat until tonight. I guess this is it. That the trails that we have that have been accessible to us we're now going to be cut off from.

I know that over on 14 there was a subdivision where there were supposed to be trails that were set aside for horse use and I guess a couple of months ago or maybe last month there were two horses hit and killed on that road and my concern is that we're not going to have access to these trails without being on a road somewhere.

COMMISSIONER VIGIL: Perhaps this question, to answer her – and I think she's posing a question. I know you have granted an easement to the trails, Ms. Stickler. Is that easement for an equestrian trail? It is? Perhaps you might just quickly, Mr. Siebert just describe for this applicant where this trail is and perhaps where she's located, how her property and the residents around there might have access to that. And you may want to just get the microphone so that it becomes part of the record.

MR. SIEBERT: There's a trail within the open space, and I think the one that may be of concern to her, which we had not dedicated as part of the plat was a trail that parallels the PNM electric line which is on the very north side of the property. And what I'd stated earlier is that for the record, that we will grant that as part of the trail system, equestrian trail system.

COMMISSIONER VIGIL: Okay. And for this particular testimony, for Ms. Caldwell, where would she access, besides the PNM easement. Where would she be able to access the equestrian trail and where is she located in relationship to this development?

MR. SIEBERT: I'm going to have to let her answer that.

MS. CALDWELL: I'm not sure. I think this is the power line. And there's also another over here. But there's a trail that goes from our subdivision up on the ridge that goes to the road to rail trail, is the one I'm talking about. Okay. So we will have easement to that

without being on a road somewhere. It will be under the power lines. Okay. And like I said there's a trail that goes down the top of that ridge right there. It's called the - I'm not sure what the name of the trail is. I kind of got talked into this meeting at the last minute because Linda Strong couldn't come. She's ridden these trails out there for 30 years and that was our biggest concern as an equestrian community that we would have easement or access to these trails without being on a road somewhere.

COMMISSIONER VIGIL: Would you be able to answer that question, Mr. Siebert?

MR. SIEBERT: I think the bottom line is that if there is a trail system through this subdivision, which apparently there is. Is that correct? They can get to this point. And from this point, we're going to grant a trail that will get them over to the rail system and then there on a whole other rail system. So this is the missing piece in that linkage we're willing to grant.

COMMISSIONER VIGIL: Okay.

MR. SOMMER: Just so it's clear, the record is going to say point to point and we're not going to know what you're talking about. Could you just -

MR. SIEBERT: The point would be from the far northeastern boundary to the far northwestern boundary up to the railroad right-of-way.

COMMISSIONER VIGIL: Okay. Ms. Caldwell, do you have a clear understanding of that easement granted for equestrian trails?

MS. CALDWELL: Yes, I do. The only other question I had was the lots that are running adjacent to that easement to the road to rail trail, what about like dogs and stuff like that? We have to be careful because it has happened out there before. There's been some dogs come out and try to attack the horses. Is there something in the covenants that states that - I know that in the Santa Fe County you have to keep your dog either under your command or on a leash, but is there going to be fences, or what?

MR. SIEBERT: The answer to that is there's no provision in the covenants themselves to restrict either the number of animals or the care of animals on the property, other than if they become a nuisance. There is a nuisance provision within the covenants.

COMMISSIONER VIGIL: Okay. Next speaker. Would you please state your name and address for the record.

[Duly sworn, Daniel Bethune testified as follows:]

DANIEL BETHUNE: My name is Daniel Bethune. I live at 8 Silver Saddle. I'm the new guy in the neighborhood; I just moved in. I don't know if I approve or disapprove. I actually just found out about this. We just moved in a month ago and I've been kind of going back and forth from Kansas City, and I finally got my mailbox. It's a cluster box and I happened to see this notice. I have some concerns. One is, is this up for a vote for today?

COMMISSIONER VIGIL: Yes.

MR. BETHUNE: Okay. I live basically right across the street, I guess catty-corner. I'm on 8 Silver Saddle, so I'm on the corner of that 12.5-acre lot on the southeast corner of Spur Ranch Road. My concern is I was within the understanding that most of these lots in that area where at a minimum of 12.5 acres. I have no problems with developers

wanting to develop and create a nice community. My concern is I think the water issue is one, which I do not know enough about because I am new in town and I am trying to get educated on these issues.

But one of the concerns that came to mind was that if this permit is granted, what then does it mean down the road for other people like myself, which I don't want to do, but others that would like to split the properties up into smaller areas. And that's the reason I bought my home in this area is because I like the size of the 12.5 acres. So does it open a can of worms? I don't know. I'm ignorant.

COMMISSIONER VIGIL: I would just simply respond that what it means and what it always meant and will continue to mean is that any development that comes before the Board of County Commission for approval has to comply with our Code, and that we hear those requests and evaluate them with regard to water issues and ancillary issues, traffic, fire safety and everything else. What you may have heard tonight is that there is also a moratorium in this area so it complicates proposed developments. And that is something that you would probably learn more about if you decided to pursue a lot split, a subdivision of some kind in that area.

So it really just means so long as it complies with the Code and they go through our development process, that becomes an education and it comes to us for final approval.

MR. BETHUNE: Okay. Well, I guess I'm just concerned about the size of the lots that are being proposed here and how much it's going to affect the water in this area. I have a multi-flow recycling system which is very aggressive and I try to conserve on my water and I'm concerned for my neighbors doing the same.

Also that road, Spur Ranch Road, excuse me. I don't think there's any posted speed limit. Does this include that road?

COMMISSIONER VIGIL: What was the question? Mr. Bethune, would you state the question?

MR. BETHUNE: Well, my question is a concern. I noticed that I get on Spur Ranch Road when I come off 285 and I just see people driving incredibly fast on this dirt road, and I don't know how experienced some of these people are but it's, like, wow, where are these guys going. I see people going like 35, 40 miles an hour in the dirt. And a dirt road has got ruts in it. So my concern would be traffic and if the road is going to be improved, if it's going to be paved or what, for this extra traffic. Some of my concerns. Like I say, I'm not saying I'm against you or I'm for you. I just need to - I'm probably more against it right now because I have more questions about it and it concerns me.

COMMISSIONER VIGIL: Okay. And it sounds like it would be a benefit to meet with the applicant and get some of your questions answered. Could anyone respond to the Spur Road question? Is this development going to impact - I know we have a traffic study before us.

MR. SIEBERT: Madam Chair, Commissioners, the agreement that Mary Ann Stickler has made is that she will participate in the association that's been formed out there, the road association, on a pro rata share. She will pay her pro rata share as I assume the gentleman

pays his pro rata share for the cost of maintenance of that roadway. Let me just kind of finish with one statement. I think that I just plead with you not to put Mary Ann, my applicant in an untenable position where the water is transferred and it becomes totally out of her control how the water is managed from that point on.

We feel that we've met every provision of the moratorium and we've met every provision of the County Land Development Code and it's taken six years to do that. So we would very much ask for your approval without the requirement that whatever transfer the district is going to make that that's simply their responsibility. And it's very clear in their letter, the five-page letter that they have written, that they are reaffirming their willingness to serve this project.

COMMISSIONER VIGIL: Thank you, Mr. Siebert. We're still in the public hearing component. Anyone else like to speak? Please come to the podium, state your name and address and raise your right hand to be sworn in.

[Duly sworn, Melissa Robertson testified as follows:]

MELISSA ROBERTSON: My name is Melissa Robertson. My address is 617 Harley Lane, Española, New Mexico. My concern is I am a caretaker when Ms. Caldwell and Mr. Caldwell are out of town. I do try - I caretake for several people at the equine to make sure I am within the bylaws and covenants of their area. My major concern is I would like to see a copy of the covenants to make sure we see the bylaws, what you guys are requesting and also have a better - I would like to have a copy of the plat. We don't have that.

So kind of my background of looking into Spur Ranch to the Ranchitos de Santa Fe Subdivision. They have removed all barbed wire or fences that could hurt or injure an equine, basically from the Spur Ranch area to the north of Ranchitos de Santa Fe. That is one concern I do have. I am very involved with the equine industry and my concern is that area has abided by this. And let's face it, horses are wild animals that have been domesticated. They do get loose and accidents to have. I would like to make sure there is something in there that any outfences that would be bordering the Ranchitos de Santa Fe area being horse-safe in the sense that it can be the wire, just not the barbed wires or those kind of obstructive devices.

COMMISSIONER VIGIL: Okay. Thank you, Ms. Robertson. Mr. Siebert, can you respond to that?

MR. SIEBERT: Probably the best way to respond to it is that we're just simply willing to work with the neighbors in making sure that horses and people are protected as part of the grant of the easement. So I'll commit to that.

COMMISSIONER VIGIL: Okay. We could maybe make that a part of a condition of approval also. Okay, any further public wishing to speak on behalf of this project or against it? Seeing none, are there any questions from the members of the Commission? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think - just another suggestion on this gray area of transfer. The letter for Eldorado Water and Sanitation District dated May 17, 2006, says we're willing and able to provide water service to the subdivision. It also says a water service agreement between the district and you as a subdivider will be

required. So I think what we need here is a water service agreement. And I think that water service agreement, once it's consummated, and say, once everyone is in agreement, you have a closing. You transfer the water rights and you meet their conditions of that water service agreement. I think again that's the intent of what we're looking to do is to get that completed. So I'm a little uncomfortable with crafting this important language on the fly.

I think that we need to define exactly what the conditions should state that are fair to the applicant and that meet the conditions of the ordinance. And whether you would call it a transfer or water service agreement, whatever, but once we have that agreement in place and the district is satisfied by virtue of signing that agreement, it seems we're 99 percent there. Let me ask the staff if that helps us at all in this process.

MS. COBAU: Madam Chair, Commissioner Sullivan, condition 8, the last sentence of condition 8 requires that the water service agreement between the developer and the EAWSD must be referenced and recorded with the final plat. So we are requiring that be done and finalized before the plat is recorded.

COMMISSIONER SULLIVAN: Okay. So we have the water service agreement taken care of and that water service agreement will have to be an agreement by the district that they're going to provide service to the subdivision and that the subdivision meets their requirements of constructing the lines to their standards and if they have water rights plus 20 percent and those other conditions that the district itself imposes on all applicants. So that would seem to move us closer.

[Commissioner Montoya rejoined the meeting.]

I think probably at this point in time what we should do is allow - table this until the next land use meeting. Allow this to be carefully crafted because we have several letters that were dropped on our desk tonight - five-page letters from attorneys, four-page letters from attorneys and others, that we haven't had a chance to review, and that I would be a little hesitant to deal with without our own legal counsel. So I think we're moving there. We're at a point here. I think we need to be sure that those conditions are acceptable to everyone and resulting in the result that we want.

Otherwise, Madame Chair, what we've done - my main concern is this: If something falls through, what we have is we've gotten around the moratorium agreement. We have now a subdivision of three and four-acre lots with well service, which is totally illegal as a part of the moratorium agreement since 12.5 acres is the minimum size for well service. So the only way you satisfy the conditions of the moratorium ordinance is you have a public water system. What I don't want to see happen and I don't think anyone in the County wants to see happen is that we then get into the shooting match between one and another and we say, okay, Eldorado won't meet our terms; we won't sign the agreement and therefore we're going to use our well to serve these 29 lots. Now all we've done is we've created four-acre lots instead of 12.5-acre lots, which is not what the ordinance permits.

So I think we need to be very careful that we have everyone in agreement with that language. We have an agreement on the water service agreement and then we should be finished. That would be my suggestion, Madame Chair.

COMMISSIONER VIGIL: Thank you, Commissioner Sullivan. Any other statements, comments from Commissioners? Commissioner Anaya and then Commissioner Montoya.

COMMISSIONER ANAYA: Madam Chair, from the testimony that I've heard today I think that the applicant has followed every procedure and I would hate to hold them up again. I think this is something that we could take care of. I know that Commissioner Sullivan has an issue with it but this issue I think can be solved after this is voted on. I just hate - this has been going on for six years now and it's beginning to frustrate me that the applicant is this frustrated and I could see where she's coming from, but I think that these issues could be solved.

COMMISSIONER VIGIL: Thank you, Commissioner Anaya. Commissioner Montoya.

CHAIRMAN MONTROYA: Thank you, Madam Chair. This is for Steve Ross. Regarding the letter that we were handed out from an attorney. I haven't had a chance to read the whole thing, but are there any - I guess what would be the drawback or are there any drawbacks in this letter if we were to move forward with this?

MR. ROSS: Well, Mr. Chairman, members of the Board, I agree with Mr. Siebert. The tone of this letter is regrettable. I don't think that it was an appropriate letter to send to this body but that being said there are some things in the letter that I do agree with and quite a few things that I don't agree with. I think what I do agree with is the criticism by the district of some of the extraneous language in paragraph 13, in that this district is complaining that some of the language in that paragraph purports to dictate to the district how the district is to manage the well and the water rights once it receives them. That is probably a point well taken and probably the only point in the letter that I really agree with.

If you wanted to respond to that request, the easiest way to do it would be end the sentence, the first sentence of paragraph 13 after the word "district" and strike the remaining language in that condition. I think that would be acceptable then to the district. They have other issues with what we're doing, in particular with condition number 8. I don't agree with the issues that they raise in condition number 8 but certainly with respect to their issues with condition number 13, I think they could be addressed if you ended the system after the word "district".

Now, that being said, there's sort of another lingering issue and that's the issue of the 72-12 water rights, which comprises three acre-feet of the water that's to be supplied. There is some uncertainty whether the State Engineer would recognize a transfer of those rights to the district. Now, they've done it for Santa Fe County and our utility system and it's a critical element of the Aamodt water settlement, that 72-12 rights transfer to a public utility system, so I'm not sure that there would be any problem transferring those, but if there is, then there would be a shortage.

So one way to strengthen paragraph 13 might be to add a parenthetical after the phrase "water rights", just put in there in parentheses the amount of water rights to be transferred, so then the sentence would read The well and water rights (8.69 acre-feet per year) shall be

transferred to the water system of the Eldorado Area Water and Sanitation District. Period. So I think that might address some of the concerns about that three acre-feet and also address the districts concerns, the ones I view as legitimate, and maybe view us a little bit forward.

CHAIRMAN MONTOYA: Thank you, Steve. Thank you, Madam Chair.

COMMISSIONER VIGIL: Okay. Any further questions?

COMMISSIONER CAMPOS: Madam Chair?

COMMISSIONER VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Ross, 13, you say stop after Sanitation District. You also strike the next two sentences or do you allow them to remain?

MR. ROSS: Yes. Have that be the end of the condition.

COMMISSIONER CAMPOS: So you'd strike everything else?

MR. ROSS: Yes.

CHAIRMAN MONTOYA: Mr. Chairman.

COMMISSIONER VIGIL: Commissioner Montoya.

CHAIRMAN MONTOYA: On paragraph 8, just leave that?

MR. ROSS: Well, the objections to paragraph 8 by the district are number one, that because the district is the water supplier, that the County should not purport to restrict the amount of water used in each household, nor should the County purport to require lot owners to meter their water so as to prove to the County that they're not exceeding the amount. The district claims that this infringes on the district's sovereignty or status as a political subdivision. I don't agree. But that is their concern. They would prefer that condition 8 be stricken in its entirety.

CHAIRMAN MONTOYA: Well, I guess I disagree also. I think that's something that we've required of other applicants and developments in terms of the water usage and even lower than that quarter acre-foot per year. So I think this is a good policy in terms of what we're trying to do here. I don't know if the district has a restriction or not. If they don't maybe they ought to consider this as some sort of a balance to what they may be currently doing.

Madam Chair, with that, I would move for approval of this application with the amended condition number 13 as has been outlined by Steve Ross.

COMMISSIONER VIGIL: Okay. We had also through the public hearing discussed including condition 14 with language that might state, Developer will provide a secure and safe passage for equestrian traffic in trails that are designated for such use. Would you be willing to include that condition in your motion.

CHAIRMAN MONTOYA: I'm not sure I heard that part of the discussion. I guess my question is is that being required? Is that something that you have offered to do?

MR. SIEBERT: Mr. Chairman, Commissioners, yes, it is. We would agree to that condition.

CHAIRMAN MONTOYA: Okay. I would add that, Madam Chair.

COMMISSIONER VIGIL: Okay. Motion, is there a second?

COMMISSIONER ANAYA: Second.

COMMISSIONER VIGIL: Motion and second. Motion by Commissioner Montoya, seconded by Commissioner Anaya. Is there any further discussion?

COMMISSIONER CAMPOS: Madam Chair.

COMMISSIONER VIGIL: Commissioner Campos, then Commissioner Sullivan.

COMMISSIONER CAMPOS: What about the north side easement? Do we have to note that? The developer has said that they would grant a north side easement.

MR. SOMMER: We understand it's included in the condition that was just mentioned, that it would include that north side easement.

CHAIRMAN MONTOYA: Number 14?

MR. SOMMER: Right.

COMMISSIONER VIGIL: Okay, we will add that as part of the language. Anything further, Commissioner Campos?

COMMISSIONER CAMPOS: That's it.

COMMISSIONER VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Madam Chair. I sense that the Commission would like to move forward with this. I don't feel that the length of time has anything to do with the quality of the submittal. The applicant changed this submittal. They spent two years changing it from a 49-lot subdivision to a 29-lot subdivision. I don't think it's the County of Santa Fe's responsibility to provide bonus points just because of that amount of time.

I do think that it goes in the wrong direction in terms of wastewater. I think that whenever we're looking at more dense developments we have to consider wastewater, and we don't. And that's one of the things that we do at the master plan level. This should have come back for a master plan revision. That's where these equestrian issues would have come up, would have been discussed. People would have been noticed with adequate time to respond to them. So I feel that I'm going to vote against the motion. I feel that the issue is the Code requires a revised master plan. This is not a minor change at all in the subdivision and that I hope that their dealings with the water district go successfully, and I certainly don't look forward to them failing, but I also don't look forward to the County being held responsible in the event that they do. Thank you, Madam Chair.

COMMISSIONER VIGIL: Thank you, Commissioner Sullivan. Commissioner Campos,

COMMISSIONER CAMPOS: Question for Mr. Ross. Is there anything else you would add to address some of Commissioner Sullivan's concerns? As far as the conditions?

MR. ROSS: Mr. Chairman, Commissioner Campos, I think we could address any number of his concerns if you're interested in going there.

COMMISSIONER CAMPOS: At this point in time.

MR. ROSS: Sure.

COMMISSIONER CAMPOS: What conditions do you suggest are necessary?

MR. ROSS: Well, maybe Commissioner Sullivan could work through his points

one by one and we can work through the necessary language that would be necessary to address the point.

COMMISSIONER SULLIVAN: Madam Chair, I think I've stated the points. We wanted to be sure that the water is there, it's a public water system. This is a much denser development. It does not have a sewer system. It did not go through the revised master plan stage. As a result it holds itself up to potential protests. And I would rather see the process work smoothly. I would not want to see this subdivision run into problems. I would like to see it move forward smoothly in accordance with our ordinances. So as I said earlier, I feel that it needs to have the proper coordination with the Water and Sanitation District. It needs to have some letter from their attorney that's more positive than the one that was dropped on our desk this evening, that this is a viable undertaking to be served with public water. Those are the issues that I feel could be worked out in 30 days. If the Commission feels otherwise and is willing to hope that it gets worked out subsequently then certainly I'd respect that decision.

COMMISSIONER VIGIL: Thank you, Commissioner Sullivan. Commissioner Campos.

COMMISSIONER CAMPOS: That's it.

COMMISSIONER VIGIL: Okay. Any further comments from the – Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Commissioners, just the recommendation from staff that this be approved so I think that the applicant has done everything that staff has asked them to do and it states eight here under recommendations that staff recommends approval. Thank you, Madam Chair.

COMMISSIONER VIGIL: Thank you. Anything further? Hearing none, before we take action I also still have a couple of clarifications. Mr. Ross, do you agree with staff's statements that they have the authority to revoke further development if in fact any of the conditions are not approved and if there's a problem with the three acre-feet and the State Engineer's Office that that authority could be imposed. I'm not sure if I got that accurately. I'm sorry, staff, if I didn't.

MR. ROSS: Mr. Chairman, Commissioner Vigil, I actually told Dr. Wust the very same thing about a month ago, that we had inherent ability to take pretty severe actions if the conditions of approval were not met, up to and including rescinding approvals, unrecording documents, all kinds of things. Those are severe steps but I think they're all available should they become necessary.

COMMISSIONER VIGIL: Thank you, Mr. Ross. When I read this case I actually thought, should we design and look at this for a revised master plan, but I think that staff appropriately cited the regulation or the portion of the Code that allows them to make a decision and I think that decision was done appropriately. So my concern initially was was this appropriately noticed. That has been satisfied for me.

I also think that if we wait another 30 days – despite the fact that I would love to have an alternative waste system planned but one does not exist and will not exist in another 30 days. So with that, I am ready to take a vote on this.

COMMISSIONER SULLIVAN: Madam Chair, one more question.

COMMISSIONER VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I don't see a condition in here about the accel/decel lanes. The applicant was saying they now have - or perhaps it was the staff - they now have DOT approval of the subdivision. Again, these are documents that were just dropped on our desk tonight. But this DOT "approval" says that the entire subdivision at a minimum will generate enough traffic to warrant acceleration/deceleration lanes on US 285 at Spur Ranch Road. Are those, Mr. Siebert, a part of your design?

MR. SIEBERT: This issue, as you pointed out, came up only recently. We had actually a prior report that was dated several months ago that they had no further concerns regarding this project. I could give you the exact statement if you like, from their report. You'll notice on condition number 1, it says compliance with the applicable review comments from the following and included in that is the Department of Transportation. So we can't move forward until we have some resolution with the DOT.

COMMISSIONER SULLIVAN: I'd like to be certain that that resolution means that you will build the accel/decel lanes. Is that -

MR. SIEBERT: Well, that has not been determined at this point. The discussion that we've had is that they might be willing to discuss a pro rata share as other developments come in, that it would become part of a larger improvement.

COMMISSIONER SULLIVAN: It doesn't say that in this letter. This is the most recent letter. It says an accel/decel lane is required, or will generate enough traffic to warrant. It doesn't say we're open to further discussions.

MR. SIEBERT: Well, that's the discussions I've had with the district regarding this. The interesting thing about this was there actually was a decel lane on 285 and it was the district that tore that lane up and never bothered to replace it. So we will resolve that issue with the district but I can't commit my client to building accel and decel lanes that could run hundreds of thousands of dollars.

COMMISSIONER SULLIVAN: I don't know what the cost of the lots are but when I get the final plat approval we should have all these issues resolved. We shouldn't be in any major negotiations with any review agency.

MR. SIEBERT: Mr. Chairman, Commissioner, if I may, they made a statement in their report, and this is a report August 18th. It was addressed to Ms. Cobau. And it says under traffic technical support, the traffic impact analysis provided for the original subdivision, which consisted a greater number of lots, the subdivision developers need to coordinate with the District 5 traffic engineer on any improvements previously agreed to for this subdivision. Traffic technical support is in favor of the approval of this subdivision request. This whole issue came out of nowhere. The reason I say that we've had discussions with the district regarding those matters.

COMMISSIONER SULLIVAN: So, Madam Chair, what's the resolution of this? Do we just leave it up in the air?

COMMISSIONER VIGIL: No, I actually think, as I reviewed the Department

of Transportation's recommendations, that statement is in this context, and it's by Jeremy Lujan. It says I still believe at build-out the entire subdivision at minimum will generate enough traffic to warrant acceleration/deceleration lanes on US 285 at Spur Ranch Road. I also hear the applicant saying that they believe that this might be a possibility and they might be able to do their pro rata share at the time that build-out actually does occur. But I think what I'm hearing the applicant say is he's not willing to commit his client to the acceleration/deceleration lanes at this particular time and I'm also hearing that that might be harmony with what Mr. Lujan is stating because he's making a specific statement to this subdivision at build-out.

So I think that the condition that we have that requires this applicant, under condition number one to comply with the Department of Transportation is sufficient, and I don't see that it would leave it out there. So with that, I think we're ready to take a vote, unless, Mr. Sommer, you're willing to commit to acceleration/deceleration lanes. Is that what you're saying?

MR. SOMMER: I think I was just about to agree with you and say that the staff requirement that we comply with the final comments and design from the New Mexico Transportation Division is what we'll do, and they're charged with making that decision ultimately.

COMMISSIONER VIGIL: I also would underscore that by saying he isn't saying this is required. He's saying he believes at build-out it might generate enough traffic. So I think we're covered. Anyway, with that, there is a motion. I don't even know who made it now. Commissioner Montoya, and it was seconded by Commissioner Anaya. This includes all the conditions that we have discussed. I think it's through condition 14.

The motion to approve CDRC Case #S 06-5400 passed by majority 4-1 voice vote with Commissioner Sullivan dissenting.

COMMISSIONER VIGIL: I will now turn the chairmanship over to Commissioner Montoya.

- XII. A. 10. CDRC CASE # Z 06-5280 Zia RV Sales Master Plan. Zia RV Sales (Carlos Gallegos, owner) applicant, Jim Siebert, request master plan approval for a recreational vehicle sales and service facility on 3.44 acres. The property is located at the northeast corner of the intersection of Taylor Road and the Interstate 25 frontage road within Section 5, Township 15 North, Range 8 East (Commission District 5) [Exhibit 8: Zia Master Plan]**

MS. COBAU: Mr. Chairman, members of the Commission, the applicant requests master plan approval for a recreational vehicle sales and service facility on Taylor

Road. The facility will consist of a caretaker's residence in an existing modular home, a sales lot and sales office on 2.44 acres on the northerly side of Taylor Road and a caretaker's residence in an existing modular home and a maintenance and parts center on one acres on the southerly side of Taylor Road.

The sales lot includes 47 spaces for recreational vehicles and will be screened from Interstate 25 by a 6-foot high coyote fence and a 25-foot wide landscape buffer. Commissioner Sullivan and members of the Commission, the staff report is erroneous. It states that there is a 10,000 square foot maintenance and parts center. Mr. Siebert submitted plans to our office last week and I believe that square footage has changed and in a moment I will tell you what the new square footage is. It's substantially smaller. It's 5800 square feet.

So the staff report should be revised to read the 5400 square foot maintenance and parts center will be screened from adjacent properties by a combination of 6' high masonry wall and 6' high coyote fence, as well as perimeter landscaping. The site lies in an existing Major Commercial Center Node establish by the I-25 and La Cienega interchange. The site is outside the La Cienega Traditional Community.

On September 21, 2006 the CDRC met and acted on this case. The decision of the CDRC was to recommend Master Plan approval for a recreational vehicle sales and service facility on 3.44 acres. The application was reviewed for the following: existing conditions, roads and access, water, fire protection, liquid and solid waste, terrain management, archeology, and signage and lighting.

Staff's position is that the master plan application is in accordance with Article III, Section 4 and Article V, Sections 5.1 and 5.2 of the Code. Staff recommends approval for the Zia R.V. Sales master plan based on the following conditions. Mr. Chairman, may I enter those conditions to the record?

[The conditions are as follows:]

1. The master plan shall be recorded with the County Clerk's Office.
2. Approval is considered valid for a period of five years from the date of approval by the Board. Any substantial change to the land use or any increase in density or intensity of development in the approved master plan requires approval by the County Development Review Committee and the Board.
3. Preliminary/Final Development Plan must be submitted per Article V, Section 7 of the Code prior to issuance of a Building Permit.
4. Compliance with applicable review comments from the following:
 - a. State Engineer
 - b. State Environment Department
 - c. State Department of Transportation
 - d. County Hydrologist
 - e. County Fire Marshal
 - f. County Public Works
 - g. County Technical Review

- h. State Historic Preservation Division
5. All staff redlines must be addressed, original redlines shall be returned with revised plans.
 6. The applicant shall submit an access permit from the Department of Transportation prior to Development Plan approval.
 7. The applicant shall comply with the water harvesting requirements of Ordinance 2003-6. A drip-system schematic will be required with Development Plan submittal.
 8. The applicant shall submit an updated liquid waste permit from the Environmental Department prior to Development Plan approval.
 9. The applicant shall comply with all Fire Marshal requirements. The applicant shall request final fire inspection prior to occupancy of the building.
 10. The applicant shall submit cut-sheets for all outside lighting.
 11. A conceptual terrain management plan shall be submitted as required by County Technical Review prior to recordation of the Master Plan.
 12. The applicant shall work with the Department of Water Resources to refine the water budget.
 13. The applicant shall work with the Department of Public Works regarding roadway improvements.

CHAIRMAN MONTROYA: Any questions for staff? We have a staff approval on this. Would the applicant come forward?

[Previously sworn, Jim testified as follows:]

MR. SIEBERT: My name is Jim Siebert. My address is 915 Mercer. I've been previously sworn.

CHAIRMAN MONTROYA: Jim, are you in agreement with all conditions?

MR. SIEBERT: We are.

CHAIRMAN MONTROYA: Okay. Any questions for the applicant?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jim, is this located in the Highway Corridor?

MR. SIEBERT: It's within the Highway Corridor and within the major center district of the interchange.

COMMISSIONER SULLIVAN: Well, the highway corridor of course doesn't have interchange districts. Are you talking about nodes?

MR. SIEBERT: At this point you're talking about a plan. You're not talking about an ordinance for the Highway Corridor District.

COMMISSIONER SULLIVAN: Yes, but my question is, is this property located within the Highway Corridor Setback Plan?

MR. SIEBERT: My understanding is it's within the Highway Corridor Plan.

COMMISSIONER SULLIVAN: Let me ask staff, is what's proposed to be

constructed here in conformance with the Highway Corridor Plan?

MS. COBAU: Mr. Chairman, Commissioner Sullivan, the Highway Corridor Ordinance is in effect within the Two-Mile EZ and this site lies outside the Two-mile EZ. Staff has worked with the applicant and the applicant's agent to provide additional screening and additional setbacks, although there was no obligation by the applicant to follow through with that request. They have increased the setback area from what is required by Code to more closely approximate what's required by the Highway Corridor Scenic Ordinance.

COMMISSIONER SULLIVAN: Okay. I was under the understanding that the Highway Corridor Plan went beyond the EZ.

MS. COBAU: I was told that it was only within the Two-mile EZ that we enforce the Highway Corridor.

COMMISSIONER SULLIVAN: I think maybe what you're referring to is that within the Two-Mile EZ it's an ordinance; outside the Two-Mile EZ it's a plan. There are parts of the highway corridor that are outside the EZ.

MS. COBAU: That's correct.

COMMISSIONER SULLIVAN: So my question to you is does what's proposed here in terms of screening, setbacks, access, utilities, building heights, materials, colors, does this project conform to those requirements of the Highway Corridor Plan – not the ordinance?

MS. COBAU: Mr. Chairman, Commissioner Sullivan, it does.

COMMISSIONER SULLIVAN: Okay. We have your approval of that. And since it does, I'd like to add that as a condition. It's kind of the belt and suspenders thing that I always like to have would be a condition, if the applicant is in agreement, that this development shall conform to the Highway Corridor Plan.

MR. SIEBERT: Mr. Chairman, Commissioner Sullivan, I think on of the – as I recall, the Highway Corridor Plan has a provision that there be a minimum 200-foot setback. We cannot comply with that. It would –

MS. COBAU: The setback in this case, because there's a frontage road, can be reduced to 50 feet and can further be reduced by a combination of landscaping and buffering down to 25 feet, which this proposal is in compliance with.

MR. SIEBERT: We agree.

COMMISSIONER SULLIVAN: Okay. So you agree to condition 14, which would be that the project shall comply with the conditions of the Highway Corridor Plan.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN MONTROYA: Any other questions for the applicant? Okay, if there's anyone who would like to speak on behalf of or in opposition to this application, would you please come forward.

[Duly sworn, Lenya Reese testified as follows:]

LENYA REESE: Lenya Reese, 15 Taylor Road, Santa Fe, New Mexico,

87508. I'd like to speak in opposition to this proposal. I live just a lot away from the Zia Mobile Home Unit and we bought our land and home there, my husband and myself, and two children in 1990 and moved from Rio Arriba County to the Chuck Taylor Subdivision in part because it is a strong residential subdivision with strict covenants to keep it residential and ironically enough, some of the covenants are against mobile homes in the area. Since Zia Mobile Home has moved into our neighborhood the problems have been the following:

The first is blocking traffic. Moving mobile homes is a slow, tedious process and it's a very big problem for me when it's a quarter to nine and it takes me twenty minutes to get to work and I get behind one of these trailers and if more trailers are to be moved into more lots, it's definitely going to block access to our residential neighborhood.

My second objection is light pollution. If you've driven down to Albuquerque at night recently you may note that along I-25 that many of the trailers are lit up all night long and there's a large purple and yellow sign at the corner of our road.

My third objection is erosion. When the Zia Mobile Home unit moved in they leveled a large parking lot to park their mobile homes and it's caused a large arroyo at the end of the lot, which is still eroding. It hasn't been corrected in any way.

Any my primary objection is this is a residential neighborhood that is now potentially being rezoned as commercial. My understanding when we bought our two-acre lot in the Chuck Taylor Subdivision was that commercial zoning was only along the frontage road and was not to go farther back than the frontage road, and that this proposal would change that. I am a proponent of more residential areas for Santa Fe County, rather than commercial areas. What Zia Mobile Homes is proposing is basically storage of mobile homes and they have their sales lot established already and I'm sorry to see more residential areas being lost to the commercial area.

Also in our neighborhood on Thursday night we were discussing the location of the proposed railroad. The railroad may go in through I-25 or it may go to the back of our subdivision. So now my neighborhood is being caught between creeping commercialism from the highway, with Zia Mobile Home and the railroad yard at the back of the subdivision, and it doesn't bode well for our residential property value. I don't feel that Zia Mobile Home has done a satisfactory job of communicating with our neighborhood about their proposals. They put a sign up on the frontage road, not on Taylor Road. It's very difficult to see. We received no notices in our mailbox about tonight's hearing. I've called Zia Mobile Home and asked them about blocking traffic. I asked them about light pollution. I don't feel that I've gotten good communication in response to these objections over the years that they've been in our neighborhood and I would really object to them expanding in our neighborhood. I think that's all I had. Thank you.

CHAIRMAN MONTROYA: Thank you. Is there anyone else who would wish to come and speak on behalf of or in opposition to this application? Seeing none, the public hearing is closed. Questions? Commissioner Vigil.

COMMISSIONER VIGIL: For staff, Shelley, now, did I understand you

correctly to say that we have a Highway Corridor Ordinance within the EZ, that this property is outside of the EZ, so we have nothing that regulations it in terms of an ordinance? All we have is our Code?

MS. COBAU: Mr. Chairman, Commissioner Vigil, inside the Two-mile EZ we have an ordinance, and outside the Two-mile EZ we have a plan. So the plan isn't specifically enforceable although the owner of this property has kept in mind the plan and tried to adhere to the plan through the placement of additional - a coyote fence along his front boundary certainly isn't something that's required by Code. It's something that he has agreed to provide along with the additional landscaping.

COMMISSIONER VIGIL: And this plan has been adopted?

MS. COBAU: That's correct.

COMMISSIONER VIGIL: Why isn't it in ordinance form?

MR. KOLKMEYER: Mr. Chairman, Commissioner Vigil, it's not in ordinance form for several reasons. One, a large part of the Highway Corridor Plan that's outside of the Two-mile is potentially susceptible to being annexed by the City. So we chose not to go ahead with the adoption of that portion until annexation became clearer. The portion along the frontage road here had standards that were written for this portion of the highway corridor that were done not in consultation with the residents of that area. About six months ago we had a meeting with them out there and there was overwhelming opposition to the standards of the plan at that point, so we have, for the moment again discontinued work on the adoption of the Highway Corridor Ordinance until we can figure out how to work with this neighborhood in a different manner.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Siebert, this is going to be served by well water. Is that correct?

MR. SIEBERT: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: And there are apparently two wells. One's 25 feet in depth and the other's 30 feet in depth. In general wells in that area are 200 to 300 feet. What do they know that everyone else doesn't know that they can get water at 25 feet?

MR. SIEBERT: Well, the difference here is this is the area where water is starting to come up. You have the uplifted fault and actually, that's probably the major bearing area in that particular area.

COMMISSIONER SULLIVAN: Will both wells be used? I don't see any conditions that have to do with water use. I see they don't have to have a geo-hydrologic report because their utilization is less than a quarter acre-foot. But I don't see any conditions that limit their water use or refer to how many wells they can use. What's the situation there?

MR. SIEBERT: Well, I guess what the applicant would be willing to agree to is a .25 acre-foot limit on each well.

COMMISSIONER SULLIVAN: On each well? Why do they need two wells?

MR. SIEBERT: There's two existing wells on two separate tracts.

COMMISSIONER SULLIVAN: If it's only a quarter acre-foot why can't they deal with one well. We like to limit the number of wells and if these parcels are adjacent with the exception of Taylor Road it seems that they could certainly get along with one, couldn't they?

MR. SIEBERT: In order to satisfy the water budget it's really necessary to continue to use the two existing wells. The advantage the County has is that right now, there is no restriction on the use of those wells. The applicant is willing to limit each of the wells to .25 acre-feet.

COMMISSIONER SULLIVAN: I don't understand. In order meet the water budget - I thought the water budget was under .25 acre-feet.

MR. SIEBERT: For each tract of land it's under .25 acre-feet.

COMMISSIONER SULLIVAN: Oh, for each tract. I see. Not for the total development.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: What's the total water budget?

MR. SIEBERT: The total water budget would be .5 between the two tracts.

COMMISSIONER SULLIVAN: You don't have any breakdown of how that's calculated for landscaping or anything?

MR. SIEBERT: We have that as part of the report, yes.

COMMISSIONER SULLIVAN: Okay. And you came up with .5.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: Well, certainly .5 acre-feet, one well is certainly capable of providing that. We deal with developments all the time where one well provides three acre-feet.

MR. SIEBERT: Is that in the form of a condition?

COMMISSIONER SULLIVAN: Yes. It's in the form of a suggested condition that we're trying to limit the number of wells throughout the county and we're not close enough yet to the County water system. It would seem that you should be able to provide the water requirements, particularly a half acre-foot for storing mobiles homes is quite a bit of water with one well.

MR. SIEBERT: I guess the question would be, if we go to .5 acre-feet on one well do we then have to go to a full-blown geo-hydrology report?

COMMISSIONER SULLIVAN: I see. Quite frankly, personally, I'd much rather be willing to say use a half an acre-foot for commercial development but only use one well. I think that's in the interests of the neighbors who have other wells adjacent to that, as hydrologically more acceptable. I don't know if our hydrologist - any thoughts on that? We've got two wells out here and we really don't have much demand.

MS. TORRES: Mr. Chairman, Commissioner Sullivan, this one was a little

bit strange because the Land Use Code says as long as the development doesn't use more than .25 acre-feet the availability requirements don't kick in. Their total water budget is .5 but it is still two lots. I didn't quite agree with the applicant's assessment on this but because it was at master plan level Land Use thought it was okay to go ahead and work these details out. I don't - with their wells being that shallow, I don't know if they'd be able to meet the availability requirement due to the shallow water column there but I'd have to work those numbers out. I'd be happy to work with the applicant to do something preliminary.

COMMISSIONER SULLIVAN: Perhaps, Mr. Chairman, we could just add a condition that says the applicant will consult with staff regarding the feasibility of providing both tracts via one well and not make it a specific condition until we have more information. Does that, Mr. Seibert, sound acceptable?

MR. SIEBERT: Mr. Chairman, Commissioner Sullivan, yes it is.

CHAIRMAN MONTOYA: Okay. Other questions? Could we have a motion?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: I'll move for approval with the conditions and the conditions that Commissioner Sullivan just added.

CHAIRMAN MONTOYA: Number 14 and 15. Okay.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya with the additional conditions of 14 to comply with the Highway Corridor Plan and 15 is more of a suggestion to consult with staff regarding the use of the two wells, study that. Second by Commissioner Campos. Further discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Seibert, question. We don't have the water budget. Yes, we do have the water budget. I take that back. In the report it says that there's no washing of the RVs in the water budget because that is only done by harvested water. How are we going to enforce that?

MR. SIEBERT: Well, the way that you would enforce it would be through the normal restriction. They have to put in a water meter and they have to submit those water meter readings to the County on an annual basis. So they just simply couldn't exceed their allowable. How to limit whether someone's going to go out there with a hose and wash one of the RVs down, I don't know. I don't know how you'd do that.

COMMISSIONER SULLIVAN: And you think you'll have enough? You're harvesting water how?

MR. SIEBERT: There's harvesting of water both off the office building and off the warehouse building as well.

COMMISSIONER SULLIVAN: And do these go into a cistern where it's pumped out?

MR. SIEBERT: Yes. They go into an underground cistern. Correct.

COMMISSIONER SULLIVAN: And that will have a hose bib and so forth for washing the RVs?

MR. SIEBERT: Well, it will have an automated irrigation system to irrigate the landscaping.

COMMISSIONER SULLIVAN: How do we wash the RVs?

MR. SIEBERT: The RVs, what's been stated to me by the owner is that he simply will not wash the RVs.

COMMISSIONER SULLIVAN: Okay, it just says here, Under oath, Jim Seibert, agent for the applicant stated there is no washing of RVs besides that done by harvested water.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: So if they're going to wash them they should have something that connects to the harvested water, shouldn't they?

MR. SIEBERT: We'd be happy to make a condition that there be a hose bib from the underground tank.

COMMISSIONER SULLIVAN: To wash the RVs.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay we have a motion and a second.

COMMISSIONER SULLIVAN: Is that condition acceptable to the maker and the seconder?

COMMISSIONER CAMPOS: The seconder is fine with it.

COMMISSIONER SULLIVAN: With the hose bib for the washing of the RVs with the harvested water. That would be condition 16, I think.

COMMISSIONER ANAYA: Yes.

CHAIRMAN MONTOYA: Okay, further discussion?

The motion to approve CDRC Case #Z 06-5280 passed by unanimous [5-0] voice vote.

- XII. A. 12. AFDRC Case # Z 06-5490 Agua Fria Children's Zone Preliminary and Final Development Plan. Agua Fria Children's Zone (United Way of Santa Fe), applicant, Jim Siebert, agent, request master plan/ zoning/preliminary and final development plan approval for an office use located on .604 acres. The property is located in the Traditional Community of Agua Fria at 3942 Agua Fria Street, just east of Montano Excavating, within Section 31, Township 17 North, Range 9 East NMPM, Santa Fe County (2-Mile EZ, District 2)**

VICENTE ARCHULETA: Thank you, Mr. Chairman. On October 5, 2006,

the Agua Fria Development Review Committee met and recommended approval for office uses subject to staff conditions.

United Way of Santa Fe requests master plan zoning/preliminary and final development plan approval for office uses. The United Way of Santa Fe County proposes to create a permanent location for the Agua Fria Children's Zone (AFCZ). The purpose of this community building initiative is to create opportunities and enhance the quality of life for children and families by providing needed services and support. AFCZ programs will include services for 0-5 years; out-of-school time programming, economic development, and community development.

AFCZ will use an existing structure, which is within the Traditional Community of Agua Fria, as it's permanent base of operation while continuing to work with Santa Fe County and the State Legislature to build a new building at an alternate location for services for young children and their families. The AFCZ will also continue to operate programs at the Agua Fria Elementary School.

The building will be occupied for office use. Except for a few limited events the building will not be used in the evenings and on weekends. The structure will not be used as a residence. For the next 2-5 years the existing building is adequate to accommodate the needs of the AFCZ. A future expansion of 1288 square feet is planned.

The application was reviewed for the following: existing development, adjacent development, lot coverage, access, traffic, water, fire protection, liquid and solid waste, terrain management, landscaping, signage, parking, lighting and phasing.

Recommendation: The proposed request is in accordance with Article V Section 5 (master plan procedures), and Article III, Section 4.4 (development plan procedures) of the County Land Development Code. Staff recommends master plan zoning/preliminary and final development plan approval subject to the following conditions. May I enter those into the record?

[The conditions are as follows:]

1. All redlines comments must be addressed.
2. A contract from a solid waste disposal service must be submitted prior to development plan approval. The applicant will construct a trash enclosure with gates to screen from view.
3. All new or replacement utilities shall be underground.
4. A detailed signage and lighting plan shall be submitted with the Preliminary development plan. Signage and lighting shall conform to EZO requirements. All lighting shall be shielded.
5. The applicant must submit access permits as required by NMDOT.
6. Any change in water usage for the proposed development shall require a new water budget.
7. The dumpster(s) location must be identified on the Development Plan. Dumpster(s) must be screened by a 6' opaque wall or fence.
8. The applicant must submit a cost estimate and financial surety for completion of

- required improvements.
9. A detailed drainage and grading plan with calculations shall be submitted with the development plan for parking lot and impervious surface drainage that will not be retained in cisterns.
 10. A detailed fire protection plan to be approved by the County Fire Marshal shall be submitted with the final development plan.
 11. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Department
 - c) Soil & Water District
 - d) State Highway Department
 - e) County Hydrologist
 - f) Development Review Director
 - g) County Fire Marshal (Site Plans & Building Plans)
 - h) County Public Works
 - i) State Historic Division
 - j) Technical Review Division
 12. Applicant shall submit detailed building elevations; building height shall not exceed 24 feet.
 13. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

CHAIRMAN MONTROYA: Okay, questions for staff? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Vicente, does this convey then a permanent commercial approval on this parcel for any use or is it only for this use?

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, this is just for office use. If they want to change the use of the property it has to come back in for zoning.

COMMISSIONER SULLIVAN: And who owns this property?

MR. ARCHULETA: Right now, United Way owns it.

COMMISSIONER SULLIVAN: United Way owns it. So if United Way were to sell the property, then what happens?

MR. ARCHULETA: If they're going to change the use from offices then it has to come back in for zoning.

COMMISSIONER SULLIVAN: Or if they are going to have more offices? What then?

MR. ARCHULETA: The size of the property, I believe they're maxing it out with their development, with their future phasing. So if they did, they would have to

come back to the AFDRC and then back to BCC.

COMMISSIONER SULLIVAN: And what's adjacent to the property now?

MR. ARCHULETA: Adjacent to the property are residential.

COMMISSIONER SULLIVAN: And there have been no complaints with - they're currently in this office now as I understand it.

MR. ARCHULETA: I believe they've gotten a permit to use it as office space at this point and actually, what's adjacent to the property is - there's the Affordable Housing Association Manufactured Home Park, which is right next to them. Montano Excavating is just on the other side of the mobile home park. There's a contractor's business and storage yard to the north, and the west is a contractor's yard, and a vacant parcel.

COMMISSIONER SULLIVAN: So it sounds more commercial around it than residential.

MR. ARCHULETA: There's also a pending application for residential in that area also. Just north of this site.

COMMISSIONER SULLIVAN: So have there been any complaints about the office space?

MR. ARCHULETA: We haven't got any complaints at all.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Other questions for staff? Okay, is the applicant here?

[Previously sworn, testified as follows:]

MR. SIEBERT: My name is Jim Siebert. My address is 915 Mercer, Santa Fe. We agree to all conditions as stated by staff.

CHAIRMAN MONTOYA: Okay. Questions for the applicant? Okay, this is a public hearing. If there's anyone that would like to speak on behalf of or against this application if you would please come forward. Seeing none, this public hearing is closed. Final questions from the Commission for the applicant or staff. Seeing none, do we have a motion, please. Commissioner Vigil.

COMMISSIONER VIGIL: I'm very pleased to see this project come before us for the office space, moving forward on the Agua Fria Children's Zone. This community has worked very hard in trying to meet the needs of that community and I know has received an enormous amount of support, not only from United Way but federal dollars and legislative dollars. This project deserves to move forward and I move to approve it and vow to help them in whatever way we can.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second by Commissioner Campos. Any further discussion?

The motion to approve AFCRC Case #Z 06-5490 passed by unanimous [5-0] voice vote.

- XII. A. 3. Resolution No. 2006 - __. A Resolution Approving the Petition of Turquoise Trail, LLC for Formation of Turquoise Trail Public Improvement District Pursuant to the Public Improvement District Act, Section 5-11-1 Through 5-11-27, NMSA 1978 (the "Act"), Santa Fe County Resolution No. 2006-40 and the Santa Fe County, New Mexico Public Improvements District Policy and Application Procedures; Making Findings in Connection with the Petition and Supporting Documentation Requesting Approval of the Formation of the District; Determining the Real Property to be Included within the District and the Purposes for which the District is Being Formed; Approving the General Plan and the Rate and Method of Apportionment and the Manner of Collection of a Special Levy to be Imposed Upon Real Property within the District; Approving a Development Agreement for Implementation of the District; Approving Parameters for the Issuance of District Bonds; Providing for Governance of the District; Providing that Bonds and Other Obligations of the District Shall not be Obligations of Santa Fe County; Repealing all Actions Inconsistent with this Resolution Other than Santa Fe County Resolution No. 2006-40 [Exhibit 9: Turquoise Trail Information Packet]**

CHAIRMAN MONTROYA: Which staff is taking the lead on this?

MR. ROSS: Mr. Chairman, members of the Commission, as you recall under the policy that this Board adopted, I think it was in the spring, we require the applicants for a public improvement district to deposit a sum of money, which then the County uses to hire, in this case, the County's bond counsel to help us work through this. So we have the County bond counsel here, Peter Franklin, to talk about this and we have a number of staff members that are present, I believe they're here somewhere, who also participated on a committee with Mr. Franklin and have reviewed the various submissions since about June, and they're also prepared to report in their respective areas. So perhaps Mr. Franklin can give you an overview of what's proposed and the applicant will certainly have some things to say and we have staff available in their areas of expertise to talk about those matters.

CHAIRMAN MONTROYA: Okay. Thank you, Steve. Good evening, Peter.

PETER FRANKLIN (Bond Counsel): Good evening, Mr. Chairman and Commissioners. As Steve indicated, one of the documents you have in your packet is a staff report that the County staff, the County financial advisor Kevin Powers and I worked on in the course of reviewing the applicants, the Turquoise Trail application and a number

of supplements and modifications which have come in since that application was filed.

The application was filed initially in late 2005 and as the Commissioners may recall, the application was put on hold while the County went through a process of formulating and adopting a public improvement district policy guidelines and applications procedures resolution. After that resolution got passed in the spring, I believe it was in April, I'm not positive, we began to review the application against the County's policy and as I said, the applicant has supplemented the application in response to requests from the County review staff and the County's consultants a number of times. The most recent supplementation actually came after this report was distributed to you.

One of the things that this report requested was that the applicant provide what's known as a reserve study to basically analyze the cost of maintaining and replacing infrastructure over the long term. And since this infrastructure, as proposed by the applicant is mainly going to be owned, operated and maintained by the public improvement district as they've proposed it, as opposed to being dedicated to the County, the review staff felt that a reserve study was very important and might give some comfort to the review staff and hopefully the Board of County Commissioners about the amounts that are proposed to be collected to maintain and operate and ultimately replace the public improvements proposed to be financed.

Turquoise Trail is here tonight to present this request and to give you details about what the proposal is. I thought that before they got to that, what I'd like to do is take a moment to address something that Commissioner Campos raised at the last meeting when a resolution of intent scheduling this hearing was before the Commission, which is basically, what is the standard by which this Commission should consider this application and what is the basis for determining whether to approve this district or not?

What we tried to do is summarize that standard in the staff report, in the conclusions, which appear on pages 12 and 13. I'm going to direct the Commission's attention to paragraph 4. Paragraph 4 says that the Board of County Commissioners should determine whether the proposed special levy - that's the additional, it's not a tax, it's actually a benefit assessment, but the additional charge that will be placed on each lot in this district on an annual basis to pay debt service on bonds and to maintain the improvements. Whether that special levy would result in tangible benefits to the purchasers of homes within the district, and whether those benefits are reasonable in light of the amount of the special levy to be imposed.

That's probably the crux of the matter, both under the statute and under the County's policy: Is this proposal something that in addition to enabling the developer to finance these improvements with tax-exempt bonds over a 30-year period, do the property owners get something back as a result, and is what they get back really worth the extra levy that they'll have to pay in addition to their property taxes. With that, I would turn it over to the applicant to describe the project and I will be here to answer any questions that come up along the way that you want to direct to the review staff.

CHAIRMAN MONTROYA: Okay. Are there any questions for Peter before

we move on? Karl.

MR. SOMMER: Mr. Chairman, we have a power point presentation. I don't know if they show up on your screens there or if they're put up on the screen behind you. Do they?

CHAIRMAN MONTROYA: Yes, they pop up here.

MR. SOMMER: Okay. Great. I have paper copies as well. Mr. Chairman, my name is Karl Sommer. My mailing address is in the record from earlier. I represent Turquoise Trail, LLC, which is a wholly owned entity by Longford Homes with whom you are all familiar because we've been in front of you over the course of the last couple of years dealing with the various aspects of the approval of this project, which is known as Turquoise Trail Subdivision. And what I'd like to tell you tonight, I have with me Tracy Murphy, who is the representative of the company, and Mr. Tom Robinson, who is general counsel for the company and both of them have been before you before. And I have various other consultants that are here tonight, but the three of us are here to answer your questions as directly as we can and to address any concerns you might have.

I'll move through the power point very quickly so that we can get through to your questions that you might have. Just a brief reminder, this project is on Highway 14 where it bends. The Santa Fe Brewing Company is right here and the map up on the screen right now shows you the configuration of this development. It is essentially a south phase and a north phase and it has 516 homes and some of the attributes of the program and the development can be seen depicted in the second sheet. Mainly what we're talking about here, what are the amenities that the people who live in this community are going to enjoy? What do we propose to have maintained and paid for by the public improvement district? I'll refer to it as the PID. And the sheet there that's in front of you shows the extent to which Longford Homes through Turquoise Trail is producing a high-quality community where quality of life is going to be, we believe, exceptional, and as a result of the PID proposal we're making, will be maintained into the future.

I think that Mr. Franklin has put in front of you the essential issue. What are the benefits that people in this community will be receiving as a result of this PID? And we'll go through those in detail.

The next two sheets on the program just show you the kind of housing that we're undertaking that we represented to this Commission as we went through this process. They are a varied type of home. There are different styles and it is a high-quality construction. This is just by way of reminder what we're producing in the district.

So let's move to the specifics. What I'd like to talk about tonight is to deal with what the PID is all about for us and what the benefits are and what we've done going through this process. As I've gone through, the project review is 516 homes on 180.3 acres. At the very outset of this development and this proposal by Longford Homes, Longford Homes committed to a project and a development that would be affordable to residents in Santa Fe that can't otherwise afford a home in Santa Fe. All of our homes will be below \$310,605. That is a requirement and an agreement that we have entered into with

the City to maintain the affordability across the board in this project. Most of our homes are below \$300,000 – well below \$300,000 and I'll go through that a little later.

We also are complying with the County's affordability requirements of 15 percent in this district. Longford Homes, as I said, made a commitment to affordability and they are maintaining that commitment as we move through and begin selling the homes. I've provided you with the median. Don't need to remind you very much that the median Santa Fe County home sales price for a detached single-family home currently is \$487,500. We're well below the median price. The demographics of the people that are entering into contracts with us are firefighters, emergency service personnel, police, state, County workers, City workers, teachers, public health officials – this was the target market that the County has said in the past it wanted to provide housing for to make sure that we had these people in our community, living in our community, and they will be living here and that is bearing out in this development.

Let me address how, under the PID we are going to maintain this affordability over time. As this body knows, the 15 percent requirement doesn't take into account the tax burden when you go to qualify a buyer. Under the County's ordinance the tax burden that people pay isn't taken into account. In this particular development, this PID actually reduces the special levy on the affordable houses. So a house of type A – I'm just going to use an example – at one address and the same house at another address that is not affordable, pays a different levy. The non-affordable house pays the full levy for that type of house. The affordable house pays a reduced levy. By doing that we are maintaining the affordability on those homes for the period that the County's ordinance requires, which is 30 years, and that's actually the life of the bonds here.

A question has arisen, well, what will this PID do for people who are trying to qualify for – if I may approach – for a mortgage, to add this increment of a special levy on a home for an affordable buyer. This was central to some of the questions that Duncan has raised and we've responded to, and I'd like to approach you with a handout. What I'm handing you is several sheets, one of which gives you an actual, real-life example of the effects on somebody, the ratios, in a real-life mortgage application circumstance.

It's not the first sheet, but it is the second sheet of what I've shown you. If you will look there and see the qualifying ratio required on page 2 of the handout I just gave you, you'll see we have a buyer, and this is an actual buyer – we're obviously not putting their numbers out there – of their income, assuming an FHA 30-year mortgage, and a sales price of \$171,600. You will see in this example how the income/debt ratio without the PID levy is 37.49 percent. With the levy, it's 39.74 percent. What it does is, in this particular example, which we believe is typical, adds 2.25 percent to the debt ratio, which does not affect their ability to qualify for the mortgage for the affordable houses that we're producing.

That was important both from a staff level for Duncan to ask us how is this affecting these buyers? We're showing you an actual real-life example of this. This is how it affects them. It's marginal and it does not push people out of the affordable housing

purchase price.

Another question that came up and Commissioner Campos, I did not mean to ignore your e-mail but we wanted to respond to it in a very specific way related to energy efficiency in these homes, because energy efficiency is also a component of long-term affordability as well as long-term sustainability of a community ecologically in our county. We have provided in the packet I've give you, on the last page, a list of the energy efficiencies that we are going to achieve. And I'd like to turn it over to Ms. Tracy Murphy to discuss specifically the energy efficiencies that we intend to include in this project and that are getting incorporated.

[Duly sworn, Tracy Murphy testified as follows:]

TRACY MURPHY: 3077 East Warm Springs, Las Vegas, 89120, Las Vegas, Nevada. As part of Longford Homes' commitment to providing homes that are environmentally conscious and energy efficient, we have provided some information to you on not only the water conservation efforts but water saving efforts and energy efficient features that we're providing in our Longford Homes at Turquoise Trail.

We think that the water conservation/water savings, as well as the energy efficient features are all important to providing quality homes in a quality neighborhood to the homeowners who will be living at Turquoise Trail. As part of these efforts, the water conservation efforts are made through rainwater catchment systems, which includes not only cisterns in the homes that that is applicable to, and that's based on square footage, but also individual rain barrels on the homes to provide additional water conservation efforts. The water savings are also important to us and we committed earlier in our project to providing hot water recirculation pumps in all our homes, which we do and we're currently doing. They're included in every home to save water by allowing the homeowner to control their desire water, cut down on the amount of cold water entering their hot water heater and provide instant water rather than running the tap to obtain hot water in the homes.

In addition, the energy efficient features include the hot water heaters, air conditioners, gas heating systems, insulation and dishwashers. Those are included in the homes; they're not options. These features are either energy efficient or Energy Star certified. And the difference in those are the energy efficient items are compliant with the Department of Energy as effective at saving energy. And the Energy Star certified items are the items that are a certain percentage more efficient than the minimum government standards as set by either the USEPA or the US Department of Energy.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like to have more information about hot water heaters, how they're going to be efficient, how they're going to be rated. Are they going to be Energy Star?

MS. MURPHY: At Turquoise Trail we install 50-gallon hot water heaters. The model is classified as being energy efficient, which means that it is compliant with the

Department of Energy as effective at saving energy. In addition to the hot water heaters, the other items are provided as overall systems to contribute to the energy efficiency of the homes, not just one system or one rain barrel, but the dishwashers, the hot water heaters, the insulation to all contribute to the energy efficiency of the homes.

COMMISSIONER CAMPOS: Is your house going to be energy efficient from an insulation perspective?

MS. MURPHY: The insulation is Energy Star compliant. The required R-value is 38 R-value for ceiling products and Turquoise Trail does provide that R-value. Turquoise Trail also provides wood framing within the require Energy Star compliance.

COMMISSIONER CAMPOS: So you're going beyond the regular requirements of the Code, of the building Code, in New Mexico.

MS. MURPHY: We are meeting the energy efficient and Energy Star requirements for these specific items.

COMMISSIONER CAMPOS: And there will be testing to ensure that you do achieve those standards?

MS. MURPHY: The testing is through, I believe, certain programs, which are entered into as inspection programs. These items are not part of an inspection program. We decided that it's important enough to us to install these items, which are listed in all our contracts, with our subcontractors, and they're required to provide. So with the building inspections, I don't know if that's covered in the building inspection process.

COMMISSIONER CAMPOS: No, it's not. Rancho Viejo does testing. Their homes are all Energy Star and they do testing of all of their homes to make sure that they achieve the goals of energy conservation. And I think that's an important thing to do.

As far as your recirculation, is this on demand or is this just constantly circulating?

MS. MURPHY: The hot water recirculating pumps – I don't know if you're familiar with recirculating pumps. These are the Taco brand recirculating pumps. They're a very well known brand of water recirculating pumps.

COMMISSIONER CAMPOS: Are they on demand, or are they circulating all the time?

MS. MURPHY: The specifics and the specifications on this product states that these pumps allow the homeowner to enjoy hot water at their desired temperature instantly. So from that information we obtained from Taco, it sounds to me like it would be instant.

COMMISSIONER CAMPOS: It would be on demand?

MS. MURPHY: Yes.

COMMISSIONER CAMPOS: As far as air conditioning, are they going to be refrigerated or swamp?

MS. MURPHY: Refrigerated.

COMMISSIONER CAMPOS: Because those do use a lot more electricity than swamp.

MS. MURPHY: Air conditioners. They comply with the Energy Star

requirements as provided for in our climate zone as based on the Energy Star requirements. And our climate zone is 4-5 climate zone, which means that it's a cold and warm climates in the US as defined on our location, and that is identified as Energy Star compliant.

COMMISSIONER CAMPOS: Okay. Air conditioning uses a lot of energy. One way to save energy is not to tell your houses heat up. That's done by design and orientation. Is that taken into consideration?

MS. MURPHY: As part of that, our windows are all dual-paned windows in our home and that's why we have gone to the extend we have in providing all these specific items in the home to help contribute to energy efficiency.

COMMISSIONER CAMPOS: Well, I'm talking about solar gain. Other than double-pane, what are you doing?

MS. MURPHY: In addition to the dual-pane and the appliances and the insulation and the air conditioning, I'm not sure I understand your question.

COMMISSIONER CAMPOS: We're talking about solar gain. It's important to keep the houses cool in the summer and you can do that by design or orientation of the house. Have you taken these factors into consideration?

MR. SOMMER: Mr. Chairman, Commissioner Campos, I do not believe, being frank with you, whether we had a consultant that did a layout that took into account solar gain. Our layout here, Clif Walbridge did a good deal of the layout for us and do not believe it included a design in the layout that took into account orientation with respect to solar gain. So the answer to your question quite directly is I do not believe the design of the subdivision took that into account.

COMMISSIONER CAMPOS: Now, Mr. Sommer, how do we know that you will do all these things? Is it going to be a condition of approval, or how do we know that all these conservation measures are going to be in fact implemented?

MR. SOMMER: I think that, one, we're up here under oath telling you that that's what we're actually doing on the ground, but aside from that we don't have a problem with your conditioning approval on our actually implementing what we said here tonight with respect to energy efficiency. That's not a problem for us at all.

COMMISSIONER CAMPOS: I think you still need an evaluation as far as orientation, the lot layout, the house layout and the design of the structure itself to keep the house as cool as possible in the summer and I would hope that that would be part of your evaluation and your design.

MR. SOMMER: Our problem with respect to what's in the ground already, if I may move over there, is this portion of the subdivision is recorded and the plat is recorded and the infrastructure is in so the lot layout is well set. It would be pretty near impossible to undo that at this point.

COMMISSIONER CAMPOS: What about the design of the structure, the solar gain in the summer?

MR. SOMMER: The designs of the structures have been set and they're on the market with respect to the southern half as well.

COMMISSIONER CAMPOS: They're already set?

MR. SOMMER: Yes. So it is a possibility for us to do an evaluation on the north side because we haven't started building and we haven't put the infrastructure in the ground. We have a subdivision plat that is approved but it's not recorded and we have the opportunity to do an evaluation along those lines and modifications to our plans that we could implement there. The southern half, if you will, of this subdivision – I think it's a little more than half of the numbers. So we have a significant opportunity to undertake the evaluation that you're suggesting with respect to the north side.

With respect to the inspections that you suggested, I wanted to get a clarification. There is a lengthy program but we would commit to undertaking the inspections with the certified private inspector that would produce the evaluation. The Energy Star program, I'm not very familiar with it but Ms. Murphy indicates it's a long program; you have to start it well in advance. But you can do the evaluations and the inspections on a staggered basis throughout the development to see that you are achieving the energy gains that you are hoping to achieve by implementing these measures.

MS. MURPHY: The inspections in particular, the question is how do you ensure that we are installing these items in the homes – what I explained a second ago is if the desire is to ensure we're installing these items we can hire a private inspector to go out and do random inspections and provide reports that we are providing these products in the homes. I don't know if that is something that would be acceptable.

COMMISSIONER CAMPOS: Well, it's something worth considering. I certainly want it to be part of the conditions that you are doing x and the quality of these products are going to achieve certain goals. Energy Star itself requires that you do test the whole house for the insulation quality and the tightness of the construction to make sure you don't have any leakage and you have adequate insulation.

MR. SOMMER: She's pointing out something to me. With Energy Star you have to start a lot earlier but Mr. Walbridge who is here has indicated that we can feasibly undertake an evaluation of the construction on the homes and the design of the homes on those that remain to be built which are a good number, without either significantly incurring some sort of delay or rehashing of the subdivision and we would commit to undertake that evaluation to see what sort of orientation or design modifications that might be implemented to achieve the kinds of things that you can gain in energy savings through that.

COMMISSIONER CAMPOS: Well, that's one aspect of it, but you can still achieve those today because as you build a house you can check it for Energy Star compliance as far as whether you're maintaining and conserving heat.

MR. SOMMER: We certainly can.

COMMISSIONER CAMPOS: That's not going to delay your project. You can do that from day one.

MR. SOMMER: Right. And that's what I think we're indicating is that we will undertake that and ensure that that gets done.

COMMISSIONER CAMPOS: Okay.

MR. SOMMER: The reason I bring that up in the middle of this presentation is Commissioner Campos sent me an e-mail yesterday relating to this. It was a one-line question and it's got a very lengthy answer and I did not have an opportunity to respond to you in e-mail so my apologies in that regard. But I hope that the information we've provided you goes some distance to answering some of your questions in that regard.

COMMISSIONER CAMPOS: Yes, but I would want definition in the conditions once you come on for construction, that certain things are going to be done, defining the qualities with specificity. Right now they're not very defined but you have made a commitment.

MR. SOMMER: So with respect to the issues that have been raised with us relating to just affordability and to the energy efficiency, I've addressed those. What I'd like to do is turn now, if I may, to what the PID, the public improvement district, actually does. It funds the acquisition of public infrastructure. Now what is that? Roads, parks, sewer lines, storm sewers - that is the character of the infrastructure that is being required by the PID if you all approve it. What does it mean? It means that homeowners and developers have access through the issuance of bonds to the capital markets, the money markets, where the interest rates are as low as you're ever going to find in the economy.

That means that everybody who is financing that infrastructure has access to the lowest possible rates. The other thing that this ensures is that the PID will be acquiring infrastructure that is already constructed, meets the specifications and is ready for acceptance. Nothing halfway done, nothing incomplete, nothing substandard.

The final aspect of the issuance of these bonds is it does not place the pledge of the County revenues at all with respect to the payment of these bonds. They are strictly related to the special levy.

COMMISSIONER VIGIL: Mr. Sommer.

MR. SOMMER: Yes, ma'am.

COMMISSIONER VIGIL: What specifically infrastructure will you be funding through the PID?

MR. SOMMER: There is, if I may move over here, all of the community parks and the neighborhood parks and all of the infrastructure in them. The community park is a fairly active park and the neighborhood parks are more passive but there are improvements in there, the roadways, the storm sewers, and there's a storm sewer system in here, and that relates to all kinds of infrastructure as well as the liquid waste sewer system, the collection lines. The lift station will later be acquired by the PID, I understand, and that is the basic infrastructure that is going to be acquired.

COMMISSIONER VIGIL: Okay. Thank you.

MR. SOMMER: The formation resolution that is in front of you tonight, we've been working on it here with Mr. Franklin and been working with staff over the course of several months, but focused mostly on the formation resolution. It deals with the

maximum special levy rate that can be set or collected in the PID and that's in our application. The rate that we have set is in line with and is manageable for homeowners. If you turn to the second to last page - I take that back. It's not in the packet. Actually it's the last page on the overhead.

The percentage of tax rate after the PID is imposed as compared to other PIDs, and I believe each one of these is shown. They're all in New Mexico. There are none in Santa Fe. You can see the Turquoise Trail is 1.392 percent of the overall tax burden. Is that an accurate statement? And you can see that it falls a little below the middle in comparison to other PIDs in new Mexico that are using PID financing and imposing a special levy on the owners of properties within these districts. It is manageable and by comparison to other developments it is in line with New Mexico standards or at least the practice in New Mexico.

CHAIRMAN MONTROYA: Karl, on the information we were given it was listed at 1.33 percent, and now this one is showing at 1.392 percent. There was a change from that application to -

MR. SOMMER: I think that the change is this. The change is the result of the maintenance requirements in the PID. Staff indicated they would like to see a reserve study to make sure that our maintenance numbers and our maintenance budget were accurate, reasonable and correct. We did the reserve study. The reserve study shows that the maintenance numbers have to go up \$5 a month, and I believe that's part of the change. The maintenance numbers in the overall PID were not included in the 1.33. Is that correct? A smaller number was. So when we adjusted for the maintenance that was actually going to be incurred in the PID it took that number from 1.33 to 1.392, still in line with the overall comparison that I've give to you in keeping with that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Karl, on the issue of affordability and make to your slide there where you were. This percentage that you're talking about, 1.392 percent, that's taxes in the levy divided by the home price, right?

MR. SOMMER: Yes.

COMMISSIONER SULLIVAN: Okay. I might submit to you that Santa Fe is low is because we have low taxes. So that makes our number lower. One of the things in that that concerns me is on the issue of affordability while we're on that - I've got some other questions that I'll ask as you get further along. But in your first page of what you handed out, with a typical PID and without a typical PID, the first thing that comes to mind is that you're going to be paying \$1709 on this levy. That's in addition to taxes, correct?

MR. SOMMER: Yes, sir.

COMMISSIONER SULLIVAN: Okay. And does that include - there was a question in the staff report whether that included the \$480 per lot levy for operation and maintenance. Does that include that?

MR. SOMMER: It does.

COMMISSIONER SULLIVAN: And if you have someone else that wants to speak they'll need to come and identify themselves.

MR. SOMMER: I will. I'll have Mr. Challis. Come up and identify himself. This is Matt Challis and he is with Piper Jaffrey. He can answer specific questions related to that.

COMMISSIONER SULLIVAN: Okay. At this point let me must bring up two issues, after you've had your meeting.

MR. SOMMER: The example of the PID I was going to get to, I could walk through that so that -

COMMISSIONER SULLIVAN: Well, let me just ask the question now, and then you can clarify that more if you want. But your brief presentation has now taken an hour so, so we'd like to get a few questions in and then you can go into the second part. The \$1709 - are you with me?

MR. SOMMER: Yes, I am.

COMMISSIONER SULLIVAN: You indicated in the documents that average home ownership is seven years, so in this particular individual, in seven years they will have paid additional levy or tax, whatever you want to call it, of \$11,963. Now, what that gets, the whole equation is a \$19,981 in "savings" or in other words, that allows you to reduce the home price by \$19,981. Am I correct?

MR. SOMMER: That's correct.

COMMISSIONER SULLIVAN: Okay. So in seven years, the first homeowner, this first average homeowner has already paid off \$12,000 of that \$19,000 of benefits that your imputing to the home price. So now we have in a few more years the full \$19,000 will be paid off. So I'm not quite so convinced that this is a great thing for 30 years because the first homeowner is paying a levy of \$12,000 and in fact that levy is going to continue to be paid through the 30 years. The only benefit that accrues to the home price, which is the bottom line that we're looking at, is \$19,981.

MR. SOMMER: Well, if I may, Commissioner, is there a question there?

COMMISSIONER SULLIVAN: Do you agree with me or do you not?

MR. SOMMER: I disagree with you.

COMMISSIONER SULLIVAN: Okay, why?

MR. SOMMER: The analysis you just came up with, if the homebuyer was going to buy the home without the PID in place, they'd pay the \$19,000 up front, and then they'd pay the interest at their mortgage rate, which is not going to be the four percent that they're borrowing this money at, and they would pay that for the life of the mortgage. For the seven years, the interest rate difference that you can attribute to the PID, which in this case is probably today is probably about 2.5 to 3 percent on that money, is all going to be paid off in interest, is all going to be interest at a higher rate for that homeowner. So they have to come up with the \$19,000 up front, and then they have to finance it at a higher rate for the same period that you're talking about. So I don't agree with your analysis because

it doesn't take into account that the initial buyer isn't taking the \$19,000 down in his mortgage, and he's not paying the interest rate on that \$19,000.

COMMISSIONER SULLIVAN: Now this is assuming - this brings up a good point. This is assuming that the full \$19,000 goes towards the sale price of the home. Now, what you say in your documents is the savings goes toward the land purchase value. And what you say in the bottom of this form is that this should not be considered a contract commitment to offer homes at a certain sales price at Turquoise Trail. So my understanding is that although you may have credited the land price you have no commitment to hold the home price. You can move the home price up to whatever the market will bear. Is that correct?

MR. SOMMER: No.

COMMISSIONER SULLIVAN: Up to \$310,000.

MR. SOMMER: No. The answer is there's an absolute price that's going to be charged for the land and the home. The kind of shell game that you're talking about is not what we're doing.

COMMISSIONER SULLIVAN: What does this note mean, that the information is subject to change without notice and should not be considered a contract or commitment to offer homes at a certain sales price. What does that mean?

MR. SOMMER: This is a disclaimer that I don't want to have someone run into the office and say, Where's my \$19,981? What we've given you and what you asked for was to show us a real life example in this development of what we were doing and I'm representing to you that that's what's going on in this development. Now, am I standing up here making a contract with a potential buyer? The answer is no, I'm not making a contract with a potential buyer and we're representing to you that our prices today, without the PID, would be this, with the PID they are this.

So what you have in front of you is a disclaimer that is meant to warn people that they shouldn't take this as binding in their deal. It's a dangerous thing for someone to -

COMMISSIONER SULLIVAN: But also, you're not making any commitment to this Commission that you can't raise the prices of the homes whenever you want to. Is that correct? Up to \$310,600-some.

MR. SOMMER: We're not making a commitment that we can't raise the prices.

COMMISSIONER SULLIVAN: You're not saying to us that we're not going to raise the prices of these houses as you build and as you develop and as you market, these prices are going to increase. Wouldn't you think?

MR. SOMMER: We don't have any indication. If prices continue to go up in terms of cost, the cost might go up. What we are doing here is representing to you precisely what we are doing -

COMMISSIONER SULLIVAN: Right now. Right now. But you have the flexibility to increase the prices of the homes.

MR. SOMMER: Today we don't have the PID and this is what we're doing.

COMMISSIONER SULLIVAN: But even after you have the PID you will have – correct me if I’m wrong – the flexibility to increase the prices of the homes to whatever market level you feel is appropriate up to \$310,000. Is that correct?

MR. SOMMER: I would say it is probably accurate.

COMMISSIONER SULLIVAN: I just want to make sure that we understand that you’re not making any commitment that those homes, that this \$230,000 home might two years from now be \$275,000 or \$295,000. Whatever you deem the price should be. And obviously you need to market it and be consistent with what’s available on the market.

MR. SOMMER: Well, what we’re doing is we’re committing to this Commission that our home prices will be significantly less with the PID than without the PID. And that will be the case throughout our sales marketing. And if you’re asking me, do we intend to run out and raise the prices or do we have the flexibility to do it? The answer is we don’t intend to run out and raise the prices. We intend to pass these savings on to the buyers, which we’re doing today and I’m not saying that the prices won’t shift or change because of all the variables involved.

COMMISSIONER SULLIVAN: Okay. Let me – I understand it but we don’t have any – there’s no lock on these prices so that you can increase them whenever you want, is what I’m hearing. Now, the last thing I want to ask, Mr. Chairman, at this point, is just to confirm, getting back to the \$1709, using your example here, a \$232,000 house in the Community College District is currently taxed at about 17 mills. You can trust me on that; I live there; I get the tax bills. That’s a tax of \$1,320 per year on your example here. So what we’re currently saying, because the way taxes, as you know, in New Mexico, are you take the fair market value and the assessed value is a third of fair market value times the mill rate. Pretty simple. It’s 17 times a third of \$232,000. Okay.

So my concern here, and you can address that when you get to this part of your power point presentation is that this policeman, teacher, fireman, in their new house is paying Santa Fe County City taxes of \$1320 a year. That’s 17 mills. They’re paying an assessment of \$1709 a year. That’s 22 mills. So when you take, for example, comparable Rancho Viejo’s small tax district that they did and haven’t done any since, their maximum there was ten mills. Several members of this Commission went down to Arizona and looked at Goodyear and those areas where they have these PIDs and none of those PIDs exceed 10 mills. Period. They’re all that or less. Some are five, four, seven, three. Ten mills is a lot. Ten mills is essentially increasing your taxes by 60 percent in New Mexico and Santa Fe County.

So my concern here is that we’re increasing this individuals taxes by 130 percent. Now, am I missing something here?

MR. SOMMER: I believe that you are missing something.

COMMISSIONER SULLIVAN: Okay. Show me what.

MR. SOMMER: Because your example doesn’t take into account a couple of things that this special levy does take into account. First of all, the homeowners association dues that are paid at Rancho Viejo are not taken into your number. They pay,

in addition to the tax levy – excuse me, the special assessment, at Rancho Viejo they have a significant per household assessment that goes up annually without restriction. So your analysis that at Rancho Viejo they're paying a certain amount for the improvements and the benefits that they're getting is not accurate. It is not accurate because it doesn't take into account a number over which nobody has control except that homeowners association and the price of that goes up and up and up every year.

So to say that their assessments are ten mills does not accurately compare to the assessment here.

COMMISSIONER SULLIVAN: I'm talking about your tax assessments. Just for tax assessments. Not – if you have homeowners associations –

MR. SOMMER: What you said was take your special levy and put it on top of their tax assessment and we're up 130 percent.

COMMISSIONER SULLIVAN: No, no, no. I'm asking you, take the special levy period. Forget the Rancho Viejo at the present time. Do you or do you not agree that this levy represents 130 percent of this particular homeowners tax bill?

MR. SOMMER: I'm not sure that I understand the analysis that you're undertaking.

COMMISSIONER SULLIVAN: I'm saying I have to pay taxes. I'm this owner with the \$232,000 house. I get a tax bill from Santa Fe County every year at 17 mills and that mill levy rate varies. It's currently 16.67 as of a month ago. Say 17 mills. That tax bill for this person is going to be \$1320. It's very simple. You take the fair market value, divide by three and you multiply it by the mill rate. That's it. You can't argue over that. That's the way it is. I have a copy of my tax bill if you'd like to see the mill rate. Because I live just a few miles from this development.

So we know what the tax bill is.

MR. SOMMER: I think I understand your question.

COMMISSIONER SULLIVAN: Now, I'm saying in addition this person gets an assessment of \$1700 a year. That's 130 percent of their tax bill. And why I think that's a concern is because I've received calls from people in Rancho Viejo who are concerned that they're getting tax bills that are 60 percent more than their neighbors and they want to know why, in Nava Ade. And I say the reason is because you're in a special assessment district. That's why. And they didn't even know it.

Can we agree that those numbers, that it is 130 percent more.

MR. SOMMER: I think that your math is probably correct that if you say the special levy as proposed is \$1700 on that home is 130 percent of the \$1300 figure. I have no quibble that you've done the math right. My quibbling is not quibbling. It's a disagreement with the comparing apples to oranges in a meaningful way. We could debate this all night I'm sure.

COMMISSIONER SULLIVAN: I don't mind. I think it's important.

CHAIRMAN MONTROYA: I do.

COMMISSIONER SULLIVAN: I'm willing to stay as long as necessary

because we're adding benefits. We're supposed to be evaluating benefits here. Quite frankly, and I see on your square footage prices the same two-bedroom, two-bath places for \$197 a square foot in Rancho Viejo of \$190 a square foot at Turquoise Trail. So I don't see too much difference there on square footage prices. But what I don't see is when we're looking at what are additional benefits to the homeowners. Now, again, the majority of Rancho Viejo - and you can find out the exact rates if you want, of the assessments, the homeowners' assessments, but I don't see any difference here than Rancho Viejo. They have parks, they have trails, they have equestrian paths, they have landscaping. In fact it's irrigated and so forth with wastewater. And I don't see any extra improvements here that one could say we're creating additional benefit over - in fact this is a very basic subdivision.

There's no pool. There's no clubhouse. Do you have a problem with that?

MR. SOMMER: I would like to see the Commission approve a pool.

COMMISSIONER SULLIVAN: It's approved at Las Campanas. [laughs] I don't know why they wouldn't approve it here. But municipal pools and community pools are certainly a part of the Code. But my point is we're asked in the summary that was made reference to by the staff, the BCC should determine whether the proposed special levy results in tangible benefits to the PID. And I don't see that these people are getting any additional benefits than they would get if they went to a comparable subdivision - Nave Ade, let's take for example, where they have these same minimal parks and a few little trails and a footbridge.

I can't see, and maybe as you go through your process here -

CHAIRMAN MONTOYA: Excuse me. Let me just interject. Peter, is there anything that you might have to add that might provide some clarity in terms of the calculations that are being discussed.

MR. FRANKLIN: Oh, I don't think I want to get into a sparring contest with anyone over math at this time of the evening, Mr. Chairman, but I would say that I think the question of what's covered by homeowners' association dues is relevant to the comparison. My opinion only.

COMMISSIONER SULLIVAN: Let me just - I'll just finish my questions now.

CHAIRMAN MONTOYA: We need to move on.

COMMISSIONER SULLIVAN: Let me just point out, even though the staff may not want to get into all our sparring. On page 11 and 12 of the staff report, it says the proposed levy for debt service for operation and maintenance is from 250 to 400 percent higher than the maximum special levy amounts by other PIDs in New Mexico. Now that seems pretty excessive to me. And the 130 percent seems pretty excessive to me. Thank you.

CHAIRMAN MONTOYA: Okay.

MR. SOMMER: Mr. Chairman, I will try and wrap up here. Let me address directly the benefits that the PID produces. One, it allows homeowners to buy a

house with a reduced down payment and purchase price that is in the example. In the example we've given it's \$19,000 less that they have to come up with. The amount of the infrastructure portion that is financed through the PID is financed at the lowest possible interest rates that are available through the capital markets. If you finance this through conventional you're going to be three or four percent higher. It's tax-deductible as a general matter, and what this PID proposal puts in front of you is the following. There will be a mechanism in place to insure that these improvements, all of these improvements, the roads, the park, the drainage, all of the facilities that are being acquired by the PID will be maintained over a long period of time.

Each one of you up there has received calls undoubtedly from people who live in subdivisions where their homeowners association has not been formed. Where their roads are not taken care of. Where they have complaints about infrastructure that was not completed. In this particular proposal you will have in place an assessment collected, a board that applies that assessment over the long haul, and the amenities that will be enjoyed by the people who live in this subdivision will be maintained over the long haul. That means that property values will be maintained and that the quality of life for people in this district will be enhanced over the long haul.

And I submit to you that over time this Commission sees developments that tend to deteriorate because the maintenance of the basic infrastructure is not undertaken or sought by organizations that have the expertise and the capability of handling it. This PID will have all of that and I think that is a clear, tangible benefit to the community and to the County.

So to summarize, there's a price differential, there's an interest rate differential enjoyed by the homeowners, and there is also a long-term quality of life that they enjoy as a result of this mechanism and maintenance.

I'd like to just touch on one thing that I think is important. Staff requested and we submitted to you a reserve study. That was important to us to make sure that one of the benefits that this PID is going to supply is actually reasonable, that we've come up with a reasonable figure and that it's borne out by a reserve study. Our reserve study shows that with the level of funding we have in the assessment, these improvements and the reserves to replace and repair them over the entire life of the PID, which is 30 years will be 100 percent funded. I daresay that I have never run into a homeowners association that can say their reserves are funded over 100 percent of the short term, much less the long term. And those reserves go right back into the community and they help preserve the quality of life.

In sum and in short, we believe that there are tangible benefits to be derived by the people that will live here, in the short term when they buy, in the mid term as the finance and pay off the levy at the lowest possible rates, and in the long term by the quality of life that they will enjoy. I've provided you the budget if you had any interest to see what we are actually talking about in terms of maintenance. It's not important but it's there for you to look at and we could answer any questions you had about it. We would stand for any questions you might have and of whatever nature you have. Thank you very much.

CHAIRMAN MONTOYA: Okay, was there any additional part of your presentation? Or Karl, that concludes the presentation?

MR. SOMMER: I think that covers it.

CHAIRMAN MONTOYA: Questions now for the applicant? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Anyone else from the Commission can join in. I'm just going through a list of things here and I'm perfectly willing to chat with anyone about them. I don't want to monopolize the conversation. But since Mr. Sommer brought up the budget, on the second to the last page, I see in the staff report that it says the amount for road maintenance is inadequate and that's - you can find that - I'll find the page for you. And I agree with that, and I wanted to point out one item. It's on page 6. It says overall, the proposed PID budget appears to be too low to maintain 3.75 miles of roadway. The reserve study should address this.

In the budget, about in the center of the budget, there's a line - slurry-coat roads. Now bearing in mind this is a 30-year commitment here, although this is an annual budget. Number one, you can't slurry-coat roads and keep them maintained for 30 years. You have to overlay them and reconstruct them about every eight to ten years. So the staff in fact talks about the fog seal which is similar to a slurry seal and they say that that's needed every two to three years. What that is is basically a paint job on the roads. You see them when they paint the roads with black stuff, and it essentially prevents the oxidation of the roads but it doesn't address cracks and potholes and things of that sort, and the staff report says you also need to budget crack-sealing and striping and repairs.

So I feel that \$25,000 a year is woefully inadequate to maintain almost four miles of roads. That's one item. And then just another one, and this is the first time we've seen this budget today. Under common area utilities, the maintenance of the lift station, you have \$680 a month. The inspection of the lift station you have at 80 percent of \$600 which you calculate to be zero all the way across the sheet. So there's obviously an error there somewhere. And I think in general in looking at these expenses, on the one hand I think they're low, and I think the staff comments on the trails and landscaping also said that. And on the other hand, as I said before, I think they're incredibly high in terms of taxes on working class people that are buying homes here.

But I can guarantee you that you can't maintain these roads for \$25,000 - not in this climate of blistering sun and the type of traffic that we have. It just isn't going to happen as one example. There may be other examples. But I think the maintenance budget probably needs a more in-depth look.

MR. FRANKLIN: Mr. Chairman, Commissioner Sullivan, if I could just put these comments in context. These comments were made before we had received the reserve study, which we got last Thursday. I know that Mr. Martinez has looked at the reserve study. Kevin Powers and I both looked at it. Our sort of horseback assessment was that it was generally a reasonable study. One of the things that the study says is that the budget assumptions have to be revisited annually, which makes good sense. We also

thought that there were certain areas that Commissioners and staff members might disagree with or have some questions about. I think Mr. Martinez specifically wants to comment on the road portion.

COMMISSIONER SULLIVAN: And Mr. Chairman, while he's coming up, I would comment too on the irrigation system in the reserve study, which we only saw tonight, and I leafed through, and the amount budgeted for maintenance of the irrigation system throughout the entire project is zero. And it says –

CHAIRMAN MONTOYA: It's xeriscape?

COMMISSIONER SULLIVAN: It's zero-scape, I guess. However, budgeting for the replacement of the irrigation system requires evaluating the present conditions and replacement costs, both of which call for expert evaluation but fall outside the scope of the reserve study. So we budgeted zero. Now, I can assure you as a homeowner that has a little bitty drip irrigation system that I have to maintain each year that the cost is not zero.

MR. SOMMER: Mr. Chairman, just to correct something that it doesn't go on more and more.

COMMISSIONER SULLIVAN: I'm sorry to go on more and more. If we had these documents ahead of time, Mr. Sommer, it wouldn't go on more and more, would it?

COMMISSIONER SULLIVAN: As the staff had requested.

MR. SOMMER: Mr. Chairman, the budget you have in front of you has an irrigation parts and labor across the board for maintenance. To say that it's budgeted at zero is simply not accurate.

COMMISSIONER SULLIVAN: I'm just reading from the reserve study, Mr. Sommer. Page 2-24.

MR. SOMMER: I'm sorry, Mr. Chairman, what I was saying was that the representation was that we budgeted zero on an annual basis for maintenance of the irrigation system. It simply isn't true.

COMMISSIONER SULLIVAN: Well then something's wrong with the reserve study. Maybe the reserve study is not accurate.

MS. MURPHY: Mr. Chairman, may I answer some of these questions regarding the reserve study?

CHAIRMAN MONTOYA: Sure. Please.

MS. MURPHY: Chairman Montoya, Commissioner Sullivan, in regards to the irrigation you will note that there are certain items that are pertaining to maintenance budget. There are certain items that are pertaining to the reserve study. In evaluation of this project the reserve study professional, the consultant, looked at the items. Based on his ten years experience, he either allocated costs to a maintenance budget and/or the reserve line item. The irrigation is not in the reserve study because in his professional judgment the irrigation is a line item in the maintenance budget, which is an ongoing item and that's why that monthly allocation is in the maintenance budget and it's not in the reserve study.

The reserve study notes that the reserve study items are capital improvements that have a life that are looked at over a period of time, and they're not monthly maintenance items such as irrigation. They're the other reserve items that are evaluated based on his professional judgment in the reserve study. That's why irrigation is not in the reserve study; it's in the maintenance budget.

CHAIRMAN MONTTOYA: Okay.

MS. MURPHY: I would also like to note that on the maintenance budget you'll see that some of the maintenance items were removed from the maintenance budget by our consultant and put in the reserve line items.

MR. SOMMER: If I may also, if you look at the reserve study on page 2-23, you see specifically what this consultant has budgeted in the reserve study, not just the maintenance budget, for the irrigation system. And to represent that there's nothing in the reserve study regarding the maintenance of the irrigation system is inaccurate.

COMMISSIONER SULLIVAN: Mr. Chairman, I think Robert had some comments about the roads.

CHAIRMAN MONTTOYA: Robert.

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chairman, Commissioners, Public Works agrees that the operating maintenance budget for the roads is low. Also, we feel that the 25-year life expectancy of the existing asphalt is too optimistic. In the reserve data analysis which I received yesterday it says that after 25 years an inch and a half overlay will be applied. And I want to read a sentence in here. It says it will be necessary to adjust manhole and valve covers at the time the overlay is applied. So with that in mind I envision that they will be applying an inch and a half overlay on top of the existing three inches of asphalt.

The problem that that creates is on the roadway cross section you have curb and gutters, you have valley gutters, and the bike lanes and driving lanes include the curb and gutters and valley gutters as part of their driving surface. So if an inch and a half overlay is added, you're going to have an inch and a half step in between the asphalt and the concrete. So I think what's missing here is a milling application prior to an overlay. So with that in mind, I do not think that they will get a 25-year life expectancy out of the 1 1/2" overlay, because the thickness will still be three inches, because they will have to mill down 1 1/2" to retain that grade. Those are my comments.

CHAIRMAN MONTTOYA: Okay. Thank you, Robert. Any other questions?

COMMISSIONER VIGIL: I have a question for Robert.

CHAIRMAN MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Robert, does that take into consideration the traffic pattern in this residential area. It would seem to me that the traffic patterns, the way this is designed, there isn't - are that that many arterial roads and does this include arterial roads with connector roads? Does your assessment incorporate that distinction?

MR. MARTINEZ: Mr. Chairman, Commissioner Vigil, naturally, the lower volume roads will not deteriorate as quick as the higher volume roads. On the higher

volume roads I see where they have four inches of asphalt as opposed to three inches on the lower volume roads. But it's all volume dependent.

COMMISSIONER VIGIL: Okay. And is it your belief that in 25 years the volume would be such that - was volume incorporated into your assessment, I guess is the bottom line question.

MR. MARTINEZ: Mr. Chairman, Commissioner Vigil, yes, it is. We are currently reconstructing roads that were paved approximately 15 years ago. So like I said, I think the 25-year life expectancy is a little optimistic.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN MONTOYA: Just a point of clarification. The original documents that were in our packet had 78 dwelling units earmarked as affordable housing, and then in another part it had 77. So is it 78 or 77?

MR. SOMMER: It is 77.

CHAIRMAN MONTOYA: Seventy-seven?

MR. SOMMER: Definitely 77. It's a 34 in one phase and 33 in the other.

CHAIRMAN MONTOYA: Okay. And then I guess, if no one else has any other questions, the information that we were given by staff was very detailed I think in terms of outstanding questions, and I have a lot of them highlighted. I guess what I would like to do in order to facilitate this discussion and where we are in this process is to suggest that I have not had a chance to read this reserve study and I think it would be good if possibly maybe we could get some sort of an analysis by staff as to what we were given in terms of the discussion from staff and questions that were outlined here and where they're answered in this reserve study, so that I can compare what goes on here in terms of certain concerns with the feasibility for the administrative costs. Just a number of things that were outlined here. The appraisal, everything here. The operating plan, and where they're addressed in this study.

So I think that would get us I think a little bit closer to some sort of semblance to where we're really at, as opposed to trying to pick through certain pieces of what we were given and not having had the opportunity to read the reserve study. So I would suggest that maybe we table this at this point and have that analysis so that we can discuss it at the next meeting. Can we discuss it at the next regular meeting, Roman? Not the land use but the November 28th?

MR. ABEYTA: Mr. Chairman, normally this would be handled at a land use meeting and I don't know what the agenda looks like for the 28th. That meeting starts at 10:00. And I don't know if it needs to be a public hearing or not. Apparently it doesn't so I would say you could have that on the 28th, since we don't have to have a public meeting.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: It was a suggestion.

COMMISSIONER SULLIVAN: Oh, it was just a suggestion. Well, make

your suggestion into a motion so we can go home.

COMMISSIONER CAMPOS: Move to table.

CHAIRMAN MONTOYA: Motion by Commissioner Campos to the next meeting on November 28th.

COMMISSIONER VIGIL: Question.

COMMISSIONER CAMPOS: I'm not sure. Staff didn't respond, did they?

MR. ABEYTA: Yes, we can put it on the agenda for the 28th of November.

COMMISSIONER CAMPOS: That's fine. That's a motion.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion and second.

The motion to table the PID resolution passed by unanimous [5-0] voice vote.

CHAIRMAN MONTOYA: So we will have it on for the next meeting on the 28th and that will give us a chance to take a look at this.

MR. SOMMER: Is that an afternoon meeting?

CHAIRMAN MONTOYA: Ten a.m.

MR. SOMMER: Ten a.m. Okay. We've got people who will be coming in.

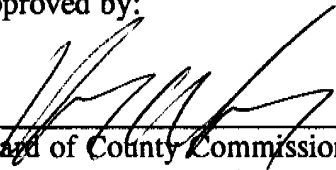
Thank you.

CHAIRMAN MONTOYA: Thank you.

XIII. Adjournment


Chairman Montoya declared this meeting adjourned at approximately 10:05 p.m.

Approved by:




Board of County Commissioners
Harry Montoya, Chairman

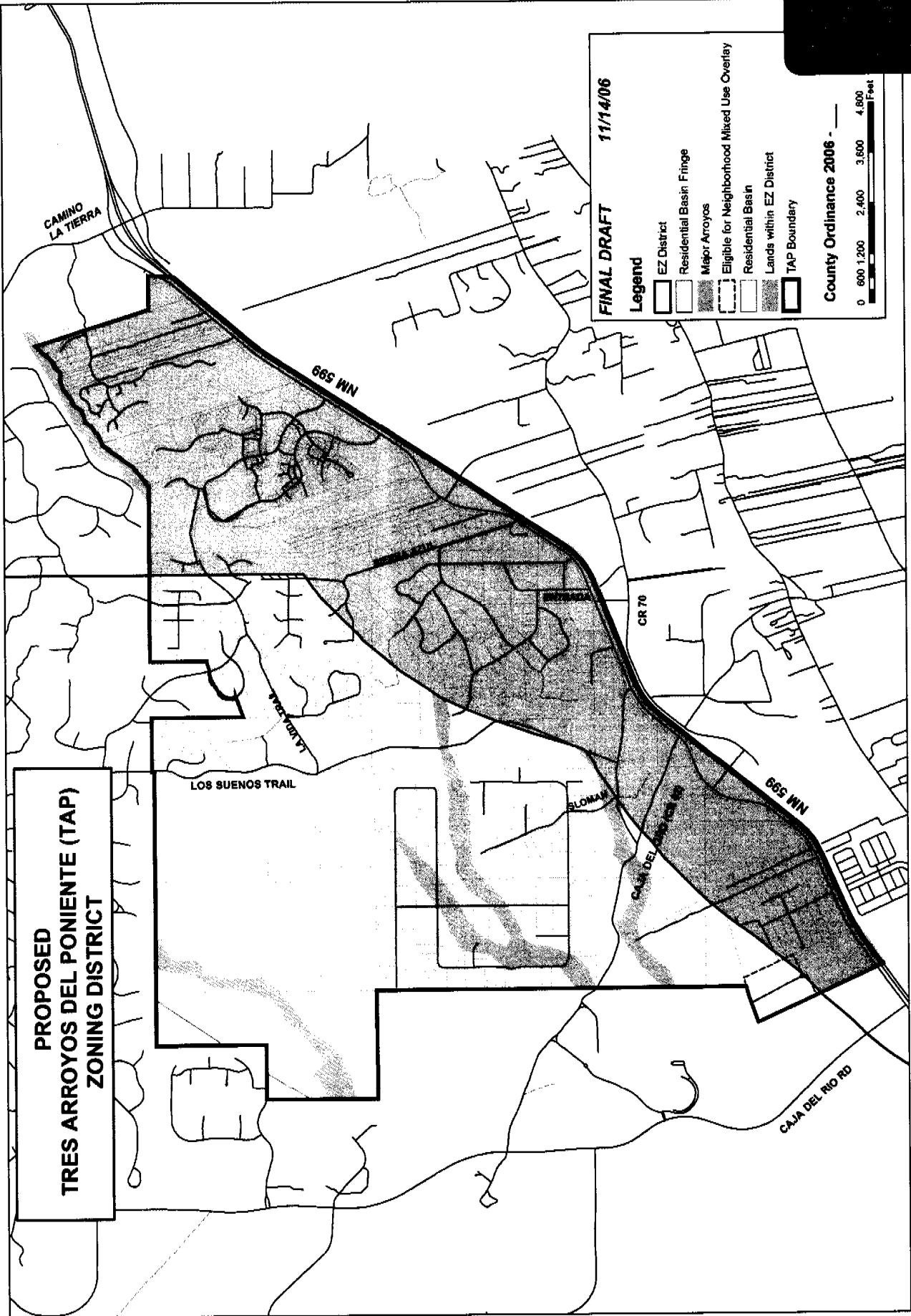
Respectfully submitted:


Karen Farrell, Wordswork
227 E. Palace Avenue
Santa Fe, NM 87501

ATTEST TO:


VALERIE ESPINOZA
SANTA FE COUNTY CLERK





**PROPOSED
TRES ARROYOS DEL PONIENTE (TAP)
ZONING DISTRICT**

FINAL DRAFT 11/14/06

Legend

- EZ District
- Residential Basin Fringe
- Major Arroyos
- Eligible for Neighborhood Mixed Use Overlay
- Residential Basin
- TAP Boundary
- Lands within EZ District

County Ordinance 2006 -





SFC CLERK RECORDED 02/12/2007

Description of TAP District Boundary

- Beginning at the Southwest point of the Tap Boundary and the 599 north bound lane
- In a NW direction following State land to the NW point of Lot 2, #43 Baca Ranch Court, bordering the City owned land
- NE direction following parcel Lot 2, #43 Baca Ranch Court to the section line shared between T17N R08E S35 and T17N R08E S36
- North to the section corner common to T17N R08E S25, T17N R08E S26, T17N R08E S23, T17N R08E S24
- West to the SE point of the "King Brothers Ranch Subdivision" Tract 5-4
- North to Paseo De Estrellas Road
- Easterly direction to the most SE point of Tract 1 Lot 4 of the "Rancho De Los Ninos Subdivision"
- North following "Rancho De Los Ninos Subdivision" to the T17N R08E S14 section boundary (projection ending at the "Las Campanas VII Subdivision")
- East along Section line common to T17N R08E S14 and T17N R08E S23 to the most NE point of "The Northwest Ranches Subdivision Phase I" (Lot 2-10)
- South to the most SW point of Lot 24 "La Serena Subdivision"
- Follow the north side of the "La Vida Subdivision
- North to T17N R09E S18 section line, following the boundary of "La Serena Subdivision"
- East along section line common to T17N R09E S18 and T17N R09E S19
- Follow the south side of the "Las Campanas Estates Phase II",
- SE following "The Las Campanas Santa Fe Center" boundary
- East along "The Las Campanas Santa Fe Center" and following section lines common to T17N R09E S16 and T17N R09E S21 to NM599 north bound lane
- SW along 599 north bound lane to POB



Date: Mon, 6 Nov 2006 16:54:52 -0700
From: "Yolanda Sandoval" <YSandoval@montand.com>
To: "RIII" <murlock@raintreecounty.com>

Board of County Commissioners
of Santa Fe County

Dear Commissioners:

Due to a previously scheduled trip, I am unable to attend the meeting tonight but I would like to voice my support for the amendment to the Los Cerrillos Traditional Community Zoning District Ordinance. We recently discovered a major problem with the ordinance as adopted and would like to prevent further development that is contrary to the intent of our Community Plan. I along with other community members have been working with staff to resolve these problems.

I ask that you please vote in favor of the amendment.

Yolanda Sandoval

SHC
CLERK RECORDED 02/12/2007

Cerrillos Planning Committee, c/o POB 245, Cerrillos, NM 8701

Nov. 7, 2006

Board of County Commissioners
Santa Fe County

Re: Amending the Los Cerrillos Traditional Community Zoning District Ordinance --BCC meeting, Nov. 14, 2006

Dear Commissioner,

Serious mistakes in Los Cerrillos Community Plan Ordinance have recently been discovered. We have had community meetings regarding amendment of the Ordinance and we support the amendments being presented by county staff.

The Community Zoning District map as adopted with the Community Plan in 1999 was not registered in the County records, effectively eliminating the zoning intended by the community. Instead, the faulty ordinance established 25 ft. x 100 ft. 1880's lots as legal "lots of record" which allows developers to present developments as "consolidations" rather than subdivisions. As consolidations, administrative approval of developments have occurred without public notice or comment. Proper registration of the intended map (a new digitized version of it) must occur and be referenced in the Ordinance as well as clarification of the text.

Our Community Plan as adopted in 1999, created 3 different zones shown in a Community Zoning District map. The map clearly shows the surveyed zones and was intended to help direct new development. These zones include:

- the Townsite Zone, 3/4 acre minimum sized lots inside the existing village proper,
- the Village Zone, 2 acre minimum in the largely undeveloped part of the village and within the water service boundary,
- the Traditional Community Zone, 10 acre minimum, allowing larger parcels outside the water boundary surrounding the village.

This crucial map was adopted in the 1999 Plan but was never registered. Even though the Ordinance (adopted in 2000) clearly defines these 3 zones, it inexplicably misdirects the Plats Examiner to an old "plat" from the 1880s with hundreds of lots sketched across the landscape.

REC
CLERK RECORDED 02/12/2007

The County staff, to their credit, has recognized that the Ordinance does not reflect the *intent* of the Plan and has worked to clarify and prepare amendment to the Ordinance and map that implement the Plan. The Cerrillos Planning Committee appreciates their responsiveness.

SUMMARY OF CONCERNS

- The faulty Ordinance misdirects the Plats Examiner to a "plat" from the 1880s rather than to the Community Zoning District map. New developments (Woloshuk L.L.C.) were based on this obsolete 1880s plat, which allowed the developments as "consolidations" rather than subdivisions.
- As consolidations administrative approval occurred without public notice or comment with the consequence that a portion of the planned Zoning District, important for its visual resources, was undermined.
- The new (1999) Community Zoning District map was not registered (Book and Page) in the County records, effectively eliminating the intended zoning. Proper registration or attachment of the map to the Ordinance must be realized.

NEEDED ACTIONS:

- Support amendment of the Ordinance and map as presented by County staff so that the intent of Los Cerrillos Community Plan will be implemented to protect our community.
- Until an amended ordinance is adopted, consider ways to stay any new development permits that involve consolidations based on deedless 25 ft. x 100 ft. lots as legal lots of record.

Sincerely,

Yolanda Sandoval, Ann Murray, Ross Lockridge, Patrick Mohn, Rebecca Walding, Tom Morin for the Cerrillos Planning Committee

Ann Murray, Ross Lockridge for the CPC
Tom Morin

Board of County Commissioners
PO Box 276
102 Grant Avenue
Santa Fe, New Mexico 87504-0276

November 10, 2006

SHC
CLERK RECORDED 02/12/2007

Reference: Claudia Puertas #V065450

Dear Commissioners

Claudia Puertas, 23 Caminito De Pinon, Santa Fe, NM, is requesting that she be allowed a temporary development permit to place a second home at this address. The undersigned feel that this appeal should be denied by the Board of County Commissioner due to the reasons outlined in our letter August 11, 2006, which are:

1. County staff has already denied this request based on the fact the density requirement for this parcel of land is one (1) home per twenty (20) acres;
2. Allowing another home will increase traffic flow on Caminito De Pinon which has only one outlet to handle traffic;
3. This could have adverse effect on existing wells in the vicinity, where some wells have already failed and replaced;
4. This property was purchased by Claudia Puertas within the last six months and the site has already been prepared for another home to be placed, as well as another septic tank has been placed on this property;
5. Placing another mobile on this property will have an adverse effect on the property values in the area;
6. County staff is recommending that this appeal be denied based on Article III Section 10 of the land Development Code;
7. Granting temporary approval of another mobile on this site would require another hearing in two (2) years and we feel that this matter should be dealt with now and not prolonged;
8. We feel that the applicants are disingenuous in their claim of hardship. Their stated intent of providing for an elderly mother can be accomplished by adding on to the existing structure. An additional home is not needed to accomplish this goal;
9. Once the requested structure is installed there is no mechanism in place to ensure that the applicant's mother would in fact occupy it. It could be rented, deeded or otherwise provided to occupants other than or in addition to the initial occupant. Denial of this application is the surest way to prevent circumstance like this from occurring;
10. On August 17, 2006, the CDRC denied this request;
11. The site for the new home already been cleared without a permit and debris has not been removed. Please refer to the attached photos 1 and 2.

We sincerely request that the Board of County Commissioners deny this request. Thank you for your assistance in this matter.

Ben Quarles

Ben Quarles

Jim and Patricia Wright

Patricia Wright Jim Wright

Mr. Mrs. B. Wallin

Mr. Mrs. B. Wallin Hazel Slawson

Sharon Argenbright

Sharon Argenbright

Richard and Carroll Cadena

*Richard Cadena
Carroll Cadena*

SFC CLERK RECORDED 02/12/2007





New Mexico DEPARTMENT OF
TRANSPORTATION
 MOBILITY FOR EVERYONE



SHEC CLERK RECORDED 02/12/2007

R/W Bureau

November 7, 2006

Ms. Shelley Cobau
 Development Review Supervisor
 P.O. Box 276
 Santa Fe, NM 87504

RE: Rancho San Lucas Subdivision

Dear Ms. Cobau,

The appropriate engineers of the New Mexico Department of Transportation have reviewed the material submitted on the above referenced development and comments or concerns to be addressed are as follows:

Infrastructure North Region: Rancho San Lucas has modified or reduced its original request from 49 to 29 proposed lots; however, with Rosa Linda Subdivision's 15 remaining lots and the uncertainty of Colinas Del Sol's future, at minimum were looking at 44 lots to as many as 60 lots. The property is presently served by the Spur Ranch Road access, which is a private easement granted for public use. This roadway is currently 24 feet wide with 6 inches of basecourse. Spur Ranch Road extends from US285 to entry to the Tierra Colinas Subdivision on the west side of the railroad tracks. I still believe at build out, the entire subdivision at minimum will generate enough traffic to warrant acceleration/deceleration lanes on US285 at Spur Ranch Road. The District needs to take a good look at this and decide how they want to handle this.

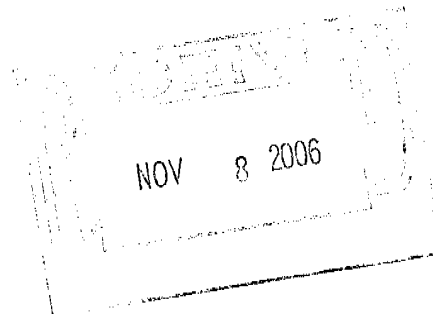
Traffic Technical Support: District 5 has the primary responsibility for review and approval of the TIA and any access permit that is requested.

You may contact Ruben Garcia, our District 5 Traffic Engineer at 505-476-4223 concerning these issues. If you have any questions or need further information please contact me at 505-660-2034 or by e-mail at jeremy.lujan@state.nm.us.

Sincerely,

Jeremy Lujan
 Property Management Agent
 Right of Way Bureau

XC: File #1591



Bill Richardson
 Governor

Rhonda G. Faught
 Cabinet Secretary

Commission

Johnny Cope
 Chairman
 District 2

David Schutz
 Vice Chairman
 District 5

Gregory T. Ortiz
 Secretary
 District 6

Norman Assed
 Commissioner
 District 3

Jim Franken
 Commissioner
 District 4

Jon Hummer
 Commissioner
 District 1



WATER RESOURCES DEPARTMENT

TO: Shelly Cobau, Development Review Specialist II
FROM: Karen Torres, County Hydrologist
RE: Rancho San Lucas, Preliminary and Final Development Plan and Plat T15N,
R09E Sec 25 & 26
DATE: November 1, 2006

I have reviewed the Geohydrologic Report and Final Subdivision and Development Plan Report for compliance with the SFC Land Use Code and Ordinance No. 2002-13 (Eldorado Moratorium) and offer the following comments.

Nature of Project

29 lot subdivision of 128.16 acres for residential purposes located within the original Eldorado at Santa Fe.

History of Review

This project was review by Stephen Wust on July 14, 2004 but was deficient in meeting waste water requirements and documentation of water supply.

Water Supply

This subdivision will be served by Eldorado Area Water and Sanitation District (EAWSD) via an EAWSD water line entering the property on the northeast boundary. Water from an onsite well will not serve the subdivision. It is at the discretion of EAWSD how the on-site well will integrate with the existing water system.

Letter from EAWSD state they are conditionally ready, willing and able to serve the proposed development. Communication with EAWSD indicated they have not formerly accepted the Rancho San Lucas well into the water system.

Water Budget

The proposed water budget is 0.25 acre-feet per lot for a total of 7.25 acre-feet per annum. With the additional 20% to EAWSD to total water budget is 8.7 acre-feet per annum.

Water Availability

It was determined in a previous recommendation that this subdivision demonstrated a water availability of 9.1 acre-feet for the entire property.

Compliance with Ordinance 2001-14 (aka the Eldorado Moratorium)

Item 4 of this ordinance states "If an applicant has a well and water rights that are transferred to the EDU water system he or she can then take service for the development of the amount of water transferred minus 20% to account for leakage from EDU"

The applicant has successfully transferred 5.69 acre-feet of water rights into the on site well. The permit issued from the OSE only allows the water to be utilized only for this subdivision from

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the onsite well and a maximum of 8.7 acre-feet can be diverted. Due to calculated depletions on San Marcos Springs no additional water can be diverted from this well. For EAWSD to utilize these permitted water rights outside of the subdivision a permit to expand the place of use is required. It should be noted that there is an underlying domestic permit which allows for an additional 3.0 acre-feet from the on-site well but the transferability of this domestic permit such this water can commingle water with the EAWSD system requires determination by the Office of the State Engineer. **Depending on the determination of the OSE the proposed water budget may exceed the amount of water rights available for transfer to EAWSD. Additionally the development should not be allowed to take service from EAWSD until the well and water rights are transferred to the water system.**

Water Conservation

The water conservation covenants appear to be standard with the exception of item H. which addresses lawns. Pursuant to Ordinance 2002-13 (Conservation Ordinance) planting sod or grass seed that contains Kentucky bluegrass is not permitted. **The applicant should add this language to their Conservation Covenants.**

Liquid Waste Disposal System

To eliminate the requirement of a community liquid water system the applicant has revised the preliminary plat and plans to increase all lots to a minimum of 2.5 acres. Individual septic systems are proposed for wastewater.

Water Quality

The water quality report lists TDS and sodium above secondary standards for the on-site well. As it is the intent of the applicant to utilize EAWSD water. **The applicant should disclose the water quality to EAWSD so an appropriate treatment system can be planned for.**

Fire Protection

This project will utilize EAWSD for fire protection.

Conclusions

- Depending on the determination of the OSE the proposed water budget may exceed the amount of water rights available for transfer to EAWSD. Compliance with the moratorium may be an issue.
- This subdivision should not be allowed to take service from EAWSD until the well and water rights are transferred to the water system. This may require a formal application with the OSE to add the on-site well as a point of diversion for EAWSD. Some condition to this effect is suggested.
- Utility plan for integration of existing well with EAWSD system should be included in the final plat and signed off by the EAWSD Engineer. No such plan was submitted.
- Add language to Conservation Covenants that planting sod or grass seed that contains Kentucky bluegrass is not permitted
- The applicant should disclose the water quality to EAWSD so an appropriate treatment system can be planned for.

If you have any questions, please feel free to call me at 992-9871 or email at ktorres@co.santa-fe.nm.us.



STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER

John R. D'Antonio, Jr., P.E.
State Engineer

Santa Fe

BATAAN MEMORIAL BUILDING, ROOM 102
SANTA FE, NM 87504-5102
(505) 827-6120
Fax: (505) 827-6682

October 13, 2006

Ms. Shelly Cobau
Development Review Specialist II
Santa Fe County
102 Grant Avenue
Santa Fe, New Mexico 87504-0276

CERTIFIED MAIL
RETURN RECEIPT
REQUESTED

Anticipated by Fax

Re: Rancho San Lucas Subdivision

Dear Ms. Cobau:

The Water Use & Conservation/Subdivision Review Bureau of the Office of the State Engineer has reviewed the referenced subdivision proposal pursuant to the Santa Fe County Land Development Code, the New Mexico Subdivision Act and the OSE Rules and Regulations Governing the Drilling of Wells and the Appropriation of Ground Water in New Mexico.

It is the opinion of this office that the subdivider's water supply proposal does not satisfy the requirements of Section 47-6-11-F (1) of the New Mexico Subdivision Act.

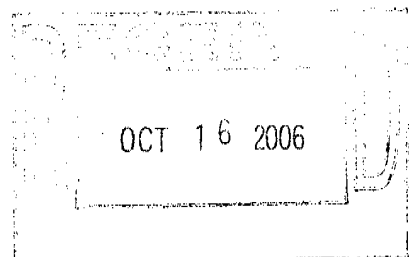
A staff memorandum providing the specific comments and recommendations is attached for your information. If you have any questions, please call Julie Valdez at 505-827-6790.

Sincerely,

For John W. Longworth, P.E.
Water Use & Conservation/Subdivision Review Bureau Chief

Encl.

cc: OSE Water Rights Division, Santa Fe Office



SFC CLERK RECORDED 02/12/2007

SFC CLERK RECORDED 02/12/2007

MEMORANDUM
New Mexico Office of the State Engineer
Water Use and Conservation Bureau

DATE: October 13, 2006
TO: John W. Longworth
FROM: Julie Valdez *JMV*
SUBJECT: Rancho San Lucas Subdivision

SUMMARY

On September 15, 2006 the Office of the State Engineer received a request to review additional documentation for Rancho San Lucas, a Type Two subdivision.

This office has reviewed the proposal for Rancho San Lucas on March 27, 2002, on May 20, 2002, on November 4, 2003, on July 19, 2004 and on August 4, 2006 and issued negative opinions. For details please refer to the aforementioned letters.

The proposal is a request to subdivide a 128.16-acre lot into 29 residential lots ranging in size from 2.5 acres to 5.31 acres. The property is located on the west side of U.S.285, south of Eldorado, in the Bishop John Lamy and Canada de Los Alamos Grants, in projected Sections 29 and 30 of Township 15 North, Range 10 East, NMPM. The developer proposes that Eldorado Area Water and Sanitation District will supply water to the development.

The documents submitted to this office consist of an updated Disclosure Statement and a Declaration of Protective Covenants (Covenants).

This revised proposal was reviewed pursuant to the Santa Fe County Land Development Code (Code), the New Mexico Subdivision Act and the OSE Rules and Regulations Governing the Drilling of Wells and the Appropriation of Ground Water in New Mexico. Based on the information provided, the water supply proposal is not in compliance with the requirements of Section 47-6-11-F (1) of the New Mexico Subdivision Act. Accordingly, a **negative** opinion should be issued.

WATER DEMAND ANALYSIS & WATER CONSERVATION

Under Item # 17 of the Disclosure Statement the subdivider restricts water use to 0.25 acre-feet per annum per lot pursuant to Section 6.6.2 of County Code. The subdivider has also developed specific water conservation measures to ensure that the maximum annual water requirement will not be exceed and requires that water meters be installed at each lot to monitor water use.

However, the subdivider has provided confusing and contradicting statements regarding the water restrictions for the proposed subdivision. It is unclear from the proposal if the subdivider proposes to limit each lot to:

- 1350 square feet of trees as described under Item # 17 (G) of the Disclosure Statement
- 1450 square feet of trees as described under Article IV (H), of the Covenants

The water conservation measures should be unequivocally stated in the Disclosure Statement and in the Covenants, and they should be consistent with the assumptions used in the water demand analysis. It is recommended that the subdivider amend the Disclosure Statement and Covenants accordingly.

It is the opinion of this office that the subdivider has addressed the issues raised in the previous submittal regarding water conservation and after amendments are made to Disclosure Statement and Covenants the proposal will satisfy the requirements of Article VI, Section and 6.6.2 of the County Code.

WATER AVAILABILITY

The subdivider proposes to obtain water from Eldorado Area Water and Sanitation District (EAWSD). The subdivider proposes to transfer existing water rights from well RG-72559 to EAWSD. A letter from EAWSD outlining the understanding to transfer the well and water rights is included in the proposal. The letter states that the District is ready, willing and able to provide water service in accordance with the understanding.

According to Item # 17 of the Disclosure Statement the subdivider will transfer the water rights from well RG-72559 to EAWSD prior to the commencement of construction for the water lines serving the proposed subdivision. As of this date a Change of Ownership has not been filed with the Water Rights Division.

Also, under Item# 17 of the Disclosure Statement the subdivider states that water will be distributed to the proposed subdivision from an 8-inch water line on Spur Ranch Road and connected to a 6-inch line on Camino Caballo. According to the Disclosure Statement this will allow a dual source of water supply to the proposed subdivision, which indicates that well RG-72559 will interconnect to EAWSD's system. An application to Change Place of Use must be filed with the OSE Water Rights Division. This application must be filed in accordance with OSE Rules and Regulations. For more information regarding this issue please contact the OSE's District VI Office in Santa Fe. Please note that OSE records indicate that the place of use for water diverted from well RG- 72559 is limited to the 128.16-acre lot of the proposed subdivision.

In order for the subdivider to fulfill the proposals in the Disclosure Statement, an application to Change Place of Use must be successfully completed. The outcome of this application cannot be predicted at this time. Therefore, it is the opinion of this office that the subdivider has not adequately addressed the issues raised in the previous submittal and does not satisfy the requirements of Section 47-6-11-F (1) of the Subdivision Act.

*Rancho San Lucas Subdivision
Memorandum to Water Use & Conservation/Subdivision Review Bureau
October 13, 2006*

Page 3 of 3

This office is prepared to re-evaluate the reference proposal when the subdivider has completed all the necessary water right applications. At this time it is recommended that a **negative** opinion be issued.

SFC CLERK RECORDED 02/12/2007

COPPLER & MANNICK, P.C.

A PROFESSIONAL CORPORATION

FRANK R. COPPLER
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JOHN L. APPEL

ATTORNEYS AND COUNSELORS AT LAW
645 DON GASPAR AVENUE
SANTA FE, NEW MEXICO 87505

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(505) 988-5656

TELECOPIER
(505) 988-5704

* also licensed in Texas
† also licensed in California

November 13, 2006

Stephen C. Ross, Esq.
Santa Fe County Attorney
P.O. Box 276
Santa Fe, New Mexico 87504-0276

**Re: Effort by County of Santa Fe to Impose Unacceptable Terms on Applicant
for Water Service by the Eldorado Area Water & Sanitation District
Our No.: 3320.25**

Dear Mr. Ross:

Enclosed for your information is a communication recently received by James W. Siebert and Associates, Inc., representing the applicant for approval of the Rancho San Lucas Subdivision within the Eldorado Area Water & Sanitation District (the "District"). The applicant wishes to receive water service from the District's water utility system, and it appears that she can meet all requirements of the District's New Water Service Policy. However, the communication apparently asserts that development approval will be conditioned on several arbitrary and unacceptable requirements imposed on the District as provider of water service. These terms appear to have been developed without any apparent understanding of how a public water utility operates, and further without any attempt to discuss the proposed conditions with any representative of the District. The proposed terms are illegal, arbitrary and capricious, and will not withstand judicial scrutiny.

We respectfully draw your attention to the following:

1. As the County has previously and repeatedly been advised, the District is a quasi-municipal governmental corporation and is a governmental subdivision of the State of New Mexico. See NMSA 1978, § 73-21-9. **The County simply does not have authority to dictate the terms under which the District provides water service to its utility customers.** Consequently, the attempt by the County to dictate such terms would be fundamentally unacceptable even if the terms themselves were not objectionable. However, in this case, the terms themselves are clearly unacceptable from both legal and practical standpoints.

SHC CLERK RECORDED 02/12/2007

2. Paragraph 8 on page 5 of the enclosed materials contains the following unacceptable terms:

Water use on this property will be restricted to 0.25-acre foot per year per lot. Water restrictive covenants must be recorded with the final plat. A water meter must be installed for each lot and annual readings must be submitted to the County Hydrologist by January 31st of each year. The water service agreement between the developer and the EAWSD must be referenced on and recorded with the final plat.

This paragraph illegally attempts to dictate the terms under which the District provides water to its present and future customers, and also demands privileged information. In our opinion, the proposed requirement is legally indefensible. The District will in fact install such meters as the District deems appropriate, in accordance with the District's usual policies, to provide for the metering of water for determination of commodity usage and customer billing purposes. The District does not and will not report the meter readings of individual customers to the County, or to any other entity, except in response to a subpoena or other appropriate judicial authority. The account records of individual customers are, in the District's opinion, privileged. The District has refused to provide such records in response to inspection of public records requests made by others. *See, e.g., Lamy v. New Hampshire Public Utilities Comm'n*, 872 A.2d 1006 (N.H. 2005) (public interest in disclosure is outweighed by privacy interests of the ratepayers); *but cf. State v. Maxfield*, 886 P.2d 123 (Wash. 1994) (privacy interest of ratepayer is not sufficient to outweigh police inquiry regarding electric power consumption in connection with criminal investigation).

3. Paragraph 13 on page 5 of the enclosed materials contains the following unacceptable terms:

The well and water rights shall be transferred to the water system of the Eldorado Area Water and Sanitation District such that any water from the onsite well may commingle within EAWSD distribution system. This will require a permit from the OSE to expand the place of use for the existing water rights permit. Alternatively, the applicant may present a design for a self-contained water system to be operated by EAWSD.

This paragraph also illegally attempts to dictate the terms of the District's contractual agreements with the applicant for water utility service, as well as the District's internal operations. While in fact the District's New Water Service Policy generally requires applicants for new service to provide an appropriate source of "wet" water and water rights to support the application, the specific terms of any service agreement and the determination whether the applicant has rendered appropriate consideration are for the District's Board of Directors to determine, in its sole and

absolute discretion. The County's efforts to dictate the terms of the District's water utility service constitute, at best, tortious interference with the District's prospective contractual relations. The **District Board will decide** whether and to what extent water from the applicant's well will be commingled with water from other sources of the District's water supply. The **District** and/or the applicant will make such applications with the OSE as may be necessary to provide for District use of water and water rights associated with the applicant's well. Finally, the suggestion that the District could be required or could even volunteer to operate a "self-contained" water system on behalf of the applicant is particularly egregious—and probably illegal. The use of public resources for a **private** benefit is contrary to Article IX, Section 14 of the New Mexico Constitution. Furthermore, from an operational standpoint, the notion that the District should operate a plethora of small water utility systems rather than a single unified system borders on silly, and it is unlikely the District's Board would consider it. It is misleading for the County to put forth an alternative which has never been discussed with the District and has no reasonable chance of success.

4. Finally, we have been specifically requested to call to your attention the **utter bad faith displayed by the County of Santa Fe** in its dealings with the District, as exemplified by the materials enclosed herewith. Directors of the District have repeatedly met with you, with County land use officials, and with other officials of the County in an effort to develop a cooperative relationship between officers of the County and the District. Such cooperation is important at any time, and will become absolutely essential if the Board of County Commissioners should deem it appropriate to rescind County Ordinance 2001-14, which presently limits development in the area served by the District. You and other County officials have repeatedly told the District's Directors and its counsel that the County would cooperate with the District to ensure efficient and appropriate consideration of applications for subdivisions and other development that will be provided water service by the District. On October 27, 2006, we sent you a detailed letter with specific proposals for a cooperative approach to development in the Eldorado area.

Given this background, it is particularly offensive to receive materials like the enclosed from applicants who are trying to work in good faith with both the District and the County. **The County did not so much as contact the District or any representative of the District, even once, before attempting unilaterally to impose these unreasonable and illegal conditions on the District's internal operations.** This clearly suggests that the County, despite its promises, has never intended to cooperate and will not voluntarily cooperate with the District in the development process.

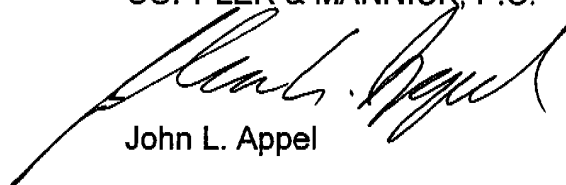
As the old adage runs, actions speak louder than words. If the County will **immediately** rescind the terms contained in Paragraphs 8 and 13 as described above, and promptly contact the District (through this office, or by directly contacting Bill

Robens, Director, or George Scott, District Engineer, at 466-2411), the District will work cooperatively with the County to ensure that water service can be provided to the Rancho San Lucas subdivision in accordance with the District's usual water service policies. Otherwise, we will be forced to assume that a declaratory judgment of the district court will be necessary to determine the respective powers and duties of the parties with regard to water utility service provided to new developments by the District.

We look forward to the County's prompt and appropriate response to the concerns stated in this letter.

Very truly yours,

COPPLER & MANNICK, P.C.



John L. Appel

Encl.

cc(w/Encl.): EAWSD Board
Santa Fe County Commission
Gerald Gonzalez, County Manager
Jack Kolkmeyer, County Land Use Director
Stephen Wust, County Water Resources Director
Karen Torres, County Hydrologist
James W. Siebert
George Scott, EAWSD Engineer



Karl H. Sommer

From: Chavez, Vince F., OSE [vince.chavez@state.nm.us]
Sent: Tuesday, November 14, 2006 4:23 PM
To: Karl H. Sommer
Subject: RE: El Dorado Utility/Service to Rancho San Lucas

Dear Karl,

In response to your email I would like to confirm that you have accurately represented what we discussed in our conversation. I just want to clarify the statement made in no. 10. In order for the Utility to be able to connect this well to the system they would need to file an application for permit to add a supplemental well and to combine and commingle the waters.

If I may be of further assistance please call me at 827-6127.

Vincent F. Chavez
Staff Manager
District VI
Office of the State Engineer

From: Karl H. Sommer [mailto:karls@sommer-assoc.com]
Sent: Tuesday, November 14, 2006 3:02 PM
To: Chavez, Vince F., OSE
Subject: El Dorado Utility/Service to Rancho San Lucas

Dear Vince:

Thank you for meeting with me this afternoon about the referenced matter. I am writing to confirm my understanding of our discussion in order that I may accurately represent this matter to the Board of County Commissioners this evening.

These are the facts as I summarized them in our meeting:

1. Ms. Stickler project is before the BCC for final subdivision plat approval this evening;
2. The project is the area covered by the Moratorium related to projects in this area;
3. Ms. Stickler has a permit pursuant to which she drilled a well under NMSA 1978 § 72-12-1;
4. The well was tested for water availability to provide a 29-lot residential subdivision with water for 100 years;
5. Ms. Stickler successfully transferred an additional water right of 5.7 acre feet from those owned by the McKee estate to the well;
6. Under both permits the right to divert 8.7 acre feet is allowed.
7. Ms. Stickler has an agreement from El Dorado Utilities to provide water to the project, pursuant to which Ms. Stickler would transfer the rights to use the well as part of El Dorado's system to provide the 8.7 acre feet for the project. She would transfer the McKee rights to the utility and the well would be hooked up to the system. The three acre feet of domestic water (72-12-1) would be diverted and delivered to the property.

8. The County Hydrologist believes a new permit is required.
9. I understand that so long as the total diversion from the well by the Utility does not exceed 8.7 acre feet and the total delivery of water to the project does not exceed 8.7 acre feet, then the existing permits will suffice from the SEO standpoint.
10. I understand that the the ownership of the 72-12-1 permit may have to stay with the land owner, but the right to use the water can be incorporated in an agreement with the Utility the conforms to the requirements of paragraph 9 above. It is my understanding that the SEO can work with this arrangement. I understand that this can be handled when the Utility when it files an application for the change of ownership, to incorporate a supplemental well as part of its system, and the right to "combine and commingle" the waters.

I would appreciate your confirming (via return email) that I have accurately stated our discussion. I would like to be accurate this evening.

Thank you again for meeting with me.

Sincerely,

Karl H. Sommer

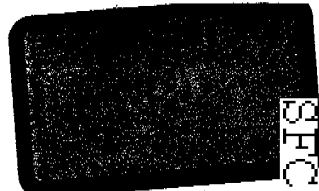
Contact information:

200 W. Marcy Street Suite 142
P. O. Box 2476
Santa Fe, New Mexico 87504-2476
Phone: (505) 989-3800
Fax: (505) 982-1745
e-mail karls@sommer-assoc.com

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SHC CLERK RECORDED 02/12/2007



8

ZIA R.V. SALES MASTER PLAN

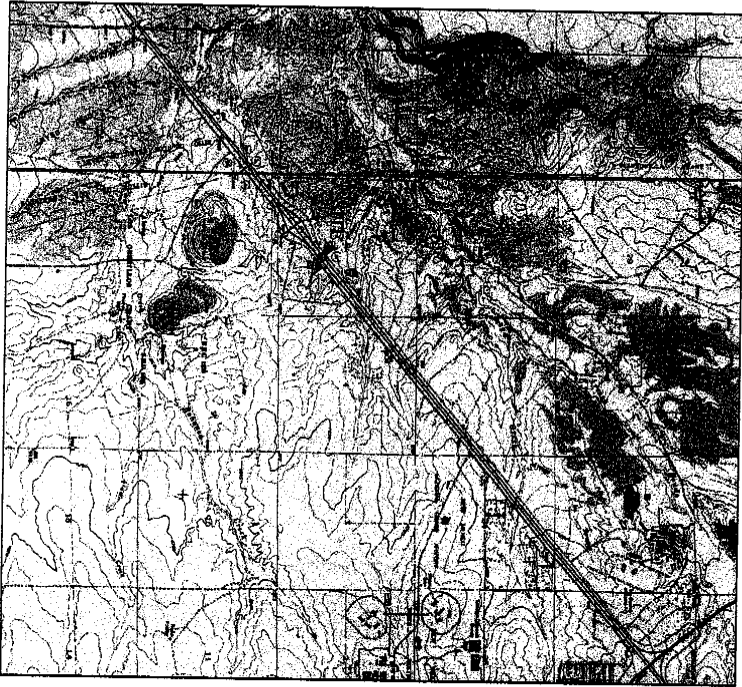
TOWNSHIP 15 NORTH, RANGE 7 EAST, SECTION 5

OWNERS:

CARLOS GUISADO, JR.
602 BRUNN ROAD
SANTA FE, NM 87505
(505) 471-1200

CONSULTANTS:

JAMES W. SIEBERT & ASSOCIATES, INC.
815 WILSON STREET
SANTA FE, NM 87505
(505) 825-5200



VICINITY MAP
1" = 2000'



SANTA FE COUNTY NOTES AND CONDITIONS
THE UNDERSIGNED IS SUBJECT TO SANTA FE COUNTY ZONING AND
OTHER APPLICABLE ORDINANCES AND REGULATIONS AND
RESOLVES TO COMPLY WITH ALL SUCH ORDINANCES AND
REGULATIONS.
I HEREBY CERTIFY THAT THIS INSTRUMENT HAS BEEN RECORDED
ON THE DATE OF THIS INSTRUMENT IN THE PUBLIC RECORDS OF
SANTA FE COUNTY, NEW MEXICO.
DATE: _____

DATE: _____

INDEX TO SHEETS	
LIST OF SHEETS	SHEET NUMBER
PLANNING SHEETS	
COVER SHEET & VICINITY MAP	1
EXISTING CONDITIONS PLAN	2
TOPOGRAPHY, NATURAL DRAINAGE & SLOPE MAP	3
SOILS MAP	4
BUILDING ELEVATION	5
CONCEPT LANDSCAPE, LIGHTING & SIGN PLAN	6
CONCEPT UTILITIES & FIRE PROTECTION PLAN	7

COUNTY:

APPROVED BY THE COUNTY BOARD OF SUPERVISORS & BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, NEW MEXICO, ON THIS _____ DAY OF _____, 2006.

DATE: _____

DATE: _____

DATE: _____

DATE: _____

DATE: _____

DATE: _____

DATE: _____

DATE: _____

DATE: _____

DATE: _____

DATE: _____

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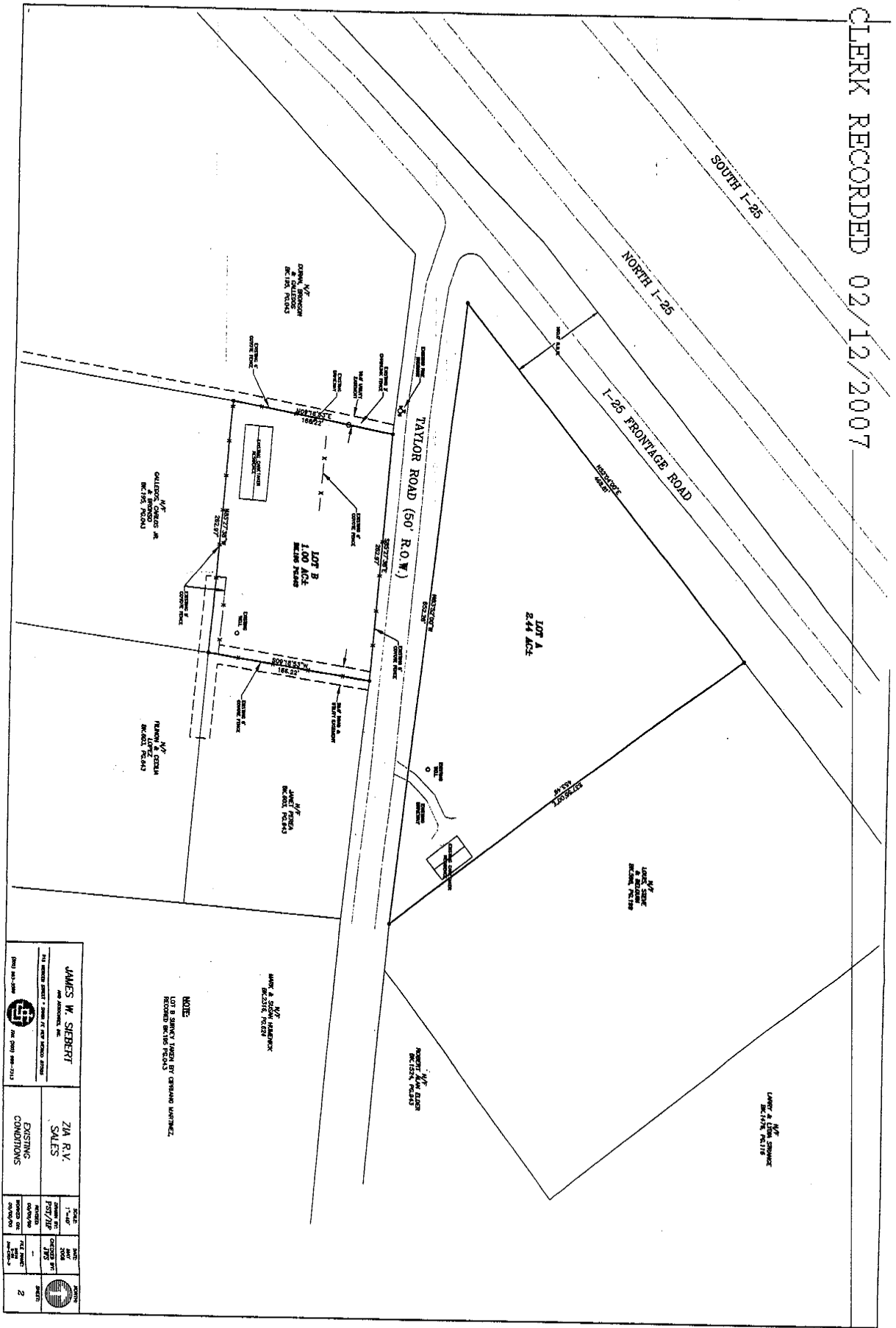
DATE: _____

DATE: _____

DATE: _____

JAMES W. SIEBERT AND ASSOCIATES, INC. 815 WILSON STREET SANTA FE, NM 87505 (505) 825-5200		ZIA R.V. SALES COVER SHEET		SHEET 1
--	--	----------------------------------	--	------------

8



NOTE:
 LOT B AND LOT C ARE TO BE CONSIDERED AS ONE UNIT.

JAMES W. SEBERT REALTOR 214 BRIDGE STREET, SUITE 100, FORT WORTH, TEXAS 76104 (817) 342-3888 FAX (817) 342-3113		ZIA R.V. SALES EXISTING CONDITIONS		SCALE 1" = 40'	DATE 02/12/07	SHEET 2
THE ABOVE PLAN IS THE PROPERTY OF JAMES W. SEBERT AND ASSOCIATES, INC.		REVISIONS 1. 02/12/07	DRAWN BY JWS	CHECKED BY JWS	DATE 02/12/07	SHEET 2

02/12/07 10:00 AM

SOUTH

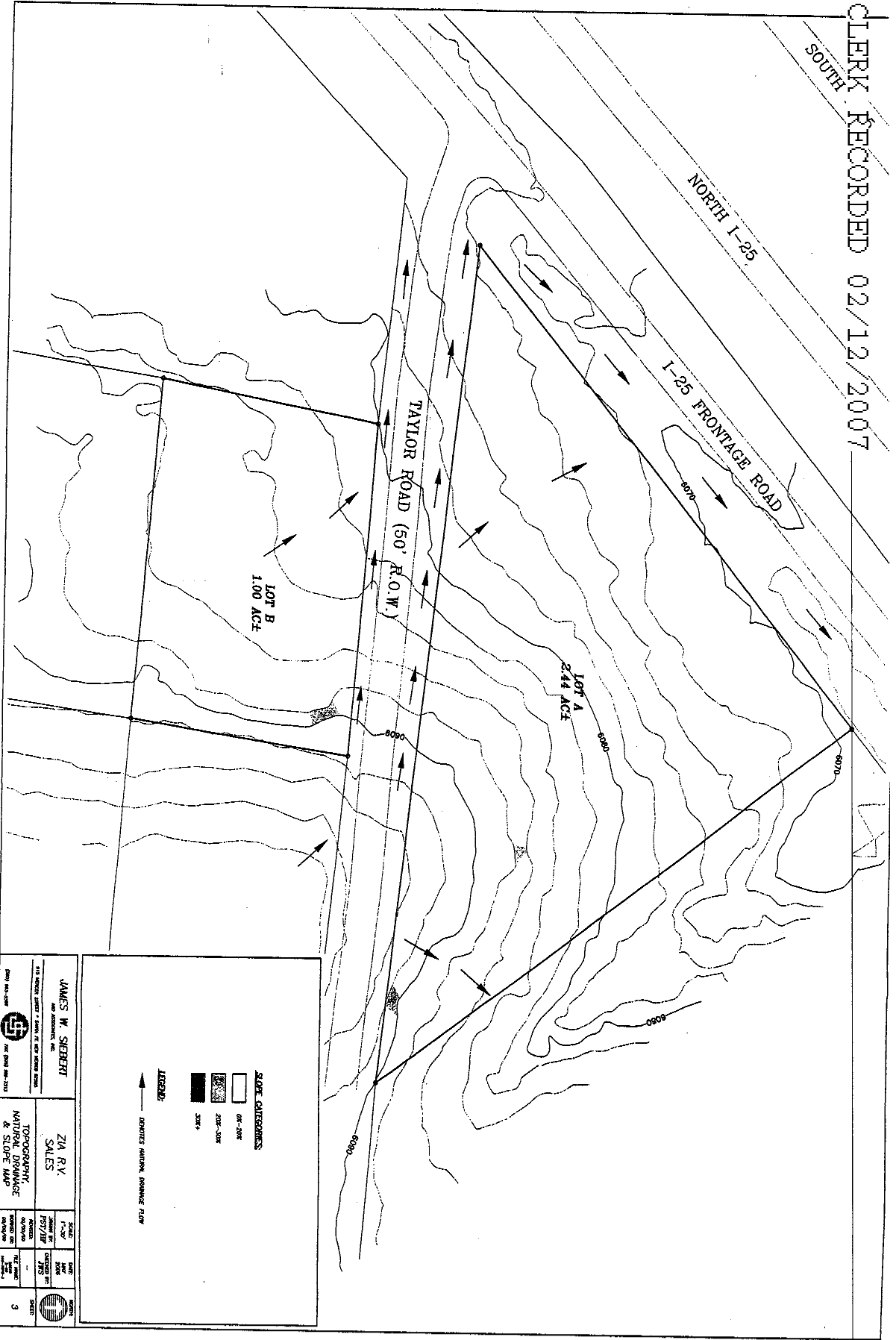
NORTH I-25

I-25 FRONTAGE ROAD

TAYLOR ROAD (50' R.O.W.)

LOT B
1.00 AC±

LOT A
2.44 AC±



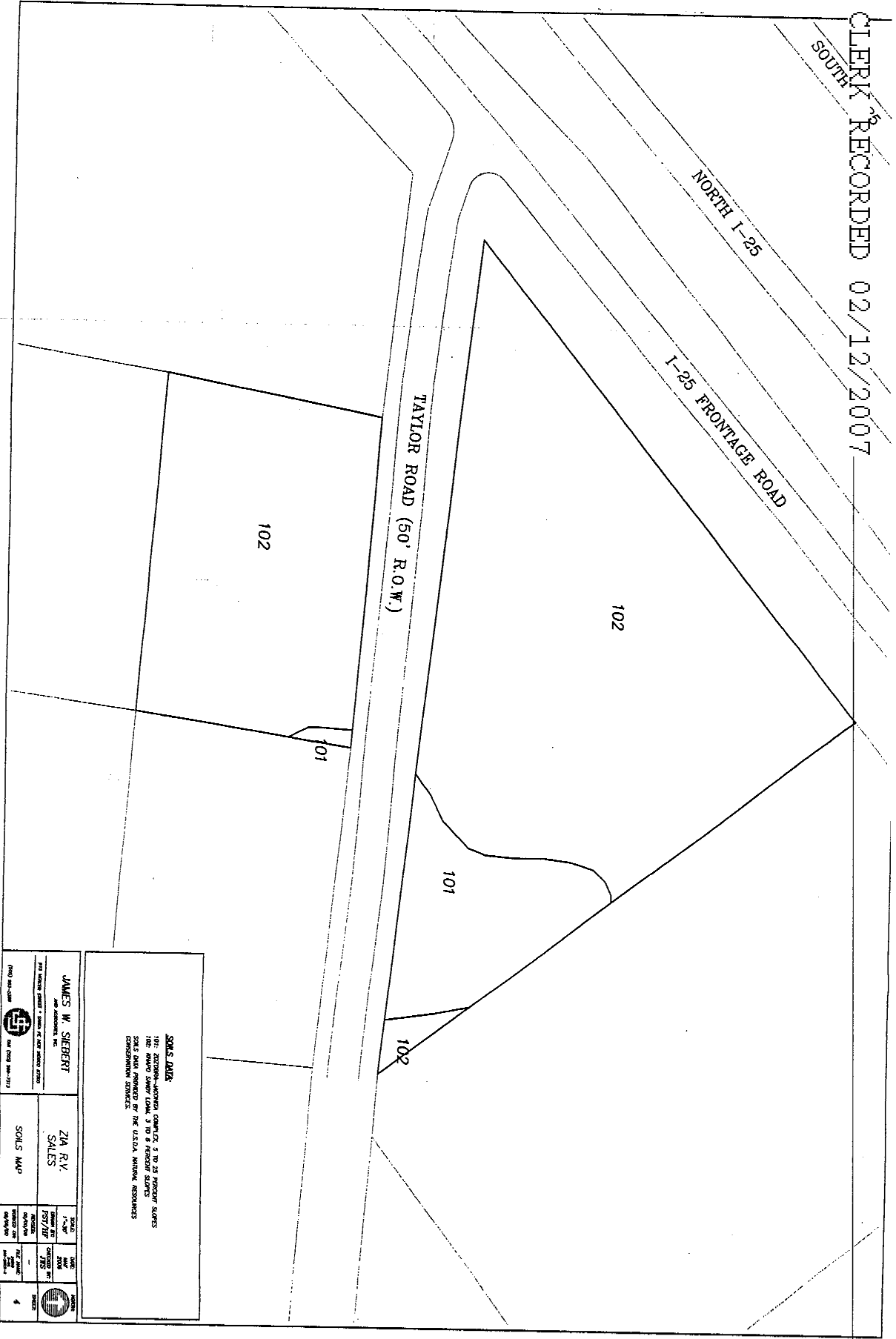
<p>JAMES W. SIEBERT AND ASSOCIATES, INC. 111 NORTH ZEEBET • SUITE 101 • DENVER, CO 80202 303.733.2244</p>		<p>ZIA R.V. SALES TOPOGRAPHY, NATURAL DRAINAGE & SLOPE MAP</p>		<p>SCALE: 1"=50' DATE: 05/17/07 PROJECT: SALES DRAWN BY: JWS CHECKED BY: JWS DATE: 05/17/07</p>		<p>NO. OF SHEETS: 3 SHEET: 3</p>	
<p>LEGEND</p> <p>↑ DRENAGE NATURAL DRAINAGE FLOW</p>		<p>SLOPE CATEGORIES</p> <p>0% - 20%</p> <p>20% - 30%</p> <p>30%+</p>		<p>DATE: 05/17/07</p>			

SOUTH

NORTH I-25

I-25 FRONTAGE ROAD

TAYLOR ROAD (50' R.O.W.)

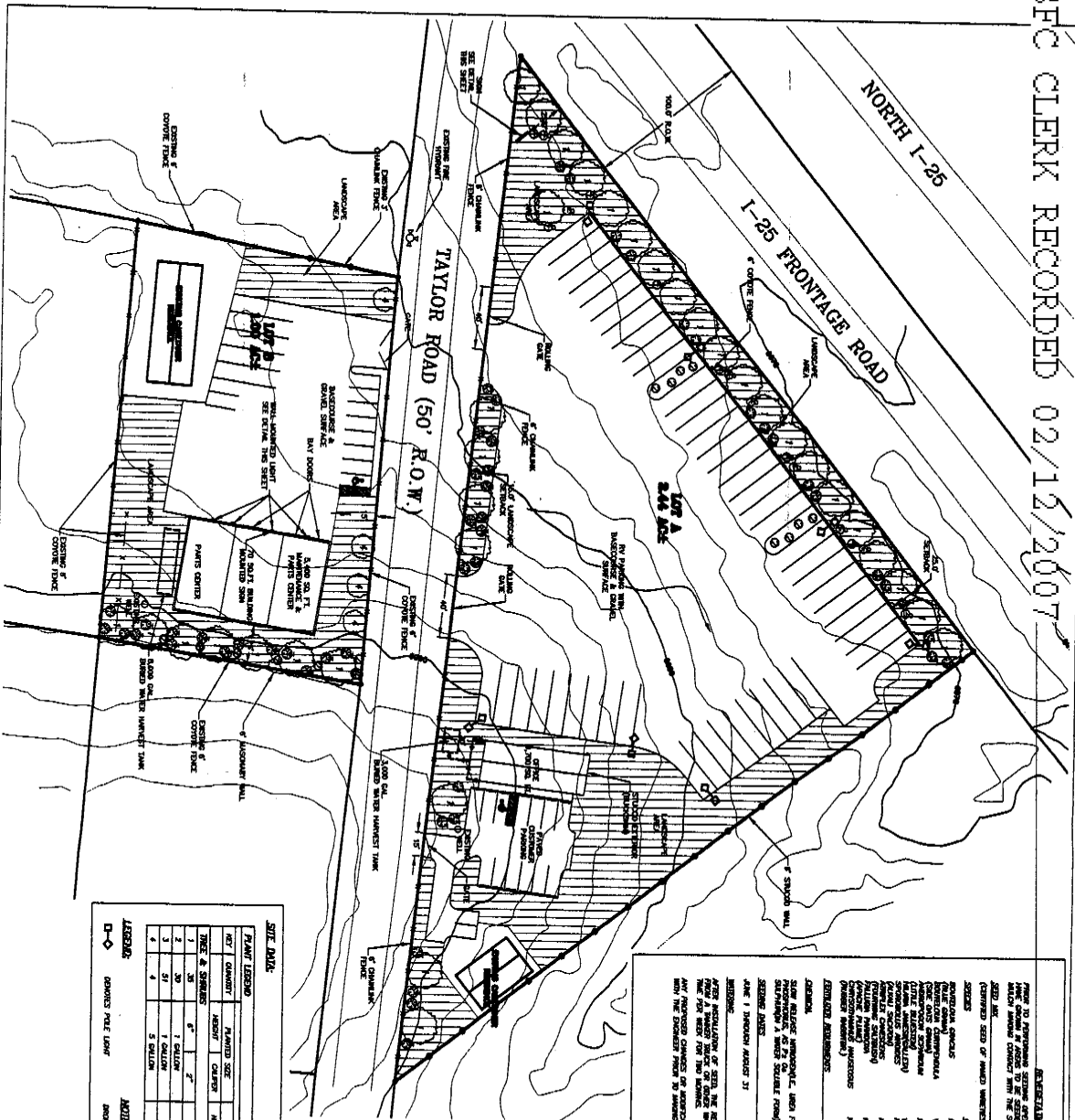


SOILS DATA:
 NATIONAL ENGINEERING & SURVEYING SERVICES
 THIS REPORT SHOWS LOT 3 TO A RESIDENTIAL
 CONDOMINIUM SERVICES

JAMES W. SIEBERT
 AND ASSOCIATES, INC.
 715 NORTH STREET • SUITE 101 WEST WYOMING COUNTY, PA 15389
 (717) 838-1234 FAX (717) 838-2112

DATE	1/24/07	SCALE	AS SHOWN
PROJECT	ZIA R.V. SALES	DATE	1/24/07
CLIENT	SOILS MAP	BY	JWS
NO. OF SHEETS	1	SHEET NO.	4

SFC CLERK RECORDED 02/12/2007



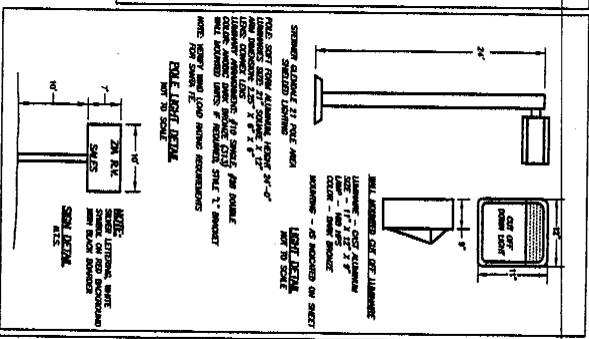
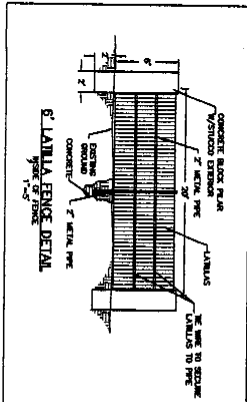
DESCRIPTION

FOR THE INFORMATION OF THE CLIENT, THE FOLLOWING LIST OF MATERIALS AND FINISHES IS BEING SUBMITTED FOR YOUR REVIEW AND APPROVAL. THIS LIST IS SUBJECT TO CHANGE WITHOUT NOTICE. THE CLIENT SHALL BE RESPONSIBLE FOR THE SELECTION OF MATERIALS AND FINISHES. THE SELECTION OF MATERIALS AND FINISHES SHALL BE THE RESPONSIBILITY OF THE CLIENT. THE SELECTION OF MATERIALS AND FINISHES SHALL BE THE RESPONSIBILITY OF THE CLIENT.

ITEM	DESCRIPTION	QTY	UNIT	REMARKS
1	CONCRETE DRIVEWAY	1	1000 SQ FT	
2	PAVING	1	1000 SQ FT	
3	LANDSCAPING	1	1000 SQ FT	
4	CONCRETE DRIVEWAY	1	1000 SQ FT	
5	PAVING	1	1000 SQ FT	
6	LANDSCAPING	1	1000 SQ FT	

PLANT LIST

QTY	PLANT NAME	PLANT SIZE	PLANT TYPE	PLANT CODE
1	SPRING TREE LIGHT	12"	SPRING TREE LIGHT	STL12
2	SPRING TREE LIGHT	12"	SPRING TREE LIGHT	STL12
3	SPRING TREE LIGHT	12"	SPRING TREE LIGHT	STL12
4	SPRING TREE LIGHT	12"	SPRING TREE LIGHT	STL12
5	SPRING TREE LIGHT	12"	SPRING TREE LIGHT	STL12



JAMES W. SEBERT
 ARCHITECT, INC.
 1111 JAMES STREET • SUITE 100 • DALLAS, TEXAS 75202
 (214) 424-4242 • FAX (214) 424-4243

ZM R.V. SALES
 MASTER PLAN
 CONCEPT LANDSCAPE LIGHTING & SIGN PLAN

DATE: 11/14/06
 SHEET: 0

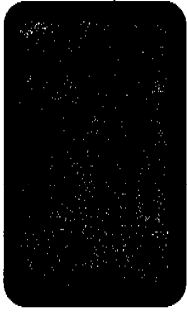
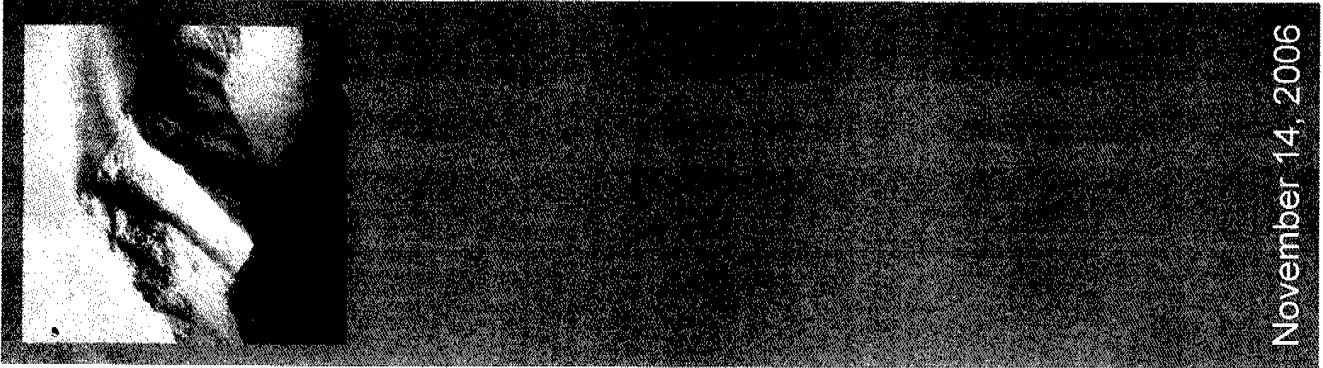
County of Santa Fe

Turquoise Trail Public Improvement District

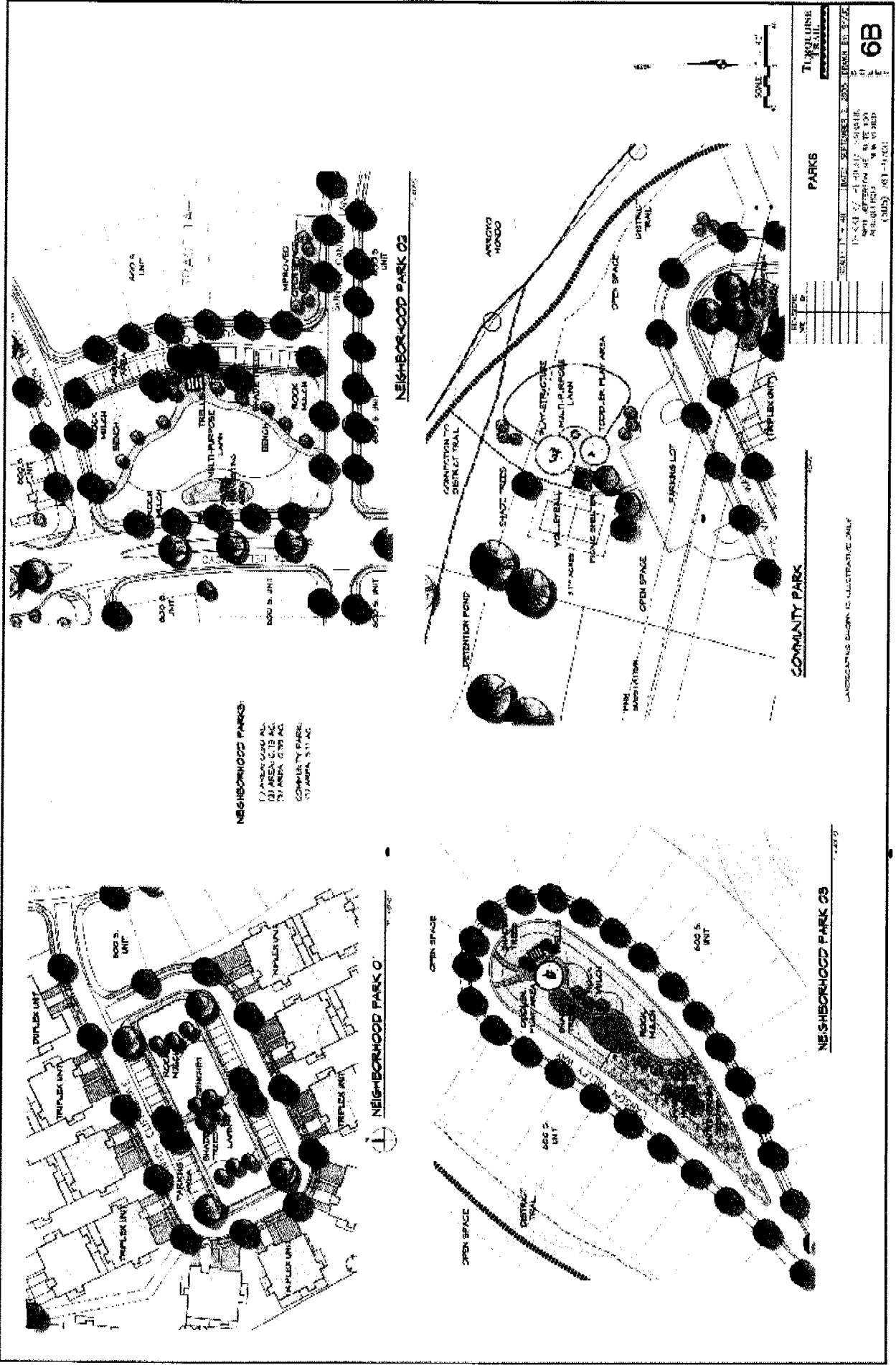
**TURQUOISE
TRAIL**



9 SFC CLERK RECORDED 02/12/2007



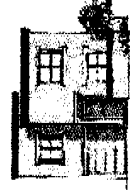
PARK PLAN



SFC CLERK RECORDED 02/12/2007

800 SERIES FLOOR PLAN

800 SERIES FLOOR PLANS
 1. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 2. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 3. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 4. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 5. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 6. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 7. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 8. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 9. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 10. ALL UNITS ARE 1,000 SQ. FT. IN AREA.

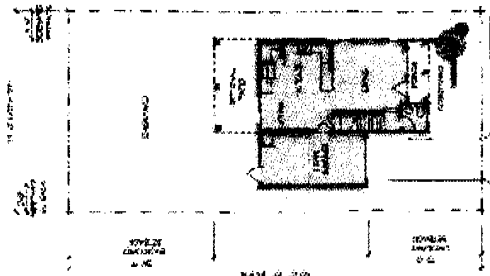
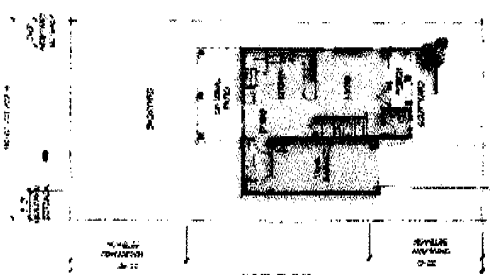
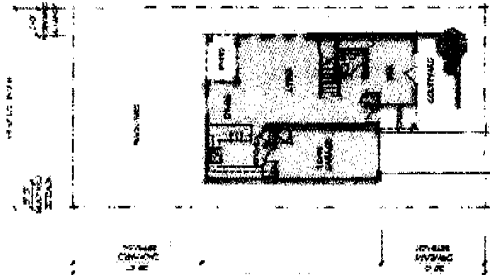


OPTION 1
 OPTION 2
800 STREET ELEVATION

OPTION 3
 OPTION 4
800 STREET ELEVATION

OPTION 5
 OPTION 6
800 STREET ELEVATION

PLAN 825
 1. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 2. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 3. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 4. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 5. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 6. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 7. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 8. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 9. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 10. ALL UNITS ARE 1,000 SQ. FT. IN AREA.

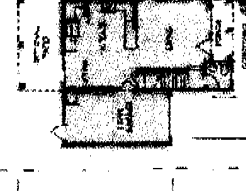
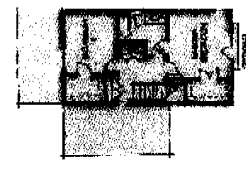
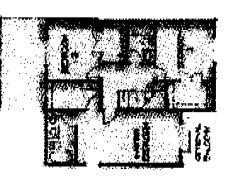
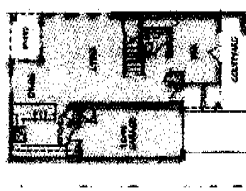
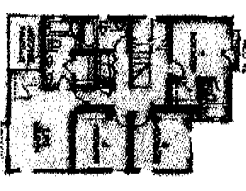


825 PLAN

825 PLAN

825 PLAN

PLAN 852
 1. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 2. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 3. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 4. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 5. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 6. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 7. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 8. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 9. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 10. ALL UNITS ARE 1,000 SQ. FT. IN AREA.

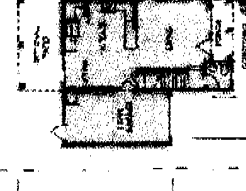
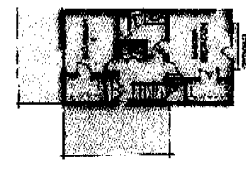
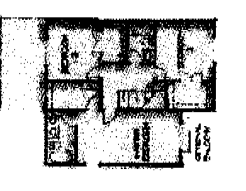
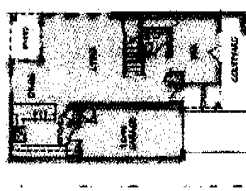
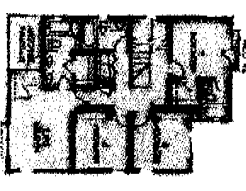


852 PLAN

852 PLAN

852 PLAN

PLAN 855
 1. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 2. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 3. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 4. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 5. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 6. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 7. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 8. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 9. ALL UNITS ARE 1,000 SQ. FT. IN AREA.
 10. ALL UNITS ARE 1,000 SQ. FT. IN AREA.



855 PLAN

855 PLAN

855 PLAN

REVISIONS	
NO.	DATE

TYPICAL UNIT TYPES AND STREET ELEVATIONS

SCALE: 1/8" = 1'-0"

DATE: 02/12/2007

PROJECT: 02/12/2007

3E

PROJECT REVIEW

- 516 Homes on 180.3 Acres
- Maximum Home Sale Price = \$310,605
 - Per Agreement with City of Santa Fe
 - Per Agreement with County 15% of units must meet Affordable Housing requirements
- Median Santa Fe County Single Family Detached Home Price = \$487,500 (Source: Santa Fe Assn of Realtors)
- Demographic of Homeowners
 - Fireman, EMS, Police
 - State, County, City workers
 - Teachers and Public health officials

PROJECT REVIEW

- Long Term Affordability
 - Affordable Buyers pay lower dollar levy in proportion to sales price
 - Levy remains consistent throughout the term of the PID
 - Under normal qualifying debt/income ratios, levy does not effect ability to qualify
- Environmentally Conscious and Energy Efficient Construction
 - Water Conservation efforts through rainwater catchment systems
 - Water Savings through hot water recirculation pumps
 - Energy Efficient Features
 - Hot Water Heaters
 - Air Conditioners
 - Gas Heating
 - Insulation
 - Dishwashers

PURPOSE of PUBLIC IMPROVEMENT DISTRICTS (“PID”)

- Funds public infrastructure
- Developers & Homeowners take advantage of tax-exempt interest rates and the resulting lower cost of borrowing
 - Tax-exempt 30 year fixed rate lower than Homeowner borrowing rate
- Santa Fe County insures timing of infrastructure funding and construction required in new developments
- No County Guarantee or Pledge of Revenue

SPECIAL LEVY RATE

- Maximum Special Levy Rate sets ceiling on amount that can be levied on an annual basis
- Special Levy rate set at a manageable level for future homeowners
- Special Levy is already reflected in home price
 - Lowers the required down payment
 - PID levy may be tax deductible
 - Homeowner only responsible for tax levy during time of home ownership
 - District Improvements benefit homeowner immediately

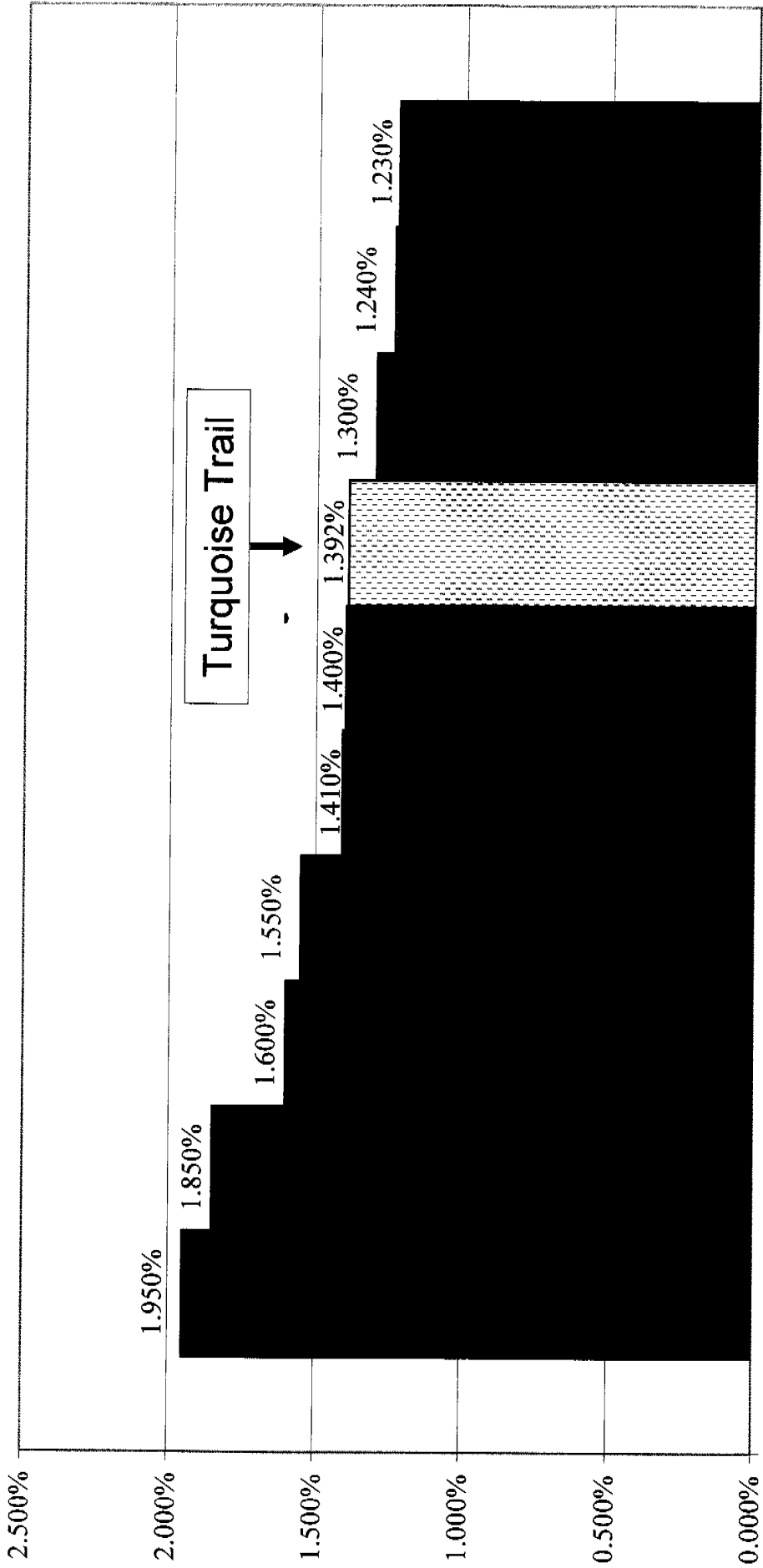
CONSTRUCTION PROCESS

- Developers construct public infrastructure
- County/PID acquires completed infrastructure from Developer and reimburses Developer with bond proceeds
- Bond proceeds do not fund all of the public infrastructure required in a District. Developer is still required to construct substantial infrastructure
 - Only 28.8% of Total Infrastructure Costs are funded with Bond Proceeds

IMPORTANT DATES

- District reports levy on properties as of January 1 to Local Government Division of State Department of Finance and Administration
- Local Government Division certifies amount to County to August 1
- Levy reported on Property Tax Bill
 - First Installment of Levy due November 10
 - Installment is Delinquent after December 11
 - Second Installment of Levy due April 10
 - Installment is Delinquent after May 11
 - Notice of Delinquency sent within 60 days of installment date
 - District may commence foreclosure within 180 days of Notice of Delinquency

Comparable Total PID Tax & Levy Rate



Public Improvement District

- Ventana West PID - 3 Lots Per Acre
- Ventana West PID - 4 or More Lots Per Acre
- Cabezon PID - 3.75 or Fewer Lots Per Acre
- Turquoise Trail PID
- Mariposa East PID
- Ventana West PID - 3 Lots Per Acre
- Ventana West PID - 4 or More Lots Per Acre
- Cabezon PID - 3.75 or More Lots Per Acre
- Cabezon PID - 3.75 or More Lots Per Acre
- Cabezon PID - 3.75 or Fewer Lots Per Acre