

SANTA FE COUNTY 11/09/2005

**SANTA FE
BOARD OF COUNTY COMMISSIONERS**

SPECIAL MEETING

September 7, 2005

Michael Anaya, Chairman
Harry Montoya, Vice Chair
Paul Campos
Jack Sullivan
Virginia Vigil



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 157

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This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 1:40 a.m. by Chairman Mike Anaya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll call indicated the presence of a quorum as follows:

Members Present:

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

Members Absent:

[None]

III. Approval of the Agenda

Commissioner Vigil moved to approve the agenda as published and Commissioner Campos seconded. The motion passed by unanimous voice vote.

IV. Discussion and Possible Direction to Publish Title and General Summary of an Affordable Housing Ordinance for Santa Fe County

CHAIRMAN ANAYA: Diane and Robert, you're going to do a presentation to the Board and to the attendees and then we'll ask questions. Gerald, would you like to comment?

GERALD GONZALEZ (County Manager): Briefly, Mr. Chairman, members of the Commission what you have before you represents probably about four months worth of work and it's still a work in progress. We yesterday had a meeting with some of the development community in order to also solicit their views, hoping that both from the internal housing team point of view and the Affordable Housing Task Force that you charged with

going out and taking a look at proposals for an ordinance, that we have broad-based community input so that you have an opportunity to see the views, not only of staff and those professionals who are working with housing but the broader community itself who has a stake in the housing issue.

Diane and Robert have both taken the lead in terms of putting together the packet that's in front of you and I'm going to let them walk you through it but I just wanted you to know it's really a broad-based effort, not just the effort of the two of them, There are many people who have had their input into the process.

CHAIRMAN ANAYA: Thank you, Gerald. And explain the difference between the task force and the internal team recommendation.

MR. GONZALEZ: Be glad to, Mr. Chairman. The task force had its inception, the Affordable Housing Task Force had its inception through the RPA process. If you'll recall, the RPA asked for the creation of that task force that was supposed to take a look at housing within the Santa Fe area. They did. They came out with a report late last year and that ultimately I guess became the basis for the City's adoption of their Affordable Housing Ordinance. In the meantime, at the County level, we had taken a broader look at housing and wanted to really approach housing not only from the standpoint of what could we do with a traditional Affordable Housing Ordinance, but what other housing opportunities out there that we can participate in that the County could take the lead in.

The ordinance that you have in front of you really focuses on just what the Commission could do in terms of development requirements using our Land Use Code as kind of a lynch pin for doing that. But the internal housing team, which was different than the Housing Task Force, which had community members in it, the internal housing team was comprised of staff members who have an interest in the housing issue, HR, Water, Housing, obviously, PFMD, and the thought there was that apart from just working with the development community through an ordinance, that internally we ought to be looking at other options in terms of housing. Things like acquiring land for future affordable housing that the County itself might support, how could we potentially make housing a part of employee benefits? How can we focus more clearly on workforce housing in the Santa Fe area? And partnerships that we could do as a County government in order to advance affordable housing.

So the internal housing team has a much broader focus than the Affordable Housing Task Force. That housing team was created when I decided that we needed to be able to bring to the Commission these broader ideas and these broader concerns apart from the ordinance. Now, what's happened is when you charge the Affordable Housing Task Force, which had its inception in the RPA, with taking a look at housing in the Santa Fe area and Santa Fe County as a whole, we narrowed the focus temporarily of the internal housing team to go in tandem with those two, because the thought was that broad ideas from community based ideas about housing will come out of the Affordable Housing Task Force but the housing team is the one that's going to help develop the way in which staff will have to implement those and make sure that it makes sense.

So there's been a dialogue between those two groups. Robert and Diane have been the

principal points of contact. I've attended a number of those and other staff members, Dodi and Judy McGowan and others have attended those meetings too to make sure that they have the cross-over between the two groups. What's being presented to you today was developed in a sense, the actual black letters in front of you, were developed by the internal housing team but they did that taking the ideas that were coming from the Affordable Housing Task Force and trying to mold them in a way that made sense from a County government standpoint.

CHAIRMAN ANAYA: Okay. Thank you, Gerald, and we want to thank you, along with staff and the task force and the internal team's recommendation and that task force and all the people that volunteered their time to get this far. So thank you very much and we'll go ahead and hear from either Diane or Robert.

DIANE QUARLES (Strategic Planner): Thank you, Commissioner. Let me go through what's all in front of you first because I'm sure we're going to spend a lot of time on most of these.

CHAIRMAN ANAYA: And if you could keep it simple, which paper - we've got a bunch of papers up here, what page, what line, so we don't lose you.

MS. QUARLES: I'll start with this one. It's titled "Summary of Proposed Santa Fe County Affordable Housing Ordinance as of 9/5/05. [Exhibit 1] This is the outline that we actually presented yesterday to the builders forum and also to the task force. You'll see on the second page, it includes the comments that came from the Affordable Housing Task Force, their comments related to the ordinance that we presented to them, and also the summary of the points from the developers forum on September 6th. We did take notes. These are the responses that we got as a result of that process. And in the very back is a letter from the Santa Fe Area Home Builders Association, their comments and their points on affordable housing.

In addition to that you have two companion pieces. As a matter of reference, this is actually what is in place now. This is a copy of the Community College District Affordable Housing Ordinance [Exhibit 2] and also the Housing Regulations [Exhibit 3].

This is the copy of that we actually distributed at the BCC meeting on Tuesday. [Exhibit 4] I don't believe there were any changes. I assume that most of you have read this so I know we'll be spending time. This is the old ordinance, the preliminary ordinance, and legal has just completed the draft ordinance. [Exhibit 5] So this one has the legal review and is put into form. So you actually have two ordinances. This is the most current. Steve has worked like the dickens to get this done. I'll say that I have not seen it. So it's truly fresh off the press.

CHAIRMAN ANAYA: Thank you, Steve.

MS. QUARLES: Let me just go through the summary. I think maybe the way we'll do this is I'll go ahead and summarize the ordinance real quickly, and then in the packet that was distributed last week, we actually as a series of questions on the ordinance options and I'm going to turn it over to Robert at that point to go through these options for discussion. And I'll just go through this quickly because I've seen that everybody is informed at this point. As far as applicability, it includes the unincorporated area of central Santa Fe County and in your packet there's a generalized map of what that looks like. It does not include the area that would be subject to the Extraterritorial Zoning Ordinance or the Two-mile EZ.

It incorporates a 30 percent overall affordability requirement for developments that include ten units or greater. It established three income ranges, each at ten percent. At 65 and below, with maximum target prices of \$115,000; 66 to 80 percent, for income range 2, at \$145,000; and then income range 3 at 81 to 100 percent of median income at \$180,000.

The ordinance also speaks to a fourth range at 101 to 120, but that's created for the purposes of voluntary for adding a five percent density bonus if you provide housing within that range. To relieve some of the requirements for small developments, for five units up to seven, it would require only one unit in income range 2 and seven to ten units, two units one in each income range, one and two. There would be no requirement if there were less than five units or for family transfers, and there are provisions for rental substitution on a case by case basis.

It provides for a series of incentives, including water for the affordable units, up to the 30 percent. These would set - if you were on the County utility you would be able to have access to the water. It includes a waiver of transfer rights and also water allocation. It includes options for density bonus, a 50 percent bonus for the number of affordable units provided, or 15 percent of the total.

I'm actually working off here; I'm on C.2. It provides for lot size reduction for developments that are on groundwater and/or septic, and also a water rights reduction for developments that are on community wells systems where you're required to bring water rights. For all developments you would be able to take advantage of fee waivers for impact fees, for development application fees, and for the expansion charges exception the cost of the meter.

Under long-term affordability, it establishes an affordability lien at the time of sale, which is the difference between the market and the sales price, and it gives ten percent equity dedicated to the buyer right off the bat.

In the ordinance right now there's some resale restrictions, from five to ten years, where the homeowner would earn 20 percent appreciation yearly beginning at the end of year 5, and it establishes the Housing Trust Fund.

The ordinance creates alternative means of compliance, which includes land donations, fee-in-lieu and offsite construction. It established two criteria for hardship conditions, depending on whether you have access to full incentives, and it speaks to the review process. It creates an affordable housing plan that's submitted through the application process. It creates a housing agreement, which includes the housing plan and that becomes the recorded instrument. It creates the affordable housing regulations that tell you sort of the How-you-do-this, and it provides for a one-year review of the ordinance and every three years thereafter.

At this time I'd like to go ahead and tip to Robert and let him go through the options that are included in the original packet that are on page 3.

ROBERT ANAYA (Housing Director): Page 3 of the memo that we distributed at the County Commission meeting last week and it's also in front of you. I think it's evidenced from the comments that Diane has made to this point that there's a lot of various issues that the Commission, that we're going to be seeking some direction from the Commission on to make sure that we're moving forward in the right manner. Additionally, Mr. Loftin just joined us as well so as we go through the questions or the items for review by the Commission, Mr. Loftin

will be here and will be joining in continuously throughout this discussion.

What we've done in the memo that you have before you is we've basically broken up the items that are of primary concern and primary in need of some direction. As the Commission, we want to make sure that you, number one, understand what we have here before you and number two, open it up to you to tell us whether or not we're moving in the right fashion or not.

- 1. Is the central region appropriate or should it be applied countywide? Should the EZO be similarly amended?**

The first item, and also Mr. Loftin can add any of the comments relative to the items in the options. But the first item that's presented is after a lot of discussion and dialogue as recommendations from the housing team and the task force, due to primarily infrastructure availability and also the plan that the RPA worked with and also that we used from the Pryor and Associates needs assessment, are making recommendations for you based on the central part of the county. If you'll look at page 2 you'll see what that area reflects, which is the central area that we're looking at. So the first question is Is the central region appropriate from the Commission's perspective, or not, and do you want us to expand that?

- 2. Is the 30% affordability requirement desirable?**

Is the 30% affordability that's been discussed to this point where the Commission wants to head? And I think based on the discussion throughout today and in the future that's going to be a determination that we're definitely going to need direction on.

- 3. Are there alternatives to the 10% distribution in each range (Less than 65%, 65% to 80% and 80% to 100%)? Should there be allowances to alter those distributions if market conditions change or if there is a demonstrated hardship?**

Are the alternatives currently as Diane stated, there's distribution of 10 percent in each range, is that appropriate?

- 4. Should water allocation apply to all affordable units (30%) or to a portion thereof? Should water allocation apply to affordable units above 30%?**
- 5. Is a 50% increase in density (or a 15% density bonus for the total development) based on total number of affordable units acceptable?**
- 6. Are the maximum target housing prices and minimum square footage requirements reasonable?**
- 7. Are the hardship considerations and alternative means of compliance appropriately applied?**

8. **Is the affordability term of five to ten years and a share of the appreciation reasonable or should it be more or less restrictive? Instead, should the homeowner gain full appreciation after the time of purchase (no resale restrictions)?**
9. **Is it acceptable to allow for some substitution in housing types (single family, rental support service, shelter) on a discretionary basis as long as there is a demonstrated need and minimal impact to the area?**
10. **Creation of an Affordable Housing Administrator that also acts as a program ombudsman.**
11. **Density bonus allowance for voluntary housing from 100% to 120% income range.**
12. **Submittal of affordable housing requirements (housing plan) at the earliest stage of development review.**
13. **Relaxing of affordability requirements according to development size.**
14. **Allowing for alternative means of compliances (BCC discretion) where there are limited incentives offered.**
15. **Waiver of fees for affordable housing – fire impact fees, application fees, connection charges, etc.**
16. **Either water or density but not a combination of the two.**
17. **Minimum square footage requirements included in Exhibit A, Section 2. b.**
18. **affordable housing Trust Fund considerations to be addressed under a parallel venue related specifically to housing financing structures (anti-donation considerations, private partners, administration, etc.**

Mr. Chairman, Commissioners, I think at this time it would be appropriate to get an overview from Mr. Loftin and I think it's up to the Commission, but if we just take each item item by item on the options that I just presented, make sure that the Commission fully understands what's being presented and then we'll take questions and direction from the Commission if that's okay, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Robert. Mike, welcome.

MIKE LOFTIN: Thank you. Sorry for being late. Thanks for having us here today and I wanted to thank the Commission for getting this whole ball rolling originally with the RPA task force that you appointed and then subsequently appointed the Affordable Housing Task Force for the County. About two years ago, the RPA started meeting. They've been working on this for quite a while and then the Pryor Report to the County staff and the County did was a big part of giving us some numbers and some statistics that we could base some recommendations on. So it's been – a lot of work has been done. I want to thank the original RPA task force that you and the City appointed and then the current task force, some of them are here.

I just want to make sure – Bernadette Jendrusch from BP Housing is here. Nobody else from the task force here in the audience today? Those are from the original task force and the County task force. I also want to thank the County staff for putting this draft ordinance together and both Diane and Robert for all the work in moving this forward. It's been, as you know, a

lot of work.

What I thought I may just do is give you some background on some of the rationale behind this and some of the need behind doing an ordinance like this. Maybe I could just pass this out. Basically, there's some data here that we looked at in the last year. In the county, the county outside the city – is this the whole county or outside the city? The whole county but not the city. The median price of a home went up to \$380,000, about a 50 percent increase since 1999. So in about six years went up 50 percent. Incomes went up 16 percent. So that just shows you the widening gap between what people make and what the median cost of a home is. You basically need a \$103,000 income to buy a median priced home.

Eighty-one percent of Santa Fe County cannot afford that home. So that means 81 percent of Santa Fe households earn less than \$103,000 a year. So that's just showing you. The median price of a home, if that's what you can afford, there's only 19 percent of households in Santa Fe that can afford a median priced home.

CHAIRMAN ANAYA: Is that Santa Fe or Santa Fe County?

MR. LOFTIN: That's Santa Fe County. That is all outside the city. If you include the city, within the city the median price of a home went up double, went up over 100 percent. Now the reason for that is back in 1999, there were homes in the city selling for \$180,000 something. The county started at a higher level. The median price in 1999 was \$250,000. They're relatively similar. The median price of a home in the city is \$390,000 something; it's \$380,000 in the county. So that current prices are very similar. The county started at a higher median price, which is something that most of us think of, people can't afford to live in the city anymore move out into the county. Well, that changed a long time ago. It used to be you could move out Highway 14 or down by the racetrack of something like that. Well, now you pay \$60,000 for a lot to put a mobile home on. So it's like the county, outside the city has gotten very expensive and in fact more expensive in some cases.

So basically, what this shows and the graph shows is the gap between what people make and what the median price of a home has grown. Pretty dramatically in the last few years. The second page of that handout, and I think people talked about the Pryor Report. The Pryor Report came out with looking at population projections and what's going on in the housing market, is at 28.5 percent of all new housing will need to be affordable to people below, this is the central region that Robert described – 28.5 of all new homes will have to be affordable to people below the median income, below 100 percent of the median income if you are to maintain the current home ownership rate of Santa Fe County.

So that's not increasing the homeownership rate, that's just maintaining the home ownership rate at its current level. In order to increase it you'd have to do more than that. So that's where the 30 percent came from, the 10-10-10. The report is showing if we're going to maintain our homeownership rate we're going to need 28.5 percent of all new housing to be affordable to people below the median income.

The other issue that we just looked at recently is if look in the Pryor Report, another thing that they said was that their projections between now and 2025 is that 99 percent, given the current situation, 99 percent of all new affordable housing is going to be built in the

Community College District, just probably because that's the only place we have a requirement for affordable housing is the Community College District. So you do get this issue of are we making sure that affordable housing is in all parts of the county, or is it just in one area. So you get an issue of you get a certain amount of affordable housing just to maintain our homeownership rate. We're going to need to distribute affordable housing over a wider geographic area or we're going to create some economic segregation.

The other thing I thought I'd do is just give you a comparison, just a real brief comparison between what's going on in affordable housing now, which is what the City just passed, what the Community College District currently does, and what this proposal does. In the Community College District, which you are familiar with, is that there are three price tiers again, and it's 5%-5%-5%, so right now those prices for a three-bedroom home are a \$103,000 house, \$142,000 house, and a \$154,000 house. By and large the City's new ordinance of the 10-10-10 increases the percentage of affordable housing over what was previously required. The prices are higher than what's in the Community College District. So it's \$109,000, \$142,000 and \$175,000.

This proposal has a 10-10-10. The percentage is higher. The prices are also higher, right? So instead of \$103,000 house in the Community College District, that's \$115,000, so you get a \$12,000 increase in price. \$142,000 to \$145,000, not a big change. There's a \$30,000 increase on the top tier of \$154,000 to \$180,000. Both the City's and this proposal are based on a more precise formula to calculate the price. It's a little more rational and predictable and easier to calculate than what was in the Community College District. And the reason for that is that as everyone gets experience with these things we learn some stuff on how to make it simpler, how to improve it and that's what's going on here. The RPA recommendations were the \$115,000, the \$145,000 and the \$180,000, the proposal that you're looking at. Just to give you a comparison to what else is going on out there. Is that helpful?

CHAIRMAN ANAYA: This is for a three-bedroom?

MR. LOFTIN: For a three-bedroom home. Yes.

CHAIRMAN ANAYA: One bath? Two bath?

MR. LOFTIN: Three-bedroom, two bath. It's a minimum of 1150 square feet is the current recommendation, although at yesterday's task force meeting there was discussion over are those the right minimum square footages. So that's still under discussion.

CHAIRMAN ANAYA: Okay. Thank you. Any questions? Did you want to add something, Robert?

MR. ANAYA: Yes. Mr. Chairman, Commissioners, just a general comment up front. We have also in addition to the work of the task force and the internal team. As part of that process we've also looked at what other people are doing in other parts of the country. California and New Jersey have the largest number of inclusionary zoning ordinances, but through those two primary locations and about 24 other locations in the United States that have inclusionary zoning they have learned some lessons along the way, if you will. So as we go forward we can also provide some information as to some of the areas as to what they require and some of the things they've gone through.

One primary point that I think is worthy of noting is that inclusionary zoning ordinances essentially fall into two categories. A mandatory ordinance has along with it some benefits that have to be provided in order to get the inclusionary zoning in place and voluntary is where their incentives are based. So it's either a benefit or an incentive and what the Commission has before you today is providing a direct benefit to those people who would be required to build out affordable housing. And the two benefits that we are proposing in the ordinance itself, we refer to them as incentives in there as well, is density bonus as a primary bonus, and water consideration as a primary bonus. There are other items that are also in the ordinance that deal with the possibility of permit fee waivers and impact fee waivers and streamlining the process of development for affordable housing but the essential meat and potatoes if you will is the decision of the Commission to decide on what types of density, if that's the direction the Commission goes, and then the allocation of water and the commitment therein to be able to build out that percentage of affordability.

I think it would be helpful if our legal counsel would clarify that in New Mexico there is the requirement, as is the case in other states, that there be some offsetting benefit or incentive to be able to provide affordable housing. Because that's the essential premise that we've been operating off of in the development of what we have before you today.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Robert, so what I hear you saying is that principles of inclusionary zoning were used in producing this document.

MR. ANAYA: Mr. Chairman, Commissioner Montoya, yes.

COMMISSIONER MONTOYA: Okay. And in summary you have mandatory or incentive inclusionary zoning, and you're saying that ours is more incentive than mandatory?

MR. ANAYA: Mr. Chairman, Commissioner Montoya, it falls in the definition of if the Commission says we're going to have a requirement for affordable housing, a certain percentage, then there has to be some offsetting incentive provided to have that requirement. So currently as the ordinance is presented to you, it's presented as a requirement.

COMMISSIONER MONTOYA: Mandatory.

MR. ANAYA: Mandatory with benefits that the Commission would have to determine what those benefit levels are. That's when you peel everything aside, that's really the essence of what's before you. What benefits associated or incentives would you provide in order to get the percentage of affordability.

COMMISSIONER MONTOYA: Okay. And I guess I ask that because I just was reviewing this study that was done that was talking about inclusionary zoning in California and San Francisco and the Bay Area. I'm sure one of you probably gave this to me. And it's talking about inclusionary zoning as producing few units, zoning has high cost, makes market-priced homes more expensive. Everything that we're trying to do it's not doing. And everything that they're trying to do as far as creating affordable housing and affordable housing units, it doesn't appear to be happening here. So I just wanted to bring that to light in terms of where we're going, what we're doing with our Affordable Housing Ordinance.

MR. ANAYA: Mr. Chairman, if I could comment because I've spent a – various members sitting around this table and on the task force have spent a substantial amount of time looking at inclusionary zoning ordinances. The majority of the studies that I have looked at myself, and I have two sitting right here with me today, have shown that actually, over all, if you look at holistically the inclusionary zoning ordinances across the country, they are of benefit to providing affordable housing and do provide a benefit. The balance is how it is those local governing bodies or city governments, state, local governments, allocate those benefits and how they're applied. But over all, some level of inclusionary zoning has shown to have a benefit, but it's a balance between what the government is requiring and what the private sector can do to have a fair balance to be able to accommodate both sides of the equation and not be a detriment on either side.

COMMISSIONER MONTOYA: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I'd like to ask Diane to give us just a quick rundown on these service levels,

CHAIRMAN ANAYA: What page are you on?

COMMISSIONER SULLIVAN: Well, it starts on page 5 of the old thing, which is Exhibit A and goes on through there, actually I guess page 6 is a better rundown of it. At the bottom of page 6 where it talks about service levels IA and B, II, III, IV, and V, and that may be a little confusing. I don't think that's in the City's ordinance but I think there's a reason for that because the County has different circumstances and I wanted perhaps for Diane just to explain to us what the rationale is that if you do have water or you don't have water you get different considerations.

CHAIRMAN ANAYA: So you're on page 6, Part 3, Incentives?

COMMISSIONER SULLIVAN: Yes. Exactly.

MS. QUARLES: Thank you, Commissioner. That's absolutely right. This is probably one of the major differences to the City ordinances that made it complex and difficult to work with. Under the City ordinances there's kind of a clear assumption that everything is going to be provided. We'll have access to centralized water and sewer. In the county, we obviously have to deal with a different set of circumstances so what we had to do is not only look at the size of the development but we also had to look at how it would be served.

Under service levels 1 and 2, it makes some assumptions that you will have access to a central water system and to central sewer. It's for that reason that you know that you can push the densities up to compensate for the cost of the unit. And that would be treated more like in the City ordinance. But when you get down to developments that are either on septic or on some combination of wells, whether it be a community well where you transfer rights or shared wells or individual wells, then you're into hydrologic zoning. You're on groundwater supply and you have environmental considerations with respect to the septic. So there are constraints in those developments that can't necessarily be waived to be able to 1) provide water allocation, because they're not on the County system, and 2) because of the constraints to say septic or

well combinations with septic, you may not be able to densify the project.

So we had to create sort of an ingenious way of dealing with those subdivisions that fall into those categories that are not on central systems, and that's where service levels III, IV, and V come into play. What this does, it actually invokes the Land Use Code and it draws the Land Use Code into the inclusionary zoning. One thing that we're going to have to look at is make some revisions. If this is the path you take we'd have to revise the Land Use Code to allow for those lots to go down to minimum sizes and the way the ordinance is written it takes it down to New Mexico ED standards. At this point I think it's one acre. I think they just revised it. And also the reduction of water rights where it's required to be transferred down to a very minimal depending on how we can budget that.

The incentives that we can offer, obviously, in service levels III, IV, and V are less, because we can't offer the two large ones, which is the water allocation and the density bonus. So that's one reason we had to look at create two tests of hardship, if you will, the extreme hardship, where you have access to all incentives, and then a lower standard of hardship and alternative means of compliance where there are concerns that we have not been able to provide enough incentives to these developments to help offset costs.

COMMISSIONER SULLIVAN: So Diane, Mr. Chairman, looking at Chart III-A, there at the bottom of 6, my understanding is where you have service levels IA and B, that's with water and sewer or water, right?

MS. QUARLES: That's correct. Service level IA is where the County is the provider of both the water and sewer and under service level IB that's where the County is providing the water and you have another provider for centralized wastewater such as Rancho Viejo.

COMMISSIONER SULLIVAN: Okay. So in those cases, when you say water allocation there with that little bullet, that means that we can provide, if the Commission agrees to it, we can provide water for affordable housing.

MS. QUARLES: That's correct. It would be water for the affordable units.

COMMISSIONER SULLIVAN: For the affordable units. Because they're on the County's water system and we can provide that for them. And because they're larger, because they're served by utilities, then those are appropriate for density bonuses, and everybody at all service levels is eligible for fee waivers.

MS. QUARLES: That's correct.

COMMISSIONER SULLIVAN: Then when you get to SLII, what is that service level?

MS. QUARLES: That makes the assumption that it's still on a central water and sewer system but it's not County water. An example might be say Las Campanas where they're served by the central system and they may have a collection system as well. It's not County water; it's not County sewer but it's still a central system.

COMMISSIONER SULLIVAN: Okay. So in that case the water allocation wouldn't apply because the County wouldn't be providing the water, so we couldn't give them the benefit from water. But because they're on central utilities it's still appropriate that they

could get density bonuses, higher density, and they could still get the fee waivers. Right?

MS. QUARLES: That's correct.

COMMISSIONER SULLIVAN: And then when you get down to these last III, IV and V, what you're saying, correct me if I'm wrong, is there, where we're dealing with these hydrologic zones and these minimum lot sizes and so forth, we don't have as much flexibility because they don't have water and sewer to tinker with the lot sizes without impairing somebody else but we can do other things such as reducing the water budget requirements that they have and mixing lot sizes to disperse it. Is that – am I characterizing it correctly?

MS. QUARLES: That's correct. The assumption is that we can reduce the lot size for the affordable units as long as they're dispersed so that we don't impact – collectively they would create an impact but if they're dispersed we would minimize that impact. As long as it would still meet the test for the hydrologic zoning you could reduce those lot sizes as long as there's no impairment to the hydrologic zones or the –

COMMISSIONER SULLIVAN: Okay. So if there was a 2.5-acre lot minimum and somebody was proposing ten units, we could reduce the lot size below 2.5 acres if they adjusted the units around so they didn't impair.

MS. QUARLES: That's correct. And the assumption is a reduced lot size would cost less, you could sell it for less so it would bring the cost of the unit down and if you had to, in order to meet the hydrologic zone, you could enlarge the other units, the market rate, if you had to, if you still had to meet a 2.5 overall average, you could do that by changing the lot sizes and creating variations within the project.

COMMISSIONER SULLIVAN: And these are exclusive – all these service level conditions, that's exclusive of any other benefits that the Commission would want to look at, like interim financing and all those things like that as we discussed.

MS. QUARLES: I would say that's correct, according to the incentives in here there's a kind of menu to choose from and you're applicable depending on what your service level is, but it doesn't preclude other incentives, it just spells out these are the ones that are applied to those developments.

COMMISSIONER SULLIVAN: From a land use standpoint.

MS. QUARLES: Exactly.

COMMISSIONER SULLIVAN: And if for some reason the Commission said we wanted to take some money and put it towards a pool that helps builders do interim financing during construction, then it would rotate back to the pool. That could apply to all builders.

MS. QUARLES: That's correct. In fact the way the ordinance is written right now, it creates the affordable housing Trust Fund policies and procedures, and the financing side of the incentives would basically be addressed in that document to deal with construction funds, construction costs, buy-downs, all of that would be directed in that other document.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Any other comments? Okay, then we'll go back to page 3, if that's okay with the Commission and just

start off with item number one under ordinance options.

1. Is the central region appropriate or should it be applied countywide? Should the EZO be similarly amended?

CHAIRMAN ANAYA: Any comments on that? Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I would like to defer to Mike Loftin with regard to the comments he received from the task force on this because at first blush, there are benefits in doing either. What kind of information did you receive from the task force on this particular item?

MR. LOFTIN: The applicability of what geography got applied got discussed several times. I think over all the conclusion of the task force is start with the central region. That's where the biggest affordable housing problem is. That's where according to Planning and Land Use staff 95 percent of the development in the county, or a huge percentage is in that central region.

There was some sentiment that the northern region also has an affordability problem as Commissioner Montoya knows, but you could always get to that later, and then you get the southern part, including Edgewood and stuff that probably has less of an affordable housing problem than the rest of the county. It's more affordable there now. And that may not be where the main problem is. So I think - I don't think the sentiment of the task force was not to address the rest of the county I think it was more this might be a first place to start and then in time you could apply it to the northern, southern, where do you want to go? But it was more of a starting point; it wasn't saying you shouldn't do it there.

But that was kind of the way the discussion went. Is that -

MR. GONZALEZ: And Mr. Chairman, Commissioner Vigil, from the standpoint of the housing team internally, one of the things that we recognized is that the land, the holding in land use and development patterns are different in the northern and southern parts of the county than they are in the central part, which would enormously complicate, we think, trying to roll everything into one ordinance. As an example, in the northern part of the county we have a lot of private inholdings within some of the Pueblo grants. The parcels are smaller. They've already been divided up over generations among family members and continue to be divided in that way. So we see a lot of family transfers. We see very small developments. I think the comment was made yesterday that the last development of four to five houses that we've seen in that portion of the county was back in 1980, or over five houses, was back in 1980.

In the southern part of the county, we have a different land holding pattern. We have large ranches. We have greater availability of land but probably less variation in terms of terrain. And as a consequence, the development patterns there are entirely different than they are in the area focused around Santa Fe.

COMMISSIONER VIGIL: Thank you.

COMMISSIONER CAMPOS: As far as number one, I tend to feel that because

of our policy to avoid to sprawl, because of infrastructure as Diane indicated earlier in the RPA plan, I think it's a good place to start. As far as the EZO, I think clearly we have to do the EZO. If we don't do the EZO what we're doing outside the EZO – and I assume the EZO is the Five miles that we're talking about. Or is it the Two miles? So, okay. I think the Two miles should be included if we're going to have a complete affordable housing plan in the metropolitan area. So those would be my comments. I think Commissioner Vigil's question of why not the whole county, I think those have been adequately addressed by staff.

Workforce Housing

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, obviously I think there is a need for some sort of ordinance or some sort of consideration to expand this real quickly if we adopt this in a short period of time here because of a number of things that I have requested in terms of taking a look at workforce housing and ordinance on that that I've talked to the Deputy County Manager about. Also regarding the request that I had, and I'd like to receive some feedback on the acquisition of BLM, State Land Office properties for the purpose of developing affordable housing because those are the options that we are limited to in the northern part of Santa Fe County at this point in time.

So I think to not include and to take a look at that as an option within this ordinance, we're missing a part of an Affordable Housing Ordinance that is applicable countywide unless we're deciding that we don't want to do this countywide. I would like to see it countywide, or at minimum include the northern part of Santa Fe County. I think the other potential that does exist is that there are a couple of landowners in the northern part of the county which really these people are the ones that have the majority of the land that is going to be sold and developed and this individual I know already has done division of some of the property that he's got up there.

So with this individual and with these two individuals, there exists the potential of some sort of public/private partnership there as well. So that's why I really would like to see that this be countywide or at least include the geographic region of the northern part of Santa Fe County.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, those are some good thoughts, some good ideas. I all along have favored a complete countywide ordinance but I am also willing to take the recommendations of the task force to say let's target where 90 percent of the problem is and start with that. That doesn't solve or address, as Commissioner Montoya says, the problems in the northern part of the county which are there. And perhaps one way to do that and it's just a suggestion, is that we could look separately and not necessarily include it as a part of this ordinance, but look separately at using the over \$3 million in funds that we have that can be allocated toward affordable housing and potential land options that may be either with the BLM or with some of the land grant lands or trust lands in the northern part of the

county, and see if we can develop a project or a scenario that's unique to that area that addresses the problems of that area and land availability.

So that's one way of I think addressing that issue. I agree that we need to address the EZO portion of it because I believe, correct me if I'm wrong, the Community College District is partially in the EZ and partially not in the EZ. Isn't that correct? Is it partially in the EZO or in the EZA? Is partially in the Two or the Five.

JUDY MCGOWAN (Senior Planner): Both. If you amend inclusionary zoning into the County ordinance that covers up to the two-mile limit. So the gap would be just those lands inside what we call the two-mile but it actually extends out further in some places and less in other places. But part of the Community College District is inside that two-mile area.

COMMISSIONER SULLIVAN: That two-mile. Like along Richards Avenue. The recent ones that have come in.

MS. MCGOWAN: La Pradera and the Oshara are both inside that area.

COMMISSIONER SULLIVAN: They're in the two-mile.

MS. MCGOWAN: Yes. The Thornburg property and most of Rancho Viejo is outside of the two-mile area.

COMMISSIONER SULLIVAN: Outside of the two-mile. Okay. So we have some – we would need to work on that through the EZ I guess to do that. So Mr. Chairman, I certainly can support the concept of the countywide zoning and I can also support this as a first step, this particular area, as a first step toward moving forward and getting a workable policy in place and seeing how it works and being able to modify and tinker with it as we need to.

CHAIRMAN ANAYA: Thank you. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. Just, I agree with my colleagues that the EZO should be included in this. I would defer to Commissioner Montoya with regard to his needs in his district in the northern part of it. Part of what I'm visualizing with this and one of the bases for affordable housing within this central district is that's actually where urbanization is occurring. If we go beyond the urbanization growth areas, you're dealing with rural issues. I'm not too sure how this comports with that. One of the senses I get, and I'm going into question 2 because I will advocate for the 30 percent affordable housing with alternative compliance to that also and perhaps with that alternative compliance we can look at some of the rural issues that are separate from urbanization.

So my belief is that we should go with that central county, and perhaps work at the inclusion of the northern part of the county, factoring in the fact that you're dealing with more rural issues than you are urbanization although I think there is an argument for urbanization occurring in that district too.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil. I feel that affordable housing is a problem throughout Santa Fe County, not just around the EZO, EZA area. I think that this Board or this task force should be looking at countywide. Now that we've started it we need to look at the whole picture and not just a portion of it. So I believe that Commissioner Campos and Commissioner Vigil are kind of centralized but I wasn't clear on Commissioner Sullivan. In terms of so we can give clear direction to staff. I'm hearing two countywides and

two centralized.

COMMISSIONER SULLIVAN: I voted twice, Mr. Chairman.

CHAIRMAN ANAYA: You did.

COMMISSIONER SULLIVAN: As a first step, Mr. Chairman, to answer your question as succinctly as I can, I think we should start with the area that we have here. It will give us something to work with that we can focus on, and I would mention too that municipalities are excluded. Am I not correct? So that means that Edgewood is excluded. Santa Fe City is excluded from the ordinance, obviously. The City of Española is excluded from the ordinance. So where most of the growth is occurring of course is the southern part of the county is in Edgewood. And so that they would be excluded. The rest would be a rural configuration and approach, and there is a problem. You're right in the rural areas. And I think as phase 2, we need to move on and address that and there would be different incentives and different means of handling that that might not be so complex as what we have in front of us. So I would stay with the core area that they've recommended here to get us started.

CHAIRMAN ANAYA: Okay staff, so you've got clear direction to stick with the central county region and we'll look into the northern, southern part of affordable housing in the future. Commissioner Campos.

COMMISSIONER CAMPOS: Also the issue of the EZO. I think there's consensus that we want that included.

CHAIRMAN ANAYA: Yes.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Regarding this alternative means of compliance, where is that in the ordinance exactly in terms of where it's addressed. And then my follow-up question to that is would that allow what I requested Roman to do, to continue and to eventually be adopted as part of this ordinance?

MS. QUARLES: Commissioner, just for everyone, it's on page 15, Section 15 begins with O. Alternative Means of Compliance. I know in the new ordinance, I'll direct you to the new ordinance - I know this is going to get confusing now that we have two ordinances in front of us. Page 8.

MR. ANAYA: Mr. Chairman, Commissioner Montoya, just so I - I just want to make sure that we're clear. Based on the direction that three Commissioners made, we would move forward only on the central region right now. So if that was to change, if you would want to expand that on phase 1, then you would need to expand that area as part of the last discussion. But I think the answer to your question is based on the direction we just heard that no, it wouldn't apply unless you expanded the area and wanted us to look at the whole county.

COMMISSIONER MONTOYA: So it wouldn't apply under Alternate Means of Compliance?

MR. ANAYA: Mr. Chairman, Commissioner Montoya, under the ordinance that's in front of you, drafted right now, I don't think it would apply unless you expanded the area outside of the central region. I would defer to Mr. Ross but I would don't think it would

unless you made that determination to expand it. Would the alternate means of compliance apply outside of the central region.

CHAIRMAN ANAYA: Steve.

STEVE ROSS (County Attorney): No, they would not, Mr. Chairman. The ordinance right now, the way it's drafted, and we can certainly change that, but the way the ordinance is currently structured it would not apply outside of the area in which affordable housing is required. You certainly could do that.

COMMISSIONER MONTOYA: Could do what, Steve?

MR. ROSS: You could provide incentives outside of areas where affordable housing is otherwise required. So that they would have the central county area and if you develop a project within that area you need to provide affordable housing within that area, but say somebody develops a project in the far northern part of the county, outside of that central county area, you could still have incentives that apply. To incentivize. They wouldn't be required to provide affordable housing but you could encourage it with incentives outside of an area where it's required. That would be easy to do. If you want us to do that we can do that.

COMMISSIONER VIGIL: Mr. Chairman, I think we really need to focus on that because the in-lieu-of, the incentives include property, the availability of property, and as we urbanize more, property becomes less and less available so I do think as we're redrafting this ordinance we really need to expand the alternative means of compliance beyond the central zone, because I can imagine a scenario where a development comes up and we're dealing with the issues that property is not available within the central zone and it's perhaps available in the northern part of the district or the southern part of the district and we've looked at the possibility of partnerships with both the state and private entities to create an affordable housing project and I don't want to limit ourselves for that. Because if we start doing that, I think it's more of an inclusionary zoning issue.

CHAIRMAN ANAYA: Thank you, Robert.

MR. ANAYA: Mr. Chairman, Commissioners, I think that what Mr. Ross said at the end gets to even the next question in front of you on the 30 percent issue and relative to mandatory provisions and voluntary provisions. But there are other areas that have a mix of the two, where they have a mandatory area and a section or a piece of it that's voluntary. And we even have it in our ordinance before you now, to go from the 100 to 120 percent range. We've put forth some suggestions on voluntary incentives that would be added if people would want to build units for that price range. But it does get back to the question of the central county, the whole county and then how you want to slice the pie on requirements or voluntary or mandatory.

CHAIRMAN ANAYA: Okay, so I guess what the direction was was for the central county region, including the EZO. Is that clear enough direction. I know Commissioner Montoya, are we -

COMMISSIONER MONTOYA: Mr. Chairman, I guess my question still hasn't been answered in terms of is there any reason why Roman cannot proceed with what I directed him to do regarding looking at a workforce housing ordinance, based on what we're

doing here?

MR. ROSS: Mr. Chairman, Commissioner Montoya, I understand what you're asking for and I guess from a legal perspective, those are really completely distinct issues. It might make sense to proceed on parallel tracks. What you're talking about is a really an employee benefit and it's not subject to a lot of the legal issues that you have with an ordinance of this type so it could be far different in scope. So it might make more sense to keep those on separate tracks. Roman did talk to me about that, so we understand where you're coming from and we'll - unless you want it wrapped into this process.

COMMISSIONER MONTOYA: Well, not it it's going to kill it. I want it to move forward. I guess keep it separate.

CHAIRMAN ANAYA: I guess I'm not clear on - is Roman working on affordable housing doing something else or I'm not sure what's going on.

COMMISSIONER MONTOYA: Workforce, focusing on police and sheriffs, teachers, people all within that income range. That's the workforce.

CHAIRMAN ANAYA: And we're trying to find homes for them?

COMMISSIONER MONTOYA: Develop an ordinance that would allow them to purchase those homes through different partnerships.

CHAIRMAN ANAYA: And this would be different?

MR. ROSS: Mr. Chairman, it might be different enough so that it would complicate this ordinance. It might be better suited as a separate ordinance.

COMMISSIONER VIGIL: I would just, in terms of a direction, and I was at the study session yesterday. This issue was discussed in terms of workforce and what alternatives and whether or not we should broaden the qualification component of this or not. And we do not want to exclude the workforce or those situations where you have teachers, nurses, firefighters, EMTs, policemen who we find are having difficult times with qualifications. My hope is that through this particular ordinance, we can include alternatives for them, either through the qualification or the definition of those who qualify for this. And I know there are some problems with that as I heard expressed at yesterday's study session.

But in particular, if there's a way we can go back to the task force and include those issues in this, I don't necessarily think we need to be on parallel tracks for that. I think this ordinance should be comprehensive enough to address workforce employment and the issues that are dealing with that. I know they're complicated but I don't want this ordinance to have an unintended consequence of excluding that workforce. So as you go forth with your work, however you can incorporate that into this, and I'm not too sure. You probably know the issues far more than I do, but that is part of the intent of the incentive that I have in promoting affordable housing is to deal with the workforce that we're losing. So however we can incorporate that into this. If there has to be a separate ordinance developed that creates a gap, that a gap is created from this, well perhaps maybe that's what we should do.

But I think the intent Commissioner Montoya has is to address that workforce but I don't think we need to do it outside what we're doing right here. I guess I'd like Diane for you to comment on that because you heard a lot of that issue yesterday.

MS. QUARLES: I did, Commissioner, actually and there was a lot of discussion in that. I think the concern that was raised was the legal question of special class of people or however it's addressed in targeting a specific, naming a workforce within the ordinance. And there were some questions as to whether it would compromise the ordinance. But I think that there are ways to do it outside of the mandate. One would be going back to what Commissioner Sullivan had raised, the Housing Trust Fund, for instance, in some of the alternatives of compliance. If we gain land, for instance in the Housing Trust Fund, some of that land could be earmarked for workforce housing questions, and the funds that we get it for fee-in-lieu or whatever, could be earmarked for that particular purpose and the County could develop, for instance, or a contract of public/private partnership, much as you described, for workforce housing itself. So there are probably other ways of getting to it without having to actually specifically name it in the ordinance and deal with it and the legal questions of special class and all of that.

COMMISSIONER VIGIL: And I thought the way it was presented yesterday was to the qualifications and the range of qualifications. Is that accurate, Mike?

MR. LOFTIN: Yes, that's right, Commissioner. The thing is whenever you have income limits on who can buy a certain range of home there's always somebody on the other side of that limit. So on the lower tier, the \$115,000 home that's recommended here. If you're a police officer or a sheriff or a school teacher and you only have one income. There's no second income. You're going to be buying in that lower tier. That's the price range you need to be in. So it does take care of that workforce. The concern that gets raised is if you're two incomes and you're both making 35 grand a year, now you're at \$70,000, then your income is higher than what the ordinance covers. It could be a teacher. The example is the married to a sheriff or a police officer. Then their income is too high.

One of the things that the ordinance does to try to address that next tier up is something that the staff team came up with which I think is a really good idea is that there are voluntary incentives that if you want to build homes in that 100 to 120 percent that would cover some of those folks. So some of the discussion yesterday was when we see how that works and are we capturing those folks that maybe have double incomes but would be outside of the mandated part of the ordinance, does the voluntary part cover that? And if it doesn't, if we still have a problem there, we're still losing sheriffs and teachers and stuff, can we - there's a question can you do? You might look at a thing saying, for the purposes of certain workforce positions that are important to the public good, to the public welfare, like police officers or sheriffs or teachers, that the income restrictions are different for certain professions so they actually allow a higher income on those so that you capture a greater portion of them.

I think what we don't know is a lot of the housing activity has been based on federal programs which most of the time you have people with 80 percent of the median income. This ordinance is saying, no, up to 100 percent of the median, which is a good change from what past experience has been and provides an option for people up to 120 percent. So I think we're going to make some progress. We're definitely going to serve more people at that top tier of the income. It's going to be a positive thing. Is it enough? We don't know yet because we don't

have any experience with it. I think we could always make adjustments by allowing higher income ranges for certain professions that we thought were important to the public welfare.

So I think the thing is we're trying to address it in this ordinance now and make sure this housing is available to certain – to that workforce, double income has a higher income. If they're single income they're going to be covered. Chances are they're going to be covered unless they have a really good job and really good pay. They're going to be covered in the ordinance. The question is when you have double income. Some people earn too much out of that range. There's a lot of steps in this ordinance to try to address that issue. If it doesn't go far enough then we can always change it.

MS. QUARLES: I might also add, with the discussions in the task force, they actually made a recommendation where we created the 120 percent voluntary. Right now the way the ordinance is written it only allows for a density bonus and fee waiver. The task force actually thought in order to really encourage that level of housing you need to also make water available to it. So that's actually a question we would ask you. Right now, water's not included in the 120 percent and the task force felt like it should be.

COMMISSIONER VIGIL: My answer is yes.

CHAIRMAN ANAYA: Okay. I guess I'm a little confused because I thought affordable housing was used for our workforce. I just kind of – are we going to include the workforce into this central county region? Which would mean we would bring it countywide then? Or are we leaving that out? What is the clear direction that we need to go? Gerald.

MR. GONZALEZ: Mr. Chairman, I was just going to try and clarify a little bit. Those are two different approaches. The workforce approach to affordable housing I think is different than the economic level approach to affordable housing, which is what you have in front of you. In part, it's because you face a different set of legal issues when you go to workforce housing. Right now, given our state constitution we have to look at is this an employee benefit? We may have to look at doing partnering with some of the other local governmental entities, the ones that employ the police, the ones that employ the teachers, and use that as the approach to addressing specific elements of the workforce.

You're right in that the ordinance in front of you approaches the total workforce and it does it by saying we're going to work with certain levels of economic income, or certain income levels in order to address the housing at that area. So my suggestion would be that we continue on a parallel track with respect to the workforce housing and resolve those legal issues as we need to and then continue this process, which as you pointed out will capture all elements of the workforce that fall within those economic brackets that we're talking about here, zero to 100 percent and even the 100 to 120 percent.

CHAIRMAN ANAYA: Okay. Thank you for clearing that up, Gerald. And that workforce would be a countywide workforce?

MR. GONZALEZ: It would probably start with County employees and then we would have to link with the City, we'd have to link with the school districts and expand it to those areas to target those particular kinds of workers. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I agree with the parallel track. I

think we should keep them separate. The issues are separate.

CHAIRMAN ANAYA: All right. So do we have clear direction on the first one? That would be the central county region, including the EZO.

2. Is the 30% affordability requirement desirable?

COMMISSIONER CAMPOS: Mr. Chairman, just to start off the discussion, it seems that Mr. Loftin said that we have a certain ownership rate. What is that presently in the county, Mr. Loftin?

MR. LOFTIN: The homeownership rate, I forget the exact number, it's 60-something percent.

COMMISSIONER CAMPOS: 60-something percent. And in order to maintain that ownership, we would have to have almost 30 percent, 28.5 percent affordable housing, to maintain that rate.

MR. LOFTIN: That's correct.

COMMISSIONER CAMPOS: Now, how does that rate compare to other communities that are similar to Santa Fe, around the country?

MR. LOFTIN: I don't know. I haven't seen a similar study in other cities or other counties, similar to the Pryor Report.

COMMISSIONER CAMPOS: Ms. Quarles, any comment?

MS. QUARLES: Commissioner, I can think from Austin, actually the rental rate is considerably higher than the home ownership rate. That's because you have a large public institution. So I think it would vary. I would say - I know that 85 percent of the land uses inside the city are residential and a good portion of that is single family residential. So my planner sense is that we probably have a larger than average home ownership or single family detached rate compared to multi-family. I would defer to Judy but that's my sense.

MR. LOFTIN: The question is how does our homeownership rate compare to the - okay. I was thinking about the 25 percent, 30 percent issue. But our homeownership rate is I think slightly below the national average. Emily, do you remember that?

EMILY FORD (from audience): I think the national is about 70 percent.

MR. LOFTIN: So we're below national. I think we're below the state. The city's is below the county's. The city's actually declined between the 90s and 2000 census. One of the few communities in the country that declined. The 90s to 2000 was one of the highest growths in homeownership in the history of the country, a boom time for homeownership mostly because interest rates were so low. So Santa Fe County over all increased a little bit. The country as a whole increased significantly. The state increased significantly and the city of Santa Fe itself decreased. So it's to where we're not awful, but it's behind what other norms would be.

COMMISSIONER CAMPOS: Ms. Quarles, what do you the argument is for 30 percent? For that number? What is the best argument that we can make as a County?

MS. QUARLES: From my perspective, the 30 percent basically satisfies the

nexus test. If we did the study, which was the Pryor Report and it indicates that in this region that we have an unmet need of generally 28.5 percent, the ordinance, there is warrant to match what the Pryor Report has indicated and basically this ordinance reflects that. I do want to give some description. One of the things, by going up to 30 percent is you have to provide a broad range of incentives and we feel, many of us feel, that water is a very important incentive. These incentives are clearly tailored to 30 percent. Anything less than 30 percent, some of these incentives may not necessarily be required, but we feel like providing water, particularly water, that nexus is met.

COMMISSIONER CAMPOS: The question then becomes what is the cost of these incentives to the County, to the community, to meet this 30 percent goal? If we're going to – ordinarily now, if we have a large development we require them to bring water to the community. What we're saying now is, no, the County will provide the water from the system and sell the water, but not require them – is that correct, Mr. Gonzalez? Is that about right?

MR. GONZALEZ: Basically, it's that we'll provide some of the water in exchange for them being willing to make more affordable housing available. So that's kind of the trade-off or the partnership if you want between the County and the developers in this ordinance.

COMMISSIONER CAMPOS: So Mr. Gonzalez, where do we get the water for our system to use as an incentive?

MR. GONZALEZ: That portion of the water obviously would have to come from what the County has and would purchase over time.

MR. ANAYA: Mr. Chairman, Commissioner Campos and the entire Commission, I think that along the lines that Commissioner Campos is going, an analysis of what's going on in the Community College District and what you do now for current developments is helpful. Right now, there's certain things that people have to do in the Community College District in order to have the required 15 percent requirement. And they have to bring a certain amount of water rights to the table. They have to bring all the water rights to the table, currently, to fulfill that obligation. So I think getting to an earlier comment I made, it becomes what's the balance between what you require and they bring, and what the County has available in its allocation and where you as the Commission decide you want to place that. I think that's the essence of the entire discussion. That point right there, given that water is the primary driving piece, along with density, in the ordinance in front of you.

COMMISSIONER CAMPOS: Well, there's water, then there's waivers and there's additional incentives and they all have to be quantified somehow to see how much it's going to cost, and then obviously our County Manager is going to have to put this into our budget and see how that works. Do you have any comments, Mr. Gonzalez? How we would do that?

MR. GONZALEZ: Well, there's quantification and then some intangibles that can't be quantified. What can be quantified, I suppose is the cost to the County of purchasing water in order to meet the incentives in terms of providing water. What's more difficult to quantify are some of the other incentives and the value of water over time as time goes on. So

there's an immediate ability to sit down and say, okay, if we're going to need an additional 300 acre-feet of water then the cost for that, on average, is going to be x or y when you take into account first you've got to transfer Middle Rio Grande rights and you also have to find offsetting water rights in this area and calculate more or less what that amount would be.

But again, it really doesn't - that's a present value calculation and benefit and long-term, it's a little more difficult to figure out exactly what you're trading off. On the other hand, that's probably a good thing because looking at an ordinance of this kind, and I don't want to step on Legal's toes here, but I think you have to be careful about quantifying too clearly because then you raise the question of have we provided an adequate quid pro quo from the anti-donation standpoint in order to be able to impose the ordinance.

COMMISSIONER CAMPOS: Any comments, Mr. Ross, to what Mr. Gonzalez just said?

MR. ROSS: Mr. Chairman, Commissioner Campos, all these incentives raise a lot of questions when you're adopting an ordinance of this type. Not so much the incentives but the mandates of the ordinance raise a lot of constitutional questions. I think maybe the avoidance of those kinds of constitutional questions may in part have driven some communities to look for incentives to reduce the costs of those mandates to the developers. So that the approximate cost of developing a project with affordable units is approximately equal to developing the very same project without any affordable units. So I think that may be in part what's driving some of these communities to look for incentives, and it certainly would make me, as an attorney for the County more comfortable were there an approximate net to the persons seeking the development as a result of the incentives that are provided.

To that extent, I think it might actually be helpful to put a dollar amount to some of them. So that we as a County can defend the ordinance, both politically and then legally against any challenges that might be raised based on the principle of takings or what have you. So I think incentives from a legal perspective are very important. It's probably also very important to put some dollar figure on some. Some of them are going to be very difficult to do that with, for example density bonuses. It's going to be very difficult to put an exact dollar figure on that because each development is different and because of that you can only work averages and take a look at the historical patterns and see what might be gained from a density bonus, for example.

The water incentive would be a lot easier. Fee breaks are of course completely quantifiable. And the water incentive is probably fairly well able to be quantified. We know what water rights have cost us. We know the approximate cost of our system and we can certainly project using reasonable means what the cost of providing utility service would be in the future. So it might be utilities, you put a dollar figure on that. But those kind of constitutional restraints we're dealing with maybe explain a lot of this all around the country. Did that answer your question or did I ramble on?

COMMISSIONER CAMPOS: No, it answered my question. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: You're rambling there, Steve. Mr. Chairman, I think 30 percent would probably be desirable and I guess the question I have to that question is it realistic? Is this something we've taken a look at maybe through what's going on in the Community College District? Is the 15 percent that we're requiring there – is the gap widening from that 28.5 percent that's being recommended here? Is it remaining stagnant? What kind of impact – because really that's the only affordable housing that's really going on in the county right now. So what impact, I guess is it having? You may or may not have the answer to that question, but that is my question to is the 30 percent realistic? It's desirable but is it realistic in terms of what we're looking at here?

MR. ANAYA: Mr. Chairman, Commissioner Montoya, I think as far as the Community College District is concerned, the data that Mr. Pryor and Associates put together that came up with the needs for the 28.3 or whatever it was incorporated the whole central area, and I think it's too early to make a determination as to what's the specific impact of the Community College District, given that you're only really talking about one primary builder, Rancho Viejo, so far that's actually building out units. I can tell you that it's been good to have that mechanism and that requirement and those affordable units, but I think it's too early to tell what the impact is.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Could I, Mr. Chairman, just for a minute defer to Mike Loftin whose hand was raised with a response for that. And then I do have a question.

MR. LOFTIN: Thank you, Commissioners. I think in terms of the question on the 30 percent is it's hard to isolate that question as just a separate question. You've got to look at – the feasibility of it is a factor of a few things. One is, what's the total percentage required? What's the price you're requiring? So this one is increasing the prices over the Community College District prices. The other thing it's doing, it's decreasing – and I didn't realize this until just now, but it's decreasing the square footage requirement. The Community College District is 1000 square feet, 1300 and 1500 square feet for a two, three and four bedroom. This one is 1000, 1150, 1250. So it's increasing. So it's reducing the cost of building it. It's allowing you to sell it at a higher price, and then for a total percentage – a percentage of what? How affordable are you talking about? Obviously, if you're requiring homes being built and sold at \$70,000 you could do a lot less on a percentage of that than if you're doing \$150,000 house. So it's a function of those two things and then it's a function of the thing that Robert is raising is what incentives or offsets come with it? So to the degree that all those affordable units get – this County's providing water, well that's a real dollars and cents issue. To the degree that someone needs extra density and gets a density bonus, that's a dollars and cents issue.

You've really got to look at all three. What's the percentage of affordable housing, how affordable are you going to require that housing to be, and what other offsets are you providing? And it's really a calculation of those things and it's not as – as the County Attorney was saying, some of these things aren't real easy to quantify. You've just got to do some kind of calculation. You've got to get the right balance to that. I'm not giving you a yes-no answer but those are the factors that need to be considered to look at the feasibility of it.

COMMISSIONER VIGIL: Mr. Chairman, I think that's probably one of the benefits I see in this ordinance is that we will have a review and we'll have the opportunity to see where the balance actually exists because we're sort of catapulting ourselves in here and going out in good faith that this is what is going to work, based on the data that we've received. The 28.5 percentage was based on a study of where we need to go in order to address the affordable housing issues. So I don't consider it an arbitrary figure at all. I think it's a good starting place. We may be looking at a 30 percent Affordable Housing Ordinance, but in fact affordable housing is 100 percent a community problem. It isn't a developer problem. It isn't a state problem. It isn't a local government. It isn't a workforce development problem. Affordable housing is our entire community problem.

Incentives are a necessary component of addressing that. I think we need to provide as much incentives as possible for a cooperative effort between the local, state and private industries to make this happen for our community. I'm not too sure what the consequences are going to be but we need a starting place. The 30 percent is something I strongly advocate for and as I said earlier, it may be something we need to revisit later and see on balance what actually works with this and the 10-10-10 percent. Perhaps we're not addressing a particular gap and we might be able to make some adjustments there. But we can look at this a year from now. We can look at this three years from now. There's been a lot of changes too that we're going to have to deal with. The dynamics of this ordinance, the benefit it creates to me is that it's a starting place. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I assume we're on item 2 and I think we've got ample back-up to focus on the 30 percent affordability. I think that is not only desirable it's urgent, and I think also that we, on an important criterion like this, we want to be in sync with the City and the City's ordinance. We want land use decisions to be made on the basis of land use, not on the basis of where can we go to get the weakest Affordable Housing Ordinance. So the City has tacked that number. As Mike points out, the dollar amounts are a little different in the City's ordinance than in ours, but at the zero to 80 level, they're pretty much the same. Where they differ is the 80 and above, 80 to 100. And we have to keep in mind that when we're talking about affordable housing, really the federal definition is the 80 percent. So when we're saying 30 percent affordable housing, in terms of what the feds consider affordable housing, it's 20 percent. But what we're doing here is we're looking at that additional ten percent as we did in the Community College District, except theirs is five percent.

And we're even looking at theories of should we go above that to 100 to 120 percent. So I think it's very supportable. I think we want to give the staff clear direction with regard to the 30 percent. There's lots of things we can tweak in this ordinance but I don't think that's one of them.

CHAIRMAN ANAYA: Okay, so Commissioner Montoya.

COMMISSIONER MONTROYA: Mr. Chairman, the reason that I say that I agree, what the study is saying is that we need at least 30 percent. What I'm questioning in

terms of realistic, are we putting a mandate on something that is not going to be able to be achieved? So is that realistic? That's why I asked the question. It's desirable but is it realistic? And what I've heard in terms of what the City has passed, is that they're not going to be able to achieve that 30 percent without some impacts on the people that are doing these developments.

MS. QUARLES: Commissioner, let me address the question of is it achievable? I think the two things are really important. One is we do that annual review. In fact at the builders meeting, they felt like three years was too long. They felt like it should be an annual review. There should be a reporting process. Are we meeting our goals? Are building permits falling off? Are we providing the units? Do we have an overage in any one of the categories? And that we be responsive to the ordinance and monitor what actually happens and I think that was probably a good idea. It keeps us accountable and it also monitors the ordinance.

The other issue, it goes back to the alternative means of compliance. Thirty percent obviously represents an optimal but there will be instances where those 30 percents will be difficult to meet. I think that's where you rely on your fallback positions of alternative means of compliance, and even lower than that would be your hardship conditions, so where it can't be satisfied, we don't create an onerous situation. The developers do have a way to get away from the 30 percent or whatever works for them to still meet the intent of the ordinance, but not become a hardship consideration.

MR. ANAYA: Mr. Chairman, Commissioners, if it helps, I think that 30 percent is realistic. I think 40 percent is realistic. I think 50 percent is realistic, depending on what is provided on the other side of the equation. So it might be appropriate to analyze what the Commission is willing to provide in lieu of those incentives and provide those incentives and that will probably answer the question as to is it 30 or even higher? Because one thing that we put forth and that I put forth as one individual in this process is that the Commission could be in the situation where they decide to give more water to a development that may want to go higher. So I don't think it's necessarily something that we just box in and just say the 30 itself, but it goes hand in glove with whatever incentives you're going to provide. That's going to be the determining factor of where you end up. So I think they go together in consideration of where you want to go. But we could sit here absolutely and say, yes, it's realistic and do-able but based on what? And the what is the part that we're seeking to get some input and direction from the Commission on.

CHAIRMAN ANAYA: So for example, we could say that we could go with 50 percent affordable housing and then if we want to reach the 30 percent, we could go another 15 percent with the County providing the water. And then that would reach our 30 percent. But then the County would divvy up the water for the next 15 percent.

MR. ANAYA: Mr. Chairman, you could allocate your water, you will be allocating your water however the Commission desires and you could determine what percentage it is based on what that allocation of water is. But I just want to make the point that is it realistic and do-able? It is, but the important factor is what is on the other side of that equation. That's the essence of the discussion. But it is realistic, depending on what commitments the Commission wants to make.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I think what Mr. Anaya is saying is that resources or incentives aren't free. They're going to cost somebody something. And that's what we have to keep in mind in analyzing all our options. How much money do we have to put down to achieve the goal we want to achieve?

CHAIRMAN ANAYA: So do we want to come back to this 30 percent and continue talking about the rest?

COMMISSIONER CAMPOS: I'm comfortable with 30 percent.

CHAIRMAN ANAYA: Was Commissioner Vigil a 30 percenter?

CHAIRMAN ANAYA: Clear direction.

- 3. Are there alternatives to the 10% distribution in each range (Less than 65%, 65% to 80% and 80% to 100%)? Should there be allowances to alter those distributions if market conditions change or if there is a demonstrated hardship?**

COMMISSIONER MONTOYA: Mr. Chairman, what if you looked at something, instead of 10-10-10, maybe 8-8-14? What would it do?

MR. ANAYA: Mr. Chairman, Commissioner Montoya, the higher percentage that you go to on the higher price points would definitely make that more beneficial. Whether or not that's the target, if you're trying to get more affordable housing in people in need, but you obviously would make it more financially viable from a development standpoint if you did that but whether or not that's what you want to achieve with the ordinance, that's a decision the Commission will have to make.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just want to comment on that. Keep in mind too that we are relaxing the Community College District Ordinance now in that we're starting the first bracket below 65 percent adjusted median income, annual median income. And it was 60 percent. Our current ordinance is 60 percent. So it's more difficult to find qualified people and to build the homes at a level that someone can get financing for who's below 60 percent. So we've made a pretty good adjustment to that now in doing that, and then we've compressed - so that's a benefit. And then we've compressed the second bracket. The second bracket is the other true affordable housing bracket, up to 80 percent. So we've compressed that to 15 percent. So that's an advantage, and then of course we've got to the 80 to 100 which is similar in the Community College District Ordinance.

So I think we've provided some assistance there by relaxing our current requirements and again, once you get over 80 percent you're pretty much into market housing. Any of the developers can sell all of the 80 and above that they can get onto the market. That's essentially market housing to a different target group that we've been trying to hit, which is a good goal. So I think the 10-10-10's are good. The arranged change is a compromise, quite frankly. I'd

like to see the 60 to 80 and the 80 to 100 retained, but again, if that's the recommendation of the task force then I'm okay with that as well.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I'm going to defer to the task force's expertise on the 10 percent distribution. I really haven't formulated, I guess an actual alternative, which is what this question is asking. I do have a response to should there be allowances to alter those distributions if market conditions change or if there is a demonstrated hardship and I say yes. This is such a contra-positive for me because what we're trying to do here is, what in effect we will be doing by this ordinance is affecting the market. So I think we really need to keep our options open to look at what we need to change here if market conditions occur or if hardship is demonstrated. As I read through the ordinance, I felt the hardship portion of it was quite effective. But I do believe if market conditions change, we need to have the flexibility to deal with that because I think if we stay within a stringent role we might be adversely impacting our own desires to create affordable housing.

CHAIRMAN ANAYA: Commissioner Vigil, how do you feel about the 10-10-10?

COMMISSIONER VIGIL: As I said I defer to their recommendation.

CHAIRMAN ANAYA: And Commissioner Sullivan, do you agree with the hardship?

COMMISSIONER SULLIVAN: I agree with the hardship definition that's in the ordinance, yes. I think that that's a demonstrated hardship pretty well laid out and wasn't there an extreme hardship discussed at one time? Is that still in there or not?

MS. QUARLES: That's correct, Commissioner. Where you have access to the full incentives, particularly water, then you have to meet extreme hardship conditions, and then where it's relaxes and you have less available then it's a lower standard.

COMMISSIONER SULLIVAN: And I think the mechanism for doing that, Mr. Chairman, is these reviews, the one-year and then the three-year review. I think that's a good mechanism to make changes to market conditions.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I agree with the 10-10-10. We can evaluate not one-year but maybe we should evaluate more often. Maybe every year. As far as hardship, the only concern is my concern with the idea, comparing the problem we have variances. Variances were designed to be a small outlet in a small number of cases, but it's become a major highway in the county. So I don't want the hardship to become like the variance is treated at the County at this point, which is major highway, major exception.

CHAIRMAN ANAYA: Thank you. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I would hope that, and I think Diane mentioned that we're going to do this on an annual review. So I think that in itself will take care of any changes in the market by being able to do that. So I guess the annual review will take care of that. I'll defer as well to the recommendations of the task force on the 10-10-10.

CHAIRMAN ANAYA: Okay, so are you okay with the hardship?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN ANAYA: And then you want to hear from staff on the 10-10-10?

MS. QUARLES: We feel again that it's reasonable. I think it is important though. I think we should do annual review and one of the things that we need to look at is how many units come in line in that ten percent and how many units were sold and how many units remain unsold in what period of time. That will give us some indication of whether the units are moving and if there's starting to become a lag, say, in one of those ten percent categories, that way we can make adjustments. Because it's got to be responsive to the market. If all of a sudden we start getting a huge surplus in any one of those then we need to make those adjustments.

COMMISSIONER MONTOYA: Mr. Chairman, Diane, then the possibility may be that at some point it may go, as I have asked, what the scenario would be if you would go 8-8-14, or 14-8-8 or whatever the case may be, the review would allow that type of flexibility in terms of looking at those percentages?

MS. QUARLES: I would assume that's correct. You'll have to amend the ordinance. It wouldn't be as flexible as, say, amending the regulations, but it can still be done, especially like I said, if you choose to go to an annual review you can make those adjustments depending on what you see the market responding to.

MR. ANAYA: Mr. Chairman, Commissioners, a Community College District development that's on water, sewer, with higher densities, is going to be simpler, probably to deal with, than those other developments that are different than that. And when you talk about potential hardship issues coming forward to the Commission, I think that's where there are going to be areas that are going to be a little more difficult because of densities and maybe not being available or being able to access the same benefits or incentives that somebody in a system will be able to access. Thank you.

CHAIRMAN ANAYA: Okay, so I guess what I'm hearing is the clear direction would keep the 10-10-10 and keep the hardship case in there.

**4. Should water allocation apply to all affordable units (30%) or to a portion thereof?
Should water allocation apply to affordable units above 30%?**

COMMISSIONER SULLIVAN: If we give consideration, Mr. Chairman, we'd have to develop income criteria for that portion above. The problem that comes when you go above that is someone can just say, Oh, I sold a house to someone who's making 120 percent of the median income. That's fine. But is that person the target person? Is that person who we really want to target? So if you're going to do that, you'd have to have a fourth category of 100 to 120 and have the criteria set for that. I think that 30 percent, if we end up providing water incentives to the affordable housing, which is 30 percent, that's 30 percent of the water rights that the County would be providing that as of right now, the developer is providing. So in

essence, we're picking up the tab for 30 percent of the cost of water rights, both the wet water and the water rights. So that's a pretty significant benefit.

CHAIRMAN ANAYA: So are you saying you're agreeing with a portion of the 30 percent?

COMMISSIONER SULLIVAN: My gut reaction, and I'm certainly open to recommendations from the staff and discussion is that in terms of water allocation, that should only apply to 30 percent. If we go above 30 percent affordable housing into another category there may be other incentives we want to think about, whether it's density, fee waivers and that, but I think at that point we've pretty well shot our wad on the water and we need to be fairly conservative about how we distribute out water. Because we're really then beyond the truly affordable housing range. We're into a market housing range. At least that's my thought.

CHAIRMAN ANAYA: Robert.

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, is that 30 percent of all of the affordable units and no requirement for water rights? Just for clarification. Currently -

COMMISSIONER SULLIVAN: Oh, there's two questions there. I see what you're saying. Let me think about that.

MR. ANAYA: Yes. Number 4 is do you want the County to be responsible for all of the 30 percent or do you want some alternative.

COMMISSIONER SULLIVAN: And what does the staff recommend?

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, I think the consensus of staff was that we were punting to the Commission for your direction.

COMMISSIONER SULLIVAN: How is it written in the ordinance?

MS. QUARLES: Right now, the way the ordinance is written is it allows for water allocation and a waiver of water rights transfers for the 30 percent. It does not have provisions to include anything above 30 percent and it does not include water allocation for income range 4, which is the 100 to 120. That entry level market rate. So right now it's just the full 30 percent.

COMMISSIONER SULLIVAN: Which is 30 percent more than we're doing now.

MS. MCGOWAN: Yes, Commissioner. I tried to do a little calculation based on the population and the housing unit projections for what does 30 percent mean. And this is just a projection and an estimate. It's not real accurate because the only one I could pull out where we know what County water would be used in the Community College District, and for a 30 percent affordable housing based on what's projected both rates, you're looking in the range of 10 to 15 acre-feet a year at a 30 percent affordable housing for water allocation, up to 2010, and then it goes up after that.

MS. QUARLES: And that actually is concurrent with the way I did it. I assumed 50 to 75 acre-feet per year that goes on to the County utility based on kind of the history of how much we draw down and I looked at 15 to 20 acre-feet per year.

MS. MCGOWAN: And obviously, as more growth happens in those areas and less outside those areas over time that annual water allocation would go up.

CHAIRMAN ANAYA: So I guess to clarify this, what you're asking us or what this says is that if somebody comes to us and they're going to put in 30 percent affordable housing or affordable units, is the County going to supply water to those 30 percent?

MR. ANAYA: Mr. Chairman, that's correct. That the ordinance is mandatory and that the County will pony up the 30 percent. Yes.

CHAIRMAN ANAYA: I think that in each case it's going to be different. Each development that comes before the County, what if the water system isn't there and the water line isn't there and we agree to this, then we have to supply that water line to them.

MR. ANAYA: Mr. Chairman, you're getting to the core decisions that you have to make as a Commission. If you allocate the percentage of water and it's 30 percent that you're going to provide, the only eligible developments based on what you have before you in the ordinance as presented is that those people that could access the County system would get the 30 percent allotment. We had a discussion - just a discussion, no consensus, no agreement, about what if you had a scenario that you had somebody that was close to the County system that didn't have sewer, and would they be eligible for the water as well. We didn't have any consensus or resolution on that.

But for now, as it sits in front of you, it would only affect those developments that would be able to tie into the County system. Those would be the ones you would have to give them the 30 percent allocation of water. Other incentives that are within the ordinance that deal with higher densities in other zones, in other zones, in other hydrological areas, they would have other benefits but not the water benefit.

CHAIRMAN ANAYA: So what happens when we - we only have a certain amount of water that we're going to be dealing with. What happens if we get a bunch of people in here following this rule if we approve this 30 percent, then we have to put out that water until we're done with the water and then it's over.

MR. ANAYA: Mr. Chairman, the projections that we have to this point are what Judy and Diane were just alluding to, that's what we're projecting would be the requirement of the County for the 30 percent on the County system. But it is a policy of 15 annually until 2010 and then that increases after that.

MS. QUARLES: That's basically correct, because we're assuming right now that water allocation basically comes from 375 acre-feet of wholesale water and in 2009/2010, then it would convert to water coming from the Buckman Direct Diversion. The County will have to continue to purchase water rights to maintain that kitty, as it were.

MR. GONZALEZ: If I could, Mr. Chairman, the way the question is posed, what it's asking is should the provision of water by the County be 100 percent for all 30 percent of the units, or do you want to consider providing 50 percent of the water for that 30 percent, and then maybe increase or decrease that proportion of water for whatever is above the 30 percent. That's a separate question about what happens over the 30 percent. But the question posed for you right here is do you want to do 100 percent of the water? 50 percent of the water? Which would be the same thing as no water for the first 15 percent and 100 percent for the last 15 percent of the housing.

COMMISSIONER VIGIL: Mr. Chairman, what I'd like to state at this point in time is that I don't think we know. I think this question begs an answer that we really don't have all the facts for. It's really – this is my belief. We should create a priority for affordable housing. But whether or not that means 100 percent of water allocation for 30 percent of affordable housing, or a density bonus, or an impact fee waiver, I like what we're trying to do here with the incentive matrixes and perhaps we need to work a little bit more on those incentive matrixes, because I cannot, at this point in time, say while I'm a strong believer in affordable housing, that I want the bargaining chip of yes, I will give you 100 percent water that commits me to an amount of water that we have a finite number to work with at this point in time and we can't predict for the future.

So, Mr. Chairman, I think in alignment with what you're thinking, perhaps we need a little bit more work on this particular, because I think this is part of the incentive piece and I don't know that we want to dangle a carrot and say, okay, go out there and build, 30 percent of your units we'll give you your water. While at first blush that sounds really good, that may not be the most appropriate way to go. Perhaps we need to work with affordable housing, not only through water allocation but through density bonus, through waiver of fees. I actually think one subject we haven't talked about today is what the state provides in terms of tax breaks for building and construction and how we can work strongly with them, particularly at this time where we're having such an increase in costs for so many building materials and there could be tax waivers provided for affordable housing on the state level.

There's so many other alternatives we can look at at this point in time. Robert, Diane, Mike, I think we're being asked a question here that we don't know that we can commit to. That's my feeling.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER VIGIL: So was that a punt? Mr. Chairman, I answered yes, and if the developer can supply that would be even better. I guess it's kind of a mixed bag, really, in terms of are they willing to bring that to the table as well, or is that something that we're going to be responsible for 100 percent as has been suggested. I think it should remain flexible. I don't think we should commit 100 percent, but I think if there's something else, if a developer says, well, we're willing to provide 25, 50 percent if you'll give us the other 25, 50 percent, but then there will have to be some other incentives that they could work with as well that could be of benefit to them, more so maybe than us providing 100 percent of the water. If you follow what I'm saying.

CHAIRMAN ANAYA: I tend to agree with that, because then we're not committing ourselves to that and the developer could have all the water and yet we would be committing to the 30. But there would also be incentives in place if they had all of the water, correct?

COMMISSIONER MONTOYA: Right.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me just be certain on one thing. This

question 4 is the water allocation applying to 30 percent is only relating to service level I, right?

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, right now, yes.

COMMISSIONER SULLIVAN: Right. Only service level I. Because that's the only place that we can serve with water. So I don't think we're being asked to provide 30 percent to every affordable housing unit. This is one particular incentive that can be used in service level I, i.e., large developments that have sewer and water available to them. There's one thing that I like about this. Quite frankly I think the number should probably be 20 percent because that's the end of what the truly affordable housing level is. But it provides some incentive for those developments which are near County water or County water and sewer to hook in. To get the lines extended and to hook in. And I recall a couple of the developments that we've had that have brought County water lines out all the way to their developments to provide fire service, yet didn't hook on to the County water system, because they didn't want to go buy water rights to do it.

So we have the water lines already built out to the development with no County water service. Now, if there were an incentive there, whether it's 20 percent or whatever the number might be, or 30 percent, to hook in to the County water system to get that credit, that could be a strong force to bring those developments that are near the system into a regional County system. So I think we could pick a number and we could certainly adjust that number each year or whenever we review it. I think it would be useful to pick some number that we think is reasonable.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I still have a question. I'll address it to Mr. Anaya. This sentence says should water allocation apply to all affordable units. Let's say we have 100 units. Are we providing, would the County be providing 30 percent of the water budget, or 100 percent? Is that the question you're asking?

MR. ANAYA: Yes, Mr. Chairman, Commissioner Campos. In that example it would be water to 30 of the units. We would provide the water, is how it's written.

COMMISSIONER CAMPOS: For 30 percent of the water budget for that development.

MR. ANAYA: Right. Just the affordable units.

COMMISSIONER CAMPOS: And is staff still punting on this issue?

MS. QUARLES: I'll take a stab at it. There is in the actual language of the ordinance there's a clear fall-back position if the County finds that it's constrained, either by water rights or by wet water. Clearly it says that we'll provide the 30 percent so long as we were able to do so.

COMMISSIONER CAMPOS: Of the budget.

MS. QUARLES: Yes. So there's an out. If you don't hold adequate water rights, or you don't have the supply, you're not obligated to provide the 30 percent. So I want to make clear you're not - because it's in here, you're not bound to. Obviously it creates a fall-back position. So it's not over-obligating you. The task force went round and round about

this. Mike can speak to it, whether it's half or full, but I think it would do two things. One it clearly relieves the burden. It's a clear incentive, and also I think it creates an incentive for people to tie on, to do more dense, compact development. If they don't tie on to the system then you're looking at service level III, IV, and V that are on wells and septic and get into the urban sprawl or the larger lot developments. This creates some carrot, if you will, to densify, to tie on, and to become part of the County system.

CHAIRMAN ANAYA: Okay. Mike.

MR. LOFTIN: The task force went round and round. Do you provide water as an additional incentive to go beyond the 30 percent? There's a strong consensus that the 30 percent affordable housing should be met with 30 percent water allocation. It's the most important incentive in here is the water. There is a strong consensus that it was very important to provide for the 30 percent requirement of affordable housing that 30 percent of the water be provided by the County.

COMMISSIONER MONTOYA: Minimum or maximum?

MR. LOFTIN: Well, I think at least a one to one thing. A minimum. Because it is one thing that is very quantifiable. You know what it's worth. It clearly has value. Having it a predictable thing, you know that those units, that 30 percent, you're not going to have to go out shopping for water rights for. That is going to be provided, is worth more than what it costs to buy the water rights because it's a whole hassle factor. That's a portion of the water you don't have to go out into the market and look for. So we thought that was the most important incentive or offset that's in here.

There are cases where a density bonus, for instance in the Community College District, there's lots of density allowed there already. There's no maximum density there. So that the density bonus is less - it's not much of an incentive there but the water really is. The Community College District is the major area that is service area I. So we thought that was really important.

The other thing we thought, we didn't reach consensus yesterday on it but that if somebody was going to build, let's say ten percent more units that are 100 to 120 percent price range, that it would be important to have the water as an incentive. So the County's not mandating the 100 to 120 percent homes affordable to people in the 100 to 120 percent of the median income, but if you chose to do that would provide some incentive on water. We thought that was a good idea. Now would that be the same incentive? Is that a one to one ratio? The one to one match they way we're recommending in the mandatory part, or is that something else, something we didn't agree on exactly how to do that.

So the long and the short of it is that the water is the key offset, is probably one of the most important things we could do to help take the bite out of providing this much affordable housing. I guess you can hear that I'm advocating pretty strongly to have that, maintain that incentive in here.

CHAIRMAN ANAYA: So was this clear from the task force that you would answer yes to both 4, first question and second?

MR. LOFTIN: Yes again.

CHAIRMAN ANAYA: And how does the Commission feel on those?
Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman, and I think and hear a little more in there when Commissioner Sullivan asked the question if this just applies to service level I. So with that applicability and that narrow focus I'm totally in favor of this. I think it's a huge incentive. Should water allocation apply to all affordable units – 30 percent or a portion of 30 percent? Should water allocation apply affordable units above 30 percent? Possibly, would be my response.

COMMISSIONER SULLIVAN: I was just going to say, Mr. Chairman, that the problem with the second part – I don't have any problem with the up to 30 percent, but if it applies to all affordable housing units above 30 percent, and I assume you mean affordable as defined here, up to 100 percent of median income, then what do we do if we have someone that comes in and says I'm going to build 100 percent affordable housing project? And that's what we want to get away from. We want to have a mixture of housing types. Not only would we not have a mixture that way, but we'd end up footing the whole bill for the water system if we did.

So I think that anything above 30 percent, we could consider on a case by case basis, but I don't think we want to commit ourselves to doing above 30 percent because then I think we get into City HOP-type of projects that are 100 percent affordable and that hasn't been the direction that we've been going.

CHAIRMAN ANAYA: And what's wrong with 100 percent affordable? Look at Rio Rancho. They're 100 percent.

COMMISSIONER SULLIVAN: No, they're not 100 percent as we're defining affordable housing in this ordinance.

CHAIRMAN ANAYA: I'm not saying the whole Rio Rancho is but there are certain areas in there that are 100 homes, 200 homes, affordable housing.

COMMISSIONER SULLIVAN: Well, I think that we've been trying to have a mixture of housing in all categories so we don't stigmatize anyone, categorize any one home price or income category. And that seems to have worked okay in the Community College District and I think we should stay that course. Rio Rancho is affordable for a lot of reasons that don't apply to Santa Fe. The land availability and the competitive aspect, and that's great. There's nothing wrong with Rio Rancho and the fact that homes are \$200,000 less in Rio Rancho than they are here. The only problem is that's not here. We're here. And I just don't want to see situations where we have 100 percent affordable housing projects coming in that we, in addition, have to provide 100 percent of the water for. That would really be a strain. So I'd be in favor of the first part of the question, but not the second.

MR. LOFTIN: Maybe I could offer a suggestion. One approach on this might be to in order to create more predictability of what might be a demand for the water is if you have to have water for the 30 percent for units a developer chose to do to address the needs of 100 to 120 percent. You could water rights up to 10 percent rights, so the maximum would be 40 percent total water of the project. You have to do the 30 and if you chose to the 100 to 120,

it gets to the workforce housing issues that Commissioner Montoya raised. So now you've got that extra tier there. It's voluntary; they don't have to do it, but if they chose to do it and added that 10 percent, so now you have 40 percent affordable housing for people up to 120 percent of the median instead of up to 100, then you could get another 10 percent on the water rights.

It would cap it, as Commissioner Sullivan is concerned about the 100 percent things, but you would still provide an incentive for people to do that extra tier, if they chose to do it. And some developers will chose to do it, are doing it, and some won't. But you would at least give an incentive to do that next tier that gets to some of the higher salaried workforce housing issues.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I agree with the 30 percent, that we should only do 30 percent of the total budget. I think we need a cap for anything above 30. So I think that's what we need to think about. Where shall we place a cap? Should there be an incentive for 100 to 110 or whatever. That's the issue I think staff needs to consider seriously for our next meeting.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, Commissioner Campos, you're saying 30 percent water for the 30 percent for affordable housing? You would cap it at 30 percent?

COMMISSIONER CAMPOS: As Mr. Loftin suggested perhaps if there is another level of affordability that's being added, maybe 100 to 110, we may want to consider an additional maybe 10 percent so we could supply 40 percent of the water budget. But I don't think we should have 100 percent of the water budget for 100 percent affordable housing.

MR. LOFTIN: Mr. Chairman, to get to what Commissioner Sullivan said earlier about this too, that if you were going to add that 100 to 120, then you'd have to have a definition in the ordinance of what is an - is it in there? Okay, well, forget that. You'd have to say okay, this is what the eligible price is. This is who's eligible to buy and you'd have to - it couldn't be just a claim of [inaudible] to somebody below 120 percent, you'd have to show the same kind of compliance as you do with the rest of it.

COMMISSIONER SULLIVAN: That would be the price of a house.

MR. LOFTIN: Right.

MS. QUARLES: Actually, Commissioner, we've set it up. We created an income range 4 and it's described as voluntary knowing that in the regulations we would actually included the home price. So we set it up to include that income range on page 2 and 3.

COMMISSIONER SULLIVAN: But where's the price of the house?

MS. QUARLES: Actually, all the home prices are not described in the ordinance. They're actually going to be included in the regulations. So even though I have it in the summary sheet you'll notice it's not in the ordinance. That information in the square footage, the home price, within those income ranges will actually will occur in the regulations and that way they can be adjusted.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTROYA: I'd like to hear from our agua man, Steve, Dr. Wust. What are your thoughts on this?

STEPHEN WUST (Water Resources Director): I was just whispering to Gerald some of my thoughts, and that's a consideration that I think has to be remembered here and that is as we talk about allocating 30 percent to affordable housing, the only way to make that work for a subdivision on the utility, is that the utility has to be able to supply 100 percent of the water for that subdivision, because they're all on the utility. And so it's really more a question when you say 30 percent allocation, it's not a water quantity, it's the water rights issue, most likely.

And since prior to Buckman coming on line we're down to 275 acre-feet of water allocation available and we have to remember that some of that will be commercial development so I was trying to do some rough numbers basically saying, like say, 100 acre-feet of that goes to commercial development because we're trying to promote economic development, that only leaves 175 acre-feet, which if we think of .2 acre-feet per household is 875 units, and then 30 percent of that would be affordable housing. So whatever that number comes out to be.

The point is, prior to Buckman, this is not going to be – we can't assume that this is going to apply everywhere to every single subdivision. For example, 875 units, I could tell you right now Rancho Viejo could walk in the door and say we'll be glad to do affordable housing. San Cristobal, they'll walk in the door and say we'll be glad to do affordable housing, and it's all gone. Every bit of that water. So one of the considerations that we've been looking at in doing the water allocation policy is trying to divide that up so everything, it doesn't go to one place. So that will definitely be a consideration, just that it is an incentive for affordable housing, but it won't be available a lot of times so the density transfers and things like that are equally important because there will be a lot of subdivisions, or even pieces of subdivisions. Say, phase one it will work, but phase 2, 3 and 4 will just be way too big for us to have the water.

If this policy is in place though, as soon as Buckman comes on line we'll be able to apply it fairly well across the board I think, because we'll have a lot more water available. But for the moment, for the next five years, this won't be an across the board incentive available to everyone because, again, bear in mind to make 30 percent available to affordable housing we have to have 100 percent available to the entire subdivision.

COMMISSIONER MONTROYA: Right. Exactly. Okay. So with that, Mr. Chairman, I would concur with Commissioner Campos that 30 percent for the 30 percent is reasonable to begin with and based on what Stephen just described to us, I think that's something that we can realistically probably accomplish. Without putting – because otherwise you put affordable housing at 100 you don't have the water, can't get the water to them, then you don't have any affordable housing being built still. At least this way it allows some flexibility to do that with 30 percent for the 30 percent.

CHAIRMAN ANAYA: Okay. So I guess what I'm hearing from the Commission is that should water allocation apply to affordable units, in service level I, 30

percent would be yes, and should water allocation apply to affordable units above 30 percent, and I'm hearing cap, we should talk about a cap. Correct?

COMMISSIONER SULLIVAN: I'm hearing no.

MR. ANAYA: So, Mr. Chairman, Commissioners, so the Commission would consider on a case by case basis some alteration to that? If there's somebody that came in, maybe not 100 percent but came in and said we want to do 50 percent within these ranges, going maybe even to 120 or to more at a lower range, is that something that the Commission would consider?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'm not sure I understand the question. You're saying if there's a 100-unit development and someone comes and says I want to do 50 of those lots affordable, is that what you're asking?

MR. ANAYA: Yes, Mr. Chairman, Commissioner Campos.

COMMISSIONER CAMPOS: Then you're saying should be go from 30 to 50 percent of the budget?

MR. ANAYA: Mr. Chairman, Commissioner Campos, yes. On a case by case basis, do you want to even have that in that to consider?

COMMISSIONER CAMPOS: I thought we had discussed that and we had decided against it. That's my impression. That we wanted to 30 and maybe more than 30 percent for a very narrow exception, maybe the 100 to 120.

CHAIRMAN ANAYA: So then what I'm hearing from the Commission is a no on the should water allocation apply to affordable units above 30 percent? No. Is that what I'm hearing?

COMMISSIONER VIGIL: That's not what I'm hearing.

MR. GONZALEZ: Let me take a stab at it if I could.

COMMISSIONER SULLIVAN: Mr. Chairman, to be clear, my response is no. However you want to shake this sifter around.

MR. GONZALEZ: What I'm hearing is that 30 percent of the water for 30 percent affordable housing, and that the Commission is interested in looking at the possibility of another tier of maybe 10 percent on a case by case basis, looking at addressing the need for that 100 to 120 percent tier.

MS. QUARLES: I would suggest what we can do is we can include the word "may" and that means rather than "shall" for the 100 to 120 percent of that ten percent. That gives you the discretion then.

CHAIRMAN ANAYA: Do you agree with [inaudible]

COMMISSIONER SULLIVAN: Sure. You've got two minutes left.

CHAIRMAN ANAYA: It's four o'clock. What does this Commission want to do? Do you want to take a break? Come back? Or do you want to move on to our family life or what?

COMMISSIONER CAMPOS: Could we take a ten-minute break?

CHAIRMAN ANAYA: Ten-minute break, come back? Is that what I'm hearing?

COMMISSIONER CAMPOS: I'd like that.

COMMISSIONER VIGIL: Could we approximate how much longer this will take? I like what's happening. We're actually getting some different opinions. We just got through four questions and there are 18 and I can't stay here until seven.

CHAIRMAN ANAYA: Unless we just go to a yes or no. Let's take a 10-minute break and we'll be back.

[The Commission recessed from 4:00 to 4:20.]

CHAIRMAN ANAYA: Let's call this meeting back to order. We're on item number 5 and I'd like to go probably till about 5:30, so let's see how far we get though the agenda. Robert, why don't you advise the Commission a little more about the 30 percent in the more rural areas of Santa Fe County and maybe we could talk about that real quick.

Affordable housing in rural areas with septic

MR. ANAYA: Mr. Chairman, Commissioners, I had a chance to touch base with four of the five. I didn't have a chance to touch base with Commissioner Vigil, but just the comments coming back from the development community on the smaller subdivisions, the smaller lots with 30 percent water to this point you have 30 percent requirement and 30 percent value of water. There are some subdivisions or land parcels that are close to the County water system or even on it. In the La Cienega area you have some on it that are also on septic. So just a comment to bring up that there are concerns from the development community on smaller subdivisions saying would we be considered for the water allocation and is that something to feedback from the Commissioners to offset that need.

I just wanted to bring that point up because that is something that has been coming up from the development community as far as what incentives they get if they're not able to get water, what offsetting incentives will they have that can help them benefit as well. Just a comment to the Commissioners.

CHAIRMAN ANAYA: Okay, so would that be a different service level?

MR. ANAYA: Mr. Chairman, it would.

MS. QUARLES: Correct.

CHAIRMAN ANAYA: Service level III? So I guess the question is do we allow them, or do we supply the development with water, 30 percent in terms of saying with service level I? Is that what the question is?

MR. ANAYA: That's a basic question for consideration of the Commission, yes.

CHAIRMAN ANAYA: Okay, any comments from the Commission?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I think that's a big question, and I talked to Ms.

Quarles about it and the water/wastewater issue. How do we recapture wastewater? How do we avoid sprawl? How do we maintain the RPA principles of concentrated growth areas? That's an issue I think that maybe we cannot have today because it's very difficult. Perhaps we can have it at the next meeting that we have on this subject. To use water efficiently, you've got to capture it. You've got to capture it and reuse it. If you start getting out of the system, it's more difficult and we lose the water through the septic.

CHAIRMAN ANAYA: Okay, so we can discuss that at a later date, but I think that in terms of this it would be 30 percent for affordable units if they're using septic systems. I think that we need to look at, because then we leave that particular part of the equation out if we don't.

MR. ANAYA: And Mr. Chairman, right now it's not, and like I said, I did not have a chance to talk with Commissioner Vigil about that particular item. Commissioner, we're just bringing up that other developers that are on smaller tracts of land that are close to the water system are saying, well, could we get the benefit of the water at 30 percent if we can hook to the water system? That's the question and I don't think there's any clear consensus and what Commissioner Campos is suggesting is that we evaluate that and discuss it further later. But for now, it's only 30 percent of the water, 30 percent requirement for those in service area I which is water and sewer, that they have to have. Correct?

MS. QUARLES: Actually, the way the ordinance is written, in the entitlement, it says if you are on the County utility system. So it actually at that point would pick up service level I and service level III. If there's development in the La Cienega area and they're tying onto the County system but they're on septic, technically they can apply under this ordinance for water. I think the original intent was centralized systems, water and sewer, but clearly the ordinance, the way it's written apparently will allow for the septic area. So that is something that is going to have to be discussed, and it's fine, but it's a huge discussion, because it talks about land patterns and forms and compact development and recapture and reuse of wastewater. It's a land use issue.

CHAIRMAN ANAYA: Okay. Thanks for bringing that up.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think if we did that, and I don't think the ordinance should be written that way. I think it should be just the way you've shown the service levels in the chart with water and wastewater. We want to encourage La Cienega, and they are close to getting onto the wastewater system. We have those high priced lands on the periphery. We want to do that. If we allow just 30 just for water systems with septic, then we're creating this one-acre checkerboard all around the EZ.

Now, if we did do that, we might think about it in terms of giving them a lesser allocation. Let's say 10 percent instead of 30 percent. And here's the reason. Because on their water budgets, if they have a septic system, they can't come in here and convince the County Commission that they're going to have a .18 acre-foot per unit water budget, because there's no recycling. They're going to have a .25 or whatever water budget. So we, the County, are going

to have to provide an affordable unit more water outside the system where they don't have wastewater and recycling options, because that water is just going to go in the septic tank and be lost to evaporation. So we end up actually paying more to promote this semi-sprawl outside the city.

I think if that's the way the ordinance reads we need to take a hard look at that. If they're not on the sewer, we want to have some incentives to be on the sewer. If the Commission thinks we ought to give them some benefit then maybe 10 or 15 percent might do it but if it's the same as being on the sewer, then there'll never be any incentive to hook onto the sewer outside the currently sewer area.

CHAIRMAN ANAYA: Okay. So we'll look at that.

5. Is a 50% increase in density (or a 15% density bonus for the total development) based on total number of affordable units acceptable?

CHAIRMAN ANAYA: This is what the task force came up with and you're asking if this is okay?

MS. QUARLES: Commissioner, actually, the task force struggled some with this number. They asked for direction I believe from the housing team, so it was really the housing team that settled on this. I believe it's also concurrent with the City ordinance. Is that correct? So there seems to be some level of comfort with the 50 percent increase or the 15 percent density bonus, but we just want to make sure that you also agree that that's reasonable.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I don't understand. Could you explain that to me, what that question really is? Give me a little context?

MS. QUARLES: Actually what it means is you're going to get a density bonus. Let's say you have 100 units, a development with 100 units. That means you're going to get 15 additional units with a 15 percent density bonus. And there's actually an example in here. I'm going to refer to it because I'm not good at doing this on the fly. In the density bonus section on page 13, Section 8. It says, "For example, in a development when the prevailing zoning limits the total number of units to 20, a total of six units, which is two units in each of the three income ranges of affordable housing must be provided, but the development will be permitted to include 17 market lots and 23 lots in total."

So you have zoning that will allow 20, you'll end up with six density units and you'll end up with a overall total of 23 lots for the development.

CHAIRMAN ANAYA: Any comments? Sounds good.

COMMISSIONER CAMPOS: I'm not sure I understand it yet, but I'll study it.

CHAIRMAN ANAYA: Sounds good. Let's move on.

6. Are the maximum target housing prices and minimum square footage requirements reasonable?

CHAIRMAN ANAYA: Staff, do you want to comment on that?

MS. QUARLES: I think I'll take it and then I'll kick it to Robert. Again, this is coming from the Affordable Housing Task Force. The recommendations are in Exhibit A. I think there's generally a comfort level in the maximum target housing prices. There was some discussion about whether it should be maximum and average, but this is what's being recommended by the task force. The task force did debate the minimum square footage requirements and I think there was consensus that this needs to be revisited and needs to be based on some measurable standards such as HUD or some of the other requirements.

So even the task force is wanting to look at these square footage requirements. I'll just kind of give you a heads-up.

CHAIRMAN ANAYA: So is the Commission okay with having them revisit what their recommendation is?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I agree that they should because we need some definite standards out there that are available in fact that we can use to come up with hard numbers and justify the ordinance and the numbers.

CHAIRMAN ANAYA: Okay, if there are no other comments – Commissioner Montoya.

COMMISSIONER MONTOYA: To clarify, those are on page 6? The table on page 6.

MR. ANAYA: That's correct, Mr. Chairman.

COMMISSIONER MONTOYA: Okay. Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: What are the HUD minimum standards?

MR. LOFTIN: Mr. Chairman, on a single family homeownership project there's no HUD standard that I'm aware of. Never heard of one. Typically where you see minimum square footage standards and federal regs is when it comes to rental units. So low income tax credit units or—

COMMISSIONER SULLIVAN: So this note about these should be revised to conform to HUD minimum standards, we're sending them back to look at HUD standards. There aren't any standards. So what are we asking the task force to do here?

MR. LOFTIN: At the task force discussion yesterday I think when we probed into the source of concern on this it really had to do less, I think, with what should homeownership units, what the minimum square footage should be, plus that and more things like if you have a live/work project, that's a different product and what should the square footage requirements be for that. Then you get all these complicated issues of what part of the

live/work is residential? What part is commercial? Do you count all of the square footage? Do you just count the part that's supposed to be residential? I don't know how you figure that all out.

COMMISSIONER SULLIVAN: But is that something we need to put in an ordinance?

MR. LOFTIN: Well, I think there is a gap and it's a gap in the City ordinance too. Live/work, for people that are proposing live/work it's not clearly addressed and it would be a good idea, at least in the regs to clarify.

COMMISSIONER SULLIVAN: Mr. Chairman, could we clarify the direction - I just want to get these vague directions out for the housing team to look at this and look at that, so what you think we're missing, Mike, is live/work.

MR. LOFTIN: What happens is when you're doing a different kind of project like a live/work thing, these square footages make less sense. So there is going to be some people working on how they think they should handle that. Just to give you a sense of these square footages relative to the Community College District, which I think I mentioned before is that a two-bedroom unit in the Community College District Ordinance the minimum square footage is 1000 square feet, so it's exactly the same as this. A three-bedroom is 1300 square feet, it's 150 square feet more than this ordinance is calling for and it calls for a four-bedroom to be a minimum of 1500 square feet, so that's taking - this ordinance is reducing that 250 square feet. So they're actually smaller than what the Community College District would be. They're the same as what the City ordinance is, I believe. So that just gives you a sense of those.

You do have to have some kind of minimum because if you don't, you get 8 x 8 bedrooms and they're not real functional. So we were going to revisit that and the live/work thing at the next task force meeting and we'll be glad to get back to you on how to handle that.

MR. ANAYA: Mr. Chairman.

CHAIRMAN ANAYA: Robert.

MR. ANAYA: Mr. Chairman, I do also think it would be helpful to relook at the minimums as far as where they're down to. One of the things you see in other inclusionary ordinances is that assuring you're not making the affordable units very substantially different than a lot of the market units. So I think it's worthy to look at it also for that reason, not just for the live/work comparison, and have some comparisons to other developments, other similar types of ordinances, I think would be helpful for the task force to look at.

CHAIRMAN ANAYA: Okay, is that okay with the Commission? Okay. Commissioner Sullivan, are you okay with that. Just yes or no, please.

COMMISSIONER SULLIVAN: No. We need to move this forward and not study it to death, Mr. Chairman, is what I'm concerned about. If there's a definite time frame for them to come back, they've obviously been beating around these standards for a long time and so has the City. I agree they're smaller, but the City adopted them and the task force has recommended them and how much more are we going to study them to death?

CHAIRMAN ANAYA: Well, we want to make it right.

COMMISSIONER SULLIVAN: That's fine. If that's what the Commission wants to do, I always do what the Commission wants to do.

MS. QUARLES: Commissioner Sullivan, one thing that might help is these standards are not in the ordinance; they're going to be in the regulations. So it won't hold up the ordinance.

COMMISSIONER SULLIVAN: Well, that's just what I was asking.

MS. QUARLES: Okay. It's in the regulations.

7. Are the hardship considerations and alternative means of compliance appropriately applied?

CHAIRMAN ANAYA: Do you want to talk about that?

MS. QUARLES: I'll start, and then I'll pass it to Robert. What I'd like – we got I think some pretty good suggestions coming out of the discussion from the homebuilders meeting. What I'd like to do is take a look at some of those suggestions and maybe tweak some of this language. I think it can make it more meaningful. I don't want to change the substance, necessarily, but I think we can broaden it a little bit, based on some of the inputs we got yesterday. So that's from my perspective.

COMMISSIONER MONTOYA: I agree.

MR. ANAYA: Mr. Chairman, I agree with Diane and I think the difficult aspect that the task force is going to need to tackle is the incentives for those areas that are not going to get water. That's going to be an area that we're going to have to carefully evaluate associated with that and what those benefits are for those subdivisions that won't qualify for getting any consideration of water, which Mike Loftin suggested earlier that the water is probably the biggest incentive there is. So I think we do need some time to evaluate that.

COMMISSIONER CAMPOS: And wastewater.

MR. ANAYA: And wastewater as well, Mr. Chairman.

COMMISSIONER CAMPOS: Otherwise you're encouraging sprawl and I think that's a big issue for us.

CHAIRMAN ANAYA: Okay, does the Commission agree with Diane?

COMMISSIONER SULLIVAN: Mr. Chairman, what specific things did you hear yesterday that the hardship definition here needs tweaking?

MS. QUARLES: Commissioner, it's not necessarily the hardship. I don't think we had any challenges on that. I think we need to work with Legal a little bit to come up with the clear criteria on hardship, but again, I don't think it's going to change much. It was some of the suggestions on alternative means of compliance, opening it up a little bit, providing more clear criteria, questions of whether alternative means of compliance like off-site construction has to occur within the study area? Can it be outside of the study area where you're applying it? There were a lot of questions raised that probably the housing team needs to rattle around and see if we can tweak this. I think the criteria need to be more clear. I think right now it's very broad and it needs to be tightened up so that when you get a request for alternate means of

compliance, you have clear measures in how to evaluate it for one.

COMMISSIONER SULLIVAN: Okay, so it's not so much the definition of hardship.

MS. QUARLES: No.

COMMISSIONER SULLIVAN: We don't want to broaden that, because then everybody's got a hardship. Whatever it might be, somebody's got a hardship. But I think there needs to be a clear, legal hardship. But if we can do better with the alternative means of compliance, tighten that up. I think that makes sense. So what you're talking about looking at is really not the hardship definitions but being more clear about alternative means of compliance.

MS. QUARLES: That's correct.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN ANAYA: So would the Commission agree with the alternative that Commissioner Sullivan put in?

COMMISSIONER SULLIVAN: Yes, that's fine. It's in the question.

CHAIRMAN ANAYA: All right. Commissioner Vigil.

COMMISSIONER VIGIL: Yes. I would like some of those comments that were made at yesterday's meeting to be looked at, particularly incentive credits for green building, some looking at our development review process to see how we might be able to assist the affordable housing development component too. And some kind of a credit system of some kind to include in this incentive process. So I'm in total agreement that that probably needs to be looked at as a result of the input that was given at yesterday's session.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: What about energy efficiency? You can't have an affordable home if it's not energy-efficient. We all know that the cost of energy is going to be going up dramatically in the next few years. It has already. Is that too big of an issue for us right now?

MS. QUARLES: Commissioner, I think that's actually from the Homebuilders Association, that was one of the recommendations that we looked at, so we need to figure out how and if we can create some credit system or how you can incorporate that into the system. We really did get a lot of good input yesterday. I'd like to thank the homebuilders for doing that.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Okay. So do you have clear direction on 7? Okay.

- 8. Is the affordability term of five to ten years and a share of the appreciation reasonable or should it be more or less restrictive? Instead, should the homeowner gain full appreciation after the time of purchase (no resale restrictions)?**

CHAIRMAN ANAYA: Explain that.

MR. ANAYA: Mr. Chairman, I'm going to take – this particular issue

probably generated not the most conversation or the most dialogue but up there towards the top. I'm going to just try and put it in a frame of reference of what we're doing now and what options that the Commission has. Currently, in the Community College District, if you have a home, and I'm going to just use round figures just to help simplify the example. But if you have a house that appraises for \$200,000 and it sells to an affordable buyer for \$100,000, there's a mortgage on the \$100,000 for the house and there's a second mortgage that the County takes back that we hold. And when the house is sold, if the house sells for \$220,000 two years from now, the homebuyer gives the County the \$100,000 second mortgage and they get the appreciation of the \$20,000, they being the homebuyer. That's what you currently have now.

What you have written in front of you in this question is that the same would hold true as far as the County getting back the \$100,000 but that there would be a share of the equity above the \$200,000. So in the example I gave, it would be \$10,000 would come to the County, as our share of the initial contribution, and \$10,000 of the equity would go to the homebuyer. And then it has in this provision in number 8 that the Commission could consider a term, that that would be the case if the house sells within five years, ten years or some other amount that the County determines appropriate. So that's option two.

The third option is that the County gets back its \$100,000 and that forever, if the house sells, the County gets a share of the equity and the homebuyer gets a share, based on what they initially put into the house. So if they sold the house ten years from now and it sold for \$300,000, then \$50,000 would come back to the County to be put in a trust fund to be utilized for affordable housing development, and the owner would get \$50,000 of equity.

I don't think there's any real consensus on this particular item. I think there's probably more leaning in the task force towards saying that there should be some percentage of equity that the County gets regardless of when the sale is, but those are the three options that we'd like to put forward to you and get your input and direction as to where you want to head.

So number one being they only pay back the second mortgage and then the buyer gets all the equity, and option two and three is that the County would share in the equity, either for a term, or regardless of when the sale is and this is probably definitely one where we're punting for your direction.

COMMISSIONER MONTROYA: Three in a row.

CHAIRMAN ANAYA: Questions. Mike.

MR. LOFTIN: Really what you've got here is two alternatives and then a variation, a middle alternative. And just on the appreciation share mortgage or lien, which is not an uncommon lien, basically what it's doing is saying, to use Robert's example, that the house is worth \$200,000. Under the ordinance it has to be sold at \$100,000. You have to take out some kind of lien or something. There has to be some protection for the County so if you sell a \$200,000 for \$100,000 and there's no lien for that extra \$100,000 gap, there's nothing to prevent the buyer flipping that home two weeks later, pocketing \$100,000 windfall profit. So it's a way to prevent - the first thing it's a way to prevent speculation and windfall profits and flipping of property.

The ordinance is designed to help people get into homes and be able to live in a home, not get a windfall profit. So in this example of a home worth \$200,000, it's being sold for \$100,000, what happens to that \$100,000 gap? So there's complete consensus on the task force that that has to be protected. At a minimum, you have to protect it. Where there's more discussion is do you, does the County get appreciation on that \$100,000. The buyer – and there's complete consensus on this – the \$100,000 that the buyer paid for the house, they get appreciation on that. No question whatever. So if you bought a \$100,000 home on the open market and the appreciation goes up 50 percent, your house is now worth \$150,000. You have \$50,000 of appreciation of that equity. You get that. Same under this one. You paid \$100,000. The home appreciates, so the home is really worth \$200,000, right? You paid \$100,000, the home appreciates to \$300,000, right? It went up 50 percent. On the investment of the homeowner, they get to capture all of that 50 percent appreciation.

If you did a shared appreciation mortgage then the County would also get 50 percent appreciation on its \$100,000. So when you first bought the house – if Commissioner Anaya and I bought a house together and it was \$200,000 and I put \$100,000 and you put \$100,000, and the house is now worth \$300,000 when we go to sell it, Commissioner Anaya is going to get \$150,000 and you'd get \$150,000. But the idea is that you'd split the same thing. So what that does, the logic of the appreciation share is that the value of those liens that the County holds are going up in pace with the real estate market, the housing market, so at least in theory, the value of that in the future, because of appreciation, is going to be enough to help another homebuyer in the future. That's the theory.

So the issue here is not a right or wrong. The issue here is a policy issue for you all to decide of to what degree do you want the County's portion of that property, that lien, to appreciate along with the market, and to what degree do you want to give up that appreciation to the homebuyer. So if you just had \$100,000 and it didn't appreciate, the mortgage, so that \$200,000 house, the County has \$100,000 lien, the homebuyer paid \$100,000, it appreciates to \$300,000. If you don't do an appreciation share/recapture, when that home resells for \$300,000, instead of a 50 percent appreciation, the homebuyer would be getting 100 percent. Because they'd be getting \$200,000 and the County would just get its original \$100,000 back. So that's just a trade-off. How much benefit do you want to accrue to the new homebuyer? How much do you want to recapture that value, that appreciating value for a future homebuyer?

Like I said, there's no – it's just how you divide numbers?

MR. ANAYA: Or do you want to have a term, which is in between the two, of appreciation shared but for some limited time frame that then you forgive.

MR. LOFTIN: Right. So you're limiting the appreciation the County gets.

COMMISSIONER VIGIL: Explain to me – I'm going to ask Diane because you had a good ear to this, how Sherron Welsh represented this position yesterday with the Community Housing Trust. I thought she had some good points, and one of the points that I thought she brought about was the issue of empowering the homeowner and allowing them to actually purchase a new home. Do you recall her position and what her objections were?

MS. QUARLES: Yes, Commissioner, actually I have it under the summary of

points from the developers forum. It's actually bullet three. Her feeling for it – it was clear that she understands the need to provide the lien and to protect against the flipping issue and to hold that equity. She felt strongly, however, that for the appreciation, that that's a benefit of being a homebuyer and that that appreciation should go to the homebuyer, that the County shouldn't necessarily hold the appreciation. That's a benefit of homeownership and it should go to the homeowner. I'm trying to think of the term she used. That ten years is too long and that the taxing of appreciation is also the wrong approach.

She did like the 90 percent equity clause; she agreed with that. But again, even in both of them she was clear that you need to not take away the benefits of homeownership by holding the appreciation. She even suggested Tierra Contenta as a model.

COMMISSIONER VIGIL: That really sort of nullifies the lien-holding scenario, her testimony does. And I am actually leaning towards the fact that we do have to have some kind of control over this. I'm not sure what the appropriate level of control is or whether a lien hold is the way to do it. When you explained your first scenario, Mike, somebody selling the property for less than what it's actually valued at or appraised at after they've qualified and purchased it and we've worked so hard to make a first-time homeowner get in there, I think that itself could sabotage the whole process.

So I'm leaning more towards some kind of a lien and it makes sense to me go with the 50-50 at this point in time without knowing any other alternatives.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, my reaction is that there should be a percentage share for the County of the appreciation, what percentage I don't know. As far as time limit, I don't think there should be a time limit. I don't think it should be five or ten years. I think it should just run. What's the down side of that position if any?

MR. LOFTIN: My point of view that there's not and from a homebuyer's point of view – I think what's happened here is there's people who are saying that this is stripping appreciation or to reap the benefits of appreciation away from the homebuyer. No one's ever proposed that, ever. No one's ever proposed it. That's never been – what's caused confusion I think is Tierra Content and that whole discussion that Virginia was referring to, Tierra Contenta did have a mortgage where you got no appreciation in the first five years or so. You didn't get any appreciation, the homebuyer didn't.

The longer you lived in it the more appreciation you got. That's been done away with and no one is proposing that. What's proposed is what's the – like I said before, the homebuyer would get, even under the appreciation share would get the same appreciation if they paid \$150,000 for a house on the open market or if they paid \$150,000 for a house here, on that \$150,000. The only difference is the extra value, if they house is worth like \$300,000, do they get appreciation and on the whole? Or does the County get that appreciation? That's the question.

COMMISSIONER CAMPOS: I'm favoring that position, but I'm wondering if there's a down side, because clearly the up side is we're getting more money to put back into the program to help other people get into the housing market.

MR. LOFTIN: I'd say the biggest down side of appreciation share mortgage is that it is more work administratively. It's more work, because you've got to track that appreciation. So for instance, one of the things that's really important, if you're doing an appreciation share mortgage, if the homebuyer puts improvements and they add on a bedroom, that you give them credit for that. So you have to be able - so that doesn't take - they get full credit for that. So that you don't want to have a disincentive to make improvements. So then that means when they go to sell the home and they're going to bring in, look, this is what I did, and here's my receipts for doing this, someone has to monitor - okay, that's right. You get credit.

So it's more work to follow. But they're large amounts then that work is worth it. If you're talking about a gap of \$10,000 it's probably not worth the work. But a gap of in some cases where there's a \$100,000 gap, and keeping up, there's \$100,000 extra value there in appreciation and if the market goes up 20 percent that's worth \$20,000 of new funds for affordable housing, then I think you could make the argument that it is worth doing it.

One thing to take, and I think is really a good thing and the City did something similar is instead of taking the full appraised value to set that price and to figure out what the lien gap is, like the City suggested, doing 95 percent of the appraised value, the suggestion here is 90 percent. So in that case, if it's 90 percent, they got a ten percent equity share in that house the day they move in. That I think is a really good thing, whether it's five or ten, I don't have a strong opinion of, but having something so that they already have a nut there that they want to protect. I think that's a really good thing. Because one of the things is - to me it's like if you don't let people get equity and appreciation then it's not homeownership. Homeownership is not just shelter. It's the way most Americans save and build wealth and to send their kids to college and whatever.

So having that ability for people to get appreciation I think is really important. The question is what's the right mix of that. That's really the question. No one's ever suggested not letting people get appreciation. It's always been a core part of this. Just a question of how you want to share the upside of that extra gap.

CHAIRMAN ANAYA: Diane, you have to leave?

MS. QUARLES: I do, unfortunately, because we carpoled because of gas prices. I would like to add one thing. I think that I've heard Sherron say and some of the others, talked about the down side. By allowing the homeowner the full appreciation at some point the notion is they will have acquired enough equity or appreciation to be able to move up into a new housing market. And so that's one of the balancing issues, and again, I don't know but that is one of the things that I've heard, the argument, the benefit of homeownership is to allow that person at some point to move up to a new home.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Before Diane leaves, let me propose a third alternative or 3-A and that is that we keep it the way we're doing it now, which is the County has its equity share. It recoups no matter when the house is sold, correct? That's the way the

Community College District works. Okay.

MR. ANAYA: Just up to the appraised value.

COMMISSIONER SULLIVAN: Yes. At the time of sale. We got \$100,000 at the time the house was built and that second mortgage is \$100,000. It stays that way. We don't get an appreciation on it. However, that would take place if they sold it to a qualified affordable housing resident. If they sold it on the open market, then the County would share to the extent of its equity.

MR. LOFTIN: Under the Community College District ordinance it would get its original lien back. It would not get any appreciation. Under no circumstances.

COMMISSIONER SULLIVAN: And that's what would happen if they sold it to an affordable housing person. That's what I'm recommending.

MR. LOFTIN: Oh, I see.

COMMISSIONER SULLIVAN: If they sell it on the open market to anybody who doesn't qualify – see, I'm trying to keep the affordable homes in the mainstream, in the market. If they don't sell it to that, then we do the mortgage sharing. Then we do the equity sharing, based on the percentage of money we have in the project. If we have \$100,000 and they have \$100,000 and the appreciation is \$100,000, we each get – we get our original \$100,000 back, they get their hundred back, because they've sold the house, and we each share \$50,000. Whatever the ratio happens to work out. That gives them the incentive. We have a hard time affordable housing people because they want to get the house sold. They want to sell it real fast. They want to get out of town. They want to move up. Whatever they want to do. And I'm concerned about continuing to get affordable housing qualified people continuing into these homes and yet let them also have the equity build-up that defines, as you say, homeownership. So what do you think about that? Does that work?

MR. LOFTIN: Mr. Chairman, if I understand this right, so you're saying that if the buyer – so ten years from now they sell it to an affordable buyer, they're not sharing any appreciation –

COMMISSIONER SULLIVAN: No.

MR. LOFTIN: They get all of it.

COMMISSIONER SULLIVAN: We get our second mortgage back.

MR. LOFTIN: The County only gets the second mortgage back, and it gets all of it.

COMMISSIONER SULLIVAN: Correct.

MR. LOFTIN: But if they sell it to a market rate buyer, a non-qualified buyer then we share.

COMMISSIONER SULLIVAN: We share.

MR. LOFTIN: The only issue I see with that is that if you sell it ten years from now and prices have doubled, the chances of finding a new buyer who meets the income requirements to buy that house with the original subsidy, because home prices – so if the gap was \$50,000, right?

COMMISSIONER SULLIVAN: No, they meet the new criteria. Whatever the

new criteria are.

MR. LOFTIN: The new criteria, but what I'm saying is you have essentially – so if the original lien was \$50,000, ten years from now you have a \$50,000 lien to pass on to the new buyer, right?

COMMISSIONER SULLIVAN: We may not find that person because –

MR. LOFTIN: But the price now is not worth \$200,000 anymore. It's worth \$400,000.

COMMISSIONER SULLIVAN: And you can't afford it. But it would give them a strong encouragement to find someone, and if they couldn't, then we'd default back to sharing the equity, which Commissioner Campos was favoring. I'm just trying to get some way – maybe you can think of others, where we can keep that unit rolled into an affordable housing mix.

MR. ANAYA: Mr. Chairman, Commissioners, I think we went from options to lobby, so I'll put in my two cents on lobbying. I actually started out as one individual that said just recoup the mortgage and give them the opportunity of realizing the ability to get equity and move up. That's where I started. But when I saw the option that had a term of years, I think that that gave a provision of affordability over some identified time but didn't remain over the buyer forever. That's my two cents on that. But it's entirely a Commission policy decision.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'm just trying to think how this might be resolved and it sounds to me like it's something you're going to have to take back to the task force, unfortunately. But, no, I'm liking this process. You're getting ideas. We're trying to think of what the most appropriate means is here. Is it possible, or did the task force discuss, when they were considering a term period five to ten years that that kind of incentive that we're trying to incorporate into this was applied to that time frame. For example, the equitable distribution would be more the County if they sold it within the first two years. It would less and after a certain amount of time that equitable distribution would maybe go all the homeowner, because the idea is not to turn these homes – it sounds to me like one of the premises we're operating under here is to provide a home for affordable applicants who can't afford it and not to have a turn-over of so much so we won't have to be dealing with that.

Do you all discuss a possible scenario of an incentive in distribution by keeping the homeowner for a longer period of time?

MS. QUARLES: Commissioner, that's kind of – I'm not a financier but it's kind of the way the ordinance is written right now, is it creates a time limit beginning in year five where at the end of year five up to year ten the homeowner will earn a percentage of that appreciation. It gives them an incentive to stay in the unit as long as possible. At the end of year ten, then they would be eligible to receive the full appreciation. It was a split-the-baby, if you will, and I created it. It didn't come out of any consensus process. I was just looking for a compromise. That's how difficult this particular one as been. We just haven't had consensus and everybody is kind of all over the map. So I just kind of put something down on paper as a point of discussion.

COMMISSIONER VIGIL: Okay. I like the incentive piece. I think if we do provide some kind of an incentive we're actually creating a larger benefit. And I think the incentive should extend itself to the percentage going directly to the homeowner at some point in time. For example, if there is a homeowner who's lived somewhere for 25 years, that's a young couple and they're ready to move up. That's just an example. There's actually no reason why if through our ordinance, they've complied with everything else they should have the full benefit of the equity. That's my position.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I like the comments that were given yesterday and I think to look at those as other options is certainly something that I think I would support as well. It's one of those where Yogi Berra used to say, when you come to a fork in the road, take it.

CHAIRMAN ANAYA: Okay, so I guess what I'm hearing from the Commission is to go back and kind of revisit this and maybe look into what Commissioner Montoya heard yesterday and what Commissioner Sullivan brought up today, and Commissioner Vigil.

COMMISSIONER CAMPOS: I said something. We're all over the place.

COMMISSIONER VIGIL: We've got lots of forks for you to choose from.

MR. GONZALEZ: And everyone of them is not the same.

MR. ANAYA: We'll just write punt next to that one.

CHAIRMAN ANAYA: Diane, do you need to leave?

MS. QUARLES: Yes, I do. Anyway, the next one's Robert's so you won't miss me.

CHAIRMAN ANAYA: We're going to go till 5:30. Thanks, Diane.

COMMISSIONER VIGIL: Thanks, Diane.

9. Is it acceptable to allow for some substitution in housing types (single family, rental support service, shelter) on a discretionary basis as long as there is a demonstrated need and minimal impact to the area?

MR. ANAYA: Mr. Chairman, I'm going to defer to Mr. Loftin for the viewpoint of the task force, and then I'm going to give you a perspective from staff for consideration by the County. I think there's consensus from the task force that you shouldn't do this, but I'd like to after Mr. Loftin makes his point to just bring up a point to the Commission for your consideration.

COMMISSIONER MONTOYA: That we should not do this?

MR. ANAYA: Mr. Chairman, Commissioner, I think the consensus of the task force is that we should not do this. Yes.

MR. LOFTIN: This is my opportunity to lobby then? I think there's a bunch of concerns about this. Because the ordinance doesn't address all these other kinds of housing uses, like rental and special needs housing, to incorporate how – one question was what's the

equation to substitute. Right? So does one shelter bed equal to one home? Is it two shelter beds equal to a home? Is it one rental unit to a single family home? What is the equation? And that would be a hard thing to figure out how to do that. Hard at least to get consensus on that, or agreement. The other issue is that some of this stuff, for instance on tax credit, low income housing tax credits, are profitable developments in their own right and if you allowed a substitution of tax credit units for homeownership units, what you're going to end up doing is getting a lot of tax credits units and very little homeownership units. So you just have to be careful. There's no disagreement that these are real housing needs. What we couldn't reach agreement on was how we could substitute one for another and are you going to create an unintended consequence where what you get is a bunch of rental units, tax credit units, and you don't get any homeownership units, which is one of the big concerns here is to maintain the homeownership rate of the county.

So that was the concern. It's not that these aren't real needs and there should be strategies to address these needs. The substitution can kick open a loophole that could cause real problems with getting any new homeownership units. I think that was the overall concern.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. Mike, I do believe we need to create a focus for purchase units. That doesn't mean we disregard the rental market which is so much needed and all these other avenues but I think we are going to start complicating our mission here and creating too much of a subjective kind of response to how we weigh and measure these alternatives. My recommendation is if we go with the distribution of the equity for the resale of an affordable unit, that perhaps that 50 percent, either through the Housing Trust or something, gets dedicated to a rental program or addresses some of these other issues because I think if we're bringing in that we're going to complicate this more than what it already is going to be for us. That's my position, Mr. Chairman.

CHAIRMAN ANAYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Loftin, I missed the information on the tax credit units.

MR. LOFTIN: Mr. Chairman, Commissioner, if you have tax credit projects using federal tax credits you buy out in the market.

COMMISSIONER CAMPOS: You buy them in the market?

MR. LOFTIN: Or you sell them in the market, so you get awarded tax credits through the state that are federal tax credits and it becomes a commodity. You can sell it and you raise all this equity for a low income rental project. So it's a very powerful economic engine to do rental housing. Which is why you see a lot of tax credit projects around the area. In fact, you were working on one at a BCC meeting I was at where there was some issue about gross receipts tax. I didn't quite understand it.

So the thing is, there are projects, they have a big economic engine behind them. They're very profitable. And you're going to get those. People are going to tax credits because people want to do those projects. So if you allow the homeownership units that would be

required in a development to substitute tax credit units instead of, you going to get tax credit units. You're not going to get the homeownership units. I think Commissioner Vigil's suggestion, and this is actually a long discussion that I know the City Council had in different meetings was, to the extent that these mortgages get repaid, and that creates a financial amount, because you've got cash coming in, they considered two alternatives. Does that money all go back into down payment assistance programs? Homebuyer? Or do you put it into a more general trust fund that could address all housing needs. And the consensus there was exactly what Commissioner Vigil was suggesting is that that could be used to subsidize rental housing or homeless shelters or transitional things that you use the money that was leveraged through the homeownership program to help address those other housing needs. And that is - I'd forgotten about that discussion, but that is one way to use this to address other housing needs. It's a really good idea.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments? Commissioner Montoya.

COMMISSIONER MONTOYA: I guess, and I'd like to hear what Robert's explanation is on this afterwards, but I would think that this would be a good, I guess an overarching affordable housing program if we were to look at and include these things. And I think the other thing is when we look on to number 10 in terms of having an affordable housing administrator and an ombudsman, we're heading into a whole new direction over here as far as affordable housing that this County has never done before. If we're going to do it I think we need to look at rental housing, support services, maybe shelters to a certain degree, but certainly, single family units, rental units. Rental units are disappearing in Santa Fe.

I don't know if there's any more. One of our staff today was telling me that he couldn't find a single place to live under \$750 for a studio apartment here in Santa Fe. So if we're going to look at a true spectrum of affordable housing units I think we should, and I said that yes, I think we should consider looking at these, at least to begin on a discretionary basis, so that we include it and it's not forgotten that we're not addressing some of these issues. So I would be in favor of looking at some of these alternatives as well, on a discretionary basis.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I would disagree. I think I'd go with staff, and then we could use the money generated from some of the appreciation to fund broadly based housing needs. I think that's the way I would prefer to go. Keep it simple. Use the money we generate to do some other things.

CHAIRMAN ANAYA: Okay. Robert, would you tell us why?

MR. ANAYA: Just one comment, Mr. Chairman, and I think Commissioner Montoya touched on it. Right now the City Housing Authority, County Housing Authority, you've got a combined waiting list, 1500, 1600 people. Through the Pryor and Associates Survey that we utilized as part of the plan that's before you, one of the largest unmet needs is rental housing, not homeownership housing. So it's beyond an afterthought in my opinion. At this point, relative to the ordinance itself I just want to make that known that those other support service housing needs, including public housing, including transitional housing, including

homeless housing are many times an afterthought. If nothing else and if the Commission recognizes that they are crucial and that the study itself that we're using for the corpus of this ordinance says so, relative to rental housing. I think as long as that's on the radar screen and we continue to keep that in mind and work towards that then that's adequate at this point from my perspective.

CHAIRMAN ANAYA: Thank you. Commissioner Vigil.

COMMISSIONER VIGIL: I agree with you Robert, that rental housing is probably a stronger need than home purchase. However, I actually think we have models in place. We have programs in place. They just aren't funded appropriately. I think really when you think about the potential that this affordable housing has with the shared equity, that would provide the source for funding. You first-hand know what the waiting lists are like and how you can be able to work out - there is a rental market out there. It's just that we don't have the funding available for those who are in need of it and I think this is a way to provide it. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I agree with the comments. This is not what this ordinance is about and we would get loophole substitutions that would be a bunch of tax credit units. We need to keep focused on the single families on this ordinance, and then with the funds that we get back and recoup from the County's mortgage, then address these other programs that are outlined here.

CHAIRMAN ANAYA: Okay. I agree with Commissioner Montoya and Commissioner Vigil on going with the looking at all the rental, the support services, shelters, so.

COMMISSIONER SULLIVAN: Wait a minute. That's not what Commissioner Vigil said.

COMMISSIONER VIGIL: I didn't. I did say it but I don't think we should incorporate it into this. I think this ordinance should specifically just go to home purchase and that one of the alternatives we can look at is if we do a shared equity that we could use that money to some of the trust funds to provide the funding for rental units.

MR. ANAYA: I got it, Mr. Chairman.

CHAIRMAN ANAYA: You got it? Thank you.

COMMISSIONER MONTOYA: Mr. Chairman, I've just heard that there is no rental market out there, from employees and even from realtors. They're telling me that rentals are drying up. They're being sold. What used to be apartments are now condos and they're dried up all the way from the beginning of St. Francis all the way down to the interstate, from the Radisson all the way down. I've heard those are all turned into pretty much condos now. So I don't know. I think if we're going to look at this as a policy, we need to look at the spectrum of what's in affordable housing. To me it's single families, it's rentals, it's support services. And I applaud the task force for looking at that. A lot of times people who are either recovering alcoholics, drug addicts, people with disabilities, they're not considered when we're talking about affordable housing. That was certainly something that this task force was looking

at because I think we need to consider those. Commissioner Campos, trying to debate is it something that goes in here? Or is it something that's separate? How does it work? I guess I don't know. My feeling is that we should look at it here. But if there's some other way to look at it then I'm open to listening to what other possibilities there may be as well.

CHAIRMAN ANAYA: Thank you, Commissioner Montoya, and I do agree with you. We're talking about affordable housing and I think this all lies under affordable housing. I want to apologize to Commissioner Vigil. You stressed the importance of it but then you also – I didn't catch the part where you said you didn't think it should lie in this document. I apologize. Okay, so you have clear direction to not put it in.

MR. ANAYA: Yes, sir, Mr. Chairman.

10. Creation of an Affordable Housing Administrator that also acts as a program ombudsman.

MR. ANAYA: Mr. Chairman, item ten is put there just as a reference point. I think it's evident from the magnitude of this ordinance that once this type of ordinance gets implemented there's going to be a lot of work associated with its ongoing implementation and as the program grows, when you get into discussions about equity share and if that's the direction the Commission goes, those are all things that are going to require administration. So we put that there as a reference point. It's up to the Commission as to whether or not you want to do that or not. We think it's an important aspect.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I'm not sure whether an ombudsman is. I would defer to the County Manager's office and the work of our Housing Division and recommendations there with how this should actually be structured. An ombudsman may be the immediate response and perhaps the immediate requirement, but perhaps we actually need to look at structuring all personnel for this. So my position is we'll support whatever staff support we need to implement this.

CHAIRMAN ANAYA: Any other comments? Commissioner Campos.

COMMISSIONER CAMPOS: I'll defer to –

CHAIRMAN ANAYA: Go ahead.

MS. MCGOWAN: I just had a real quick comment. We actually have some statistics on how many lots and housing is anticipated per year and how many developments that means. I do believe that you're looking at a full-time position because you're looking at between 120 and 150 housing agreements to be negotiated or finalized in a year. And I imagine that most of those will end up being the same agreement with just new numbers and new names substituted. So it's not a horrendous thing but that is an administrative task that will need to be completed. And then the tracking of the units that get built is going to be real important so that you can determine whether or not you have your percentages correct, as you have suggested that we do.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Again, it's a question of resources. Obviously, we need administration to make it work. Otherwise it's just a paper solution that nothing happens. We're talking more and more budget. It's easy to wave the wand but do we have the resources. That's the question that our County Manager has to really look at carefully.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I would say that we need to look at this as being a position that is going to be funded through this program. So however it's created, we use these funds that are here already to create and then to sustain it. However that would be done. That would be my suggestion. But I think we need to have somebody like that.

CHAIRMAN ANAYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I agree.

CHAIRMAN ANAYA: I agree.

11. Density bonus allowance for voluntary housing from 100% to 120% income range.

MR. ANAYA: Mr. Chairman, question 11 deals with, kind of goes back to when we had the discussion on the water from the 100 to 120 percent, but this talks about density. Do you want to give the same consideration as you did with water, where you said over 30 percent there would be a cap to accommodate the 100 to 120 percent range? Do you feel the same on that issue as you do on density, and would you allow us to give the same type of consideration here as we did in the water?

COMMISSIONER CAMPOS: If we can afford it. We have to analyze it very carefully.

COMMISSIONER VIGIL: But I think we should be given the option.

COMMISSIONER SULLIVAN: Mr. Chairman, I think what we said in the water one was we would put in the word "may".

MR. ANAYA: So if we put the word "may" in there.

COMMISSIONER SULLIVAN: Say the Commission, we wouldn't guarantee it but we said that the Commission may allow a density bonus.

CHAIRMAN ANAYA: Okay. Are you okay with "may"? Commissioner Campos.

COMMISSIONER CAMPOS: Yes.

MR. LOFTIN: Mr. Chairman, can I just – I have to go pick up my kids so I didn't want to just walk out on you, but I wanted to thank you for your time and all your work on this.

CHAIRMAN ANAYA: Thanks, Mike.

COMMISSIONER SULLIVAN: Thanks for your work, Mike.

COMMISSIONER CAMPOS: It's 5:30, Mr. Chairman.

CHAIRMAN ANAYA: Okay, what does the Commission want to do? We've gone through 11. We can do 12 and then we've got the next page. And then we can maybe set

another time.

12. Submittal of affordable housing requirements (housing plan) at the earliest stage of development review.

COMMISSIONER CAMPOS: 12, yes.

COMMISSIONER VIGIL: Yes.

MR. ANAYA: Mr. Chairman, I think I can go through the last ones fairly quickly.

CHAIRMAN ANAYA: Can you?

MR. ANAYA: I think so.

CHAIRMAN ANAYA: So we've got a yes on -- okay. Go for 13.

13. Relaxing of affordability requirements according to development size.

14. Allowing for alternative means of compliances (BCC discretion) where there are limited incentives offered.

15. Waiver of fees for affordable housing -- fire impact fees, application fees, connection charges, etc.

MR. ANAYA: Mr. Chairman, 13 and 14 and 15 all are tied together and they deal with what incentives do we provide to offset the requirement of the 30 percent affordability. Within the ordinance as it sits now, there are alternative means of compliance that we've already talked about, that you've already given us some direction to go back and revisit, to analyze what we're giving or what we're providing for that 30 percent affordability. So I think those three still warrant some additional work from the task force, and some additional recommendations. And Gerald, does those sound appropriate to you?

MR. GONZALEZ: That's what I recall. Yes.

CHAIRMAN ANAYA: Do does the Commission feel -- Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I think we need to include these incentives. I don't know how strict we want to be about -- I look at number 16 and say either water or density but not both. There may be a situation where water and density is something that will really work for a proposal.

MR. ANAYA: Mr. Chairman, Commissioner, I wanted to apologize on behalf of Diane and I. 16 is an error. Because you in fact accommodate both density and water in what you've already done to this point.

16. Either water or density but not a combination of the two.

COMMISSIONER VIGIL: Okay, then we'll just cross that out. So 13, 14, and 15. I think you need to include those incentives as I stated earlier. I think there should be additional incentives available and days and times and again, work with the state on some tax incentives. And I don't know that we want to narrow this so much because I foresee that we're going to get proposals from developers that say, you know, this is to work for me. They have subcontractors. They have to purchase their materials. They all have their purchase lines and they have to do their own independent evaluation of what will work for them.

So I think we have to provide as much flexibility as possible to create those alternative incentives. And I do think the BCC should have the discretion.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I agree.

CHAIRMAN ANAYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, it's easy to say, but can we afford it, again? We've got to look at the budget. We've got to have our County Manager look at the budget. We can't just wave the wand every time someone says incentive. It's costly, and it comes out of the general fund. As far as 13, relaxing of affordability requirements according to development size. There's no meat to that. I don't know what that means.

MR. ANAYA: Mr. Chairman, Commissioner Campos, and it's within the ordinance and we can provide more clarity. But as you have fewer and fewer lots in the subdivision, it becomes, in order to balance the nexus of providing an incentive or benefit for the construction aspect, that was the give and take that Diane incorporated in the ordinance to say economy of scale. A hundred-unit subdivision or a two hundred-unit subdivision is much easier to spread the cost than a 24-lot subdivision. So there are some financial considerations that impact that development as the development goes down in size. So that's where it's headed. But we realize that we will have to tighten that up.

And just an additional comment. If water and density are provided in a high density area then there may be some additional recommendations that those larger developments don't get consideration from on fee waivers and those other things. So that probably the smaller developments will end up with some of those items to try and compensate for what they're not getting in water and sheer density. That's where we can go back with the task force and say, specifically, how do we allocate those densities and priorities based on size and then bring some recommendations back to you that are more clear on that.

COMMISSIONER CAMPOS: Are you saying, Mr. Anaya, that you are going to relax these requirements as the development gets bigger?

MR. ANAYA: The requirements would be relaxes as they get smaller, not larger.

COMMISSIONER CAMPOS: Okay. I would have some concern with that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think 13 I'm okay with relaxing as it's written now, and it's relaxed between five and ten-unit developments. And it's lowered down to

one unit or two, depending on the size of the development. I think there's no need to do any more relaxing other than that. If the affordability is there, it's there. And I think we want to be very carefully of 14 and 15, just creating loopholes, 14 is certainly, more loopholes for a means of getting around the intent of the ordinance. I think we've been very clear for 2 ½ hours here that we want the ordinance to be clear. We want it to be enforceable. We want it to be legal. And I'm concerned about giving so called direction, that we go back to the task force and say let's rethink all the service levels III through V. We've come very close to this. We already discussed this question before. For some reason it's brought up again here. I think we want to incentivize the applicants to connect into sewer, to connect into water, so they can generate those water benefits and let's not go off into months and months of stuff here with 14. I'm not at all comfortable with 13 and 14.

CHAIRMAN ANAYA: You said you were okay with 13.

COMMISSIONER SULLIVAN: I was okay with 13 as it's written in the ordinance. But what I heard from Mr. Anaya was that we're going to talk about doing this on other size developments, over ten.

MR. ANAYA: Mr. Chairman, if I could just clarify, because I really want to make sure that we're clear that there's nothing that we're trying to put over on the Commission here. The Commission provided incentives for larger developments for water and sewer. If you have a requirement of 30 percent where somebody is not going to be able to have water and sewer, you have to balance that requirement with some other incentive.

COMMISSIONER SULLIVAN: Mr. Anaya, we discussed that an hour ago. You're bringing up the same issue again until you get the answer that you want to hear. Now, we discussed that an hour ago. Now, my position, and it's only mine, is that I'm fine on the five to ten-unit lots where we do a reduced amount. We don't just say 30 percent because you come up with half of homes and how do you deal with that. But I just – and that's the only relaxing that I personally feel comfortable with. And 14, I think we have been very clear as to how we want the ordinance to be structured. Now, with 15, in terms of impact fees and connection fees, I'm okay with looking at that. I think that you have a point there that maybe fee waivers on the larger units aren't necessarily a needed incentive because they're already getting these other incentives. And right now, they go across the board.

So I'm fine with that. But I hope we're not reinventing – taking back direction here to spend another six months on the task force dealing with these other developments. I don't think we have that luxury.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I agree with Commissioner Sullivan on 13. Five to ten units probably is where we maybe make some small change. 14, I agree again. 3, 4, and 5, we're encouraging sprawl. We've got to go to water systems and wastewater systems. And if you're starting to incentivize the smaller divisions, you're creating sprawl and encouraging sprawl. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'm not sure this is even an issue for me and

perhaps it's because we've been – but aren't 14 and 15 already in the ordinance?

MR. GONZALEZ: Mr. Chairman, Commissioner, in a sense it is. What we're looking through, we have to remember that when we're looking at service levels III, IV, and V, we're talking about off the water system. So I think that's why that was put in there was if we're off the water system, we don't have water available for an incentive, what's the Commission's feeling about looking at the other options. I think what I'm hearing is if we want to look at fire impact fees, application fees and those kinds of things, that's fine. That's the reason that was in there, I think was because up to now we've mostly been focusing on what we're doing with being on the system and this is for off the system kinds of developments.

COMMISSIONER VIGIL: Thank you, Gerald, for explaining that. In that case I'm in favor of looking at alternative means under the BCC discretion. I think we need to broaden the applications for developments and the ability for developers to bring in alternatives to affordable housing that don't actually fit within our service area. So I definitely think waiver of fees are something we should look at. Again, it should be under the BCC discretion.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I again agree with Commissioner Vigil.

CHAIRMAN ANAYA: I also agree with Commissioner Vigil. So let's look at 13, 14, and 15.

COMMISSIONER MONTOYA: And I agree with Commissioners Sullivan and Campos on 13 also on the development size.

COMMISSIONER SULLIVAN: If we just ask the question enough times, is that the way we function in here until we get the answer we want?

CHAIRMAN ANAYA: No.

COMMISSIONER SULLIVAN: Is that the way we function, Mr. Chairman? We've already discussed this.

CHAIRMAN ANAYA: We were discussing service levels I and II and now we're talking about III, IV, and V.

COMMISSIONER SULLIVAN: We're talking about the same thing we talked about an hour ago, right after break.

CHAIRMAN ANAYA: No we're not.

COMMISSIONER SULLIVAN: It's the same thing. What about the poor little developers that don't want to hook on to the system and we're going to give them some kind of a break. We've already given them a density break. That's in the ordinance. We've given them a fee-waiver break. That's in the ordinance. It's in the ordinance now. It's in the chart. The density break's in the chart.

CHAIRMAN ANAYA: Okay, so the only clear direction I don't have is on 13. Do we – were we not in favor? How was the Commission feeling on 13? Commissioner Montoya.

COMMISSIONER MONTOYA: Five to ten units.

COMMISSIONER SULLIVAN: Five to ten is written in the ordinance now.

COMMISSIONER MONTOYA: Oh, it's in the ordinance.

CHAIRMAN ANAYA: So five to ten.

COMMISSIONER MONTOYA: And nothing beyond that.

CHAIRMAN ANAYA: So then we'll leave it at that. Five to ten. And relook at 14 and 15.

COMMISSIONER CAMPOS: So long as there's no sprawl.

COMMISSIONER VIGIL: I think three of us agreed with 13 and with 14 and 15. I think we're all in agreement with 13.

MR. ANAYA: I've got it, Mr. Chairman.

CHAIRMAN ANAYA: You've got it. Okay, let's go on to 17.

17. Minimum square footage requirements included in Exhibit A, Section 2. b.

MR. ANAYA: Number 17 we already talked about and we're going to relook at those.

18. Affordable housing Trust Fund considerations to be addressed under a parallel venue related specifically to housing financing structures (anti-donation considerations, private partners, administration, etc.

MR. ANAYA: On 18, one thing that was clear from the developers, from the task force, from all the comments we've received to this point is whatever the fund is used for on money recouped back from the County, there was clear consensus that they wanted very clear and specific uses of the money, to know exactly where it was going to be spent and how it was going to be spent. There was fear expressed that they wouldn't want it put in the general fund or some other purpose. So they recognize that and want to work with us. I think Judy had the consensus on developing some recommendations for the Commission to consider as to how to do that.

MR. ROSS: Mr. Chairman, there's also a need for legislation in this area. We had a constitutional amendment passed, what was that, two or three years ago, that permitted - created an exception to the anti-donation clause of the state constitution whereby local governments, counties and I believe it even applied to the state, could actually spend taxpayer money on affordable housing. And that amendment required enabling legislation which has never occurred. And that would untie our hands in so many areas, give us a lot of flexibility that we don't already have, if we could get some legislation on the books that would implement that constitutional amendment. I understand there have been bills introduced but for one reason or another the legislation has never emerged from the state legislature. So it might be something you want to consider when you're setting your legislative priorities to get something on the books.

COMMISSIONER VIGIL: Mr. Chairman, actually we need to work on this right away. My sense is whoever we can get to connect with the Association of Counties to place that on their agenda, because if enabling legislation is all that's required and we've

already passed the constitutional amendment, this should not be too difficult to get through. I don't know whether it's germane but we can probably talk to the governor as to whether or not he could put it on his calendar, but I don't think it's too late to get that going because this actually - if we don't have this enabling language, what are we going to do with this once we enact it? Is that your sense, Steve?

MR. ROSS: Mr. Chairman, Commissioner Vigil, I think we'd have to accumulate the money or move it through the various federal programs that we also administer and kind of try and avoid the constitutional issue until there were legislation in place that permitted us to do things like make loans or do direct assistance to folks. I think that's what the constitutional amendment was supposed to permit. Without that, it's just going to be a real hassle to effectively and easily use the money.

COMMISSIONER VIGIL: The constitutional amendment passed, correct?

MR. ROSS: It was passed, yes.

COMMISSIONER VIGIL: Now all that's required is the legislature needs to sponsor the enabling language to allow local governments to broaden their capabilities in the expenditure of this money, right?

MR. ROSS: That's correct.

COMMISSIONER VIGIL: So my sense is, could we get someone working on that, Gerald, right away?

MR. GONZALEZ: We can bring it to the legislative team and talk about it. The other thing is that this is probably a joint interest with the Municipal League. I would guess that they share the same interest that we do in having the enabling legislation. They may have actually worked on some of the legislation that was introduced a while back. We're going to try and track that down and use that as a model I think, if we figure out where the problems were and what was enacted. My recollection is the way the amendment language in the constitution reads is you can do this but pursuant to the legislative program that's set up by the legislature.

COMMISSIONER VIGIL: I think we need to work on that, Robert. That would be a huge barrier.

CHAIRMAN ANAYA: Okay, so do we have clear direction on that trust fund? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Ross, you're saying the legislature - we have a constitutional amendment that says what, exactly?

MR. ROSS: It says that the anti-donation clause would not apply to counties providing affordable housing.

COMMISSIONER CAMPOS: And does that talk about general fund funding, or does it talk about funding that we could generate through this program?

MR. ROSS: That's any County funding.

COMMISSIONER CAMPOS: Any County. So that would be County money too, even if we generated it through the affordable housing program.

MR. ROSS: Right. Now we don't have the same limitation with our federal programs, but this would free things up.

COMMISSIONER CAMPOS: It's critical then.

MR. ROSS: Yes, I think it is.

COMMISSIONER CAMPOS: Without that, the whole goal here is perhaps moot.

COMMISSIONER VIGIL: Who's our lobbyist? Do we have a lobbyist on board?

MR. GONZALEZ: We're in the process of selecting one. We've gotten the responses to the RFP back and I think that committee is going to be meeting next week. Tomorrow? Okay.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think the staff has done a good job in getting us an ordinance that we've agreed with about 90 percent of the things that are here in this today with some modifications and I think any of those modifications, sounds like they're going to be relaxations, which the development community I'm sure will be fine with. I'd like to suggest that we get going with the title and general summary on this ordinance. We can hold the public hearings whenever we feel we're ready. If we think we need another work session, that's fine, but I would at least like to get this thing into the process. I think what we have is a lot and plenty of ordinance here. And that plus the task force meetings and the development meetings and today's work session, everything's on the table. Everybody's seen what the County has in mind here. So I just feel like we could kind of poll the Commission to see if we could at least get this thing going on title and general summary.

CHAIRMAN ANAYA: How does the rest of the Commission feel?

COMMISSIONER CAMPOS: I would ask for counsel from our Manager.

MR. GONZALEZ: Actually, I defer to Legal because I think the question is are we able to put something forward with the kind of firmness to it that he would feel comfortable with once we move forward with whatever we offer as the draft, once we publish title and general summary.

MR. ROSS: Mr. Chairman, I guess my question back to you would be is this ordinance that's before you close enough to what you think you might pass to represent what you're needing here. I have a few notes on here of changes, and this is my copy, of changes that might need to be made in connection with the discussion. There are a lot of areas that need to go back to the task force for more direction. But in working off this revised draft we tried to defer as much of the technical work to the regulations.

Let me explain one thing about this ordinance. If these density bonuses are going to remain in the ordinance, and it seems like they are, that means that potentially, this could be seen as a zoning change in the central area of the county. So that means that number one, we're talking about two public hearings, not one. And we're also talking about some rather onerous notice provisions. It involves direct mail to property owners who are affected by the zoning change. So if there's some doubt about where we're going, when we're going to do it, given the expense and difficulty of undertaking that notice, we should wait. I'm comfortable that we could come up with a draft maybe tomorrow that would reflect 90 percent of what you've

discussed here today and we can just make some assumptions about how you'll resolve some of those other issues.

But in order to be effective, the public hearing would have to be, when you actually adopted the ordinance, you'd have to be adopting something very close to this to eliminate any concerns about notice.

CHAIRMAN ANAYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, thank you. Mr. Ross, we're also talking at the RPA level. We have a plan. We need a zoning district. Those onerous notice requirements would apply then too, wouldn't they?

MR. ROSS: Sure. Any zoning change requires a lot of things but the most onerous is direct mail to affected property owners. When you're making a zoning change on a block, for example, you're talking about direct mail to ten or twelve people. But you've seen the map Ms. Quarles presented. It's the whole central county area. The bulk of the population lives within that area. So we're talking about a large mailing.

So we want to make sure we do it right and we want to make sure when the public hearings are going to be so we don't screw that up somehow and plan the public notice appropriately.

COMMISSIONER CAMPOS: And also the issue of the RPA. I know that seems like it's never going to happen but it's an issue too, because we would have to go through a second noticing process.

MR. ROSS: You mean the EZA?

COMMISSIONER CAMPOS: The RPA, the plan would have to go through the EZA, right? Most of it. Up to the five?

MR. ROSS: For the two-mile you're going to have to initiate a similar process in front of the EZA.

COMMISSIONER CAMPOS: And from the two to the five, it would be through the BCC?

MR. ROSS: Right.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'm going to speak here on behalf of staff. We've been placing a lot of demands on them and part of those demands are associated with the ordinance. But I think the time line we had was kind of unreasonable for everything we're trying to accomplish. So, Commissioner Sullivan, with all due respect, I want to move forward on this but I think to publish title and general summary and get us going for the next meeting, I don't think it's sufficient time based on the demands we're placing on staff right now. Not only with this project but with many others and I've had the opportunity to be here the last couple of days and look at an overworked staff. If we're going to do something right, I think we need the time to do it in.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil. Any other comments?

COMMISSIONER CAMPOS: Do you think we need another study session? On

more at least?

COMMISSIONER VIGIL: I'm not sure we need it. I wouldn't mind another study session. This project actually deserves - I'm open to it. Let me put it that way. But I think even if we brought the recommendations that we currently have back to the task force. Have the task force come back to us based on the feedback that we gave them today. Perhaps a lot of the questions that we have could be resolved even at a BCC meeting. So I'm not so sure.

COMMISSIONER CAMPOS: Do you think we need to go back to the task force?

COMMISSIONER VIGIL: Yes. Oh, definitely.

COMMISSIONER CAMPOS: Or are we going to stay at this level at this point?

COMMISSIONER VIGIL: No, I think the task force is wanting some input. And Robert, I'll defer to you, because you've been staffing that process.

MR. ANAYA: Mr. Chairman, Commissioners, I think it would be appropriate to go back to the task force and just a point of information. One of the comments that came from the homebuilders and the other people that made comments as well was, you really pushed this on a short time frame and we wanted to give more comments, and we said, well, the Commission wanted you to give comments. Commissioners Vigil and Montoya were present at the meeting. The other thing they asked is when it goes forward, that they asked consideration that it be complete and done, the ordinance and the regulations, is what the comment, the agreement that they had. So that's a point of information. I think how the Commission handles that will greatly help the process of the public hearings probably go smoother if they have an opportunity through the comment period. But that's just an opinion based on experience in dealing with ordinances. It's your call. But those were comments that were brought forward by people that were present and we stand ready to do whatever you want us to do.

COMMISSIONER CAMPOS: How do the other Commissioners feel about going back to the task force again? I don't think we need to. I think staff, the group on staff has a handle on what the task force - the task force has talked about all these issues. Our staff is up on the issues. There's not that much more. I think it just delays the process unnecessarily.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I would probably like to have this go back to the task force for them to review what has been done. I think having been a vocal critic of not getting enough done quick enough, we are certainly at a point now where I don't want it to be perceived that we're moving so quickly that we're going to leave people off the train and it sounds kind of like what's happening out there in terms of the perception, anyway. So I'm willing to have the task force at least maybe review what has been given in terms of suggestion. I think it might be a bit premature to have it published at this point. Also, as Commissioner Vigil has mentioned, to allow staff to make sure that the changes that are going to be made are going to be made with some thought and consideration put into it. So we're at a point now where I think we're there. We're there, and at this point, let's make sure

that we do it and we do it right. There are some things in here that aren't in here that I'd like to have had in there, but hey, the reality is that we're moving what the consensus is on this right now. So I would be comfortable with it going back to the task force prior to it coming back to us.

CHAIRMAN ANAYA: Thank you, Commissioner Montoya. I think it would be only appropriate to send it back to the task force. They put a lot of time in it and for us not to go back to them for our comments, it would kind of be like leaving them left behind. So I'd like to see it go back. Gerald, do you have clear direction? Robert?

MR. GONZALEZ: I think so, Mr. Chairman, and we can talk about how to bring it back forward. It's possible that after we wrestle though all these things we might be able to bring it back in the form of a presentation before the BCC rather than having to do a special study session. So we'll wrestle with that and bounce it off of you and if that's the case, then at that point we may be able to go to publication or authorization for notice to publish title and general summary.

CHAIRMAN ANAYA: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: And if we're - actually, I'm glad you brought that up because I was thinking that we probably do need another study session. But if we don't do that, I would recommend that you meet individually with each of us or in pairs or whatever, just so that if we do not have a study session we do have BCC - I could see this taking easily an hour, no less than an hour, at a BCC meeting, easily, with everything that's been discussed to this point. So in order to get us beyond no less than an hour's worth of discussion it would probably be good to have us schooled on exactly what's been changed or what's going on since then. If we don't have a study session.

MR. GONZALEZ: Maybe we can work with what you've given us. We can visit with you and then feel at that point, determine whether you feel another study session or something at BCC. We'll visit with you one on one or two on one, whichever works.

COMMISSIONER SULLIVAN: I don't have a problem with a study session if that is a better comfort level for the Commissioners. I think we just want to learn from the experiences that the City had and that there are those who oppose and have no desire to have the County or the City or anyone have an Affordable Housing Ordinance. And their main cry was that at the last minute, oh, we've been rushing this through. We've been having Affordable Housing Task Force meetings for a year. The developers and the realtors have been represented at those meetings. I've attended those meetings. The Commissioners have attended some of those meetings back and forth. And so everyone's had plenty of time. And those are the same excuses that were used with the City. So from the standpoint of this being a last minute thing and oh, we just heard about it, that's utter nonsense.

Now, on the flip-side, I think it is very important that the Commission know and understand precisely what program we're developing here and I think this was a good forum, an excellent forum here today to do that. We got a lot of good give and take, a lot of good ideas out on the table. So I like this particular format. And if that's what the rest of the Commission needs to be comfortable, I'm fine with that as well.

CHAIRMAN ANAYA: Okay. Robert.

MR. ANAYA: Mr. Chairman, with all due respect to the entire Commission, staff many times doesn't know where the Commission stands. When we're able to have a discussion like this and we're able to hear from all the Commissioners it's very beneficial to hear what the consensus is. Because many times one Commission is one place and another's in another place and this forum allows for a dialogue that helps staff to get to solutions quicker. So I would say from a staff perspective from someone that's been here eight years that the more of this that we do I think the smoother your process can be because staff will clearly know where the Commission stands and many times, as simple as that sounds, that is not the case.

CHAIRMAN ANAYA: Thank you, Robert. I want to thank the Commission for all their input. Everybody had good ideas. I want to thank Gerald and Steve and Robert and Diane and Mike and Judy, and the whole staff and everybody that was involved in the task force and the internal team task force. This is very difficult but we're moving forward. We've got to all stick together and just keep focused on putting people in affordable homes, and we're doing that. So with that, if there's no other comment -

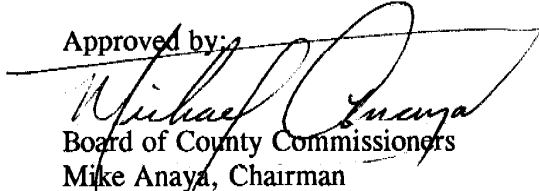
MR. GONZALEZ: One last comment, Mr. Chairman. We always compliment staff and I never fail to do that, but I want to thank you as Commissioners for spending the time doing this. You don't get enough thanks from the staff level for doing that. And I just want to tell you and echo Robert's remarks from the staff level. We really appreciate you spending the time to sit down and give us your feedback. Thank you.

COMMISSIONER VIGIL: And you can show it by directing our lobbyists to give us an increase.

V. ADJOURNMENT

Chairman Anaya declared this meeting adjourned at approximately 6:05 p.m.

Approved by:

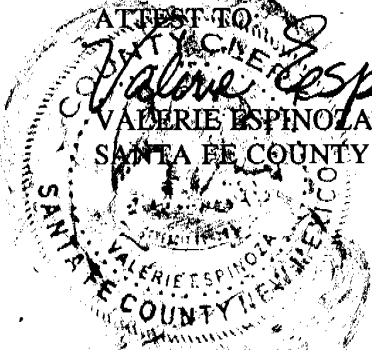

Board of County Commissioners
Mike Anaya, Chairman

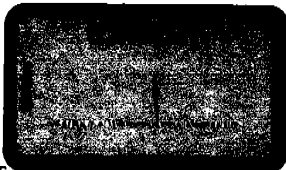
Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:


VALERIE ESPINOZA
SANTA FE COUNTY CLERK





Summary of the Proposed Santa Fe County Affordable Housing Ordinance as of
9/5/05

This summary presents the key points contained within the affordable housing ordinance as it is currently proposed. It is important to note that these provisions are expected to change, some perhaps significantly, as the discussion progresses. The very early preliminary draft that was distributed to the BCC for discussion last week is currently being rewritten and is not ready for distribution at this time. Staff has included the old draft with this packet but it should be clear that this preliminary draft will be superceded with a new working draft.

A. Applicability

1. Unincorporated area of Central Santa Fe County
2. Does not include area subject to EZO

B. Affordability Requirements

1. Overall 30% for developments of 10 units or greater
2. Three income ranges each requiring 10% (required)
 - a. 65% and below - Maximum Target Housing Price of \$115,000 (Income Range 1)
 - b. 66% to 80% - Maximum Target Housing Price of \$145,000 (Income Range 2)
 - c. 81% to 100% - Maximum Target Housing Price of \$180,000 (Income Range 3)
3. Voluntary income range 4 of 101% - 120% (for added 5% density bonus)
4. Reduced requirements for 5 up to 10 units
 - a. 5 up to 7 units – 1 unit (Income Range 2)
 - b. 7 up to 10 units - 2 units (1 each in Income Ranges 1 & 2)
5. No requirements less than 5 units or family transfers
6. Allows for rental substitution on a case by case basis where there is demonstrated need and minimal impact to area

C. Incentives

1. Water for the affordable units (applies to developments served by County Utility; based on availability of water and adequate rights)
 - a. Waiver of water rights transfers
 - b. Water allocation
2. Density bonus (50% bonus for the # of affordable units or 15% total development) for development on water and wastewater systems
3. Lot size reduction for development using groundwater and/or septic
4. Water rights (budget) reduction for development on community wells system that are required to bring water rights
5. Fee waivers for all affordable units
 - a. Impact Fees
 - b. Development application fees

c. Expansion charges (excepting the cost of meter)

D. Long-term Affordability

1. Creates affordability lien at the time of sale (difference between market and sales price – 10% equity dedicated to buyer)
2. Resale restriction from 5 to 10 years where homeowner receives 20% appreciation yearly at the end of year 5
3. Creates Housing Trust Fund—defers terms to the Housing Trust Fund Policies and Administration to be completed 90 days following Affordable Housing Regulations

E. Alternative Means of Compliance

1. Allows for alternative means of compliance at the discretion of the BCC
2. Includes land donations, fee in lieu, off-site construction

F. Hardship

1. Two hardship conditions
 - a. Extreme hardship where access to full incentives
 - b. Greater discretion in hardship conditions where limited access to incentives
2. Hardship conditions would be considered by BCC where alternative means of compliance are not applicable or appropriate

G. Review Process

1. Affordable Housing Plan would be submitted at earliest review process
2. Affordable Housing Agreement (includes Housing Plan) would be recorded with first recorded instrument (development plan or plat)
3. Affordable Housing Regulations would include submittal requirements, maximum target housing process, design standards, agreement forms, certification process, etc...would be adopted 90 days following ordinance
4. Provides one year review of ordinance and every three years thereafter

Comments from the Housing Task Force, September 6, 2005

The Task Force is in general agreement the provisions included in the preliminary draft ordinance with the following noted exceptions:

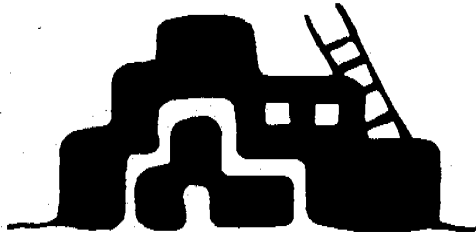
1. The Task Force supports the 120% voluntary housing initiative, however, they would recommend that water be included as an incentive to make it stronger;
2. They recommend that water be offered for any affordable units above 30% where it is feasible to do so. They recognize that water allocation is a water policy decision, but they wanted to suggest that it be offered where it can be done.
3. The Task Force recommends that the housing design standards be revisited and based on other standards. They recognize that it is not part of the ordinance but needs to be better defined (and perhaps less restrictive square footages) in the regulations.
4. With respect to long-term affordability, there is still a lack of consensus on the affordability liens particularly with respect to appreciation. It was agreed that Robert Anaya would present three alternatives to the BCC for consideration and direction.
5. Regarding rental substitution, the Task Force was generally opposed to it as written. They felt like they needed more discussion on that issue to take a position (it was a recommendation of the Housing Team). They were generally opposed to substitution for Tax Credit rental units (since they were a for-profit venture), particularly if the any rentals were to be outside of the project area. They may be supportive of substitution if it was for the homeless, disabled or for the most needy classifications.

Summary of Points from the Developers Forum on September 6, 2005

- Gary Ehler, President of the SFAHBA – [The Home Builders Association has provided a formal written position paper to the BCC] Their organization’s greatest concern is that whatever ordinance is adopted, it must work. They have great concern as to the rising cost of materials, particularly in light of Hurricane Katrina. The entire community needs to come to the aid of the community on affordable housing and that it not fall solely on the backs of the developers and builders. There needs to be consideration given at all levels.
- Robbie Dobyn, President of the Santa Fe Association of Realtors –City ordinance has caused great concern over how it will affect housing costs. The Association contends that it will dramatically increase the cost of housing and put few units on the ground. They take great exception to the affordability lien—(“criminal”). It takes advantage of an inflated housing market—appreciated value should be assigned to the homeowner. It creates a windfall for the City. If the County assumes the lien and is locked into to the transaction, will it be subject to anti-donation?
- Sharon Welsh, Community Housing Trust—If the mission is to empower the new homeowner, feels that 10 years is too long and that the “taxing” of appreciation is also the wrong approach. She would suggest removing the appreciation holding and approves of the 90% equity clause. The affordable housing price should be sensitive to the interest rates. The trust fund must be specific in that the funds are earmarked for affordable housing only. There is concern over the administration of the trust fund, lines etc... in that they are long term and are complicated. Sharon raised the concern that a two-income public service (teacher, police) family (no kids) would have a combined income of \$130,000 that would exclude them from the provisions of this ordinance. She stressed again that you take away homeownership benefits of you hold the appreciation (suggested Tierra Contenta as a model).
- Jennifer Jenkins—She state that the County is in a unique opportunity to meet the unmet housing needs that the City will not capture with adoption of its ordinance. She stated that the income ranges be adjusted to capture middle-income groups—that is where the County should focus. She suggested beginning with Income range 3 and work upward to 140% of AMI. [Staff explained that inclusionary zoning is limited in scope and purpose—it is intended to serve the unmet needs of low and moderate income according to HUD standards and that 140% would not necessarily withstand the inclusionary legal tests.]
- David Shutz—Former City Councilor and current builder in Santa Fe, Mr. Shutz suggested that the County look at what the City ordinance doesn’t do. It should focus on teachers and policeman. The City ordinance is too strict—too inflexible. The County should beef up the alternative means of compliance—open it up to allow for other kinds of creative “credits” such as education and other useful subsidies. Flexibility encourages creativity. He suggested other incentives such as fast tracking master plan developments, reduced fees and sharing of infrastructure costs. The

County should look to NMFA for loans for teacher housing and other types of workforce housing programs.

- Rosanna Vasquez, Attorney—She raised several questions regarding alt. Means of compliance. There needs to be very strong and clear criteria in how to provide alternative means. She also asked if lands—say in Espanola—could be donated and meet the criteria? Can you transfer lands outside of the study area? Outside of the County for instance? Can a request for alt means be made to the BCC prior to master plan review?
- Lynne Canning, LURC and Housing Task Force Member, The ordinance does catch teachers and policeman. Regarding improvements to development review, they need to look at creating a task force to review the process similar to what the City is doing.
- Bernadette Jendrusch, BT Housing—The density bonus needs to be straight up—it does not need to have qualifiers like the City that essentially gives it and takes it away. Is the use of maximum target pricing appropriate or would average be better? She suggested that review of the ordinance be annually—three years is not enough.
- Rosanna—Concerned about the timing gap between the ordinance and the regulations. She suggested that the ordinance wait until the regulations can also be written and they be brought forward together.
- Phillip Gudwin, Association of Realtors member (?)—What is the economic impact of the ordinance? Will the 30% sticker shock slow the market? Will there be any building permits after 6 months? Should affhsg be funded by new development or should it come from other subsidies or sources? Why doesn't the County use the soft seconds to fund its own affhsg units or programs? Why not use property tax revenues to pay for new affhsg based on where the needs are? How is it going to affect high end housing markets? What will be the float over from the City to the County? What will be the alternatives if the developers chose not to participate in the program?
- Commissioner Montoya—The County needs to look at public private partnerships. There should be strong criteria that spells out alternative means of compliance. What can be done effectively in the northern part of the County—a partnership in the northern County with BLM or other large public land holdings...What can be done as an effective way to provide alternative means of compliance.
- Jim Borrego, Borrego Construction—The County should look at a transfer tax like the City is doing. There are a large number of existing homes that could be taxed so that existing residents pay for affordable housing instead of new development only. You apply it at the time of resales and it could be transferred for homebuyer assistance or for providing mid-range housing. This could help pay for the workforce—there are a lot of creative ways including what the State is doing. It pushes too much onto the housing markets. Housing is going to go up—resales will go up with it. We are creating an over-inflated market.
- Rosanna—How is the ordinance going to work with the water allocation policy? The BCC needs to think about how water policy affects affhsg.



*Santa Fe Area
Home Builders
Association*

DATE: May 25, 2005

FROM: Santa Fe Area Home Builders Association

RE: **Statement of the Home Builders on Housing Affordability**

We appreciate the opportunity to provide input into the work of the Santa Fe County Affordable Housing Task Force. It is critically important to acknowledge and understand at the outset that significantly increasing the number of "affordable" homes in Santa Fe can be achieved only through a collaborative effort between policy makers, home builders, suppliers, subcontractors, financial institutions, and the community. Realistic goals and cooperation between all parties will lead to a more successful and sustainable outcome. Expectations that fail to take into consideration the constraints already imposed by the existing local economy, and regulatory requirements and inconsistencies, risk creating the opposite of the intended goals.

The Santa Fe Area Home Builders Association is interested in the creation of an affordable housing program that is consistent throughout the county, easily understood and implemented, flexible in its requirements, and includes programs that motivate and assist both builders and buyers. Although Santa Fe County encompasses a wide area, our recommendations pertain specifically to the central zone of the City and County.

There is an unfortunate stigma attached to the phrase "affordable housing." It has the connotation of housing specifically for lower income people. Our preference would be to make the goal "to enable the diversity of people who work in the community to have the opportunity to live in the community." Such a goal translates into a need for a diversity of housing products, from new and existing homes to rental properties. And, attainment of the goal involves more than just increasing the supply of housing products, it requires assistance through financial programs that enable all people, both buyers and renters, who want to live in Santa Fe to do so. A special challenge is how to get new buyers to enter the housing market.

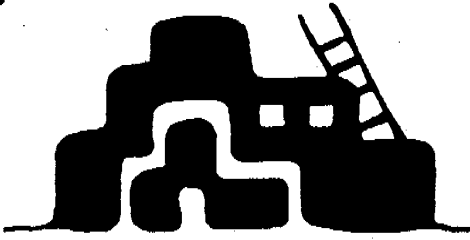
The 30% Inclusionary Zoning Goal

The proposed goal of selling 30% of new homes in each development as "affordable" is a worthwhile aspiration; however, it is simply not achievable in the current local economy. There are numerous constraints that make residential development in the City and County of Santa Fe challenging at best. Before any responsible discussion of a 30% inclusionary zoning requirement is made, these impediments need to be resolved. Examples of such obstacles include:

- The governing body and administrative approval process creates costly delays that affect the price of the home.
- Recently adopted ordinances and regulations add significantly to the overall cost of home construction and development.

Santa Fe Area Home Builders Association

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- There are inconsistencies between affordable housing programs offered by the City and County.
- Builders are required to sell a home at less than the cost to build it in order to comply with affordable housing programs.
- Inconsistencies exist in the stated goals of the community and the subsequent approval of projects which meet those goals (e.g., compact/higher density developments are desired but difficult to approve because of neighborhood objections).

SUGGESTED CHANGES

Creating a housing supply that enables the diversity of people who work in the community to have the opportunity to live in the community requires: changes in the regulatory and approval process, supplemental programs to motivate and assist the home builder, financial programs to aid the buyer, and flexibility in the implementation of an “affordable housing” program.

Regulatory and Administrative Changes

While not complete, the following are suggested regulatory and administrative changes that can help make residential development less complicated and less costly.

- Streamline development approvals.
- Expedite recording of plat and release of grading and utilities permits after development approval is obtained.
- Provide inspection allowances and master approvals for like floor plans built in multiple locations within a development.
- Reduce the cost for building permits and impact fees.
- Designate a specific person to make approval decisions.
- Develop water incentives.
- Modify or reconcile ordinances that are in conflict.
- Fix or waive regulations that hinder builders from providing homes economically and efficiently.
- Continue to refine and use the density bonus.
- Adopt the most economic set of coordinated building codes, such as “the family of International Building Codes.”

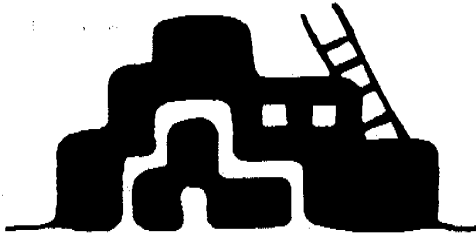
Supplemental Programs

A variety of programs can be implemented to motivate both home builders and home buyers.

- Decrease or eliminate gross receipts tax on construction costs.
- Provide incentives for construction trades, subcontractors and lenders to participate in the provision of affordable homes.
- Assist with land purchase and acquisition.

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- Offer special tax incentives.
- Include an income range for affordability classification of up to 100% of median income.
- Exclude water use off-set requirements and/or regulations.
- Create a revolving loan fund that provides no-interest construction loans for “affordable home” construction. Loan is paid back into the revolving fund at time of sale.
- Provide down-payment assistance for qualified buyers.
- Develop clear, understandable materials about affordable housing programs and available assistance.

Flexibility

There needs to be flexibility in implementation of an affordable housing program. Any target, including the goal of 30%, is not likely to be achievable in every development situation. Therefore, flexibility while striving to reach an overall goal should be allowed.

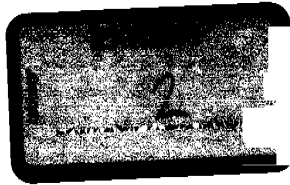
- Use density bonus incentives where it is encouraged by the topography, infrastructure and zoning.
- Allow builders to transfer the affordability requirement – to build somewhere else where attainment of the goal is more practical.
- Provide an option for fee in lieu of.
- Create a program of affordability credits – to enable those who are not set up to build affordable homes to financially support others who are; for a builder to store credit when s/he builds affordable units that exceed the target; etc.
- Offer credits that encourage green building incentives.
- Continue to provide up-to-date information regarding the market demand for affordable housing, including an understanding of the size and types of housing units needed.

While the Santa Fe Area Homebuilders Association is not in favor of raising the housing target to 30%, we do know that this target could never be achieved without a strong cooperative effort by all parties. Simply requiring a builder to reduce the market rate price of the home to comply with an inclusionary ordinance is not good business and people will choose to do business elsewhere, which certainly will not improve the housing shortage. We believe a cooperative program, using the ideas discussed above, will help achieve the goal “to enable the diversity of people who work in the community the opportunity to live in the community.”

The Santa Fe area homebuilders want to be a part of the affordable housing solution and look forward to working closely with the County and the City to develop a program that is successful and sustainable.

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SANTA FE COUNTY

Ordinance No. 2000 - 12

1846016

AN ORDINANCE CREATING A NEW ARTICLE XV OF THE SANTA FE COUNTY LAND DEVELOPMENT CODE (ORDINANCE 1996-10) AS AMENDED TO PROVIDE FOR LAND USE AND ZONING REGULATIONS FOR THE COMMUNITY COLLEGE DISTRICT

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF SANTA FE THAT THE SANTA FE COUNTY LAND DEVELOPMENT CODE IS HEREBY AMENDED AS FOLLOWS:

ARTICLE XV COMMUNITY COLLEGE DISTRICT LAND USE AND ZONING REGULATIONS
SECTION 1 REFERENCES, PURPOSE AND DEFINITIONS

- A. This BCC Ordinance 2000 - 12, as amended from time to time, may be cited as the "Community College District Ordinance" or the "CCDO." A reference in this Ordinance to the "Community College District Plan," the "CCD Plan," or the "Plan" means and refers to the Community College District Plan, which amends the Santa Fe County Growth Management Plan. A reference in this Ordinance to the "Community College District," the "CCD" or the "District" means and refers to the Community College District established by the Community College District Plan and this Ordinance.
- B. Article XV is adopted to implement the vision, goals and principles of the CCD Plan. This Ordinance is adopted with the intent and effect of promoting and allowing "mixed-use" developments.
- C. Article XV shall govern and control all development within the CCD. Any contradiction, inconsistency or ambiguity between the requirements of this Article XV and any other provision of the Land Development Code shall be governed and controlled by the requirements of this Article XV. If not specifically covered in Article XV, the provisions of the Land Development Code shall apply.
- D. Definitions:
 - 1. Distribution Facility means and refers to an establishment engaged in the receipt,

Trails shall be designed for pedestrian and bicycle use.

- c) Local Trails: Local Trails are the secondary trails connecting Neighborhoods, Neighborhood Centers, Fringe Areas, and Rural Zones to the Village and District Trails network. These are to be identified at the Preliminary Development Plan submittal. At a minimum, Local Trails shall be designed for pedestrian and bicycle use.
- d) Equestrian Trails: If additional equestrian trails are provided they shall be identified at the Preliminary Development Plan submittal.

6. Trail Standards

Standards for trails are set forth in the following table:

Trail Category (1)	Minimum Trail Width	Min. Easement Width	Min. Surface Req.
District Trail	8	20	Natural Soil
Village Trail	6	20	4" Base course or 3" paved
Local Trail	5	15	4" Base course
Equestrian Trail (2)	5	15	Natural Soil

Notes:

- (1) Trails shall be established as public easements and shall be subject to reasonable notes and regulation. Trails may be located within the 100-year flood plain.
- (2) Except for District Trails, Equestrian Trails should be separate from other trails.
- (3) Subgrade surfaces for proposed trails shall be treated for weed control.

J. Other Infrastructure Improvements

The County shall have the right to require developers, as a condition of approval, to enter into a development agreement pursuant to which the developer shall be required to pay a pro-rata share of future off-site improvements.

K. Affordable Housing:

1. Applicability

- a) This Section applies to development of Village Zones, Fringe Zones, Rural Zones and Employment Center Zones within the CCD. Every application for master plan approval in those zones shall contain an Affordable Housing Plan which, when implemented, will meet the requirements of this Ordinance and the compliance with which must be a condition of any approval of the master plan.

- b) If any development in the CCD which has a recorded plat as of the effective date of this Ordinance which is subject to the requirements of this Ordinance, then such development will be permitted to include any shortfall in the number of Affordable Housing Units in future phases of the development or on any undeveloped tract or lots in any previously recorded phase of the development.
- c) Within the Community College District, the provisions of this Ordinance supersede all prior County ordinances dealing with affordable housing, and any and all development agreements or affordable housing requirements for projects within the Community College District shall be null and void, and no density bonuses, credits or other benefits to the owner of such projects shall be allowed under any previous County ordinance. Any undeveloped residential tracts or lots in existing developments with final plat approval may, at the option of the owner thereof, be used to meet the requirements for affordable housing under this Ordinance in future project phases.

2. Definitions

For purposes of this Section, the following definitions shall apply:

- a) Affordable Housing Plan means a written plan which describes the plan which the applicant intends to implement to comply with the requirements of this Section and which includes the number and types of Affordable Housing Units which must be built with the project proposed by the Applicant.
- b) Affordable Housing means "Eligible Housing Types or Units" sold at or below the "Maximum Base Price" to any "Eligible Buyer." Any real estate sales transaction in which an "Eligible Buyer" purchases any "Eligible Housing type or Unit" meets the Affordable Housing criteria of this Ordinance. The Eligible Housing Unit must be occupied by the Eligible Buyer as a primary residence.
- c) Eligible Buyer means a buyer of an Eligible Housing Unit as a primary residence whose "Annual Gross Income" is below 100% of the Area Median Income.
- d) Area median income is the median income for the Santa Fe Metropolitan Statistical Area as adjusted for various household sizes and published and

revised periodically by the United States Department of Housing and Urban Development. The Santa Fe Metropolitan Statistical Area includes Santa Fe and Los Alamos Counties. Changes to the Area Median Income published by the Department of Housing and Urban Development of the United States of America shall be updated once annually by the Code Administrator.

- e) Eligible Housing Type or Unit – any housing unit, attached or detached, that is built in compliance with applicable codes on a fee simple lot meeting the following specifications:

Type A – 2 bedrooms, 1 bathroom of at least 1,000 sq. ft. of heated space

Type B – 3 bedrooms, 2 bathrooms of at least 1,300 sq. ft. of heated space

Type C – 4 bedrooms, 2 bathrooms of at least 1,500 sq. ft. of heated space

- f) Income Ranges means the income ranges used in the formula for determining “Maximum Base Price” for each Eligible Housing Type, and under this Ordinance the three Income Ranges are:

Income Range 1: 0% to 60% of the Area Median Income;

Income Range 2: 61% to 80% of the Area Median Income; and

Income Range 3: 81% to 100% of the Area Median Income.

- g) Maximum Base Price means the highest price at which an Eligible Housing Type or Unit may be sold. On the effective date of this Ordinance, the Maximum Base Prices for each eligible housing type and income range are found in the table below. The Maximum Base Price shall be adjusted annually by the Code Administrator in accordance with the provisions and procedures set forth in this Ordinance:

Eligible Housing Types	Maximum Base Price for	Maximum Base Price for	Maximum Base Price for
	Income Range 1: 0-60%	Income Range 2: 61-80%	Income Range 3: 81-100%
Type A: 2 Bedrooms 1 Bath	\$88,733	\$121,000	\$133,000
Type B: 3 Bedrooms 2 Bath	\$98,537	\$134,369	\$147,805
Type C: 4 Bedrooms 2 Bath	\$106,347	\$145,019	\$159,520

The Maximum Base Price for an Affordable Housing Unit does not include any options, lot premiums, and upgrades chosen by the Eligible Buyers; provided, however, all “options,” “lot premiums,” and “upgrades” must be published in advance as part of the marketing of the Affordable housing, and must be reasonably comparable to those offered to other non-Eligible Buyers for the same housing type, and cannot exceed \$2,000.00. Increases in the sales price not exceeding \$2,000.00 for an Affordable Housing Unit which are based upon “options,” “lot premiums” or “upgrades” shall not disqualify a sale or transaction as meeting the requirements of providing Affordable Housing.

- h) Affordable Housing Regulations – regulations duly adopted and published by the Code Administrator pursuant to this Section used to implement the Affordable Housing Plan.

3. Affordable Housing Requirements

All applications for master plan approval within the CCD shall submit an Affordable Housing Plan and meet the following requirements:

- a) Percentage of Affordable Housing: Fifteen percent (15%) (or Adjusted Percentage defined in sub-paragraph B below) of the total housing approved in the Master Plan shall be Affordable Housing. This Affordable Housing requirement must be in the following proportions or as provided for the

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1 Adjusted Percentage:

- 2 1. Five percent (5%) of the total housing shall be sold at or below the
3 Maximum Base Price for Income Range 1;
4 2. Five percent (5%) of the total housing shall be sold at or below the
5 Maximum Base Price for Income Range 2;
6 3. Five percent (5%) of the total housing shall be sold at or below the
7 Maximum Base Price for Income Range 3.
- 8 b) If an applicant exceeds the percentage in Income Range 1 or 2 set forth above,
9 the requirement in any higher Income Range shall be reduced by the same
10 percentage (the "Adjusted Percentage"). By way of example, if an applicant
11 sells 6% of the total housing in a Village at or below the Maximum Base Price
12 for income Range 1, then his total requirement for sales at Maximum Base
13 Prices for Income Range 2 or 3 shall be reduced by 1%.
- 14 c) "Total housing" means and includes all for-sale houses on fee simple lots
15 within the Village Zone, Fringe Zones, Rural Zone, and Employment Center
16 Zones; provided, however, the Affordable Housing is not required to be
17 located within Fringe Zones, Rural Zones, or Employment Center Zones.
- 18 d) Integration of Affordable Housing: Affordable Housing Units shall be
19 provided as part of the development and shall be integrated into the overall
20 design and lay-out of the project. The general location of the Affordable
21 Housing shall be identified in the Affordable Housing Plan and the exact
22 location shall be identified in the Affordable Housing Agreement, which must
23 be executed prior to recordation of final plats and plans for any phase of the
24 Master Plan.
- 25 e) Phasing Requirements: The Affordable Housing may be phased. Phasing
26 must comply with the following requirements:
- 27 i. Prior to final plat and plan approval for more than 25% of the Total
28 Housing, at least 25% of the Affordable Housing shall be offered for sale;
- 29 ii. Prior to final plat and plan approval for more than 50% of the Total
30 Housing, at least 50% of the Affordable Housing shall be offered for sale;
- 31 and
- 32 iii. Prior to final plat and plan approval for more than 75% of the Total

- Housing, at least 75% of the Affordable Housing shall be offered for sale.
- f) Affordable Housing Agreement: The final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County. The purpose of this agreement is to further establish the terms and conditions for the provision of Affordable Housing within the development and to ensure compliance with the terms of this Ordinance. The Affordable Housing Agreement will describe how Affordable Units will be marketed and sold to eligible buyers.

4. Affordable Housing Regulations

- a) Within ninety (90) days of the effective date of this Ordinance, the County Code Administrator shall adopt and post in the County Clerk's office Affordable Housing Regulations which shall establish and include:
- i. The form of Affordable Housing Agreement, which shall provide for the method and documentation necessary to verify that the applicant has met the Affordable Housing requirements of this Ordinance;
 - ii. The process of certification of Eligible Buyers by the County, which process shall not exceed fifteen (15) business days from the date a Buyer applies for certification, and the fees to be charged to the developer for the certification; and
 - iii. The form of certificate of compliance to be issued to applicants upon compliance with the terms of this ordinance, which shall be issued not later than fifteen (15) business days of applicants submission of the required verification documentation.
 - iv. The exact method of determining the Maximum Base Price, which must (1) be done in the same manner annually by the Code Administrator, (2) use a market analysis to determine a market price for the Eligible Housing Type, and then (3) discount the market price arrived at by the Code Administrator by the same percentages to determine the price for each category of Eligible Housing Type and for each Income Range.
- b) The Affordable Housing Regulations, and any amendment thereto, shall only be effective once they have been adopted in writing by the Code Administrator and posted in the County Clerk's office for a period of not

less than fifteen (15) business days. Thereafter, the adopted regulations shall be made available to the public.

SECTION 7 EFFECTIVE DATE

The Community College District Ordinance shall become effective on the 30th day after recording of this Ordinance in the offices of the County Clerk.

SECTION 8 SEVERABILITY

The provisions of this Ordinance are severable, and if any provision, sentence, clause, section, or any part thereof, is held illegal, invalid, unconstitutional, or inapplicable, it shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance or their application to other persons or circumstances.

SECTION 9 EFFECT ON APPROVED MASTER PLAN, AND PRELIMINARY AND FINAL PLANS

Upon the effective date of this Article XV, the following shall apply for properties that have received master plan, final or preliminary development plan but have not recorded a final development plan prior to its effective date:

- A. For properties proposed for development which have approved master plans, the proposed plan for the property may be developed in accordance with approved master plan or development plan without amendment if there does not exist a substantial non-conformity between the approved master plan and the provisions of Article XV.
- B. If the Code Administrator determines that there exists a substantial nonconformity between the provisions of this Article XV and the approved master or development plan, then the approved plan must be amended to obtain conformity with the requirements of this Article XV.
- C. For purpose of this Section of this Ordinance a "substantial non-conformity" shall be determined by the Code Administrator finding that a development does not meet the following criteria:
 1. For residential development:
 - a) The plan relies upon community water and community sewer;
 - b) The plan makes provision for connectivity with the open spaces and road networks planned within the CCD;
 - c) The net densities (i.e. the density of dwelling units on land developed without open space tracts) are generally in accordance with this CCD plan; and

d) The plan provides for adequate open space, trails, and a mix of housing types and prices.

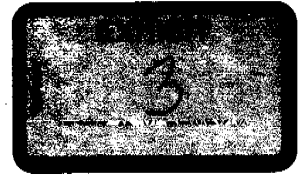
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2. For commercial development:

a) The plan relies upon community water and community sewer system

b) The property is part of a larger tract which will likely develop as part of an employment center planned within the CCD in such a way that the remainder of the property can be planned and developed in accordance with CCD plan; and

c) The uses are generally in accordance with those shown on CCD plan for the property.



SANTA FE COUNTY AFFORDABLE HOUSING REGULATIONS

COMMUNITY COLLEGE DISTRICT

Recorded in the Santa County Clerk's records on August 1, 2002.

Reception No. 1217414

Book 2179

Pages 696-719

Effective Date: July 31, 2002

Santa Fe County Affordable Housing Regulations Santa Fe Community College District

Article I. (Applicability)

2179696

1.1 **Title and Citation.** These Affordable Housing Regulations can be cited as the "Community College District Affordable Housing Regulations," and are referred to herein as the "Regulations."

1.2 **Authority.** These Regulations are adopted by the Santa Fe Land Use Administrator pursuant to Article XV, § 6.K. Santa Fe County Land Development Code (Santa Fe County Ordinance 1996-10, as amended, the "Code") and Section 13.6.K of the Extraterritorial Zoning Ordinance (Santa Fe Extraterritorial Zoning Authority Ordinance 1997-4, as amended, the "EZO"). Any and all amendments to these Regulations shall be made in accordance with the Code and the EZO.

1.3 **Effective Date.** These Regulations shall become effective immediately upon posting in the office of the Santa Fe County Clerk.

1.4 **Purpose.** These Regulations are adopted for the express purposes of:

1.4.1. Providing a procedure for the submission, consideration and approval of an Affordable Housing Plan under Article XV, § 6.K. of the Code or Section 13.6.K of the EZO;

1.4.2. Establishing a process for qualifying persons who meet the definition of an "Eligible Buyer" and a process for qualifying housing which meets the definition of Affordable Housing under Article XV, § 6.K. of the Code or Section 13.6.K of the EZO; and

1.4.3. Providing the forms and procedures used to market and sell Affordable Housing to Eligible Buyers to ensure compliance with Article XV, § 6.K. of the Code or Section 13.6.K of the EZO.

Article II. (Definitions)

2.1 **Definitions.** As used in these Regulations, the following terms and phrases when capitalized shall have the following meanings:

2.1.1. "Affordable Housing," "Affordable House" and "Affordable Home" mean housing:

2.1.1.1. Sold to an Eligible Buyer(s) (as defined in these Regulations);

2.1.1.2. Meeting the price limitations provided in Article XV, § 6.K. of the Code or Section 13.6.K of the EZO;

2.1.1.3. Intended for the Eligible Buyer's personal use and occupancy as a residence;
and

2.1.1.4. Meeting the criteria set forth in these Regulations and the Code or EZO regarding square footage, number of bedrooms and bathrooms.

2.1.2. "**Affordable Housing Agreement**" means a written agreement in substantially the same form attached hereto as Attachment 2 executed by a party required to produce and sell Affordable Housing under Article XV, § 6.K. of the Code or Section 13.6.K of the EZO.

2.1.3. "**Affordable Housing Plan**" means a documentary plan submitted to the Land Use Administrator as required by Article IV of these Regulations which contains the following information:

2.1.2.1. A brief narrative description of the proposed Affordable Housing which the Applicant intends to produce which includes the number of Affordable Houses, a description of the types and units of Affordable Housing meeting the requirements of the Code or EZO, the percentage of Affordable Housing within the Development, a description of the general construction characteristics of the Affordable Housing, a description of how Affordable Housing will be integrated into the total development, and a description of how Affordable Housing will be marketed and sold to Eligible Buyers;

2.1.2.2. The general location of houses, number of houses, lot sizes, unit sizes and types. The exact location of Affordable Houses need not be identified;

2.1.2.3. A phasing schedule describing the timing planned for the marketing, construction and sale of the Affordable Housing; and

2.1.2.4. For phased developments in which the marketing, construction and sale of Affordable Housing in an initial phase is not yet complete when an applicant submits another Affordable Housing Plan for a subsequent phase for approval, a demonstration that the Affordable Housing in the initial phases or developments is being, or has been, marketed, constructed and sold in compliance with an approved Affordable Housing Plan or other Affordable Housing Agreement which predates these Regulations.

2.1.4. "**Affordability Note and Mortgage**" means a promissory note and mortgage in the forms attached hereto as Attachments 3 and 4, respectively, executed by an Eligible Buyer(s) at the closing of the purchase of an Affordable House in accordance with Article III of these Regulations.

2.1.5. "**Applicant**" means a person who is required under Article XV, § 6.K. of the Code or Section 13.6.K of the EZO to provide Affordable Housing for Eligible Buyers.

2.1.6. **"Area Median Income"** means the current Area Median Income statistics published by the U.S. Department of Housing and Urban Development for the Santa Fe Metropolitan Statistical Area.

2179698

2.1.7. **"Certificate of Compliance"** means a certification issued by the Land Use Administrator or his designee in favor of an Applicant in the form attached to the Regulations as Attachment 5 as provided in Article III, Section 3.3.4. of these Regulations.

2.1.8. **"Certificate of Eligibility"** means a certification issued by the Land Use Administrator or his designee in the form attached to the Regulations as Attachment 1. The Land Use Administrator may designate one or more persons or entities to issue Certificates of Eligibility under these Regulations, provided that such person or entity, if not employed by Santa Fe County, agrees in writing to apply the criteria and follow the procedure set forth below in Article III of these Regulations for the qualification of Eligible Buyers.

2.1.9. **"Eligible Buyer"** means an individual:

2.1.9.1. who meets the Eligibility Standards set forth in Article III of these Regulations as certified by Santa Fe County or its designee; and

2.1.9.2. who has not had an ownership interest in a residence in which the individual lived during the two-year period preceding the date of issuance of a Certificate of Eligibility and, if married at the time of issuance of the Certificate of Eligibility, whose spouse has not had an ownership interest in a residence in which the spouse lived during the two-year period preceding the date of issuance of a Certificate of Eligibility; or

2.1.9.3. who had an ownership interest in a residence in which the individual lived during the 2-year period preceding the date of issuance of a Certificate of Eligibility but transferred title to another party as part of a divorce proceeding; or

2.1.9.4 who currently owns and occupies a manufactured home as his only residence;
or

2.1.9.5. who previously lived in Santa Fe County for at least ten consecutive years, owns a home in a location outside of Santa Fe County, and wishes to return to Santa Fe County.

2.1.10. **"Eligibility Standards"** means the financial criteria which must be met by an individual to become an Eligible Buyer, as set forth in Article III of these Regulations.

2.1.11. **"Qualified Transaction"** means a transaction in which an Applicant sells an Affordable House to an Eligible Buyer in accordance with an approved Affordable Housing Agreement.

2.2. **Incorporation of Terms and Phrases.** Terms and Phrases defined in the Code or the EZO shall have the meanings provided therein, unless they differ from the definitions provided above in this

Article II, Section 2.1, in which case the definition provided in these Regulations shall control. Any other terms and phrases which have been bold-faced, capitalized and defined in these Regulations shall have their defined meaning wherever such capitalized terms and phrases appear.

Article III.

(Affordable Housing - Eligible Buyers - Qualified Transactions)

3.1. Affordable Housing Criteria. All Affordable Housing shall meet the following criteria:

3.1.1. Housing Types. All Affordable Housing must meet the criteria of "Type A Housing," "Type B Housing," or "Type C Housing" as defined in, and meeting the price limitations provided in, Article XV, § 6.K. of the Code or Section 13.6.K of the EZO. An Affordable Home designed by an Applicant within a certain Housing Type shall qualify as being within that Housing Type, notwithstanding a design modification requested by an Eligible Buyer.

3.1.2. Determination of Base Price. Annually, but not later than 30 days after the Area Median Income statistics are revised and published by the U.S. Department of Housing and Urban Development, the Land Use Administrator shall determine the "Maximum Base Price" for the Affordable Houses for the ensuing year in accordance with the formula set forth in this Section 3.1.2. The "Maximum Base Price" equals the "Maximum Allowable Income for the Relevant Housing Type" multiplied by the "Housing Cost Factor for the Relevant Income Range" plus "Allowable Option Upgrades." The "Maximum Base Price" for all Type C Housing shall be further reduced by four percent (4%) to reflect marginal costs savings achieved in the construction of Type C Housing.

3.1.2.1. "Maximum Base Price" is the maximum consideration which may be paid by an Eligible Buyer to an Applicant in the purchase of an Affordable House.

3.1.2.2. "Maximum Allowable Income for the Relevant Housing Type" is the maximum allowable income of an Eligible Buyer expressed as percentage of the Area Median Income in the three Income Ranges defined in Article XV, § 6.K. of the Code and Section 13.6.K of the EZO. Income Range 1 is 0%-60% of the Area Median Income. Income Range 2 is 61%-80% of the Area Median Income. Income Range 3 is 81%-100% of the Area Median Income. The Maximum Allowable Income for the Relevant Housing Type assumes a household of two persons when determining the Base Price for Type A Housing, a household of three persons when determining the Base Price for Type B Housing, and a household of four persons when determining the Base Price for Type C Housing.

3.1.2.3. "Housing Cost Factor" is a factor by which an Eligible Buyer's income is multiplied to determine the Maximum Base Price of an Affordable Home for that Eligible Buyer. The Housing Cost Factors shall not be changed, altered or modified unless the Board of County Commissioners shall expressly allow for a change, alteration or modification. The Housing Cost Factor for Income Range 1 is 2.9. The Housing Cost Factor for Income Range 2 is 3.0. The Housing Cost Factor for Income Range 3 is 2.6.

3.1.2.4. "Allowable Option Upgrades" are additions and/or modifications to the standard features of the Affordable Home chosen solely at the option of the Eligible Buyer to upgrade the standard features of the Affordable Home, the price of which addition or modifications charged to the Eligible Buyer may not exceed \$2,000.00. By way of example, not limitation, the addition of a fireplace is such an addition or modification to standard features which would qualify as an "Allowable Option Upgrade".

3.1.2.5. The following chart gives an example of how the formula stated in this section is applied.

Income Range (max.)	60%	80%	100%
Housing Cost Factor	2.9	3.0	2.6
Assumed HH of 2	\$30,288	\$40,384	\$50,480
Type A Max Price	\$87,835	\$121,152	\$131,248
Assumed HH of 3	\$34,074	\$45,432	\$56,790
Type B Max Price	\$98,815	\$136,296	\$147,654
Assumed HH of 4	\$37,860	\$50,480	\$63,100
Type C Max Price - *	\$105,402	\$145,382	\$157,498

*includes housing cost factor less 4%.

This chart shows by way of example how the maximum price of a Type A Affordable House for households with incomes below 60% of the area median income is determined by multiplying 60% of the income for a household of two by the Housing Cost Factor of 2.9 ($\$30,288 \times 2.9 = \$87,835$); the maximum price of a Type B Affordable Home at 100% of the median income is $\$56,790 \times 2.6 = \$147,654$; and the Type C home has been discounted down 4% from the formula calculation.

3.1.3. General Criteria. Any Affordable House Type may be sold to any Eligible Buyer(s). An Applicant need not match any particular Affordable House Type with any particular Eligible Buyer of any specific household size. By way of example, without limitation, a sale by an Applicant of a Type C Affordable House to an Eligible Buyer with an actual household of one will qualify as a Qualified Transaction, assuming all other requirements of the Regulations have been met and the buyer qualifies for financing.

3.2 Certification of Eligible Buyers. In order to qualify as a Eligible Buyer(s), an individual must meet the following criteria in addition to the criteria set forth in the definitions for "Eligible Buyer":

3.2.1. Financial Criteria. An Eligible Buyer must meet the following financial eligibility standards:

3.2.1.1. The income of Eligible Buyers must be at or below the maximum percentage of the Area Median Income that is allowed for the relevant Income Range. For example, a potential buyer in Income Range 1 may not have an income exceeding 60% of the Area Median Income and still qualify as an Eligible Buyer.

3.2.1.2. The income of all household members who will occupy the property and are 19 years or older shall be used to determine the income of the Eligible Buyer, whether or not this income is being used to qualify for financing to purchase the home.

3.2.1.3. As shown by the information provided at the time of certification, the **"Liquid Assets"** of the potential buyer will not exceed \$10,000.00 after the closing on the Affordable House. If, as shown by the information provided at the time of certification, a potential buyer of an Affordable House has Liquid Assets in excess of \$10,000.00 plus the Maximum Base Price of the Affordable House to be purchased, the potential buyer shall not qualify as an Eligible Buyer. "Liquid Assets" are defined as cash, cash equivalents, stocks, bonds, and other assets readily converted to cash. Liquid Assets do not include retirement funds that are not readily accessible without the payment of a penalty (IRA, 401(k), 403(b), PERA, etc.), trust funds not controlled by the potential purchaser, personal property such as furniture or automobiles, educational accounts committed to a dependent, or other assets not readily accessible to the purchaser.

3.2.1.4. As shown by the information provided at the time of certification, the potential buyer shall not have an ownership interest in any other real estate the maximum market value of which interest would exceed \$100,000.00 after the closing on the Affordable House.

3.2.2. Certification Process. The Applicant and the County or its designee shall follow the process provided in this Section for certifying Eligible Buyers.

3.2.2.1. Not later than 30 days before closing on any Affordable House, the Applicant shall provide the County (or its designee) with the following **"Certification Package"**:

3.2.2.1.1. An accurate and complete copy of the Purchase Agreement;

3.2.2.1.2. An accurate and complete copy of the potential buyer's mortgage loan application;

3.2.2.1.3. A copy of current pay stubs for the potential buyer's and all persons 19 years old or older who will occupy the Affordable House;

3.2.2.1.4. A complete copy of the two most recent tax returns with W-2's for the Eligible Buyer and all persons 19 years old or older who will occupy the Affordable House;

3.2.2.1.5. A copy of all statements for all financial accounts held by the potential buyer, including without limitation, checking accounts, savings accounts, money market accounts, and stock and bond accounts;

3.2.2.1.6. A financial statement listing all of the assets and liabilities of the potential buyer; and

3.2.2.1.7. A sworn statement from the potential buyer which verifies that the information provided in accordance with this Section 3.2.2.1. is true, correct and complete, that the house to be purchased will be used as the potential buyer's residence, and that the potential buyer(s) does not own residential rental property.

3.2.2.2. Upon receipt of the information required by this Section 3.2.2.1. and a fee of Two Hundred Dollars (\$200.00) payable by the Applicant to the County or its designee, the County or its designee shall issue a receipt to the Applicant signifying the receipt of a complete Certification Package. If the fee is not submitted the Certification Package will not be reviewed and a receipt of a complete Certification Package will not be issued until the fee is paid. Certification Packages are to be submitted to the Santa Fe County Housing Services Division, 52 Camino De Jacobo, Santa Fe, N.M. 87504, in care of the Executive Director, or directly to the County's designee.

3.2.2.3. Upon the determination of eligibility under the Eligibility Standards, the County or its designee shall issue to the Applicant (with a copy to the Eligible Buyer) a Certificate of Eligibility within 15 business days of the delivery of a complete Certification Package and payment of the Two Hundred Dollar (\$200.00) fee. If additional information is necessary to make a determination of eligibility under the Eligibility Standards, the County or its designee may inspect the potential buyer's file and/or request additional clarifying information. This request and inspection shall be completed within the initial 15 day evaluation period.

3.2.2.4. The Certificate of Eligibility shall be valid for a period of six months after issuance. An Applicant shall be entitled to rely upon the issuance of the Certificate of Eligibility during that time period, provided that the Applicant shall inform the County or its designee if within said six month period the Applicant becomes aware that the Eligible Buyer's income status has changed in such a manner that the Eligible Buyer would no longer qualify under the Eligibility Standards.

3.3. Closing and Certification of Qualified Transactions. All Qualified Transactions shall be closed in accordance with the procedures in this Section 3.3.

3.3.1. Notice of Closing. Not later than ten business days before the scheduled closing date for a Qualified Transaction, the Applicant shall give the County written notice of the following:

3.3.1.1. The name of the Eligible Buyer(s);

3.3.1.2. The date and time of the scheduled closing; and

3.3.1.3. The name and location of the title company closing the transaction and the name and telephone number of the closing agent.

3.3.2. Delivery of Documents.

3.3.2.1. **Applicant's Documentation.** At the time of the notice required above in Section 3.3.1., the Applicant shall deliver to the County an appraisal of the Affordable House to be sold in the particular Qualified Transaction which appraisal shall be paid for by the Applicant and shall be not older than 12 months at the time of the notice to the County. The appraisal shall be prepared by a properly licensed real estate appraiser. Within ten days after closing, the title company shall transmit a copy to the County of the Settlement Statement (HUD 1) signed by the seller, purchaser and mortgagee, if any, and it shall be the Applicant's responsibility to ensure that the copy of the Settlement Statement is timely transmitted to the County by the title company.

3.3.2.2. **County's Documentation.** Not later than two (2) business days prior to the date of the scheduled closing, the County shall deliver to the title company (with a copy to the Applicant and the Eligible Buyer) the Affordability Note and Mortgage, together with written instructions to the closing agent with respect to the execution, recording, returning and insurance of the Affordability Note and Mortgage.

3.3.3. **Closing Requirements.** The following requirement shall be met at the closing:

3.3.3.1. The Eligible Buyer must provide a down payment of at least two percent (2%) of the Base Price in seasoned funds. Gifts and other buyer assistance shall be allowed, but such gifts and assistance cannot be used to meet the Eligible Buyer's two percent (2%) obligation.

3.3.3.2. For Affordable Houses sold below their market value as shown by the appraisal delivered by the Applicant to the County, the amount of the Affordability Note and Mortgage shall be the difference between 95% of the appraised value as shown by the appraisal delivered by the Applicant to the County and the Maximum Base Price allowed under these Regulations for the Affordable House. The Affordability Note and Mortgage shall be recorded at closing. The Affordability Mortgage shall be subordinated to any and all financing for the Base Price and for any refinancing thereof.

3.3.4. **Certification of Qualified Transactions.** Upon receipt by the County of the closing statement from the title company or the Applicant, the County shall issue a Certificate of Compliance for the Qualified Transaction.

3.3.5. Post Closing and Resale Provisions.

3.3.5.1 The County, in its sole discretion, may grant exception to the occupancy requirements of these Regulations if it determines that the Eligible Buyer has a compelling financial, health related, or other similar reason why the Eligible Buyer cannot feasibly occupy the Affordable Home, provided that the entire period that the original buyer will not occupy the property does not

exceed 18 months in total and that the County has not already granted that Eligible Buyer an exception to the occupancy requirements of these Regulations.

3.3.5.2. In the event an Affordable House is sold by the Eligible Buyer and the Affordability Note and Mortgage are paid off, the County shall use the proceeds from any such repayments to assist other Eligible Buyers of Affordable Homes in paying the costs of the purchase of an Affordable Home in the Community College District. If the County determines that using mortgage repayment funds in the College District is no longer needed or is not feasible, the County may, in its sole discretion, use the funds to provide such assistance to other Eligible Buyers anywhere in Santa Fe County.

3.3.5.3. On an annual basis, and with a minimum of 15 business days written notice, Santa Fe County may randomly audit the complete files of the Applicant for all Qualified Transactions which have received Certificates of Compliance.

3.3.6. **Event of Termination and Re-Marketing.** If a purchase agreement between an Applicant and Eligible Buyer is terminated by the Eligible Buyer or by reason of the Eligible Buyer's breach of the agreement, the Affordable House which was the subject matter of the terminated purchase agreement shall be re-sold to another Eligible Buyer in accordance with these Regulations, the Affordable Housing Plan and the Affordable Housing Agreement for the development.

Article IV

(Affordable Housing Plans and Agreements)

4.1 **Submission of Affordable Housing Plan.** An Applicant shall submit a draft of the Affordable Housing Plan not later than the date of submission of the application for final development plan and plat approval. The Affordable Housing Plan shall be subject to approval by the Land Use Administrator using the criteria set forth in these Regulations. The approval of the Affordable Housing Plan shall be completed in conjunction with the approval of the final development plan and plat.

4.2. **Execution of Affordable Housing Agreement.** The Applicant shall sign an Affordable Housing Agreement for the Development approved by the final plan and plat, which shall be counter signed by the Land Use Administrator and executed by the County Manager or his designee, or as delegated by the Board of County Commissioners. No final plat shall be recorded until the Applicant has executed an Affordable Housing Agreement, which conforms to and implements the approved Affordable Housing Plan.

Revision Date: July 31, 2002
Effective Date: July 31, 2002

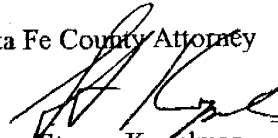
Santa Fe County
Land Use Administrator


Roman Abeyta

Approved as to form and content:

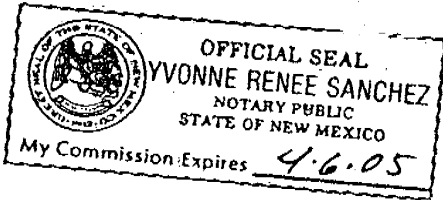
Santa Fe County Attorney

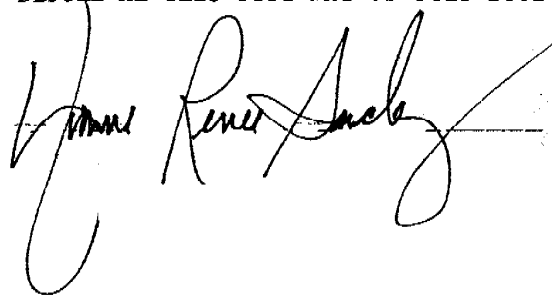
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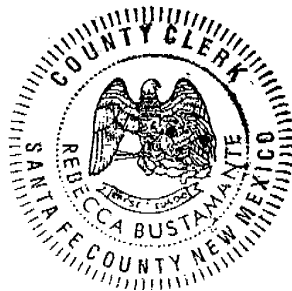
By: 
Steven Kopelman

STATE OF NEW MEXICO
COUNTY OF SANTA FE

THE FOREGOING INSTRUMENT IS ACKNOWLEDGED BEFORE ME THIS 31ST DAY OF JULY 2002
BY ROMAN ABEYTA AND STEVEN KOPELMAN.

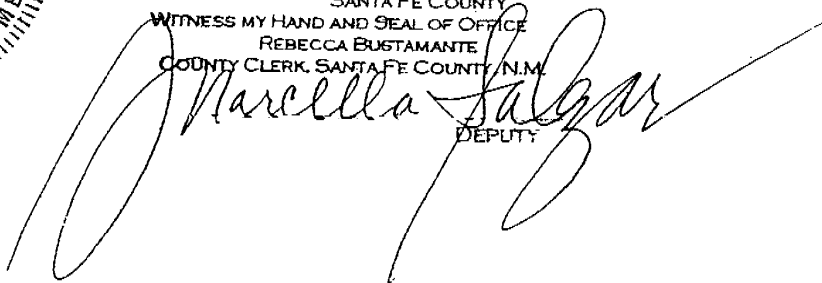






1217-414
COUNTY OF SANTA FE
STATE OF NEW MEXICO } ss
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE 1 DAY OF Aug. A.D.
20 02 AT 1:44 O'CLOCK P.M.
AND WAS DULY RECORDED IN BOOK 2179
PAGE 696-719 OF THE RECORDS OF
SANTA FE COUNTY

WITNESS MY HAND AND SEAL OF OFFICE
REBECCA BUSTAMANTE
COUNTY CLERK, SANTA FE COUNTY, N.M.


DEPUTY

Attachment 1
(Certificate of Eligibility)

2179706

**SANTA FE COUNTY
AFFORDABLE HOUSING CERTIFICATE OF ELIGIBILITY**

This Certificate of Eligibility is issued this ____ day of 200__, and certifies that
and (“Eligible Buyers”) meet the criteria under
Article III, Section 3.2.1 of the Community College District Affordable Housing Regulations, of
“eligible buyers” within Income Range ____, as defined in the Regulations.

Eligible Buyers and any party relying upon this Certificate are hereby advised that Article III, Section
3.2.2.1 provides as follows:

3.2.2.4. The Certificate of Eligibility shall be valid for a period of six months after
issuance. An Applicant shall be entitled to rely upon the issuance of the Certificate of
Eligibility during that time period, provided that the Applicant shall inform the County
or its designee if within said six month period the Applicant becomes aware that the
Eligible Buyer’s income status has changed in such a manner that the Eligible Buyer
would no longer qualify under the Eligibility Standards.

Santa Fe County Land Use Administrator

By:

Attachment 2
(Affordable Housing Agreement)

2179707

SANTA FE COUNTY
AFFORDABLE HOUSING AGREEMENT

This Affordable Housing Agreement (the "Agreement") is entered into this _____ day of _____, 2001, between _____ (the "Applicant") and Santa Fe County (the "County").

WHEREAS, the County has adopted Santa Fe County Ordinance No. 2000-12, creating the Community College District (the "CCD") within Santa Fe County, and the Santa Fe Extraterritorial Zoning Authority has adopted EZA Ordinance No. 2000-03, creating the CCD within the Extraterritorial Zone (collectively, the "Ordinance"); and

WHEREAS, pursuant to the Ordinance, the County Land Use Administrator ("Administrator") has adopted the Community College District Affordable Housing Regulations, dated _____, (the "Regulations") which are applicable and govern this Agreement; and

WHEREAS, the Ordinance and Regulations provide that a final plat will not be recorded until the applicant has entered into an Affordable Housing Agreement with the County to identify the locations for proposed affordable housing units with the subdivision known as "_____" (the "Development"); and

WHEREAS, Applicant has prepared an Affordable Housing Plan dated _____ which was approved by the Administrator on _____ in accordance with Article IV, § 4.1 of the Regulations (the "AHP"); and

WHEREAS, Applicant and the County desired to enter into this Agreement in accordance with the Ordinance and Regulation requirements.

NOW THEREFORE, the County and Applicant agree as follows:

1. **Affordable Housing Lots.** Applicant owns the residential lots described in Exhibit A (the "Lots).
1. **Affordable Homes.** In accordance with the AHP, Applicant agrees to construct the Affordable Homes, as defined the Regulations and described in Exhibit B, on the Lots. The County agrees that the Affordable Homes and Lots are integrated into the Development as required by the Ordinance and Regulations.
1. **Marketing Date.** Applicant shall begin marketing the Affordable Homes on or before _____, 200__, in accordance with the AHP.

1. **Construction Schedule.** Applicant shall begin construction of each Affordable Home on the date shown on Exhibit B.

2179708

1. **Miscellaneous Provisions.**

- A. If any provision of this Agreement or the application thereof to any person or circumstances is held to be invalid or unenforceable by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable.
- A. This Agreement shall be construed and enforced in accordance with the Ordinance and Regulations.
- A. No actions taken by the parties following a breach of any of the terms contained in this Agreement shall be construed to be a waiver of any claim or consent to any succeeding breach of the same or any other term.
- A. This Agreement states the entire agreement of the parties. This Agreement shall not relieve Applicant from complying with present or future County or EZ ordinances, duly adopted resolutions or regulations applicable to the development.
- A. This Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

WHEREFORE, the parties set their hands and seals this ____ day of _____, 200__.

APPLICANT:

By: _____
Its:

SANTA FE COUNTY

County Manager

APPROVED AS TO FORM:

County Attorney

AFFORDABLE NOTE

\$ _____, 200 _____

For Value Received, the undersigned, _____ (include marital status) ("Borrower") promises to pay to **Santa Fe County**, or order ("Lender"), the principal sum of _____ Dollars (\$ _____ .00), without interest on the unpaid principal balance, except as set forth herein. The principal balance plus accrued but unpaid interest, if any, unless earlier accelerated by Lender in accordance with the Affordable Mortgage which secures this Note, shall be due and payable at the time Borrower closes on the sale of the real property which secures this Note, any portion thereof, or any partial interest therein, unless this Note is assumed, in whole or in part, by Borrower's successor with the consent of Lender, in accordance with the provisions of the following paragraph.

If Borrower shall sell the Property for an amount ("Borrower's Sales Price") which is lower than purchase price paid by the Borrower plus the principal balance of this Note ("the No Equity Price"), the Borrower may seek the consent of the Holder to an assumption by Borrower's buyer of an amount due hereunder equal to the difference between the Borrower's Sales Price and the No Equity Price. Approval by the Holder of Borrower's requested assumption may be based on criteria established by Holder and may be denied in Holder's sole discretion.

If Borrower fails to make payment as set forth above, the principal balance shall accrue interest at a rate of twelve percent (12%) per annum commencing on the due date and continuing until paid in full. For purposes of an uncured default on a prior and superior debt, the due date of this Note shall be the date on which any cure period provided to Borrower under the terms of such prior and superior debt, including extensions, expires. Lender shall be entitled to immediately pursue collection of this Note, including the exercise of Lender's rights under the Mortgage which secures this Note. If action is taken by Lender to collect this Note following a default by Borrower, Lender shall be entitled to collect all reasonable costs and expenses of collection. Such costs of collection shall include, but not be limited to, reasonable attorneys' fees and costs including costs of title searches.

Presentment, notice of dishonor, and protest are hereby waived by all makers, sureties, guarantors and endorsers hereof. This Note shall be binding upon the Borrower and its successors and assigns.

Any notice to Borrower provided for in this Note shall be given by mailing such notice by certified mail, return receipt requested, addressed to Borrower at _____ or to such other address as Borrower may designate by written notice to the Lender. Any notice to the Lender shall be given by mailing such

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notice by certified mail, return receipt requested, to the Lender at _____, Santa Fe, New Mexico 87____ or at such other address as may have been designated by written notice to Borrower.

The indebtedness evidenced by this Note is the joint and several obligation of each Borrower, if there be more than one Borrower. The indebtedness evidenced by this Note is secured by an Affordable Mortgage, dated of even date with this Note, and reference is made to the Mortgage for rights of Lender with regard to enforcement of the promises evidenced by this Note.

Borrower:

AFFORDABLE MORTGAGE

This Affordable Mortgage ("Security Instrument") is given, this _____ day of _____, 20____, by _____, (include marital status) ("Borrower").

This Security Instrument is given to **Santa Fe County**, whose address is 102 Grant Ave., Santa Fe, New Mexico 87____ ("Lender"). Borrower owes Lender the principal sum of _____ Dollars (\$ _____ .00). Borrower's debt is evidenced by Borrower's Affordable Note, dated the same date as this Security Instrument ("Note"), which provides for one payment of principal and accrued interest, if any, at the time Borrower closes on the sale of the Property, described below, any portion thereof, or any partial interest therein, unless the Note is assumed, in whole or in part, by Borrower's successor with the consent of Lender, in accordance with the provisions of the Affordable Housing Note attached as Exhibit B. For this purpose, Borrower does hereby mortgage, grant, and convey to Lender the property described on Exhibit A, attached hereto and incorporated herein for all purposes.

Together with all the improvements now or hereafter erected on the property, and all easements, rights, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

Pursuant to Section 47-1-40 and Section 47-1-41, NMSA 1978, this Security Instrument is subject to the statutory mortgage condition, for the breach of which it is subject to foreclosure as provided by law, and with mortgage covenants.

The principal amount of the Note represents the difference between 95% of the appraised value of the Property and the purchase price paid by Borrower for the Property and is delivered by Borrower to Lender in accordance with the Santa Fe County Affordable Housing Regulations for the Santa Fe Community College District dated _____. Borrower covenants that Borrower is lawfully seised of the estate hereby conveyed, and has the right to mortgage, grant, and convey the Property, and that the Property is unencumbered, except for that certain mortgage dated of even date herewith to _____, recorded prior hereto, which mortgage was granted by Borrower to secure payment of the balance of the purchase price by Borrower for the purchase of the Property ("Purchase Mortgage"). Borrower warrants, and will defend generally, the title to the Property against all claims and demands, subject to the Purchase Mortgage.

Borrower and Lender covenant and agree as follows:

1. **Payment of Principal and Interest; and Default Interest.** Borrower shall promptly pay, when due, the principal balance of the Note and default interest due under the Note, if any.

2. **Application of Payments.** Unless otherwise required by applicable by law, all payments received by Lender shall be applied first, to accrued interest due, costs incurred by Lender to enforce the Note and this Security Instrument, and then to principal due.

3. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which may attain priority over this Security Instrument. Borrower shall pay these charges on time directly to the person owed payment. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this paragraph. If Borrower makes these payments directly, Borrower shall promptly furnish to Lender receipts evidencing the payments. Borrower shall promptly discharge any lien which has priority over this Security Instrument except the Purchase Mortgage or any Refinance Mortgage, as defined in paragraph ____ below.

4. **Hazard or Property Insurance.** Borrower shall keep all improvements on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards, including floods or flooding, for which Lender requires insurance. This insurance shall be maintained in the amounts and for the periods that Lender requires. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's approval, which shall not be unreasonably withheld. If Borrower fails to maintain coverage described above, Lender may, at Lender's option and Borrower's expense, obtain coverage to protect Lender's rights in the Property in accordance with paragraph 6.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard mortgage clause, adding Lender as an additional insured, and shall provide notice to Lender of cancellation or termination of such policy at least thirty (30) days prior to the effective date of termination or cancellation. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may provide proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, insurance proceeds shall be applied to restoration or repair of the Property damaged, if the restoration or repair is economically feasible and Lender's security is not reduced. If the restoration or repair is not economically feasible or Lender's security would be reduced, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with any excess paid to Borrower. If Borrower abandons the Property, or does not answer within ten (10) days a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may collect the insurance proceeds. Lender may use the proceeds to repair or restore the Property or to pay sums secured by this Security Instrument, whether or not then due.

Notwithstanding the foregoing, all rights of Lender hereunder are and shall remain subordinate and subject to the rights of the holder of the Purchase Mortgage or any Refinance Mortgage.

5. **Preservation, Maintenance, and Protection of the Property.** Borrower shall not destroy, damage, or impair the Property, allow the Property to deteriorate, or commit waste on the Property. Borrower shall be in default if any forfeiture action or proceeding, whether civil or criminal, is begun

that, in Lender's good-faith judgment, could result in forfeiture of the Property or otherwise materially impair the lien created by this Security Instrument or Lender's security interest.

6. **Protection of Lender's Rights in the Property.** If Borrower fails to perform the covenants and agreements contained in this Security Instrument, or there is a legal proceeding that may significantly affect Lender's rights in the Property (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, or to enforce laws or regulations), then Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property. Lender's actions may include paying any sums secured by a lien which has priority over this Security Instrument, appearing in court, paying reasonable attorneys' fees, and entering on the Property to make repairs. Although Lender may take action under this paragraph 6, Lender is under no obligation to do so.

Any amounts disbursed by Lender under this paragraph 6 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest from the date of disbursement at the rate set forth of twelve percent (12%) per annum, until repaid, and shall be payable, with interest, upon notice from Lender to Borrower requesting payment.

7. **Successor and Assigns Bound; Joint and Several Liability.** The covenants and agreements of this Security Instrument shall bind and benefit the successors and assigns of Lender and Borrower.

8. **Loan Charges.** If the loan secured by this Security Instrument is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected, or to be collected, in connection with the loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge under the Note.

9. **Hazardous Substances.** Borrower shall not cause or permit the presence, use, disposal, storage, or release of any hazardous substances on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property that is in violation of any environmental law. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of hazardous substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property.

10. **Legislation Affecting Lender's Rights.** If enactment or expiration of applicable laws has the effect of rendering any provision of the Note or this Security Instrument unenforceable according to its terms, Lender, at its option, may require immediate payment in full of all sums secured by this Security Instrument and may invoke any remedies permitted by paragraph 11.

11. **Default; Remedies.** If (1) Borrower shall fail to pay the sums due under the Note as and when due; or (2) Borrower shall default on the terms of the Purchase Mortgage or any Refinance Mortgage and Borrower shall fail to cure such default within the deadline set forth in such Purchase Mortgage or Refinance Mortgage, as such may be extended by the holder thereof; or (3) or if a subordinate lien or encumbrance is placed on the Property without Lender's prior written consent; or (4) Borrower shall breach of any covenant or agreement in this Security Instrument, Lender at its option, may require immediate payment in full of all sums secured by this Security Instrument and may, after notice to Borrower and the passage of fifteen (15) days, foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this paragraph numbered 11, including, but not limited to, reasonable attorneys' fees and costs

12. **Lender in Possession.** Upon acceleration under paragraph 11 or abandonment of the Property, Lender (in person, by agent, or by judicially appointed receiver) shall be entitled to enter upon, take possession of, and manage the Property, and to collect the rents of the Property, including those past due. Any rents collected by Lender or the receiver shall be applied first to payment of the costs of management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds, and reasonable attorneys' fees, and then to the sums secured by this Security Instrument. Notwithstanding the foregoing, Lender's rights hereunder shall be subordinate and subject to the rights of the holder of the Purchase Mortgage or any Refinance Mortgage.

13. **Subordination to Purchase Mortgage and Refinance Mortgage.** Lender and Borrower acknowledge and agree that this Security Instrument is subordinate in all respect to the liens, terms, covenants and conditions of the Purchase Mortgage including all sums advanced for the purpose of (a) protecting or further securing the lien of the Purchase Mortgage, or (b) constructing, renovating, repairing, furnishing, fixturing or equipping the Property. Additionally, in the event Borrower shall elect, from time to time, to re-finance the Purchase Mortgage, Lender agrees to execute any documentation reasonably required by Borrower's lender to subordinate this Security Instrument to mortgage granted by Borrower to secure such debt refinance ("Refinance Mortgage"). In connection with obtaining the Refinance Mortgage, Borrower shall be entitled to increase the amount of debt which was initially secured by the Purchase Mortgage by an amount equal to Borrower's equity in the Property as determined by an appraisal obtained in connection with the refinance. Lender shall have no obligation to subordinate this Security Instrument to a Refinance Mortgage to the extent that the amount of the loan secured by the Refinance Mortgage exceeds the Purchase Mortgage plus Borrower's equity.

The terms and provisions of the Purchase Mortgage or a Refinance Mortgage, as the case may be, are paramount and controlling and they supersede any other term and provisions hereof in conflict therewith. In the event of a foreclosure or deed in lieu of foreclosure of the Purchase Mortgage or a Refinance Mortgage, any provisions herein or any provisions in any other collateral agreement or document restricting the use of the Property to low or moderate income households or otherwise restricting the Borrower's ability to sell the Property shall have no effect on subsequent owners or

purchasers of the Property. Any person, including his successor (other than the Borrower or a related entity of the Borrower), receiving title to the Property through a foreclosure or deed in lieu of foreclosure of the Purchase Mortgage or a Refinance Mortgage shall receive title to the Property free and clear from such restrictions. Further, if the holder of the Purchase Mortgage or a Refinance Mortgage acquires title to the Property pursuant to a deed in lieu of foreclosure, the lien of this Security Instrument shall automatically terminate upon the holder of the Purchase Mortgage or Refinance Mortgage holder's acquisition of title provided that (1) the Lender has been given written notice of a default under the Purchase Mortgage or Refinance Mortgage and (2) Lender shall not have cured the default under the Purchase Mortgage or Refinance Mortgage within the time period permitted for a cure by the Borrower. Nothing herein shall release the Borrower from personal liability for amounts due under the Note or hereunder in the event title is transferred pursuant to a deed in lieu of foreclosure.

In the event of a default of this Security Instrument, Lender shall provide to the holder of a Purchase Mortgage or Refinance Mortgage, a copy of the written default notice and any notice of acceleration sent by Lender to Borrower.

14. **Release.** Upon payment of all sums secured by this Security Instrument, Lender shall release this Security Instrument, without charge, to Borrower. Borrower shall pay any recording costs. Following release of this Security Instrument, any provisions herein or any provisions in any other collateral agreement or document restricting the use of the Property to low or moderate income households or otherwise restricting the Borrower's ability to sell the Property shall have no effect on Borrower or any subsequent owners or purchasers of the Property.

15. **Redemption Period.** If this Security Instrument is foreclosed, the redemption period after the date that the judicial sale is confirmed shall be one (1) month.

16. **Notices.** Any notice to Borrower provided for in this Security Instrument shall be given by delivering it or by mailing it by certified mail, return receipt requested, or by hand-delivery, unless applicable law requires use of another method. The notice shall be directed to or any other address Borrower designates by written notice to Lender. Any notice to Lender shall be given by first class mail to Lender's address stated herein or any other address Lender designates by notice to Borrower. Any notice provided for in this Security Instrument shall be deemed to have been given to Borrower or Lender when given, as provided in this paragraph.

17. **Governing Law; Severability.** This Security Instrument shall be governed by federal law and the law of the State of New Mexico. In the event that any provision or clause of this Security Instrument or the Note conflicts with applicable law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision. To this end, the provisions of this Security Instrument and the Note are declared to be severable.

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18. **Environmental Compliance.** Borrower is, and shall remain, until this Security Instrument is canceled, released, reconveyed, or discharged, the "owner and operator" of the Property within the meaning of, and for the purpose of, 42 U.S.C. Section 96-1(20)(A). At its sole cost and expense, Borrower shall comply with any and all federal, state, and local laws, rules, regulations, or orders with respect to environmental regulation, protection, or remediation (collectively, "Environmental Laws"), shall pay immediately when due the cost of removal of any hazardous and toxic substances, wastes, or materials, pollutants or contaminants, defined or regulated under any Environmental Laws (collectively, "Hazardous Substances") occurring after the date of this Mortgage, and shall keep the Property free of any lien imposed pursuant to any Environmental Laws;

Borrower hereby represents and warrants to Lender that there will be no future, Hazardous Substances stored or otherwise located on the Property.

Borrower:

ACKNOWLEDGEMENTS

STATE OF)
) ss:
COUNTY OF)

The foregoing instrument was hereby acknowledged before me this ____ day of
_ 20__ by _____

Notary Public

My commission expires:

2179718

EXHIBIT A to Affordable Mortgage
Legal Description

Attachment 5
(Certificate of Compliance)

2179719

**SANTA FE COUNTY
AFFORDABLE HOUSING CERTIFICATE OF COMPLIANCE**

This Certificate of Compliance is issued this ___ day of 200__, to
("Applicant"), pursuant to Article III, Section 3.3.4. of the Community College District Affordable
Housing Regulations ("Regulations"). The Santa Fe County Land Use Administrator hereby certifies
that the sale of the Affordable Home on Lot ___, Block ___, Unit ___, of the
_____ (name of subdivision or development) to _____ and
_____ is a Qualified Transaction as defined in Article II, Section 2.1.11. of the
Regulations and that _____ (name of applicant) has met its obligations under the
Regulations and the Affordable Housing Agreement dated _____ executed by
Applicant.

Santa Fe County Land Use Administrator

By: _____



MEMORANDUM

TO: Santa Fe County Board of County Commissioners

VIA: Gerald Gonzalez, Santa Fe County Manager
Roman Abeyta, Santa Fe Deputy County Manager

FROM: Robert Anaya, Santa Fe County Housing and Community Development Director
Diane T. Quarles, Santa Fe County Strategic Planner

SUBJECT: Discussion of the Draft Affordable Housing Ordinance with options and alternatives.

DATE: August 25, 2005

Background: The Board of County Commissioners created the County Affordable Housing Task Force to provide recommendations for an affordable housing ordinance. (Creation of this Task Force was done in response to the RPA Affordable Housing Strategy presented to the BCC in the fall of 2004.) Although the Task Force is nearing completion of their work, they have not had the opportunity to review the current draft and make final recommendations as to its content.

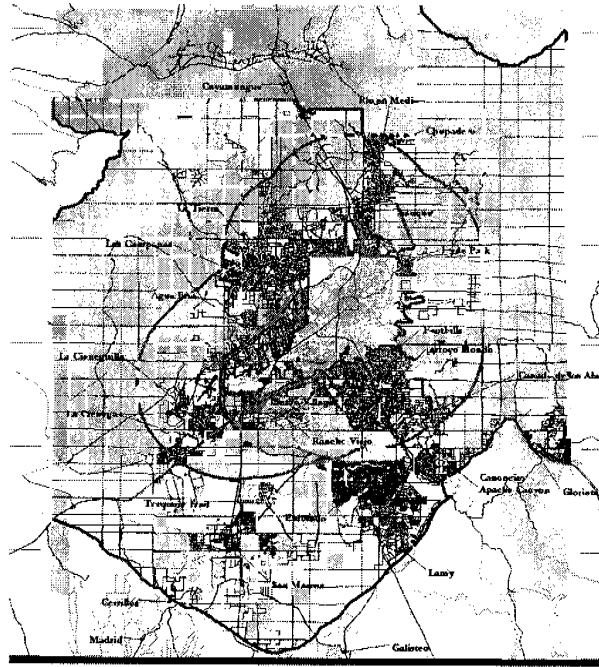
In addition to the work of the Task Force, the County Manager created an internal housing team to monitor the Task Force's work, provide technical analysis dealing with water and specific land use issues and make recommendations on those issues. Included is the current comparison between the Task Force's and Internal Team's recommendations (Exhibit A).

Also attached (Exhibit B) is the preliminary draft Affordable Housing Ordinance. Please note that the Task Force has not reviewed the draft and that there are a number of incomplete sections dealing with repealed, inserted and amended sections. The preliminary draft is also subject to formal legal review.

The draft ordinance is being represented as baseline document that reflect the most current work of the Task Force and the Housing Team; however, there are options and alternatives that the BCC may wish to consider and provide direction for final consideration by staff as well as the Task Force. It should also be noted that the County's draft ordinance tracks reasonably similar to the City ordinance that was passed on August 15, 2005. The major differences are in the incentives offered (this reflects the differences in zoning and access to utility) and long-term affordability requirements.

Material Summary: The following points are an overview of the key components of the ordinance. The ordinance, as written, would:

- *Applies to the Central County region (Map 1 below).* This corresponds to the study area contained in the Prior Housing Needs Report which was used as the basis for the RPA Housing Task Force findings. It also does not include the area governed by the EZO. The EZO would have to be similarly amended to reflect these provisions.



Map 1. Central Santa Fe County

- *Imposes a 30% total affordability requirement.* There are noted exceptions based on size of development or how a subdivision is served by water and sewer (service levels below).
- *Distributes the affordable housing (affhsg) according to three income ranges at a 10/10/10 percent distribution.* These income ranges include below 65%, 65% - 80% and 80% - 100%.
- *Establishes maximum target housing prices and minimum design standards for affhsg units.* The figures would be included in the Affordable Housing Regulations and could therefore be adjusted as market indices, income levels and/or interest rates change. (Exhibit A - Part II.)
- *Sets forth incentive options as a means to offset costs according to service levels.* These include water rights transfer exclusions and water allocation, density bonuses, and/or fee waivers where there is access to central utilities. Where development must rely on non-central utilities, incentives options are limited. These include fee waivers, reduction in affhsg lot sizes, and reduction in per unit water budgets where conservation can be demonstrated (applies to water rights transfers). (Exhibit A - Part IIIA. Incentive Schedules by Service Levels)
- *Reduces affordability requirements for developments of ten units or less.* In an effort to reduce the regulatory burden on smaller subdivisions that do not have access to central water and sewer, the affordability requirement is reduced. There is no affordability requirement on development of less

than five lots or for family transfers. This was based on the premise that there are limited incentives available to these developments to offset costs.

- *Creates alternative means of compliance.* This includes fees in lieu, land donations and off-site construction. The BCC would have total and full discretion in granting alternative means of compliance. Two levels of hardship tests are suggested; where there is access to most or all incentive options (water and/or density), there must be a demonstrated extreme hardship (service levels I and II). Where there are limited incentives (service levels III – V), the criteria for hardship would be relaxed, giving the BCC more discretion in applying alternative means of compliance.
- *Addressed long-term affordability and enforcement.* “Keeping affordable, affordable” would be achieved through liens filed on the property which identify it as an affordable unit. The draft includes resale restrictions for ten years, where homeowner appreciation is earned beginning in year five (5), earning 20% a year through year ten (10), wherein the liens would be retired. Liens may also be retired where hardship can be demonstrated.

Ordinance Options: In order to prepare the final ordinance for Task Force review and the BCC to consider for adoption, staff is requesting direction on several elements of the ordinance. *The ordinance currently reflects the general consensus of the Task Force and/or Housing Team recommendations;* however, there are a number of issues that have been raised or discussed within that context. These include the following principle issues:

1. Is the Central County region appropriate or should it be applied County wide? Should the EZO be similarly amended?
2. Is the 30% affordability requirement desirable?
3. Are there alternatives to the 10% distribution in each range (Less than 65%, 65%-80% and 80%-100)? Should there be allowances to alter those distributions if market conditions change or if there is a demonstrated hardship?
4. Should water allocation apply to all affordable units (30%) or to a portion thereof? Should water allocation apply to affordable units above 30%?
5. Is a 50% increase in density (or 15% density bonus for the total development) based on total number of affordable units acceptable?
6. Are the maximum target housing prices and minimum square footage requirements reasonable?
7. Are the hardship considerations and alternative means of compliance appropriately applied?
8. Is the affordability term of 5 to 10 years and share of appreciation reasonable or should it be more or less restrictive? Instead, should the homeowner gain full appreciation after the time of purchase (no resale restrictions)?
9. Is it acceptable to allow for some substitution in housing types (single family, rental, support service, shelter) on a discretionary basis as long as there is a demonstrated need and minimal impact to the area?

There are several minor components of the ordinance that may or may not warrant discussion. These include the following:

10. Creation of an Affordable Housing Administrator that also acts as a program ombudsman,
11. Density bonus allowance for voluntary housing within the 100%-120% income range,
12. Submittal of affordable housing requirements (housing plan) at the earliest stage of development review,

13. Relaxing of affordability requirements according to development size,
14. Allowing for alternative means of compliance (BCC discretion) where there are limited incentives offered (service levels III-V),
15. Waiver of fees for affordable housing—fire impact fees, application fees, connection charges etc...,
16. Either water or density but not a combination of the two,
17. Minimum square footage requirements included in Exhibit A Section 2B,
18. Affordable Housing Trust Fund considerations to be addressed under a parallel venue related specifically to housing financing structures (anti-donation considerations, private partners, administration, etc...).

Upon consideration and direction by the Board, staff will prepare the final draft for review. That draft will then be taken back to the County Housing Task Force for its review and recommendation. This final draft will then be presented to the Board on September 13th including the final recommendations from the Task Force.

Encl:

- Exhibit A: Recommendation Comparisons of the Housing Task Force and the Housing Team
- Exhibit B: Preliminary Draft of the Santa Fe County Affordable Housing Ordinance

EXHIBIT A

Preliminary Outline - Affordable Housing Ordinance (updated as of 8/26/05)

Part I. Ordinance Applicability (where to apply)-

- | Task Force | Housing Team |
|--|--|
| Central County (Prior Report) <ul style="list-style-type: none"> ○ Based on service levels and urbanization ○ May be expanded in future as access to service and development intensity changes | Central County (Prior) & by defined levels of service <p>Projects Served by:</p> <ul style="list-style-type: none"> ○ County Utility (Service Level I - water & ww) <ul style="list-style-type: none"> ○ IA. County provided water and sewer ○ IB. County provided water/other central sewer provider ○ Utility other than County (Level II – w & ww) ○ Utility other than County (Level III – w & septic) ○ Community wells & septic (Level IV) ○ Individual or shared wells & septic (Level V) |

Part II. Home Prices and Design Requirements

- | Task Force | Housing Team |
|---|---|
| <ul style="list-style-type: none"> ○ Based on income ranges with design restrictions for # of bathrooms and minimum square footages by # of bedrooms (see Tables A. & B below) ○ Design requirements for rental units included in tables (only) | Concur with noted exceptions: <ul style="list-style-type: none"> ○ Housing mix should be somewhat flexible ○ Some mix is desirable in most cases ○ Housing plan submitted at first review (master plan, dev. plan, etc...) sets mix by review body ○ Detailed plan required as submittal ○ Submittal requirements contained in AffHsg manual that can be readily updated ○ Housing type and mix should generally be compatible with overall theme of the project ○ Allow for some substitution for rental units – must meet same standards as residential (including minimum 30% aff) in addition to other criteria including need, location, compatibility— case-by-case review ○ Where a project is mostly affordable (by default), the Housing Plan/Agreement can be more flexible |

IIA. Table for Income Ranges, Percentage Requirements, Home Prices (Task Force Recommendations)

Income Ranges**	% Requirement	Max Home Price* (3 Bedroom)
Below 65%	10%	\$115,000
65% - 80%	10%	\$145,000
80% - 100%	10%	\$180,000

* Home prices can be adjusted based on changes to AMI, offsets for condo or homeowner association fees, upgrade allowances. Staff would further recommend that where interest rates deviate more than 1.5% points in a given three year period (or similar), there may be additional adjustments in home price according to interest rates and its effects on local buying power.

** The Housing Team further recommends that density bonuses be allowed in SL I & II for voluntarily providing 10% additional housing in the 100-120% income range. This would be demonstrated within the housing plan in order to qualify for additional density units. Density bonus may be allowed for up to 50% total affordable where similar distributions of income are provided, including the 100-120% income range. Affordable units above 50% would be reviewed on a case-by-case basis by the Housing and Land Use Departments in order to determine density appropriateness and area impacts prior to project submittal.

EXHIBIT A

IIB. Table of Design Standards

Unit Type	Min # of Bathrooms	Min Square Footage (residential heated area)!
Studio/Loft	1	700 SF
1 Bedroom	1	850 SF
2 Bedrooms	1	1,000 SF
3 Bedrooms	2	1,150 SF
4 Bedrooms	2	1,250 SF

! Staff notation--figures should be revised to conform to HUD min. requirements (or other standards) for homeownership or rental.

Part III. Incentives

Task Force

County Utilities

- o Water allocation (SL I) part or all
- o Density Bonus (SL I)
- o Combination Water and Density (SL I)
- o Fee Waivers
- o Process Improvements
 - o Task Force Review
 - o Ombudsman
 - o Ongoing Review
- o County Contribution to Offset Costs
- o County Revolving Construction Loan Fund

Non-Utilities

- o Some type of density bonus—not sure how it would work
- o Exclude family transfer but disallow serial lots
- o Fee Waivers
- o Process Improvements¹
 - o Task Force Review
 - o Ombudsman²
 - o Ongoing Review
- o County Contribution to Offset Costs³
- o County Revolving Construction Loan Fund (see notes³)

IIIA. Incentive Schedules by Service Level (applies to subdivisions/projects 10 units or greater)

Housing Team

SL I A & B

SLII

SLIII

SLIV

SLV

- | | | | | |
|--|--|---|---|--|
| <ul style="list-style-type: none"> o Water Allocation (allocation policy) o Density bonus o Fee Waivers | <ul style="list-style-type: none"> o Density Bonus o Fee Waivers | <ul style="list-style-type: none"> o Fee Waivers o Mixing of project lot sizes -reduce min. size for aff. where units are dispersed o Reduction in water rights (water budget) for usage for aff units⁴ | <ul style="list-style-type: none"> o Fee Waivers o Mixing of project lot sizes -reduce min. size for aff. where units are dispersed o Reduction in water rights (water budget) for usage for aff units | <ul style="list-style-type: none"> o Fee Waivers o Mixing of project lot sizes -reduce min. size for aff. where units are dispersed o Standard schedule* for less than 10 lots (aff reqm't reduced) |
|--|--|---|---|--|

¹ According to planning staff, changes to code to improve the review process should be considered as part of the code rewrite. That can occur independent of the housing ordinance; however, task force recommendations can be sent forward for consideration.

² See FTE requirements under Part VI. Enforcement.

³ See AffHsg Trust Fund notes. Similar treatment to water allocation policies.

⁴ A reduced household water budget would have to be demonstrated—this would include such conservation measures as reduced landscaped area, low water use appliances, rainwater catchment systems, gray water reuse, etc...If added conservation can be demonstrated, the household water budgets for the aff. units may be reduced below .25 AF. This would apply where a water budget/rights are required.

EXHIBIT A

IIIB. *AffHsg Schedule for 5 to 10 units

- Under five (5) units – no units required.
- All subdivisions of less than five lots require plat notes that recognize serial subdivisions as disallowed and that adjacent or contiguous lands could not be platted under 10 units within five years (subject to legal review).
- Five (5) units up to seven (7) units – One (1) unit in the 65% - 80% income range. (~18%)
- Seven (7) up to ten (10) units – Two units required; one (1) unit in 65% below income range and one (1) unit in 65% - 80% below median income range. (~24%)
- Subdivisions or projects of ten (10) units or greater must meet 30% affordability requirements above.
- Family transfers are excluded from these requirements.
- Fee in lieu—where there is a demonstrated hardship in meeting these requirements, a fee in lieu, or discretionary, comparable land donations or off-site construction may be substituted for on-site units. Alternative methods of compliance are considered discretionary and are subject to governing body approval.

Part IV. Density and Zoning

Task Force

- No rezoning required
- Density bonus according to what County deems appropriate and acceptable

Housing Team

- Zoning stands + bonus units
- Team suggests a 15% (or half) bonus for total # of aff units and an added 5% if voluntary units are included in the 100-120% income range
- Density (in SL III-V) constrained by hydrology /environmental

Part V. Water Allocation

Task Force

- Water Allocation for SFCU only
- Water, density or both
- % of water to aff units 50-100%???

Housing Team

- Water allocation for SFCU
- Water or density to ensure equal application (fairly and equally applied)
- Water allocation to AffHsg will be in keeping with County water allocation & extension policies
- Water allocation will depend on County's ability to provide water (supply/rights) to development

EXHIBIT A

Part VI. Long-term Affordability/Enforcement

Task Force

- Liens filed at initial time of sale
- Lien value is = to difference between appraisal & sales \$
- Lien provides shared appreciation between homeowner and County (% not agreed to)
- Liens can be transferred to new buyer or repaid to County (retired)
- Proceeds become part of AffHsg Trust Fund for future programs including homebuyer assistance, rental assistance, construction loans, etc...
- Rental of aff units prohibited

Housing Team

- Same, similar to CCD
- Same, similar to CCD
- Resale restriction clause – Options: #1) 5 years with full appreciation going to homeowner at the end of five years; #2) 5 to 10-year restriction with incremental appreciation beginning at the end of year 5 (20% annually) with full appreciation realized at the end of year 10.
- Hardship cases considered for resale prior to restriction term
- County AffHsg Trust Fund would be operated and managed in accordance with adopted policies regarding that fund. As in the water allocation, these policies would be separate from the AffHsg ordinance and regs.
- Rental for units would be considered under the hardship provisions
- Administration of new regs may require an additional ombudsman/housing planner FTE to assist developers with process, review plans, negotiate agreements, track liens and permits...

Part VII. Fee In Lieu Alternatives

Task Force

- Developers to construct on-site units unless they can demonstrate hardship
- BCC may consider alternative means of compliance thru fee in lieu, off-site construction, land donation
- "Transfer of credit" not recommended

Housing Team

- Fee in lieu for hardship substitution (SL I & II), overages would be calculated as residual fees (TBD) Hardship test generally would be considered where application of the regulations would render the property valueless and/or with no viable use of the land (subject to legal review). Fee schedules would be included as part of the regulations that would adjust as home prices are adjusted.
- Service level types would trigger different compliance alternatives. Because there are a variety of incentives offered in SL I & II, extreme hardship must be demonstrated in order to invoke alternative means of compliance (fee in lieu for SL I & II). For SL III, IV, & V where neither density nor water are available options, alternative means of compliance may be considered with hardship but must be approved by the BCC. Alternatives must be considered a comparable exchange and may be used in combination with on-site units.
- BOA (new code) would consider hardship cases. BCC would consider alternative means of compliance. EZA for EZ cases.

EXHIBIT A

Notation: These requirements are written from the perspective of the County land use and water codes including anticipated changes. They are not in all cases applicable to the EZ. Unless the EZA adopts these or similar regulations, then subdivisions within the shared jurisdiction for zoning and subdivisions would not be subject to some or all of these requirements without further amendments to the EZO. There would also have to be consideration given to which AffHsg regulations to model—City or County.

This is a working outline—changes are made as information is provided and there is additional input in the process. The outline also does not differentiate between what is applicable to an ordinance and what would be contained in the regulations. The information contained in the outline is also subject to legal review.

Central County (Prior Report)

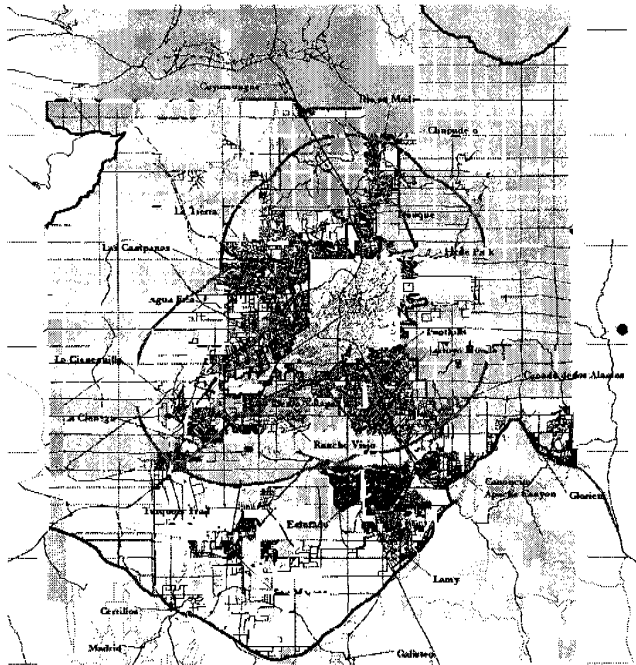


EXHIBIT B

Adopting Ordinance No. 2005-____, Amending the Santa Fe County Land Development Code and Repealing Ordinances No. ____, ____, ____, _____ and _____.

Section One. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section _____.

"A. Purpose and Intent. The purpose of this ordinance is to provide increased housing opportunities through regulatory means within a broad range of incomes for current and future residents of Santa Fe County. The intent is to require new development to achieve a reasonable balance between market rate and affordable housing through the use of incentives and other means to help offset potential costs. In those instances where literal application of the regulations creates a hardship condition, the Ordinance allows for alternative means of compliance or regulatory relief. "

Section Two. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section _____.

"B. Applicability. This Ordinance shall apply to Development and Minor Development within the unincorporated areas of the central Santa Fe County region as shown in Exhibit A, and except for areas that are governed by the Extraterritorial Zoning Ordinance and Extraterritorial Subdivision Regulations."

Section Three. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section _____.

"C. Affordable Housing Requirements for Development

1. Of the total housing permitted in any Development, no less than thirty percent (30%) shall be Affordable Housing as defined herein.

2. The Affordable Housing provided in connection with a Development shall be provided equally to Eligible Buyers in Income Range 1 (10%), Income Range 2 (10%) and Income Range 3 (10%).

3. Affordable Housing shall be integrated into the overall design and lay-out of the Development. The Affordable Units shall also reasonably be dispersed within the overall project. An appropriate mix of housing types and sizes may be included in the Development if it meets the intent of this ordinance. At a minimum, the general location, total number of units, a description as to the type and design of those units, the general pricing structure and the proposed phasing of the Affordable Housing shall be identified in the Affordable Housing Plan and the exact location of the affordable units shall be identified in the Affordable Housing Agreement. The Affordable Housing Administrator may request additional information in order to determine compliance with this ordinance.

4. Affordable Housing shall be provided in phases if Development is otherwise to be phased, but the proportion of Affordable Housing Units offered for sale within any phase must not be less than the proportion of the total number of lots to be developed within all phases of the Development and the total number of Affordable Housing Units to be offered within all phases of the Development.

EXHIBIT B

5. An applicant shall submit an Affordable Housing Plan as a part of its application for approval of a Development which describes, in detail, how the applicant intends to comply with the Affordable Housing requirements of this Ordinance. The Housing Plan shall be submitted at the earliest phase of the review process and shall be included as a part of the development review for that development. The Affordable Housing Administrator may reject or require amendments to a proposed Affordable Housing Plan if the proposed Affordable Housing Plan fails to meet the requirements of this Ordinance or the Affordable Housing Regulations. The Affordable Housing Plan will be incorporated into the Affordable Housing Agreement which shall be filed and recorded with a final development plan or a final plat, whichever instrument is the first to be recorded.

6. A final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County."

Section Four. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"D. Affordable Housing Requirements for Minor Development.

1. The Affordable Housing provided in connection with a Minor Development containing less than ten (10) housing units is as following:

a. Any Development less than five housing units or family transfer subdivisions created under Section __ of the Land Development Code shall not be subject to the requirements set forth in this Ordinance.

b. For Minor Development of five (5) housing units and up to seven (7) housing units, one (1) Affordable Unit within Income Range 2 shall be provided.

c. For Minor Development of seven (7) housing units and up to ten (ten) housing units, two Affordable Units shall be provided including one (1) Affordable Unit in Income Range 1 and one (1) Affordable Unit in Income Range 2.

2. Serial subdivisions are not permitted under this Ordinance. Any subdivision of land adjacent to an excluded Development or Minor Development in accordance with this section shall not be subdivided within five (5) years of the recording date of the final plat of the adjacent excluded Development or Minor Development unless there a hardship condition in accordance with Section __ of this Ordinance.

3. An Affordable Housing Agreement shall be required in order to identify the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units. The Agreement shall be filed and recorded with the final plat.

Section Five. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"E. Affordable Housing Regulations

1. Within ninety (90) days of the effective date of this Ordinance, the Code Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations.

2. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:

EXHIBIT B

a. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance for both for the Affordable Housing Plan and the Affordable Housing Agreement.

b. The form of the Affordable Housing Agreement, including standard terms and conditions for providing Affordable Housing within the Development or Minor Development and to ensure compliance with the terms of this Ordinance. The Affordable Housing Agreement shall describe how Affordable Units will be marketed and sold to eligible buyers;

c. A reasonable process for certifying Eligible Buyers by the County or its agent that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;

d. Reasonable fees to be charged to the developer for certification of Eligible Buyers;

e. The form of the Certificate of Compliance to be issued upon compliance with the terms of this Ordinance;

f. A Maximum Target Housing Price for each income range;

g. Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;

h. The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to discount the market price by the same percentages to determine the price for each category of Eligible Housing Type and for each Income Range;

i. The Affordable Housing Plan submittal requirements for a Development including each phase of the development review process; and

j. Any other matter deemed necessary by the Board of County Commissioners.

3. The Affordable Housing Regulations shall be adopted by resolution of the Board of County Commissioners, and shall be amended as necessary."

Section Six. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"F. Affordable Rental Units. Where there is a demonstrated need and minimal impacts as a result of the change in land use to the surrounding area, a Development may propose to substitute some or all of the Affordable Units as described by this Ordinance with Eligible Affordable Rental Units. The Development shall provide evidence of the need for rental units within the project's immediate and larger area and demonstrate that there are minimal impacts that would result from the substitution. Impacts would include but not limited to traffic generation, overall project compatibility, and other impacts associated with increased density. Any allowable substitution shall also be in compliance with the Land Development Code, including zoning, and any other regulations. The request for substitution shall be included in the Affordable Housing Plan, which may be accepted or rejected by the Affordable Housing Administrator based on the criteria included within this section. The Affordable Housing Administrator may request additional information as

EXHIBIT B

he/she deems necessary. All requests for rental substitution shall be considered by the Board of County Commissioners as part of the Housing Plan."

Section Seven. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"G. Water for Affordable Housing. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe Land Development Code, a Development that is within the service area of the Santa Fe County Utilities Department and which is to be supplied with water provided by the County Utilities Department, shall not be required to transfer water rights to the County for the required 30% of Affordable Units within the Development, so long as at the time of application the County holds adequate water rights to supply the Affordable Units. In addition, the County shall allocate water for the affordable units so long as at the time of application the County has an adequate and available supply of water for the Affordable Units. A transfer of water rights waiver and/or water allocation for additional Affordable Units that exceed the 30% affordability requirement may also be provided but at the sole discretion of the Board of County Commissioners."

Section Eight. The Santa Fe Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____:

"H. Density Bonus for Affordable Housing. A Service Level I or II Development may receive up to 50% increased density for Affordable Units, or up to a 15% density bonus for the total project provided within the Development. The increased density permitted in this Section does not alter the prevailing zoning. The affordability requirements for a Development shall be determined prior to applying the density bonus. Developments that voluntarily provide an additional 10% in housing units within Income Range 4 may also receive a 5% density bonus for a total 20% density bonus for the project. Density bonuses above 25% of the total Development shall require approval by the Board of County Commissioners. [For example, in a Development where the prevailing zoning limits the total number of units to twenty, a total of six units (2 units in each of the three income ranges) of Affordable Housing must be provided, but the Development will be permitted to include seventeen market lots and twenty-three lots in total.]"

Section Nine. The Santa Fe County Land Development Code and the Santa Fe County Fire Code are hereby amended with the following additional material, to be inserted []:

"I. Relief from Fire Impact Fees. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe County Land Development Code and Article ____ Section ____ of the Santa Fe County Fire Code, a Development or Minor Development that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay fire impact fees for each Affordable Unit provided within the Development."

Section Ten. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____:

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"J. Relief From Development Fees. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe County Land Development Code a Development or Minor Development that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay development fees for each Affordable Unit provided within the Development."

Section Eleven. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____:

"K. Relief From Additional Santa Fe County Water Utility Connection Charges. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe County Land Development Code a Development that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay additional water connection charges that exceed the cost of the water meter."

Section Twelve. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"L. Options for Incentives. A Development that meets the criteria for a water rights transfer waiver and water allocation or a density bonus may receive either water or density but not in combination. All Developments shall receive the applicable fee waivers included in this Ordinance."

Section Thirteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"M. Reduction of lot sizes for Affordable Units. A Service Level III, IV or IV Development or Minor Development that is not eligible for a water rights transfer waiver and water allocation or a density bonus may reduce the lot sizes for the affordable units to the allowable minimum standards set forth by the New Mexico Environmental Department so long as the units are reasonably dispersed throughout the Development. The reduction in lot size shall not alter the hydrologic standards set forth in the Santa Fe County Land Development Code and it shall be required to meet all health and safety regulations. A Development or Minor Development shall demonstrate that it meets all minimum health, safety and code requirements governing water and wastewater where the affordable lot sizes are reduced."

Section Fourteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"N. Water Rights Transfer Reduction. A Service Level III, IV or IV Development or Minor Development where water rights transfers are required but are not eligible for a water rights transfer waiver and water allocation or a density bonus may reduce the per housing unit annual water requirement from the standard .25 acre-feet per year to the estimated actual usage for the Affordable Units. The Development or Minor Development shall be required to demonstrate the water conserving methods proposed and it must be

EXHIBIT B

accepted by Board of County Commissioners as part of the Affordable Housing Plan or the Affordable Housing Agreement, whichever is deemed applicable by the Affordable Housing Administrator."

Section Fifteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"O. Alternate Means of Compliance.

1. The intent of this ordinance is to create housing opportunity for a broad range of income levels within those areas of the County that are governed by this Ordinance. However, it is recognized that at times this approach may not be feasible due to hardship conditions as defined by this ordinance. In this event, the Development or Minor Development may seek relief by requesting an alternative means of compliance. Alternative means of compliance shall be approved by the Board of County Commissioners and may include one or a combination of methods. These methods may include the following:

a. off-site construction of the required or remaining number of Affordable Units;

b. cash payment in lieu that is of equal value or greater than the value of constructing or creating the required Affordable Units; or

c. dedication of land suitable for construction of equivalent or greater value than would be required for total onsite construction of the required number of Affordable Units.

2. Any approval must be based on a finding by the Board of County Commissioners that the intent of this ordinance would be better served by implementation of the proposed alternative(s). In making such determination, the Board shall consider the following:

a. whether implementation of an alternative would overly concentrate the Affordable Units within any specific area according to present and future conditions; and

b. whether the alternative means of compliance upholds the general intent of this ordinance and meets all other regulatory tests.

3. The value of and method for determining the fee in lieu contribution shall be established in the Affordable Housing Regulations.

4. The Board of County Commissioners, at its sole discretion, may grant a waiver from the one or more of the requirements set forth in this Ordinance based on a condition of hardship established in Section Sixteen. Any approval of a waiver must be based on findings of fact that the condition of hardship, as defined, cannot be sufficiently alleviated by the alternate means of compliance described in this section."

Section Sixteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"P. Hardship Conditions.

1. Where conditions of hardship cannot be relieved through alternatives means of compliance as set forth in Section Fifteen, the Board of County Commissioner's

may consider reducing or waiving some or all of the requirements set forth in this Ordinance. Conditions of hardship are determined according to the following:

a. For Service Level I or II Developments where there are a variety of incentives available to offset costs, there shall be a demonstrated condition of extreme hardship in order to seek relief from the requirements of this ordinance. This means that all methods of alternative compliance must be exhausted and satisfactorily documented prior to Board consideration for relief.

b. For Service Level III, IV or V Developments or Minor Developments where there are fewer incentive options available, there shall be a demonstrated condition of hardship in order to seek relief from the requirements of this ordinance. The Board of County Commissioner's may exercise greater discretion in determining satisfactory compliance with the requirements of set forth in this Section and Section Fifteen.

2. If there is a Board of Adjustment [BOA] created within the revised Land Use Code whose specific charge is to consider hardship conditions, the BOA shall consider and approve or deny such requests for hardship relief at such time in the future. The Board of County Commissioners shall continue to consider alternative means of compliance."

Section Seventeen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"Q. Long-term Affordability. The following requirements are intended to protect and extend the term of affordability for each Affordable Unit. These include:

1. A Housing Agreement shall include a form of deed restriction, restrictive covenant or other legal instrument that fulfills the requirements set forth in the Housing Trust Fund Policies and Administrative Procedures with regard to controls placed on the occupancy and subsequent resales of the Affordable Units that are to be recorded simultaneously with the deed of sale. In order to maintain affordability, the appropriate legal instrument shall impose resale controls consisting of affordability liens, which include shared appreciation described below, and right of first refusal requirements as set forth in the Housing Trust Fund Policies and Administrative Procedures. The effect of the recording of these instruments shall be to create, in accordance with state law, an obligation that runs with the property. The instruments shall be included within the Affordable Housing Agreement prior to recordation.

2. The amount of the affordability lien will be the difference between the Maximum Target Housing Price and the initial market value of the Affordable Unit. In order to provide additional equity to the Eligible Buyer at the time of purchase, the initial market value shall be determined as 90% of the appraised value of the Affordable Unit.

3. The lien will further provide for shared appreciation between the Eligible Buyer and Santa Fe County or its agent by requiring the Eligible Buyer to repay the original amount of the lien plus a share of unearned appreciation, if any, upon resale of the Affordable Unit. The Eligible Buyer's share of appreciation shall be according to the following formula:

a. Initial time of closing up to the end of year five (5) – appreciation is held by the County or its agent;

EXHIBIT B

- b. At the end of year five (5), the Eligible Buyer earns 20% of the appreciation;
- c. At the end of each year thereafter up until year ten (10), the Eligible Buyer earns an additional 20% annually; and
- d. At the end of the tenth year, the Eligible Buyer shall earn the full appreciated value of the Affordable Unit.

4. Upon resale of an Affordable Unit, the affordability lien may be assumed by another Eligible Buyer as approved by the County or its agent, or the seller must repay the affordability lien to the County or its agent. Where a hardship is demonstrated in accordance with this Ordinance, the earned appreciation may be accelerated or the affordability lien may be retired before the full ten-year term.

5. The proceeds of repayment of the affordability liens resulting from the Affordable Housing Agreements shall be credited to a Housing Trust Fund approved by the Board of County Commissioners and managed by the Housing and Community Development Department or an agent approved by the Board of County Commissioners. The Housing Trust Fund shall be created and managed according to the policies set forth in the Housing Trust Fund Policies and Administrative Procedures that is to be adopted within 90 days of the adoption of the Affordable Housing Regulations. The Housing Trust Fund Policies and Administrative Procedures shall include but not limited to how the funds are to be directed, invested and the process for establishing and administering these programs.

6. An Eligible Buyer shall not rent an Affordable Housing Unit to a second party, except as approved in writing by the Affordable Housing Administrator for instances in which the renter is an immediate family member of the Eligible Buyer, the owner is under duress by reason of unemployment, family medical emergencies, or inability to sell the home for an amount equal to or greater than the original sale price, or other unique circumstances of hardship that meet the intent of this Ordinance."

Section Eighteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"R. Affordable Housing Ordinance Review. The Affordable Housing Administrator shall prepare an Affordable Housing Report and present it to the Board of County Commissioners by the first anniversary of the effective date of this Ordinance. The purpose of the report is to measure the overall effectiveness of the Ordinance and to identify any deficient measures. The report shall recommend any amendments necessary to rectify those deficiencies. A similar report shall be developed and presented every three years thereafter. If, at a future date, the provisions contained herein no longer meet the purpose and intent provided in Section One of this Ordinance, the Board of County Commissioners may consider amendments to or a repealing of this Ordinance in whole or in part."

Section Nineteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"S. Definitions. For purposes of this [Ordinance] [Article], the following definitions shall apply:

EXHIBIT B

1. "Affordable Housing" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Eligible Buyer, where the Eligible Housing Unit is occupied by the Eligible Buyer as a primary residence.

2. "Affordable Housing Administrator" means the County employee or County's agent whose sole charge is to administer the Affordable Housing Ordinance. The Affordable Housing Administrator shall be a jointly funded position of the Land Use and Housing and Community Development Departments, which shall equally participate in overseeing the position. The position shall be housed within the Land Use Department and shall further act as an ombudsman to the development review process.

3. "Affordable Housing Plan" means a written plan that describes how an applicant intends to comply with the Affordable Housing requirements of this [Ordinance] [Article], and which specifies the general location, number and types of Affordable Housing Units that will be built.

4. "Affordable Housing Regulations" refers to regulations developed and updated periodically by the Board of County Commissioners to govern implementation and administration of this [Ordinance] [Article].

5. "Affordable Rental Unit" means a single Affordable Housing Unit that is developed for rental purposes only. The unit may be developed as a single family attached or detached residence, or it may be one of several units contained within a multi-family dwelling.

6. "Affordable Unit" means a single Affordable Housing unit.

7. "Area Median Income" means the median income of the Santa Fe Metropolitan Statistical Area, adjusted for various household sizes, published by the United States Department of Housing and Urban Development and amended annually pursuant to data published by the United States Department of Housing and Urban Development.

8. "Code Administrator" means the Santa Fe County Land Use Director, or his/her designee.

9. "Development" means subdivision of a parcel or parcels into ten or more parcels for purpose of homeownership sale as single family residences.

10. "Eligible Buyer" means the buyer of an Eligible Housing Unit whose Annual Gross Income is [100%] or less than the Area Median Income.

11. "Eligible Housing Type" or "Unit" means a housing unit, attached or detached, that is constructed in compliance with applicable codes. Design standards for an Eligible Housing Type or Unit is further categorized within the Affordable Housing Regulations according to housing type, number of bedrooms, number of bathrooms and minimum square footages of heated residential area.

12. "Hardship" means a condition occurring as a direct consequence of the this ordinance which: (a) deprives a property owner of all economically viable use of the subject property taken as a whole; or (b) would require the property owner to lose money on the Development taken as a whole and the property owner can demonstrate to the Board of County Commissioner's satisfaction that said loss would be an unavoidable consequence of meeting all requirements for construction of Affordable Units; or (c) the property owner can demonstrate to the Board's satisfaction that complying with the requirements of this Chapter would constitute taking property in violation of the Constitution of the United States or New Mexico.

EXHIBIT B

13. "Housing Trust Fund" means an separate fund created to hold in trust the income and escrows generated through affordability liens, fees in lieu and any other revenue streams that are generated by these regulations. These funds are to be held and redistributed for purposes of affordable housing in accordance with those programs and methods established in the Housing Trust Fund Policies and Administrative Procedures.

14. "Housing Trust Fund Policies and Administrative Procedures" means those policies and procedures established to administer the Housing Trust Fund.

15. "Income Range" means the income range used to determine the "Maximum Target Home Price" for each Eligible Housing Type. For purposes of this [Ordinance] [Article], the Income Ranges are as follows:

- a. Income Range 1: 0% to 65% of the Area Median Income.
- b. Income Range 2: 66% to 80% of the Area Median Income.
- c. Income Range 3: 81% to 100% of the Area Median Income.
- d. Income Range 4: 101% to 120% of the Area Medium Income is

hereby established for voluntary compliance with this Ordinance. It shall not be considered a part of the regulatory affordability requirements.

16. "Maximum Target Housing Price" means the highest price at which an Eligible Housing Type or Unit may be sold to an Eligible Buyer in the appropriate Income Range and otherwise satisfy the affordable housing requirements of this [Ordinance] [Article]. The Maximum Target Housing Prices for each Eligible Housing Type and Income Range shall be included in the Affordable Housing Regulations, and amended from time to time as the Area Median Income, interest rates, or other appropriate indices change. The Maximum Target Housing Price shall not include any options, lot premiums or upgrades chosen by the Eligible Buyer so long as the options, premiums and upgrades are published by the seller in advance as part of its marketing efforts and so long as the options are reasonably comparable to those offered to other buyers of the same housing type and do not exceed the sum of \$2,000 in total.

17. "Minor Development" means subdivision of a parcel or parcels into five (5) and up to ten (10) lots or parcels for purpose of homeownership sale as single family residences.

18. "Service Level" means the type of water and wastewater system generally used to serve a Development or Minor Development. Service types are further described as centralized (public or regulated integrated water distribution and/or wastewater collection systems), or non-centralized (private water and/or wastewater systems that generally occur on-site whereby development density is established by hydrologic or environmental constraints). Service levels are categorized accordingly:

- a. Service Level I: Centralized water and wastewater; water service is provided by the Santa Fe County Water Utility;
- b. Service Level II: Centralized water and wastewater; water service is provided by a public utility other than Santa Fe County Water Utility;
- c. Service Level III: Centralized water and non-centralized wastewater;
- d. Service Level IV: Community wells and non-centralized wastewater; and
- e. Service level V: Individual or shared wells and non-centralized wastewater.

19. "Serial Subdivision" means a systematic process of subdividing land in a series and over a relatively short period of time in order to circumvent or reduce certain regulatory requirements.

Section Twenty. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"T. Applicable Review. Any Development or Minor Development application of a master plan, preliminary development plan or preliminary plat that is submitted for review after the effective date of this Ordinance shall be required to comply with this Ordinance. Any Development or Minor Development that submits a final development plan or final plat shall not be required to comply with the requirements set forth in this Ordinance."

Section Twenty-one. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"U. Repeal. Section ____, ____ and ____ of Ordinance No. ____ and Section ____, ____ and ____ of Ordinance No. ____ is repealed upon the effective date of this Ordinance."

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Adopting Ordinance No. 2005-____, Amending the Santa Fe County Land Development Code and Repealing Ordinances No. ____, ____, ____, ____ and ____.

Section One. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"A. Purpose and Intent. The purpose of this ordinance is to provide increased housing opportunities through regulatory means within a broad range of incomes for current and future residents of Santa Fe County. The intent is to require new development to achieve a reasonable balance between market rate and affordable housing through the use of incentives and other means to help offset potential costs. In those instances where literal application of the regulations creates a hardship condition, the Ordinance allows for alternative means of compliance or regulatory relief. "

Section Two. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"B. Applicability. This Ordinance shall apply to Development and Minor Development within the unincorporated areas of the central Santa Fe County region as shown in Exhibit A, and except for areas that are governed by the Exterritorial Zoning Ordinance and Extraterritorial Subdivision Regulations."

Section Three. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"C. Affordable Housing Requirements for Development

1. Of the total housing permitted in any Development, no less than thirty percent (30%) shall be Affordable Housing as defined herein.

2. The Affordable Housing provided in connection with a Development shall be provided equally to Eligible Buyers in Income Range 1 (10%), Income Range 2 (10%) and Income Range 3 (10%).

3. Affordable Housing shall be integrated into the overall design and lay-out of the Development. The Affordable Units shall also reasonably be dispersed within the overall project. An appropriate mix of housing types and sizes may be included in the Development if it meets the intent of this ordinance. At a minimum, the general location, total number of units, a description as to the type and design of those units, the general pricing structure and the proposed phasing of the Affordable Housing shall be identified in the Affordable Housing Plan and the exact location of the affordable units shall be identified in the Affordable Housing Agreement. The Affordable Housing Administrator may request additional information in order to determine compliance with this ordinance.

4. Affordable Housing shall be provided in phases if Development is otherwise to be phased, but the proportion of Affordable Housing Units offered for sale within any phase must not be less than the proportion of the total number of lots to be developed within all phases of the Development and the total number of Affordable Housing Units to be offered within all phases of the Development.

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5. An applicant shall submit an Affordable Housing Plan as a part of its application for approval of a Development which describes, in detail, how the applicant intends to comply with the Affordable Housing requirements of this Ordinance. The Housing Plan shall be submitted at the earliest phase of the review process and shall be included as a part of the development review for that development. The Affordable Housing Administrator may reject or require amendments to a proposed Affordable Housing Plan if the proposed Affordable Housing Plan fails to meet the requirements of this Ordinance or the Affordable Housing Regulations. The Affordable Housing Plan will be incorporated into the Affordable Housing Agreement which shall be filed and recorded with a final development plan or a final plat, whichever instrument is the first to be recorded.

6. A final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County."

Section Four. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"D. Affordable Housing Requirements for Minor Development.

1. The Affordable Housing provided in connection with a Minor Development containing less than ten (10) housing units is as following:

a. Any Development less than five housing units or family transfer subdivisions created under Section __ of the Land Development Code shall not be subject to the requirements set forth in this Ordinance.

b. For Minor Development of five (5) housing units and up to seven (7) housing units, one (1) Affordable Unit within Income Range 2 shall be provided.

c. For Minor Development of seven (7) housing units and up to ten (ten) housing units, two Affordable Units shall be provided including one (1) Affordable Unit in Income Range 1 and one (1) Affordable Unit in Income Range 2.

2. Serial subdivisions are not permitted under this Ordinance. Any subdivision of land adjacent to an excluded Development or Minor Development in accordance with this section shall not be subdivided within five (5) years of the recording date of the final plat of the adjacent excluded Development or Minor Development unless there a hardship condition in accordance with Section __ of this Ordinance.

3. An Affordable Housing Agreement shall be required in order to identify the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units. The Agreement shall be filed and recorded with the final plat.

Section Five. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"E. Affordable Housing Regulations

1. Within ninety (90) days of the effective date of this Ordinance, the Code Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations.

2. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:

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- a. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance for both for the Affordable Housing Plan and the Affordable Housing Agreement.
 - b. The form of the Affordable Housing Agreement, including standard terms and conditions for providing Affordable Housing within the Development or Minor Development and to ensure compliance with the terms of this Ordinance. The Affordable Housing Agreement shall describe how Affordable Units will be marketed and sold to eligible buyers;
 - c. A reasonable process for certifying Eligible Buyers by the County or its agent that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;
 - d. Reasonable fees to be charged to the developer for certification of Eligible Buyers;
 - e. The form of the Certificate of Compliance to be issued upon compliance with the terms of this Ordinance;
 - f. A Maximum Target Housing Price for each income range;
 - g. Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;
 - h. The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to discount the market price by the same percentages to determine the price for each category of Eligible Housing Type and for each Income Range;
 - i. The Affordable Housing Plan submittal requirements for a Development including each phase of the development review process; and
 - j. Any other matter deemed necessary by the Board of County Commissioners.
3. The Affordable Housing Regulations shall be adopted by resolution of the Board of County Commissioners, and shall be amended as necessary."

Section Six. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"F. Affordable Rental Units. Where there is a demonstrated need and minimal impacts as a result of the change in land use to the surrounding area, a Development may propose to substitute some or all of the Affordable Units as described by this Ordinance with Eligible Affordable Rental Units. The Development shall provide evidence of the need for rental units within the project's immediate and larger area and demonstrate that there are minimal impacts that would result from the substitution. Impacts would include but not limited to traffic generation, overall project compatibility, and other impacts associated with increased density. Any allowable substitution shall also be in compliance with the Land Development Code, including zoning, and any other regulations. The request for substitution shall be included in the Affordable Housing Plan, which may be accepted or rejected by the Affordable Housing Administrator based on the criteria included within this section. The Affordable Housing Administrator may request additional information as

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he/she deems necessary. All requests for rental substitution shall be considered by the Board of County Commissioners as part of the Housing Plan."

Section Seven. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"G. Water for Affordable Housing. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe Land Development Code, a Development that is within the service area of the Santa Fe County Utilities Department and which is to be supplied with water provided by the County Utilities Department, shall not be required to transfer water rights to the County for the required 30% of Affordable Units within the Development, so long as at the time of application the County holds adequate water rights to supply the Affordable Units. In addition, the County shall allocate water for the affordable units so long as at the time of application the County has an adequate and available supply of water for the Affordable Units. A transfer of water rights waiver and/or water allocation for additional Affordable Units that exceed the 30% affordability requirement may also be provided but at the sole discretion of the Board of County Commissioners."

Section Eight. The Santa Fe Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____:

"H. Density Bonus for Affordable Housing. A Service Level I or II Development may receive up to 50% increased density for Affordable Units, or up to a 15% density bonus for the total project provided within the Development. The increased density permitted in this Section does not alter the prevailing zoning. The affordability requirements for a Development shall be determined prior to applying the density bonus. Developments that voluntarily provide an additional 10% in housing units within Income Range 4 may also receive a 5% density bonus for a total 20% density bonus for the project. Density bonuses above 25% of the total Development shall require approval by the Board of County Commissioners. [For example, in a Development where the prevailing zoning limits the total number of units to twenty, a total of six units (2 units in each of the three income ranges) of Affordable Housing must be provided, but the Development will be permitted to include seventeen market lots and twenty-three lots in total.]"

Section Nine. The Santa Fe County Land Development Code and the Santa Fe County Fire Code are hereby amended with the following additional material, to be inserted []:

"I. Relief from Fire Impact Fees. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe County Land Development Code and Article ____ Section ____ of the Santa Fe County Fire Code, a Development or Minor Development that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay fire impact fees for each Affordable Unit provided within the Development."

Section Ten. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____:

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"J. Relief From Development Fees. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe County Land Development Code a Development or Minor Development that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay development fees for each Affordable Unit provided within the Development."

Section Eleven. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____:

"K. Relief From Additional Santa Fe County Water Utility Connection Charges. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe County Land Development Code a Development that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay additional water connection charges that exceed the cost of the water meter."

Section Twelve. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"L. Options for Incentives. A Development that meets the criteria for a water rights transfer waiver and water allocation or a density bonus may receive either water or density but not in combination. All Developments shall receive the applicable fee waivers included in this Ordinance."

Section Thirteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"M. Reduction of lot sizes for Affordable Units. A Service Level III, IV or IV Development or Minor Development that is not eligible for a water rights transfer waiver and water allocation or a density bonus may reduce the lot sizes for the affordable units to the allowable minimum standards set forth by the New Mexico Environmental Department so long as the units are reasonably dispersed throughout the Development. The reduction in lot size shall not alter the hydrologic standards set forth in the Santa Fe County Land Development Code and it shall be required to meet all health and safety regulations. A Development or Minor Development shall demonstrate that it meets all minimum health, safety and code requirements governing water and wastewater where the affordable lot sizes are reduced."

Section Fourteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"N. Water Rights Transfer Reduction. A Service Level III, IV or IV Development or Minor Development where water rights transfers are required but are not eligible for a water rights transfer waiver and water allocation or a density bonus may reduce the per housing unit annual water requirement from the standard .25 acre-feet per year to the estimated actual usage for the Affordable Units. The Development or Minor Development shall be required to demonstrate the water conserving methods proposed and it must be

accepted by Board of County Commissioners as part of the Affordable Housing Plan or the Affordable Housing Agreement, whichever is deemed applicable by the Affordable Housing Administrator."

Section Fifteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"O. Alternate Means of Compliance.

1. The intent of this ordinance is to create housing opportunity for a broad range of income levels within those areas of the County that are governed by this Ordinance. However, it is recognized that at times this approach may not be feasible due to hardship conditions as defined by this ordinance. In this event, the Development or Minor Development may seek relief by requesting an alternative means of compliance. Alternative means of compliance shall be approved by the Board of County Commissioners and may include one or a combination of methods. These methods may include the following:

- a. off-site construction of the required or remaining number of Affordable Units;
- b. cash payment in lieu that is of equal value or greater than the value of constructing or creating the required Affordable Units; or
- c. dedication of land suitable for construction of equivalent or greater value than would be required for total onsite construction of the required number of Affordable Units.

2. Any approval must be based on a finding by the Board of County Commissioners that the intent of this ordinance would be better served by implementation of the proposed alternative(s). In making such determination, the Board shall consider the following:

- a. whether implementation of an alternative would overly concentrate the Affordable Units within any specific area according to present and future conditions; and
- b. whether the alternative means of compliance upholds the general intent of this ordinance and meets all other regulatory tests.

3. The value of and method for determining the fee in lieu contribution shall be established in the Affordable Housing Regulations.

4. The Board of County Commissioners, at its sole discretion, may grant a waiver from the one or more of the requirements set forth in this Ordinance based on a condition of hardship established in Section Sixteen. Any approval of a waiver must be based on findings of fact that the condition of hardship, as defined, cannot be sufficiently alleviated by the alternate means of compliance described in this section."

Section Sixteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"P. Hardship Conditions.

1. Where conditions of hardship cannot be relieved through alternatives means of compliance as set forth in Section Fifteen, the Board of County Commissioner's

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may consider reducing or waiving some or all of the requirements set forth in this Ordinance. Conditions of hardship are determined according to the following:

a. For Service Level I or II Developments where there are a variety of incentives available to offset costs, there shall be a demonstrated condition of extreme hardship in order to seek relief from the requirements of this ordinance. This means that all methods of alternative compliance must be exhausted and satisfactorily documented prior to Board consideration for relief.

b. For Service Level III, IV or V Developments or Minor Developments where there are fewer incentive options available, there shall be a demonstrated condition of hardship in order to seek relief from the requirements of this ordinance. The Board of County Commissioner's may exercise greater discretion in determining satisfactory compliance with the requirements of set forth in this Section and Section Fifteen.

2. If there is a Board of Adjustment [BOA] created within the revised Land Use Code whose specific charge is to consider hardship conditions, the BOA shall consider and approve or deny such requests for hardship relief at such time in the future. The Board of County Commissioners shall continue to consider alternative means of compliance."

Section Seventeen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"Q. Long-term Affordability. The following requirements are intended to protect and extend the term of affordability for each Affordable Unit. These include:

1. A Housing Agreement shall include a form of deed restriction, restrictive covenant or other legal instrument that fulfills the requirements set forth in the Housing Trust Fund Policies and Administrative Procedures with regard to controls placed on the occupancy and subsequent resales of the Affordable Units that are to be recorded simultaneously with the deed of sale. In order to maintain affordability, the appropriate legal instrument shall impose resale controls consisting of affordability liens, which include shared appreciation described below, and right of first refusal requirements as set forth in the Housing Trust Fund Policies and Administrative Procedures. The effect of the recording of these instruments shall be to create, in accordance with state law, an obligation that runs with the property. The instruments shall be included within the Affordable Housing Agreement prior to recordation.

2. The amount of the affordability lien will be the difference between the Maximum Target Housing Price and the initial market value of the Affordable Unit. In order to provide additional equity to the Eligible Buyer at the time of purchase, the initial market value shall be determined as 90% of the appraised value of the Affordable Unit.

3. The lien will further provide for shared appreciation between the Eligible Buyer and Santa Fe County or its agent by requiring the Eligible Buyer to repay the original amount of the lien plus a share of unearned appreciation, if any, upon resale of the Affordable Unit. The Eligible Buyer's share of appreciation shall be according to the following formula:

a. Initial time of closing up to the end of year five (5) – appreciation is held by the County or its agent;

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- b. At the end of year five (5), the Eligible Buyer earns 20% of the appreciation;
 - c. At the end of each year thereafter up until year ten (10), the Eligible Buyer earns an additional 20% annually; and
 - d. At the end of the tenth year, the Eligible Buyer shall earn the full appreciated value of the Affordable Unit.
4. Upon resale of an Affordable Unit, the affordability lien may be assumed by another Eligible Buyer as approved by the County or its agent, or the seller must repay the affordability lien to the County or its agent. Where a hardship is demonstrated in accordance with this Ordinance, the earned appreciation may be accelerated or the affordability lien may be retired before the full ten-year term.
5. The proceeds of repayment of the affordability liens resulting from the Affordable Housing Agreements shall be credited to a Housing Trust Fund approved by the Board of County Commissioners and managed by the Housing and Community Development Department or an agent approved by the Board of County Commissioners. The Housing Trust Fund shall be created and managed according to the policies set forth in the Housing Trust Fund Policies and Administrative Procedures that is to be adopted within 90 days of the adoption of the Affordable Housing Regulations. The Housing Trust Fund Policies and Administrative Procedures shall include but not limited to how the funds are to be directed, invested and the process for establishing and administering these programs.
6. An Eligible Buyer shall not rent an Affordable Housing Unit to a second party, except as approved in writing by the Affordable Housing Administrator for instances in which the renter is an immediate family member of the Eligible Buyer, the owner is under duress by reason of unemployment, family medical emergencies, or inability to sell the home for an amount equal to or greater than the original sale price, or other unique circumstances of hardship that meet the intent of this Ordinance."

Section Eighteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"R. Affordable Housing Ordinance Review. The Affordable Housing Administrator shall prepare an Affordable Housing Report and present it to the Board of County Commissioners by the first anniversary of the effective date of this Ordinance. The purpose of the report is to measure the overall effectiveness of the Ordinance and to identify any deficient measures. The report shall recommend any amendments necessary to rectify those deficiencies. A similar report shall be developed and presented every three years thereafter. If, at a future date, the provisions contained herein no longer meet the purpose and intent provided in Section One of this Ordinance, the Board of County Commissioners may consider amendments to or a repealing of this Ordinance in whole or in part."

Section Nineteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"S. Definitions. For purposes of this [Ordinance] [Article], the following definitions shall apply:

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1. "Affordable Housing" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Eligible Buyer, where the Eligible Housing Unit is occupied by the Eligible Buyer as a primary residence.
2. "Affordable Housing Administrator" means the County employee or County's agent whose sole charge is to administer the Affordable Housing Ordinance. The Affordable Housing Administrator shall be a jointly funded position of the Land Use and Housing and Community Development Departments, which shall equally participate in overseeing the position. The position shall be housed within the Land Use Department and shall further act as an ombudsman to the development review process.
3. "Affordable Housing Plan" means a written plan that describes how an applicant intends to comply with the Affordable Housing requirements of this [Ordinance] [Article], and which specifies the general location, number and types of Affordable Housing Units that will be built.
4. "Affordable Housing Regulations" refers to regulations developed and updated periodically by the Board of County Commissioners to govern implementation and administration of this [Ordinance] [Article].
5. "Affordable Rental Unit" means a single Affordable Housing Unit that is developed for rental purposes only. The unit may be developed as a single family attached or detached residence, or it may be one of several units contained within a multi-family dwelling.
6. "Affordable Unit" means a single Affordable Housing unit.
7. "Area Median Income" means the median income of the Santa Fe Metropolitan Statistical Area, adjusted for various household sizes, published by the United States Department of Housing and Urban Development and amended annually pursuant to data published by the United States Department of Housing and Urban Development.
8. "Code Administrator" means the Santa Fe County Land Use Director, or his/her designee.
9. "Development" means subdivision of a parcel or parcels into ten or more parcels for purpose of homeownership sale as single family residences.
10. "Eligible Buyer" means the buyer of an Eligible Housing Unit whose Annual Gross Income is [100%] or less than the Area Median Income.
11. "Eligible Housing Type" or "Unit" means a housing unit, attached or detached, that is constructed in compliance with applicable codes. Design standards for an Eligible Housing Type or Unit is further categorized within the Affordable Housing Regulations according to housing type, number of bedrooms, number of bathrooms and minimum square footages of heated residential area.
12. "Hardship" means a condition occurring as a direct consequence of the this ordinance which: (a) deprives a property owner of all economically viable use of the subject property taken as a whole; or (b) would require the property owner to lose money on the Development taken as a whole and the property owner can demonstrate to the Board of County Commissioner's satisfaction that said loss would be an unavoidable consequence of meeting all requirements for construction of Affordable Units; or (c) the property owner can demonstrate to the Board's satisfaction that complying with the requirements of this Chapter would constitute taking property in violation of the Constitution of the United States or New Mexico.

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13. "Housing Trust Fund" means an separate fund created to hold in trust the income and escrows generated through affordability liens, fees in lieu and any other revenue streams that are generated by these regulations. These funds are to be held and redistributed for purposes of affordable housing in accordance with those programs and methods established in the Housing Trust Fund Policies and Administrative Procedures.

14. " Housing Trust Fund Policies and Administrative Procedures" means those policies and procedures established to administer the Housing Trust Fund.

15. "Income Range" means the income range used to determine the "Maximum Target Home Price" for each Eligible Housing Type. For purposes of this [Ordinance] [Article], the Income Ranges are as follows:

- a. Income Range 1: 0% to 65% of the Area Median Income.
- b. Income Range 2: 66% to 80% of the Area Median Income.
- c. Income Range 3: 81% to 100% of the Area Median Income.
- d. Income Range 4: 101% to 120% of the Area Medium Income is

hereby established for voluntary compliance with this Ordinance. It shall not be considered a part of the regulatory affordability requirements.

16. "Maximum Target Housing Price" means the highest price at which an Eligible Housing Type or Unit may be sold to an Eligible Buyer in the appropriate Income Range and otherwise satisfy the affordable housing requirements of this [Ordinance] [Article]. The Maximum Target Housing Prices for each Eligible Housing Type and Income Range shall be included in the Affordable Housing Regulations, and amended from time to time as the Area Median Income, interest rates, or other appropriate indices change. The Maximum Target Housing Price shall not include any options, lot premiums or upgrades chosen by the Eligible Buyer so long as the options, premiums and upgrades are published by the seller in advance as part of its marketing efforts and so long as the options are reasonably comparable to those offered to other buyers of the same housing type and do not exceed the sum of \$2,000 in total.

17. "Minor Development" means subdivision of a parcel or parcels into five (5) and up to ten (10) lots or parcels for purpose of homeownership sale as single family residences.

18. "Service Level" means the type of water and wastewater system generally used to serve a Development or Minor Development. Service types are further described as centralized (public or regulated integrated water distribution and/or wastewater collection systems), or non-centralized (private water and/or wastewater systems that generally occur on-site whereby development density is established by hydrologic or environmental constraints). Service levels are categorized accordingly:

- a. Service Level I: Centralized water and wastewater; water service is provided by the Santa Fe County Water Utility;
- b. Service Level II: Centralized water and wastewater; water service is provided by a public utility other than Santa Fe County Water Utility;
- c. Service Level III: Centralized water and non-centralized wastewater;
- d. Service Level IV: Community wells and non-centralized wastewater; and
- e. Service level V: Individual or shared wells and non-centralized wastewater.

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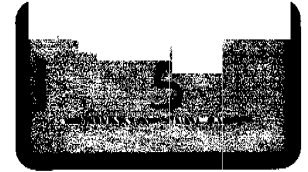
19. "Serial Subdivision" means a systematic process of subdividing land in a series and over a relatively short period of time in order to circumvent or reduce certain regulatory requirements.

Section Twenty. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"T. Applicable Review. Any Development or Minor Development application of a master plan, preliminary development plan or preliminary plat that is submitted for review after the effective date of this Ordinance shall be required to comply with this Ordinance. Any Development or Minor Development that submits a final development plan or final plat shall not be required to comply with the requirements set forth in this Ordinance."

Section Twenty-one. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"U. Repeal. Section ____, ____ and ____ of Ordinance No. ____ and Section ____, ____ and ____ of Ordinance No. ____ is repealed upon the effective date of this Ordinance."



DRAFT - AFFORDABLE HOUSING ORDINANCE

Adopting Ordinance No. 2005-____, Amending the Santa Fe County Land Development Code and Repealing Ordinances No. ____, ____, ____, ____ and ____, to Provide for Affordable Housing Within Santa Fe County.

Section One. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"A. Purpose and Intent. The purpose of this Ordinance is to provide increased housing opportunities within a broad range of incomes for current and future residents of Santa Fe County. The intent is to encourage new development to achieve a reasonable balance between market rate housing and affordable housing through the use of incentives and other means to help offset potential costs. "

Section Two. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"B. Applicability. This Ordinance shall apply to each Project and Minor Project within the unincorporated areas of central Santa Fe County shown in Attachment A that is not governed by the Santa Fe County Exterritorial Zoning Ordinance, Ordinance No. ____ - ____, and the Santa Fe County Extraterritorial Subdivision Regulations. This Ordinance shall apply to existing approved master plans, preliminary development plans or preliminary plats, and shall apply to applications for approval of a master plans, preliminary development plans or preliminary plats submitted for review after the effective date of this Ordinance."

Section Three. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"C. Definitions. For purposes of this Ordinance, the following definitions shall apply:

1. "Affordable Housing" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Eligible Buyer, where the Eligible Housing Unit is occupied by the Eligible Buyer as a primary residence.

2. "Affordable Housing Administrator" means the County employee or agent who is charged with administering this Ordinance.

3. "Affordable Housing Plan" means a written plan that describes how an applicant intends to comply with the Affordable Housing requirements of this Ordinance, and which specifies the general location, number and types of Affordable Housing Units that will be built.

4. "Affordable Housing Regulations" refers to regulations developed and updated periodically by the Board of County Commissioners to govern implementation and administration of this Ordinance.

5. "Affordable Rental Unit" means an Affordable Housing Unit that is developed for rental purposes only.

6. "Affordable Unit" means an Affordable Housing unit.

7. "Area Median Income" means the median income of the Santa Fe Metropolitan Statistical Area, adjusted for various household sizes, published by the United States Department of Housing and Urban Development and amended annually pursuant to data published by the United States Department of Housing and Urban Development.

8. "Code Administrator" means the Santa Fe County Land Use Director, or his/her designee.

9. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

10. "Eligible Buyer" means the buyer of an Eligible Housing Unit whose Annual Gross Income is one hundred percent (100%) or less than the Area Median Income.

11. "Eligible Housing Type" or "Unit" means a housing unit, attached or detached, that is constructed in compliance with applicable codes. Design standards for an Eligible Housing Type or Unit shall be further categorized within the Affordable Housing Regulations according to housing type, number of bedrooms, number of bathrooms and minimum square footages of heated residential area.

12. "Hardship" means a condition occurring as a direct consequence of the application of this Ordinance which: (a) deprives a property owner of all economically viable use of the subject property taken as a whole; or (b) would require the property owner to lose money on the Project taken as a whole and the property owner can demonstrate that said loss would be an unavoidable consequence of meeting all requirements for construction of Affordable Units; or (c) the property owner can demonstrate that complying with the requirements of this Chapter would constitute taking property in violation of the Constitution of the United States or New Mexico.

13. "Income Range" means the income range used to determine the Maximum Target Home Price for each Eligible Housing Type. For purposes of this Ordinance, the Income Ranges are as follows:

- a. Income Range 1: 0% to 65% of the Area Median Income.
- b. Income Range 2: 66% to 80% of the Area Median Income.
- c. Income Range 3: 81% to 100% of the Area Median Income.
- d. Income Range 4: 101% to 120% of the Area Medium Income.

14. "Maximum Target Housing Price" means the highest price at which an Eligible Housing Type or Unit may be sold to an Eligible Buyer in the

4. "Affordable Housing Regulations" refers to regulations developed and updated periodically by the Board of County Commissioners to govern implementation and administration of this Ordinance.
5. "Affordable Rental Unit" means an Affordable Housing Unit that is developed for rental purposes only.
6. "Affordable Unit" means an Affordable Housing unit.
7. "Area Median Income" means the median income of the Santa Fe Metropolitan Statistical Area, adjusted for various household sizes, published by the United States Department of Housing and Urban Development and amended annually pursuant to data published by the United States Department of Housing and Urban Development.
8. "Code Administrator" means the Santa Fe County Land Use Director, or his/her designee.
9. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.
10. "Eligible Buyer" means the buyer of an Eligible Housing Unit whose Annual Gross Income is one hundred percent (100%) or less than the Area Median Income.
11. "Eligible Housing Type" or "Unit" means a housing unit, attached or detached, that is constructed in compliance with applicable codes. Design standards for an Eligible Housing Type or Unit shall be further categorized within the Affordable Housing Regulations according to housing type, number of bedrooms, number of bathrooms and minimum square footages of heated residential area.
12. "Hardship" means a condition occurring as a direct consequence of the application of this Ordinance which: (a) deprives a property owner of all economically viable use of the subject property taken as a whole; or (b) would require the property owner to lose money on the Project taken as a whole and the property owner can demonstrate that said loss would be an unavoidable consequence of meeting all requirements for construction of Affordable Units; or (c) the property owner can demonstrate that complying with the requirements of this Chapter would constitute taking property in violation of the Constitution of the United States or New Mexico.
13. "Income Range" means the income range used to determine the Maximum Target Home Price for each Eligible Housing Type. For purposes of this Ordinance, the Income Ranges are as follows:
 - a. Income Range 1: 0% to 65% of the Area Median Income.
 - b. Income Range 2: 66% to 80% of the Area Median Income.
 - c. Income Range 3: 81% to 100% of the Area Median Income.
 - d. Income Range 4: 101% to 120% of the Area Medium Income.
14. "Maximum Target Housing Price" means the highest price at which an Eligible Housing Type or Unit may be sold to an Eligible Buyer in the

appropriate Income Range and otherwise satisfy the affordable housing requirements of this Ordinance. The Maximum Target Housing Prices for each Eligible Housing Type and Income Range shall be included in the Affordable Housing Regulations, and the Maximum Target Housing Prices shall be amended from time to time as the Area Median Income, interest rates, or other appropriate indices change. The Maximum Target Housing Price shall not include any options, lot premiums or upgrades chosen by the Eligible Buyer so long as the options, premiums and upgrades are published by the seller in advance as part of its marketing efforts and so long as the options are reasonably comparable to those offered to other buyers of the same housing type and do not exceed the sum of \$2,000 in total.

15. "Minor Project" means subdivision of a parcel or parcels into between five (5) and up to ten (10) lots or parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

16. "Service Level" means the type of water and wastewater system proposed to serve a Project or Minor Project. Service types are further categorized as centralized (public or publicly-regulated integrated water distribution and/or wastewater collection systems), or non-centralized (private water and/or wastewater systems provided on-site). Categories of Service Levels are as follows:

- a. Service Level I: Centralized water and wastewater; water service provided by the Santa Fe County Water Resources Department;
- b. Service Level II: Centralized water and wastewater; water service is provided by a public utility other than Santa Fe County Water Resources Department;
- c. Service Level III: Centralized water and non-centralized wastewater;
- d. Service Level IV: Community wells and non-centralized wastewater; and
- e. Service level V: Individual or shared wells and non-centralized wastewater.

17. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

18. "Unearned Appreciation" means appreciation or equity that might have otherwise been earned upon sale or conveyance of an Affordable Unit but, because of application of the affordability provisions of this Ordinance, is not earned at the time of sale of an Affordable Unit."

Section Four. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"C. Affordable Housing Requirements

1. Of the total housing permitted in any Project, no less than thirty percent (30%) shall be Affordable Housing as defined herein.

2. The Affordable Housing provided in connection with a Project shall be provided equally to Eligible Buyers in Income Range 1 (10%), Income Range 2 (10%) and Income Range 3 (10%).

3. Affordable Housing shall be integrated into the overall design and layout of the Project. The Affordable Units shall be reasonably dispersed within the Project. An appropriate mix of housing types and sizes may be included in the Project so long as it meets the intent of this Ordinance. At a minimum, the general location, total number of units, a description as to the type and design of those units, the general pricing structure, and the proposed phasing of the Affordable Housing shall be identified in the Affordable Housing Plan and the exact location of the affordable units shall be identified in the Affordable Housing Agreement.

4. Affordable Housing shall be provided in phases if the Project is otherwise to be phased, but the proportion of Affordable Housing Units offered for sale within any phase must not be less than the proportion of the total number of lots to be developed within all phases of the Project and the total number of Affordable Housing Units to be offered within all phases of the Project.

5. An applicant shall submit an Affordable Housing Plan as a part of the application for approval of a Project that describes, in detail, how the applicant intends to comply with the Affordable Housing requirements of this Ordinance. The Affordable Housing Plan shall be submitted at the earliest phase of the review process and shall be included as a part of the development review for that development. The Affordable Housing Administrator may request additional information from the applicant, or reject or require amendments to a proposed Affordable Housing Plan if the proposed Affordable Housing Plan fails to meet the requirements of this Ordinance or the Affordable Housing Regulations. The Affordable Housing Plan will be incorporated into the Affordable Housing Agreement that shall be filed and recorded with a final development plan or a final plat, whichever instrument is the first to be recorded.

6. A final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County."

Section Five. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"D. Affordable Housing Requirements for Minor Development.

1. The Affordable Housing provided in connection with a Minor Project shall be provided, as follows:

- a. For a Minor Project that creates five (5) or six (6) housing units, one (1) Affordable Unit within Income Range 2 shall be provided.
- b. For a Minor Project that creates between seven (7) housing units and ten (10) housing units, two Affordable Units shall be provided including one (1) Affordable Unit in Income Range 1 and one (1) Affordable Unit in Income Range 2."

Section Six. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"E. Affordable Housing Regulations

1. Within ninety (90) days of the effective date of this Ordinance, the Code Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations.
2. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:
 - a. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance for both for the Affordable Housing Plan and the Affordable Housing Agreement.
 - b. The form of the Affordable Housing Agreement, including standard terms and conditions for providing Affordable Housing within the Project or within a Minor Project, and to ensure compliance with the terms of this Ordinance. The Affordable Housing Regulations shall specify that the Affordable Housing Agreement shall describe the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units. The Affordable Housing Agreement shall also describe how Affordable Units will be marketed and sold to eligible buyers. The Affordable Housing Agreement shall be filed and recorded with the Final Plat;
 - c. A reasonable process for certifying Eligible Buyers by the County or its agent that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;
 - d. Reasonable fees to be charged to the developer for certification of Eligible Buyers;
 - e. The form of the Certificate of Compliance to be issued upon compliance with the terms of this Ordinance;
 - f. A Maximum Target Housing Price for each income range;
 - g. Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;
 - h. The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to

- a. For a Minor Project that creates five (5) or six (6) housing units, one (1) Affordable Unit within Income Range 2 shall be provided.
- b. For a Minor Project that creates between seven (7) housing units and ten (10) housing units, two Affordable Units shall be provided including one (1) Affordable Unit in Income Range 1 and one (1) Affordable Unit in Income Range 2."

Section Six. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"E. Affordable Housing Regulations

1. Within ninety (90) days of the effective date of this Ordinance, the Code Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations.
2. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:
 - a. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance for both for the Affordable Housing Plan and the Affordable Housing Agreement.
 - b. The form of the Affordable Housing Agreement, including standard terms and conditions for providing Affordable Housing within the Project or within a Minor Project, and to ensure compliance with the terms of this Ordinance. The Affordable Housing Regulations shall specify that the Affordable Housing Agreement shall describe the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units. The Affordable Housing Agreement shall also describe how Affordable Units will be marketed and sold to eligible buyers. The Affordable Housing Agreement shall be filed and recorded with the Final Plat;
 - c. A reasonable process for certifying Eligible Buyers by the County or its agent that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;
 - d. Reasonable fees to be charged to the developer for certification of Eligible Buyers;
 - e. The form of the Certificate of Compliance to be issued upon compliance with the terms of this Ordinance;
 - f. A Maximum Target Housing Price for each income range;
 - g. Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;
 - h. The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to

- a. For a Minor Project that creates five (5) or six (6) housing units, one (1) Affordable Unit within Income Range 2 shall be provided.
- b. For a Minor Project that creates between seven (7) housing units and ten (10) housing units, two Affordable Units shall be provided including one (1) Affordable Unit in Income Range 1 and one (1) Affordable Unit in Income Range 2."

Section Six. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"E. Affordable Housing Regulations

1. Within ninety (90) days of the effective date of this Ordinance, the Code Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations.
2. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:
 - a. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance for both for the Affordable Housing Plan and the Affordable Housing Agreement.
 - b. The form of the Affordable Housing Agreement, including standard terms and conditions for providing Affordable Housing within the Project or within a Minor Project, and to ensure compliance with the terms of this Ordinance. The Affordable Housing Regulations shall specify that the Affordable Housing Agreement shall describe the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units. The Affordable Housing Agreement shall also describe how Affordable Units will be marketed and sold to eligible buyers. The Affordable Housing Agreement shall be filed and recorded with the Final Plat;
 - c. A reasonable process for certifying Eligible Buyers by the County or its agent that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;
 - d. Reasonable fees to be charged to the developer for certification of Eligible Buyers;
 - e. The form of the Certificate of Compliance to be issued upon compliance with the terms of this Ordinance;
 - f. A Maximum Target Housing Price for each income range;
 - g. Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;
 - h. The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to

discount the market price by the same percentages to determine the price for each category of Eligible Housing Type and for each Income Range; and

i. Any other matter deemed necessary by the Board of County Commissioners.

3. The Affordable Housing Regulations shall be adopted by resolution of the Board of County Commissioners, and shall be amended from time to time as deemed necessary and to account for changes in indices used to make calculations required by this Ordinance and the Affordable Housing Regulations."

Section Seven. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"F. Affordable Rental Units." [Reserved]

Section Eight. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"G. Water for Affordable Housing. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe Land Development Code, a Project that is located within the service area of the Santa Fe County Water Resources Department and which is to be supplied with water provided by the County Water Resources Department, shall not be required to transfer water rights to the County for any Affordable Units within the Project, so long as at the time of application the County holds adequate water rights to supply the Affordable Units, and is otherwise capable of supplying the Affordable Units."

Section Nine. The Santa Fe Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____:

"H. Density Bonus for Affordable Housing.

1. A Project that provides Service Level I or II may receive increased density to accommodate the Affordable Units provided pursuant to the requirements contained within this Ordinance, not to exceed an increase of fifty percent of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of fifteen percent attributable to the Project in total.

2. A Project that provides additional Affordable Housing Units within Income Range 4 amounting to an increase of ten percent more than the Project would otherwise have to provide, shall receive an additional five percent density bonus, not to exceed an increase of fifty percent of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of twenty percent attributable to the Project as a whole.

3. The affordability requirements for a Project shall be determined prior to applying any density bonus.

4. Density bonuses of more than twenty percent attributable to the Project as a whole may be approved by the Board of County Commissioners on a case-by-case basis, so long as the Project remains compatible with surrounding uses and the impacts to adjacent areas are minimal."

Section Ten. The Santa Fe County Land Development Code and the Santa Fe County Fire Code are hereby amended with the following additional material, to be inserted []:

"I. Relief from Fire Impact Fees. Notwithstanding the provisions of Article ___, Section ___ of the Ordinance No. ___ - ___, the Santa Fe County Land Development Code and Article ___ Section ___ of the Santa Fe County Fire Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay fire impact fees for each Affordable Unit provided within the Project."

Section Eleven. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ___, Section ___:

"J. Relief From Development Fees. Notwithstanding the provisions of Article ___, Section ___ of the Santa Fe County Land Development Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay development fees for each Affordable Unit provided within the Project."

Section Twelve. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ___, Section ___:

"K. Relief From Additional Santa Fe County Water Utility Connection Charges. Notwithstanding the provisions of Article ___, Section ___ of Resolution No. ___ - ___, a Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay additional water connection charges that exceed the cost of the water meter."

Section Thirteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ___, Section ___:

"L. Limitation on Incentives. A Project that meets the criteria for both a water rights transfer waiver (Section ___, herein), a water allocation (Section ___, herein) or a density bonus (Section ___, herein) may receive any one

3. The affordability requirements for a Project shall be determined prior to applying any density bonus.

4. Density bonuses of more than twenty percent attributable to the Project as a whole may be approved by the Board of County Commissioners on a case-by-case basis, so long as the Project remains compatible with surrounding uses and the impacts to adjacent areas are minimal."

Section Ten. The Santa Fe County Land Development Code and the Santa Fe County Fire Code are hereby amended with the following additional material, to be inserted []:

"I. Relief from Fire Impact Fees. Notwithstanding the provisions of Article ___, Section ___ of the Ordinance No. ___ - ___, the Santa Fe County Land Development Code and Article ___ Section ___ of the Santa Fe County Fire Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay fire impact fees for each Affordable Unit provided within the Project."

Section Eleven. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ___, Section ___:

"J. Relief From Development Fees. Notwithstanding the provisions of Article ___, Section ___ of the Santa Fe County Land Development Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay development fees for each Affordable Unit provided within the Project."

Section Twelve. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ___, Section ___:

"K. Relief From Additional Santa Fe County Water Utility Connection Charges. Notwithstanding the provisions of Article ___, Section ___ of Resolution No. ___ - ___, a Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay additional water connection charges that exceed the cost of the water meter."

Section Thirteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ___, Section ___:

"L. Limitation on Incentives. A Project that meets the criteria for both a water rights transfer waiver (Section ___, herein), a water allocation (Section ___, herein) or a density bonus (Section ___, herein) may receive any one

incentive, but not more than one. However, each Project shall receive the applicable fee waiver included in this Ordinance without limitation."

Section Fourteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"M. Reduction of Lot Size for Affordable Units. A Project that provides Service Level III, IV or V, or a Minor Project that is not eligible for a water rights transfer waiver (Section ____, herein) or a water allocation or density bonus (Section ____, herein), may reduce the lot area for each Affordable Unit to the minimum permitted by applicable Regulations of the New Mexico Environmental Department, so long as the Affordable Units whose lot sizes are reduced pursuant to this Section are reasonably dispersed throughout the Project. The reduction in lot size shall not alter the hydrologic standards set forth in the Santa Fe County Land Development Code."

Section Fifteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"N. Water Rights Transfer Reduction. A Project that provides Service Level III, IV or IV, or a Minor Project that is not eligible for a water rights transfer waiver pursuant to Section ____ herein or a density bonus pursuant to Section ____, herein may nevertheless be eligible to reduce the water budget for the Affordable Housing Units within the Project to the estimated actual usage attributable to the Affordable Units, notwithstanding the provisions of Article ____, Section ____ of the Land Development Code."

Section Sixteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"O. Alternate Means of Compliance.

1. A Minor Project may alternatively meet its obligation to provide Affordable Housing by:

- a. providing Affordable Units outside the Project;
- b. making a cash payment of equal or greater value than would be required if the Project had constructed or created Affordable Units as provided in this Ordinance; or
- c. dedicating property suitable for construction of Affordable Units whose value is equivalent or of greater value than would be otherwise be required if the Project had constructed or created Affordable Units as provided in this Ordinance.

2. Review of a proposal to use an alternative means of compliance provided by this Section shall be conducted during the review of application for approval of the master plan, preliminary plat or development plan, as appropriate.

3. In deciding whether to accept a proposed alternative means of compliance with the requirements of this Ordinance, the County shall consider whether implementation of a proposed alternative means of compliance would overly concentrate Affordable Units in an area where such a concentration would be inappropriate given present or future conditions.

4. The method for determining the whether a cash payment proposed as an alternative means of compliance pursuant to this Section is sufficient shall be established in the Affordable Housing Regulations."

Section Seventeen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section _____.

"P. Hardship Conditions.

1. The Board of County Commissioners or, if a Board of Adjustment is created by the Board of County Commissioners of Santa Fe County, then the Board of Adjustment, may waive one or more of the requirements set forth in this Ordinance if a condition of hardship exists as set forth in this Section.

2. A condition of hardship shall exist for purposes of this Section, as follows:

a. For a Project providing Service Level I or II, a condition of hardship exists where the Project fails to qualify for any incentive set forth herein, where the Project fails to demonstrate eligibility for an alternative means of compliance, and where application of the provisions of this Ordinance would result in economic infeasibility of the Project.

b. For a Project providing Service Level III, IV or V, or for Minor Projects, a condition of hardship exists where application of the provisions of this Ordinance would result in economic infeasibility of the Project."

Section Eighteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section _____.

"Q. Long-term Affordability.

1. Each Affordable Housing Agreement shall include a form of deed restriction, restrictive covenant or other legal instrument that shall be executed and recorded along with the deed conveying the Affordable Unit to the first buyer, and that instrument will create a lien in favor of the County in the amount of the difference between the Maximum Target Housing Price and ninety percent of the appraised value of the Affordable Unit, plus any Unearned

Appreciation, as defined herein and as calculated in the following paragraph. The form of the instrument and the methodology for determining initial market value of the Affordable Unit shall be specified in the Affordable Housing Regulations.

2. The owner of an Affordable Unit may share in Unearned Appreciation in the Affordable Unit, as follows:

a. from the time of closing of the sale to the first buyer of an Affordable Unit until the fifth anniversary of the date of closing, the owner of an Affordable Unit shall not share in Unearned Appreciation.

b. from the fifth anniversary of the date of closing and thereafter, the owner of an Affordable Unit shall be entitled to receive twenty percent (20%) of the Unearned Appreciation upon the sale of the Affordable Unit, plus an additional twenty percent representing each subsequent anniversary of the date of closing; and

c. on and after the tenth anniversary of the date of closing, the owner of an Affordable Unit shall be entitled to receive the entire Unearned Appreciation attributable to the sale of the Affordable Unit.

3. Upon resale of an Affordable Unit, the affordability lien may be assumed by another Eligible Buyer and avoid application of the provisions of this Section.

4. Where the Eligible Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, the Unearned Appreciation may be accelerated or the affordability lien may be released.

5. The proceeds of liens imposed pursuant to this Section shall be used to support affordable housing within Santa Fe County.

6. An Eligible Buyer shall not lease an Affordable Housing Unit provided pursuant to this Ordinance unless the proposed tenant is an immediate family member of the Eligible Buyer, the Eligible Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, and the proposed lease of the premises is approved in writing by the Affordable Housing Administrator.

Section Nineteen. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"R. Affordable Housing Ordinance Review. The Affordable Housing Administrator shall prepare an Affordable Housing Report and present it to the Board of County Commissioners by the first anniversary of the effective date of this Ordinance. The purpose of the report is to measure the overall effectiveness of the Ordinance and to identify any deficiencies. In the report, the Affordable Housing Administrator shall recommend any amendments necessary to rectify

those deficiencies. A similar report shall be developed and presented every three years thereafter. If, at a future date, the provisions contained herein no longer meet the purpose and intent provided in Section One of this Ordinance, the Board of County Commissioners may consider appropriate amendments to this Ordinance or may repeal this Ordinance in whole or in part."

Section Twenty. The Santa Fe County Land Development Code is hereby amended with the following additional material, to be inserted following Article ____, Section ____.

"U. Repeal. Section ____, ____ and ____ of Ordinance No. ____ and Section ____, ____ and ____ of Ordinance No. ____ is repealed upon the effective date of this Ordinance."