City of Santa Fe, New Mexico

memo

Date: April 8, 2015

To: Members of the Community Development Commission

Via: Kate Noble, Interim Director KN
Housing and Community Development Department

From: Alexandra Ladd, Special Projects Manager
Housing and Community Development Department

Re: Request for fee-in-lieu – Ron Sebesta (Mission Viejo Estates)

ACTION REQUESTED

Provide a decision regarding the request from Ron Sebesta to pay a fee in lieu ($57,297) instead of providing the two (2) homes owed under the Housing Opportunity Program (HOP) Agreement dated December 31, 2002 between the City of Santa Fe and Ron Sebesta.

BACKGROUND

The Housing Opportunity Program (HOP) ordinance was adopted in 1998 as part of the City's zoning code. It established that all proposed residential development provide a percentage of affordably-priced homes. The percentage varied from 11 – 16%, depending on the market price of the proposed development – the more expensive the homes, the higher the requirement. Mission Viejo Estates was approved as a Type C under HOP, meaning that 11% of the built units (two units total) were required to be delivered to an income-qualified homebuyer, with an average income of 65% of the area median income (AMI).

ITEM AND ISSUE

As per the HOP Administrative Procedures, the Community Development Commission is charged with granting approval for requests for alternate compliance. Ron Sebesta proposes paying a fee in lieu, rather than completing the affordable homes. See attached request in which Mr. Sebesta outlines the financial hardships associated with developing the affordable lots and provides documentation to that effect. Also attached are materials from the HOP Administrative Procedures outlining the responsibility of the CDC and the effective HOP fee in lieu schedule.

Excerpted Sections:
ADMINISTRATIVE PROCEDURES FOR THE CITY OF SANTA FE HOUSING OPPORTUNITY PROGRAM (HOP)

As described in Section 4 "Responsibility for Administration" of the HOP Administrative Procedures:

4.8 **Community Development Commission** - This city board shall be responsible for considering and acting upon requests for alternate means of compliance and upon appeals of decisions of the Office of Affordable Housing as described herein.

As defined in Section 6 "Definitions" of the HOP Administrative Procedures:

Development Types:

A. Development Type "A" means a residential development in which the average price of 70% of the dwelling units for sale or for rent are affordable to households with incomes at or below 80 percent of the area median income, using a four person household for home buyers and a three person household for renters.

B. Development Type "B" means a residential development in which all units for sale or for rent are affordable to a three person household with an income under 120 percent of the area median income unless the development is defined as a development type "A."

C. Development Type "C" means a residential development in which (a) one or more units for sale or for rent are provided to be affordable to a three person household with an income above 120 percent of the area median income; and (b) the average price does not exceed a price affordable to a three person household with an income at 200 percent of the area median income.

D. Development Type "D" means a residential development in which units for sale or rent are, on average, affordable to a three person household with an income over 200 percent of the area median income.

Extreme Hardship - A condition occurring as a direct consequence of the HOP 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 Community Development Commission's satisfaction that said loss will be an unavoidable consequence of the HOP requirement for construction of affordable housing.

11. ALTERNATE MEANS OF COMPLIANCE

11.1 Criteria for Allowing Alternate Approaches

HOP requires that applicants provide HOP units on the property proposed for development. However, it is recognized that at times this approach may be infeasible due to extreme hardship as defined. **In this event, the applicant may seek permission from the Community Development Commission to use an alternate means of compliance** *{Emphasis added}*.

11.2 Allowable Alternate Means of Compliance

Contributions of cash or in-kind resources for affordable housing may be considered acceptable by the City as an alternate means of compliance. The Developer may provide cash, land, labor, materials or another in-kind contribution(s) acceptable to the City. The fair market value of the contribution(s) shall be equal to the In-Lieu Contribution Value for each affordable unit, which is not provided directly, as described in Section 12.

12. DETERMINATION OF IN-LIEU CONTRIBUTION VALUES – Use the In-lieu fee calculations/requirements from SF Homes?

The In-Lieu Contribution Value for each HOP unit which is not provided directly shall be determined as follows:

12.1 Contribution values for a particular development shall be the values in Appendix D, "HOP In-Lieu Contribution Values," which correspond to the type of development proposed.

12.2 The methodology for initially determining contribution values is contained in a 1995 report by The Enterprise Foundation, *Findings and Recommendations Regarding Housing Affordability Issues in the Proposed Housing Opportunities Program*. The recommended contribution values in that report were adopted as the initial values for calendar year 1995.

12.3 The initial 1995 values shall be adjusted annually at the beginning of each calendar year by a factor equal to the Consumer Price Index for New Mexico Urban Areas, or at the discretion of the Office of Affordable Housing Director, the values may be recalculated using another method, so long as the methodology is sound and described in detail in a written report available to the public.

12.4 The required In-Lieu Contribution Value for any contribution (including a staged contribution) shall be the amount in effect at the time that each contribution is due.

12.5 A 2% processing fee to the city shall be added to all fees in lieu of contributions for administrative costs.

APPENDIX D: HOP IN-LIEU CONTRIBUTION VALUES

Effective February 24, 2005

The following In-Lieu Contribution Values are the required value of cash or in-kind contributions for HOP developments that are not providing required affordable housing.

"Price class," "corresponding price range," and "corresponding range of monthly rents" refer to the proposed pricing of residential dwelling units to be built in the development. Please note that qualified HOP developments in Development Types "A" and "B" (defined in Section 6 herein) are not required to make in-lieu contributions.

"Corresponding income range" is provided only for illustrative purposes, and formed the basis for some of the calculations used to derive the contribution values.

REQUIRED CONTRIBUTION VALUES FOR FOR-SALE HOUSING

Development Type	Corresponding Income Range*	Corresponding Price Range	Contribution Value/Unit**
"C"	120%-200% of AMI	$310,606-$517,675	$18,192
"D"	Over 200% of AMI	Over $517,676	$45,044

REQUIRED CONTRIBUTION VALUES FOR RENTAL HOUSING

Development Type	Corresponding Income Range*	Corresponding Range of Monthly Rents	Contribution Value/Unit
"C"	120%-200% of AMI	$1,782-$2,970	For specific fee contact Office of Affordable Housing. (505-955-6913)
"D"	Over 200% of AMI	Over $2,970	For specific fee contact Community Services Dept. (505-955-6913)

* "AMI" means area median income. Based on market data, typical household size is assumed to be three persons above 80 percent of median income.

** The value per unit is multiplied by the partial unit requirement to determine the specific contribution, e.g. 0.86 (partial requirement) x value/unit = contribution, plus a 2% administrative fee.

Updated HOP fee-in-lieu, based on 1995 figures, annual increase in Consumer Price Index (CPI)

CPI increase		Per Unit		With 2% admin fee	
Year	By %	Type C	Type D	Type C	Type D
1995	(BASE)	$ 18,192	$ 45,044	$ 18,556	$ 45,945
1996	3.3	$ 18,792	$ 46,530	$ 19,168	$ 47,461
1997	1.7	$ 19,112	$ 47,321	$ 19,494	$ 48,268
1998	1.6	$ 19,418	$ 48,079	$ 19,806	$ 49,040
1999	2.7	$ 19,942	$ 49,377	$ 20,341	$ 50,364
2000	3.4	$ 20,620	$ 51,056	$ 21,032	$ 52,077
2001	1.6	$ 20,950	$ 51,872	$ 21,369	$ 52,910
2002	2.4	$ 21,453	$ 53,117	$ 21,882	$ 54,180
2003	1.9	$ 21,860	$ 54,127	$ 22,297	$ 55,209
2004	3.3	$ 22,582	$ 55,913	$ 23,033	$ 57,031
2005	3.4	$ 23,349	$ 57,814	$ 23,816	$ 58,970
2006	2.5	$ 23,933	$ 59,259	$ 24,412	$ 60,444
2007	4.1	$ 24,531	$ 60,741	$ 25,022	$ 61,955
2008	0.1	$ 25,537	$ 63,231	$ 26,048	$ 64,496
2009	2.7	$ 25,540	$ 63,237	$ 26,051	$ 64,502
2010	1.5	$ 25,923	$ 64,186	$ 26,441	$ 65,470
2011	3	$ 26,701	$ 66,111	$ 27,235	$ 67,434
2012	1.7	$ 27,154	$ 67,235	$ 27,698	$ 68,580
2013	1.8	**$27,643**	$68,446	**$28,196**	$69,815
2014	0.8	**$28,086**	$69541	**$28,647**	$70,932

RON SEBESTA
P.O. BOX 22100
SANTA FE, NM 87502
505-577-4008

February 24, 2015

To Whom It May Concern:

This letter is a request to pay a fee-in-lieu of building the HOP homes in the Mission Viejo subdivision. I would fall under the type C category and the fee-in-lieu of building for both lots is $57,297 plus a 2% administration fee.

In 2003 I obtained approval from Santa Fe County to develop the Mission Viejo subdivision which consists of 20 lots. Two are HOP lots ¼ acre each and eighteen lots that are ½ acre home sites. The most recent sales in Mission Viejo for one of the best lots in the subdivision was $100,000.00 for a ½ acre site.

Under the conditions of my approval after the 9th home was constructed I was to have built the first HOP home. My role in this project was to develop and sell vacant land not to build houses on the lots. Sometime after the 9th home was constructed the real estate market hit the wall and everything came to a screeching halt and there were certain variables that were out of my control. With real estate being my only source of income we went for about 4 years without any sales and entered into survivor mode, just trying to keep afloat. It was also during this same time period our youngest daughter who had just graduated from UNLV with some massive student loans was working in Houston as a teacher and suffered a stroke. She was in Herman Memorial hospital on life support for about 14 days and continued her recovery there another three weeks. Without insurance you can imagine the debt that was daily occurring. By the end of her stay she had accumulated a debt of over $500,000. At this point in my life I must admit the last thing on my mind was the building of HOP homes. Moving forward to today, our daughter Rebecca is still recovering with speech and physical therapy but still suffers from the effects of the stroke and is considered 100% disabled. The current real estate market is still slow and depressed and most builders that I have spoken

to about purchasing the two HOP lots do not want to be tied to the requirements of HOP. Additionally the two HOP lots are located in a drainage area which flooded a home on the adjacent property in 2010 causing thousands of dollars in damage. The flood water inside the house was nearly 2 feet. In order to insure that flooding in the future won't affect these two lots, the elevation of both lots must be raised about two to three feet with fill dirt and supported with concrete footing plus retention and diversion walls (see the attached report). The site work alone and preparation prior to any construction cost upwards of $30,000.00 to $40,000.00 per lot.

As a result of all of the issues sited above I ask that you please consider a fee-in-lieu of construction on the two Mission Viejo lots. Thank you for your consideration.

Sincerely,

Ron Sebesta

W•E Walker Engineering

Morey Walker & Associates Engineering, Inc.

905 Camino Sierra Vista
Santa Fe, NM 87505
(505) 820-7990

March 2, 2015

Mr. Ron Sebesta
P.O. Box 22100
Santa Fe, NM 8750

Ref: Mission Viejo Sbudivision
Lots 10 & 11

Dear Ron,

I have reviewed the Drainage Evaluation report for the Orr Residence at 3402 Calle Viejo as prepared by Oralynn Guerrerortiz dated 10/21/10. Based upon the findings in the report and upon personal knowledge of the site, I concur with Ms. Guerrerortiz recommendations.

If you have any questions or need further information on this matter, please do not hesitate to contact me.

Sincerely,
Morey Walker & Associates Engineering Inc.

Morey E. Walker, P.E.
Principal

Mission Viejo HOA
P.O. Box 28931
Santa Fe, NM. 87592

February 20, 2015

To Whom It May Concern:

In July 2010 the Orr residence house at 3402 Calle Viejo located in the Mission Viejo subdivision was flooded during a storm runoff event.
After this event happened the Mission Viejo HOA had a drainage evaluation study done which was conducted by Oralynn Guerrerortiz a New Mexico registered profession engineer. (See report)

As stated in the report other empty lots in that same cul-de-sac location would also be impacted should another runoff event happen. The report specifically includes lots 11 and 13 but lot 10 should also be included as it to would be impacted by the same runoff event in this location

After reviewing this report if lots 10, 11 and 13 were to be developed then significant and costly excavation and drainage work would need to be done to prevent a flooding event occurring to those homes. I believe this would be at the expense of the homeowner per the City of Santa Fe building permit requirements.

Keith Bujold
President
Mission Viejo HOA

Keith C. Bujold

ORR RESIDENCE
3402 CALLE VIEJO
MISSION VIEJO SUBDIVISION
SANTA FE COUNTY, NEW MEXICO

DRAINAGE EVALUATION

Prepared by Oralynn Guerrerortiz 10-21-10

Flooding Event Summary

In late July 2010, the Orr family home was inundated with stormwater runoff. It was reported that 1-2 of water ponded in the home. I visited the home on September 14, 2010. The house sits on a 20,321 sf lot within the Mission Viejo Subdivision at the southwest corner of Mission Bend and Calle Viejo. The finish floor of the home and its yards is approximately 1-3 feet below the grade of the adjacent Calle Viejo and Mission Bend roadways. A 36" cmp is located at the western property corner of the lot, and its invert appears to be a few feet lower than the finished floor elevation. An 18" culvert lays at the intersection of Calle Viejo and Mission Bend. It was report to me by Cynthia Orr that this 18" culvert was blocked during the flooding event, and water ran over the Calle Viejo roadway towards their home.

Opinion of Cause of Flooding

The home site sits at the low point of a 26 acre watershed (Figure 1). No provisions have been installed to direct flow away from the home, although the Grading and Drainage Plan prepared by Morey Walker and Associates did indicate that a drainage swale would be installed along the southern SE to NW property boundary, and bar ditches would be installed along Calle Viejo and Mission Bend roadways adjacent to the Orr property.

Because the home was located in the center of a drainageway and no provisions were installed to direct stormwater around the home, or raise the home site out of the drainageway, flooding of the house site in a significant storm was inevitable. Further, the 36" CMP located at the western property corner of the Orr lot has adequate capacity to handle the 100-year, 24-hour storm event only if the water at the invert is at least 3 feet deep, which appears to be higher than the finished floor elevation of the home. A survey would be necessary to check the finished floor elevation in relation to the invert of the 36" cmp.

Recommendation

The following improvements to the site are recommended:

1. Install bar ditches along Mission Bend Road and Calle Viejo roadways to direct road runoff into the 36" culvert. Bar ditches should have minimum dimensions of a 18" depth, and a minimum side slope of 3 to 1.
2. Install a drainage swale along the southern SE-NW property boundary of the Orr lot to direct stormwater to the 36" culvert. This swale will be a rock line

trapezoidal channel with a bottom width of 2 feet, a depth of 2 feet and a side slope of 2 to 1. Top width will be 10 feet.

3. Install a drainage swale along the eastern NE-SW property boundary of the Orr lot to direct stormwater to the drainage swale noted in 2 above. This should have the same design as noted in 2 above.
4. The existing 36" cmp should be lowered so that its invert is located a minimum of 4 feet below the finished floor of the home. The inlet invert of the downstream culvert that flows to Pond 1 should be check to verify that positive drainage between the two pipes will exist with this lowering. If that is not the case, then the downstream culvert and possibly pond 1 will also have to be lowered.
5. Maintain the 36" cmp, roadway bar ditches and swales: March 15, September 15, and after storms of 1-inch or greater inspect all drainage facilities, remove any debris or vegetation which may impede flow. If more than 3" of soil or debris exists along the channel or cmp bottom, remove manually or by flushing. Check integrity of all ditches, swales and rip-rap. Repair if necessary. Unstabilized soils shall be stabilized by vegetation, rock plating or erosion mats.
6. It should be noted that both neighboring lots 11 and 13 could also be subject to inundation. These lots' grades should be raised relative to the surrounding property and swales should be installed to direct flows around them and into the swales leading to the 36" cmp.

Drainage Swale Sizing and CMP Size Verification

The property has no FEMA flood zones (Figures 2 and 3; Panel 35049C0526D/413D, effective 6/17/08).

The watershed soils have been mapped by the US Natural Resource Conservation Service and the soil mapping can be found on their web page: websoilsurvey.nrcs.usda.gov. The onsite soils are as follows:

116	Arents-Urban land-Orthenents complex	14.3%
200	Predawn loam	8.0%
201	Tanoan-Encantado complex	19.8%
202	Alire loam	44.4%
203	Buchhorse-Altazano complex	13.2%
208	Alire-Urban land complex	0.2%

All are Hydrologic Soil Group B. A runoff coefficient of 80 has been assumed.

The site has a fair coverage of herbaceous mixture of grass, weeds and brush with some juniper, pinion and cactus. Basal coverage is poor to fair. There is a 72 foot elevation change over the 2346 foot long drainage path. Time of concentration is estimated to be 0.55 hours.

The Simplified Peak Flow Method (TR-55) was used to determine peak runoff from the watershed affecting the Orr residence. The 100 year, 24-hour precipitation at determined by NOAA is 3.4 inches. Peak discharge for the 100-year, 24-hour storm event is 36 cfs.

Frequency	Precipitation	Peak Discharge

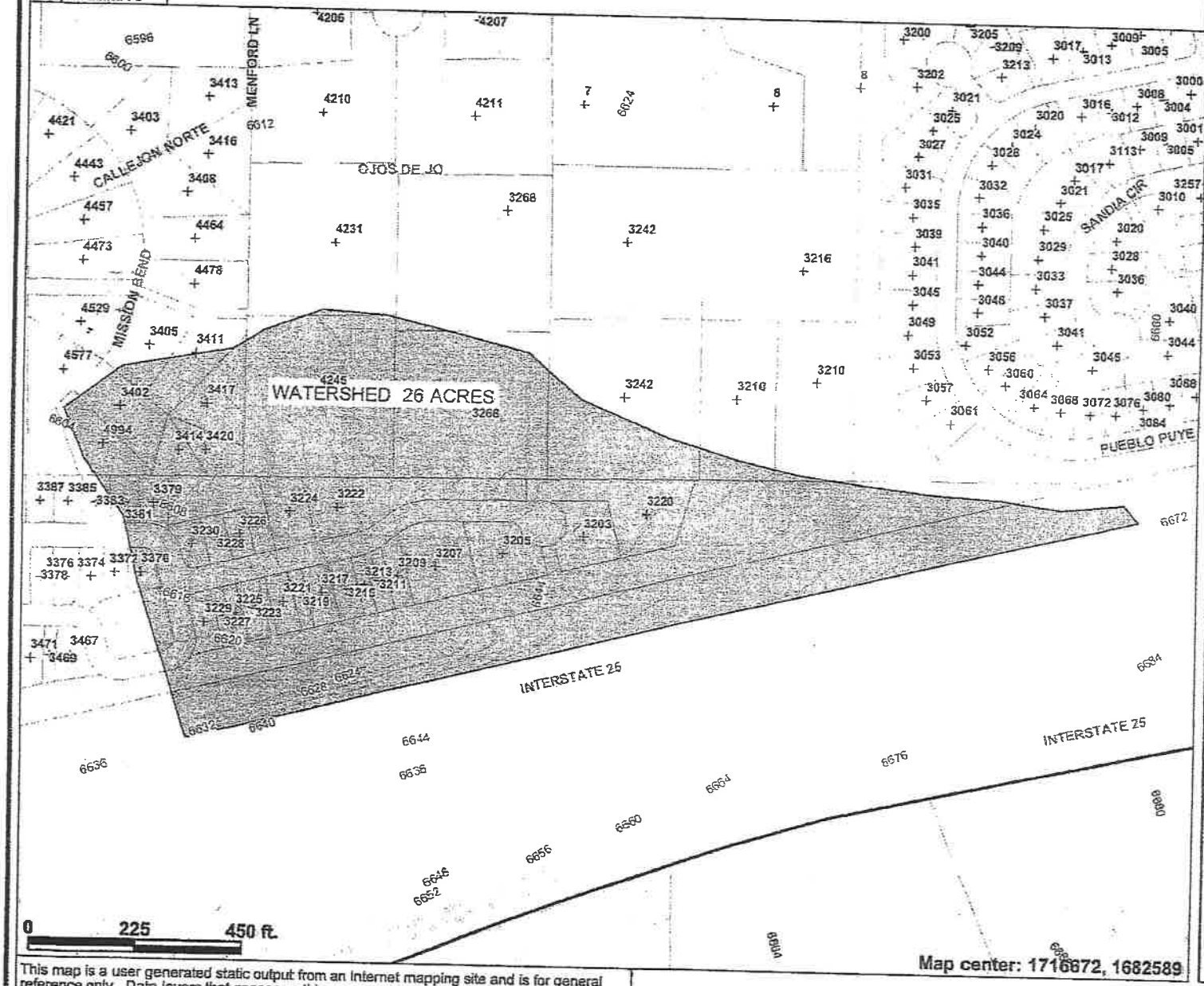
Year	(inches)	(cfs)
100	3.4	35.63
50	3	28.60
25	2.8	25.22
10	2.4	18.77
5	2	12.87
2	1.6	7.69

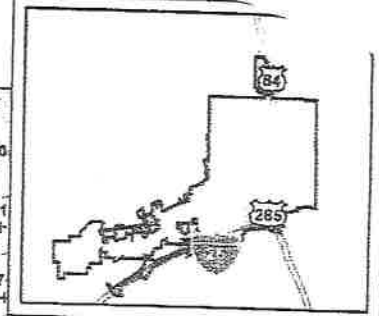
A 36" cmp can handle the 100-year, 24-hour storm event with a peak discharge of 36 cfs with an inlet head of about 3 feet. Thus to push the anticipated peak flows through the culvert during the 100-year, 24-hour storm event, one would need to allow the water to pond to about 3 feet at the front of the culvert. The home's finished floor elevation should be at least 4' above the invert of the pipe. If this is not the case, then the pipe must be lowered to provide the 4' of elevation difference or additional culverts under Mission Bend are required to ensure that adequate capacity exists to prevent a flooding of the Orr house in the future.

ORALYNN GUERRERORTIZ
NEW MEXICO
12688
REGISTERED PROFESSIONAL ENGINEER
10/24/18

WATERSHED IMPACTING ORR HOME

Geographic Information Systems
City of Santa Fe





Legend

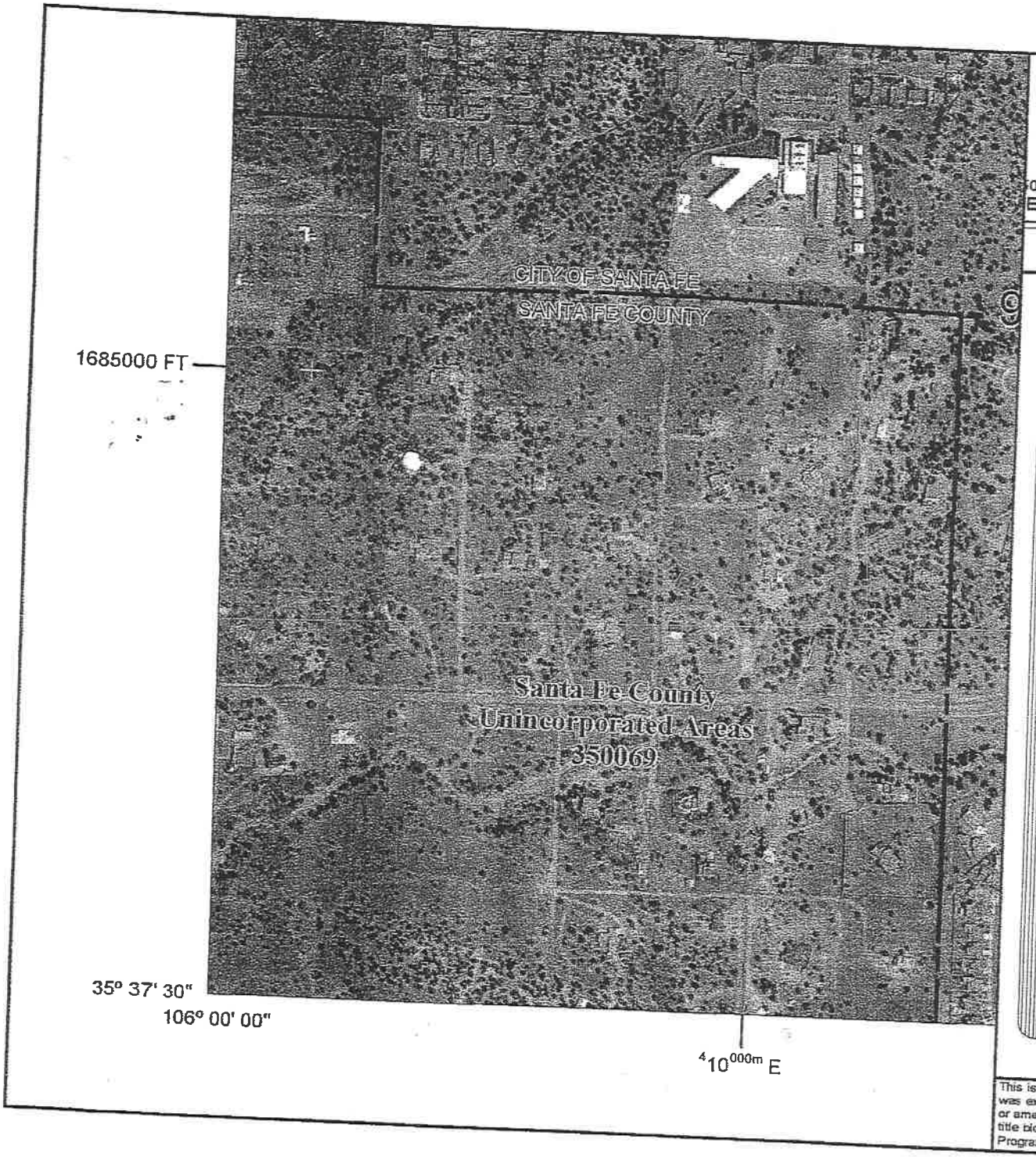
- City Limits
- Address Points
- Contours - 4 foot
- Parcels
- Santa Fe River
- Major Roads and Highways
- Other Roads and Streets

Scale: 1:3,857

Map center: 1716672, 1682589

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Figure 1



MAP SCALE 1" = 500'

0 500 1000 FEET

NFIP

NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0413D

FIRM

FLOOD INSURANCE RATE MAP

SANTA FE COUNTY, NEW MEXICO AND INCORPORATED AREAS

PANEL 413 OF 1100

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
SANTA FE CITY OF	350070	0413	D
SANTA FE COUNTY (UNINCORPORATED AREAS)	350069	0413	D

Notice to User: The *Map Number* shown below should be used when placing map orders; the *Community Number* shown above should be used on insurance applications for the subject community.

MAP NUMBER
35049C0413D

EFFECTIVE DATE
JUNE 17, 2008

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

Figure 2

MAP SCALE 1" = 500'

0 500 1000 FEET

NFIP

NATIONAL FLOOD INSURANCE PROGRAM

PANEL 0526D

FIRM

FLOOD INSURANCE RATE MAP

SANTA FE COUNTY, NEW MEXICO

AND INCORPORATED AREAS

PANEL 526 OF 1100

(SEE MAP INDEX FOR FIRM PANEL LAYOUT)

CONTAINS:

COMMUNITY	NUMBER	PANEL	SUFFIX
SANTA FE, CITY OF	350070	0526	D
SANTA FE COUNTY (UNINCORPORATED AREAS)	350069	0526	D

Notice to User: The Map Number shown below should be used when placing map orders; the Community Number shown above should be used on insurance applications for the subject community.

MAP NUMBER
35049C0526D

EFFECTIVE DATE
JUNE 17, 2008

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Figure 3

ORR RESIDENCE DRAINAGE IMPROVEMENT
ENGINEER'S OPINION OF PROBABLE COST
Assumption: 36" culvert invert is less than 4' below Orr Finished Floor
10/21/2010

ITEM NUMBER	DESCRIPTION	UNIT	TOTAL QUANTITY	UNIT COST	SCHEDULE COST
1	Bar Ditch with gravel mulch 3" thick.	LF	220.00	$6.00	$1,320.00
2	Rock lined Trapezoidal Channel	LF	295	$65.00	$19,175.00
3	Saw cut asphalt	LF	50	$4.00	$200.00
4	Saw cut concrete	LF	180	$4.00	$720.00
5	Lowering of 36: CMP, including backfill	LF	115	$45.00	$5,175.00
6	Extension of 36" CMP	LF	20	$45.00	$900.00
7	Connection of 2 - 36" CMP in a Median Drop Inlet	LS	1	$5,000.00	$5,000.00
8	Rock Set in Concrete At 36" CMP inlet	LS	1	$1,000.00	$1,000.00
9	Disposal of concrete and asphalt	SY	256	$20.00	$5,111.11
10	Replacement of basecourse and Asphalt	SY	56	$50.00	$2,777.78
11	Replacement of Concrete	SY	200	$35.00	$7,000.00
12	Project Construction Staking	LS	1	$1,000.00	$1,000.00
13	Project Traffic Control	LS	1	$1,000.00	$1,000.00
14	Project Testing	LS	1	$1,000.00	$1,000.00
15	Reseeding	LS	1	$5,000.00	$5,000.00
16	Permits	LS	1	$500.00	$500.00
17	Engineering	LS	1	$7,000.00	$7,000.00
	Subtotal				**$63,878.89**
	NM GRT				**$5,230.08**
	Contingency (20%)				**$12,775.78**
	Total				**$81,884.75**

ORALYNN GUERRERO-ORTIZ
NEW MEXICO
12688
REGISTERED PROFESSIONAL ENGINEER
10/21/10

ORR RESIDENCE DRAINAGE IMPROVEMENT
ENGINEER'S OPINION OF PROBABLE COST
Assumption: 36" culvert invert is 4' or more below Orr Finished Floor
10/21/2010

ITEM NUMBER	DESCRIPTION	UNIT	TOTAL QUANTITY	UNIT COST	SCHEDULE COST
1	Bar Ditch with gravel mulch 3" thick.	LF	220.00	$6.00	$1,320.00
2	Rock lined Trapezoidal Channel	LF	295	$65.00	$19,175.00
3	Project Construction Staking	LS	1	$1,000.00	$1,000.00
4	Project Traffic Control	LS	1	$200.00	$200.00
5	Reseeding	LS	1	$5,000.00	$5,000.00
6	Permits	LS	1	$200.00	$200.00
7	Engineering	LS	1	$2,000.00	$2,000.00
	Subtotal				$28,895.00
	NM GRT				$2,365.78
	Contingency (20%)				$5,779.00
	Total				$37,039.78

ORALYNN GUERRERO ORTIZ
NEW MEXICO
12688
REGISTERED PROFESSIONAL ENGINEER
10/21/10