



# Agenda

DATE 8/20/12 TIME 1:30pm  
SERVED BY Guadalupe Guro  
RECEIVED BY JSG

## PLANNING COMMISSION

Thursday, September 13, 2012 - 6:30pm  
City Council Chambers  
City Hall 1<sup>st</sup> Floor - 200 Lincoln Avenue

- A. ROLL CALL
- B. PLEDGE OF ALLEGIANCE
- C. APPROVAL OF AGENDA
- D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS

MINUTES: August 2, 2012

FINDINGS/CONCLUSIONS:

Case #2012-39. La Luz Health Complex General Plan Amendment.

Case #2012-40. La Luz Health Complex Rezoning to MU.

Case #2012-70. Classic Rock Preliminary Subdivision Plat.

Case #2012-72. Christ Church Santa Fe Special Use Permit.

Case #2012-73. Christ Church Santa Fe Development Plan.

## E. BUSINESS FROM THE FLOOR

1. City Attorney Geno Zamora discusses the Ethics Ordinance, Quasi-Judicial proceedings and the Open Meetings Act.

## F. OLD BUSINESS

## G. NEW BUSINESS

1. An ordinance relating to the Land Development Code, Chapter 14 SFCC 1987 regarding Mobile Home Park Districts and Mobile Home Parks; amending Section 14-4.2(J)(1) SFCC 1987 to expand the purpose of the MHP District to include residential subdivisions and multi-family dwellings; amending Section 14-6.1(C) Table of Permitted Uses to correspond with 14-4.2(J)(1); amending Section 14-6.2(A)(3) SFCC 1987 to clarify standards for existing mobile home parks; amending Section 14-7.2(I) SFCC 1987 to prohibit the establishment of new mobile home parks as of the effective date of this ordinance and to clarify that manufactured homes are allowed in existing mobile home parks; amending Table 14-7.2-1 to provide dimensional standards in the MHP District; amending Section 14-12 regarding mobile home-related definitions; and making other such other stylistic or grammatical changes that are necessary. (Councilor Dominguez) (Matthew O'Reilly)

2. An ordinance relating to the Land Development Code, Chapter 14 SFCC 1987 regarding Architectural Design Review for detached single-family dwelling units; amending Section 14-3.11(C) SFCC 1987 to provide for architectural design review of detached single-family dwellings; and amending Section 14-8.7(E) SFCC 1987 to provide for architectural design standards for detached single-family dwelling units; and making such other stylistic and grammatical changes that are necessary. (Councilor Dominguez) (Matthew O'Reilly)
3. An ordinance relating to the Land Development Code, Chapter 14 SFCC 1987 and Article 18-5.1 SFCC 1987 regarding distress merchandise sales signs and licenses; amending Section 14-8.10(B)(8) SFCC 1987 regarding violations of sign regulations to include distress merchandise sale signs in the H Districts; creating a new Section 14-8.10(H)(28)(f) SFCC 1987 regarding the regulation of distress merchandise sale signs in the H Districts; amending Section 18-5.1 SFCC 1987 regarding the grounds for denial of a distress merchandise sale license and the revocation of a distress merchandise sale license; and making such other such stylistic and grammatical changes as are necessary. (Councilor Calvert) (Matthew O'Reilly)
4. **Case #2012-74. Mission Viejo General Plan Amendment.** JenkinsGavin Design and Development Inc., agents for Ronald Sebesta, request approval of a General Plan Future Land Use Map Amendment to change the designation of 16.56± acres of land from Public/Institutional to Office. The property is located at 4601 Mission Bend, on the east side of Richards Avenue and south of Governor Miles Road. (Donna Wynant, Case Manager) **(POSTPONED FROM AUGUST 2, 2012) (TO BE POSTPONED INDEFINITELY)**
5. **Case #2012-75. Mission Viejo Rezoning to C-1.** JenkinsGavin Design and Development Inc., agents for Ronald Sebesta, request rezoning of approximately 16.56± acres from R-1 (Residential, one dwelling unit per acre) to C-1 (Office and Related Commercial). The property is located at 4601 Mission Bend, on the east side of Richards Avenue and south of Governor Miles Road. (Donna Wynant, Case Manager) **(POSTPONED FROM AUGUST 2, 2012) (TO BE POSTPONED INDEFINITELY)**
6. **Case #2012-76. Mission Viejo Special Use Permit.** JenkinsGavin Design and Development Inc., agents for Ronald Sebesta, request a Special Use Permit for a school in C-1 (Office and Related Commercial) at 4601 Mission Bend. (Donna Wynant, Case Manager) **(POSTPONED FROM AUGUST 2, 2012) (TO BE POSTPONED INDEFINITELY)**
7. **Case #2012-91. Arroyo Central (Tierra Contenta Tract 50) Preliminary Subdivision Plat.** David Thomas of the Tierra Contenta Corporation, agent for the Santa Fe Community Housing Trust, proposes a 24-lot single family residential subdivision plat. The property is zoned PRC (Planned Residential Community) and is located on the southwest corner of Plaza Central and Contenta Ridge Drive. (Heather Lamboy, Case Manager)

**8. Case #2012-94. Arroyo Central (Tierra Contenta Tract 50) Development Plan.**

David Thomas of the Tierra Contenta Corporation, agent for the Santa Fe Community Housing Trust, proposes a development plan for a 24-lot single family residential subdivision. The property is zoned PRC (Planned Residential Community) and is located on the southwest corner of Plaza Central and Contenta Ridge Drive. (Heather Lamboy, Case Manager)

**H. STAFF COMMUNICATIONS****I. MATTERS FROM THE COMMISSION****J. ADJOURNMENT****NOTES:**

- 1) Procedures in front of the Planning Commission are governed by the City of Santa Fe Rules & Procedures for City Committees, adopted by resolution of the Governing Body of the City of Santa Fe, as the same may be amended from time to time (Committee Rules), and by Roberts Rules of Order (Roberts Rules). In the event of a conflict between the Committee Rules and Roberts Rules, the Committee Rules control.
- 2) New Mexico law requires the following administrative procedures to be followed by zoning boards conducting "quasi-judicial" hearings. By law, any contact of Planning Commission members by applicants, interested parties or the general public concerning any development review application pending before the Commission, except by public testimony at Planning Commission meetings, is generally prohibited. In "quasi-judicial" hearings before zoning boards, all witnesses must be sworn in, under oath, prior to testimony and will be subject to reasonable cross examination. Witnesses have the right to have an attorney present at the hearing.
- 3) The agenda is subject to change at the discretion of the Planning Commission.  
**\*Persons with disabilities in need of special accommodations or the hearing impaired needing an interpreter please contact the City Clerk's Office (955-6520) 5 days prior to the hearing date.**



**Agenda**  
**rescheduled to**  
**September 13, 2012**

**PLANNING COMMISSION**

**Thursday, September 6, 2012 - 6:00pm**

**City Council Chambers**

**City Hall 1<sup>st</sup> Floor - 200 Lincoln Avenue**

**A. ROLL CALL**

**B. PLEDGE OF ALLEGIANCE**

**C. APPROVAL OF AGENDA**

**D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**

**MINUTES: August 2, 2012**

**FINDINGS/CONCLUSIONS:**

**Case #2012-39. La Luz Health Complex General Plan Amendment.**

**Case #2012-40. La Luz Health Complex Rezoning to MU.**

**Case #2012-70. Classic Rock Preliminary Subdivision Plat.**

**Case #2012-72. Christ Church Santa Fe Special Use Permit.**

**Case #2012-73. Christ Church Santa Fe Development Plan.**

**E. OLD BUSINESS**

**F. NEW BUSINESS**

1. An ordinance relating to the Land Development Code, Chapter 14 SFCC 1987 regarding Mobile Home Park Districts and Mobile Home Parks; amending Section 14-4.2(J)(1) SFCC 1987 to expand the purpose of the MHP District to include residential subdivisions and multi-family dwellings; amending Section 14-6.1(C) Table of Permitted Uses to correspond with 14-4.2(J)(1); amending Section 14-6.2(A)(3) SFCC 1987 to clarify standards for existing mobile home parks; amending Section 14-7.2(I) SFCC 1987 to prohibit the establishment of new mobile home parks as of the effective date of this ordinance and to clarify that manufactured homes are allowed in existing mobile home parks; amending Table 14-7.2-1 to provide dimensional standards in the MHP District; amending Section 14-12 regarding mobile home-related definitions; and making other such other stylistic or grammatical changes that are necessary. (Councilor Dominguez) (Matthew O'Reilly)
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**G. BUSINESS FROM THE FLOOR****H. STAFF COMMUNICATIONS****I. MATTERS FROM THE COMMISSION****J. ADJOURNMENT****NOTES:**

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SUMMARY INDEX  
CITY OF SANTA FE  
PLANNING COMMISSION  
September 13, 2012

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<u>CASE #2012-40. LA LUZ HEALTH COMPLEX REZONING TO MU</u>	Approved	3-4
<u>CASE #2012-70. CLASSIC ROCK PRELIMINARY SUBDIVISION PLAT</u>	Approved	3-4
<u>CASE #2012-72. CHRIST CHURCH SANTA FE SPECIAL USE PERMIT</u>	Approved	3-4
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**ITEM****ACTION****PAGE****NEW BUSINESS**

AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987, REGARDING MOBILE HOME PARK DISTRICTS AND MOBILE HOME PARKS; AMENDING SECTION 14-4.2(J)(1) SFCC 1987, TO EXPAND THE PURPOSE OF THE MHP DISTRICT TO INCLUDE RESIDENTIAL SUBDIVISIONS AND MULTI-FAMILY DWELLINGS; AMENDING SECTION 14-6.1(C) TABLE OF PERMITTED USES TO CORRESPOND WITH 14-4.2(J)(1); AMENDING SECTION 14-6.2(A)(3) SFCC 1987, TO CLARIFY STANDARDS FOR EXISTING MOBILE HOME PARKS; AMENDING SECTION 14-7.2(I) SFCC 1987, TO PROHIBIT THE ESTABLISHMENT OF NEW MOBILE HOME PARKS AS OF THE EFFECTIVE DATE OF THIS ORDINANCE AND TO CLARIFY THAT MANUFACTURED HOMES ARE ALLOWED IN EXISTING MOBILE HOME PARKS; AMENDING TABLE 14-7.2-1 TO PROVIDE DIMENSIONAL STANDARDS IN THE MHP DISTRICT; AMENDING SECTION 14-12 REGARDING MOBILE HOME RELATED DEFINITIONS; AND MAKING OTHER SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY

Recommend Approval

10-19

AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987, REGARDING ARCHITECTURAL DESIGN REVIEW FOR DETACHED SINGLE-FAMILY DWELLING UNITS; AMENDING SECTION 14-3.11(C) SFCC 1987, TO PROVIDE FOR ARCHITECTURAL DESIGN REVIEW OF DETACHED SINGLE-FAMILY DWELLINGS; AND AMENDING SECTION 14-8.7(E) SFCC 1987, TO PROVIDE FOR ARCHITECTURAL DESIGN STANDARDS FOR DETACHED SINGLE-FAMILY DWELLING UNITS; AND MAKING SUCH OTHER STYLISTIC AND GRAMMATICAL CHANGES THAT ARE NECESSARY

Withdrawn

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**ITEM****ACTION****PAGE**

AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987, AND ARTICLE 18-5.1 SFCC 198. REGARDING DISTRESS MERCHANDISE SALES SIGNS AND LICENSES; AMENDING SECTION 14-8.10(B)(8) SFCC 1987, REGARDING VIOLATIONS OF SIGN REGULATIONS TO INCLUDE DISTRESS MERCHANDISE SALE SIGNS IN THE H DISTRICTS; CREATING A NEW SECTION 14-8.10(H)(28)(f) SFCC 1987, REGARDING THE REGULATION OF DISTRESS MERCHANDISE SALE SIGNS IN THE H-DISTRICTS; AMENDING SECTION 18-5.1 SFCC 1987, REGARDING THE GROUNDS FOR DENIAL OF A DISTRESS MERCHANDISE SALE LICENSE AND THE REVOCATION OF A DISTRESS MERCHANDISE SALE LICENSE; AND MAKING SUCH OTHER SUCH STYLISTIC AND GRAMMATICAL CHANGES AS ARE NECESSARY

Recommended Approval

20-24

CASE #2012-74. MISSION VIEJO GENERAL PLAN AMENDMENT. JENKINS GAVIN DESIGN AND DEVELOPMENT, INC., AGENTS FOR RONALD SEBESTA, REQUEST APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 16.56± ACRES OF LAND FROM PUBLIC/INSTITUTIONAL TO OFFICE. THE PROPERTY IS LOCATED AT 4601 MISSION BEND, ON THE EAST SIDE OF RICHARDS AVENUE AND SOUTH OF GOVERNOR MILES ROAD

Postponed indefinitely

24

CASE #2012-75. MISSION VIEJO REZONING TO C-1. JENKINS GAVIN DESIGN AND DEVELOPMENT, INC., AGENTS FOR RONALD SEBESTA, REQUEST REZONING OF APPROXIMATELY 16.56± ACRES OF LAND FROM R-1 (RESIDENTIAL, ONE DWELLING UNIT PER ACRE) TO C-1 (OFFICE AND RELATED COMMERCIAL. THE PROPERTY IS LOCATED AT 4601 MISSION BEND, ON THE EAST SIDE OF RICHARDS AVENUE AND SOUTH OF GOVERNOR MILES ROAD

Postponed indefinitely

24

CASE #2012-76. MISSION VIEJO SPECIAL USE PERMIT. JENKINS GAVIN DESIGN AND DEVELOPMENT, INC., AGENTS FOR RONALD SEBESTA, REQUEST A SPECIAL USE PERMIT FOR A SCHOOL IN C-1 (OFFICE AND COMMERCIAL) AT 4601 MISSION BEND

Postponed indefinitely

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<b><u>ITEM</u></b>	<b><u>ACTION</u></b>	<b><u>PAGE</u></b>
<b><u>CASE #2012-91. ARROYO CENTRAL (TIERRA CONTENTA TRACT 50) PRELIMINARY SUBDIVISION PLAT. DAVID THOMAS OF THE TIERRA CONTENTA CORPORATION, AGENT FOR THE SANTA FE COMMUNITY HOUSING TRUST, PROPOSES A 24-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION PLAT. THE PROPERTY IS ZONED PRC (PLANNED RESIDENTIAL COMMUNITY) AND IS LOCATED ON THE SOUTHWEST CORNER OF PLAZA CENTRAL AND CONTENTA RIDGE DRIVE</u></b>	<b>Approved</b>	<b>25-26</b>
<b><u>CASE #2012-94. ARROYO CENTRAL (TIERRA CONTENTA TRACT 50) DEVELOPMENT PLAN. DAVID THOMAS OF THE TIERRA CONTENTA CORPORATION, AGENT FOR THE SANTA FE COMMUNITY HOUSING TRUST, PROPOSES A DEVELOPMENT PLAN FOR A 24-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION. THE PROPERTY IS ZONED PRC (PLANNED RESIDENTIAL COMMUNITY) AND IS LOCATED ON THE SOUTHWEST CORNER OF PLAZA CENTRAL AND CONTENTA RIDGE DRIVE</u></b>	<b>Approved</b>	<b>25-26</b>
<b>STAFF COMMUNICATIONS</b>	<b>Information/discussion</b>	<b>27-28</b>
<b>MATTERS FROM THE COMMISSION</b>	<b>Information/discussion</b>	<b>28</b>
<b>ADJOURNMENT</b>		<b>29</b>

**MINUTES OF THE MEETING  
OF THE  
PLANNING COMMISSION  
September 13, 2012**

A regular meeting of the City of Santa Fe Planning Commission, was called to order by Chair Tom Spray, at approximately 6:30 p.m., on Thursday, September 13, 2012, in the City Council Chambers, City Hall, Santa Fe, New Mexico.

**A. ROLL CALL**

**MEMBERS PRESENT:**

Commissioner Tom Spray, Chair  
Commissioner Michael Harris  
Commissioner Signe Lindell  
Commissioner Dan Pava  
Commissioner Angela Schackel-Bordegary  
Commissioner Renee Villarreal  
[Vacancy]

**MEMBERS EXCUSED:**

Commissioner Lisa Bemis  
Commissioner Lawrence Ortiz

**OTHERS PRESENT:**

City Councilor Carmichael A. Dominguez  
Matthew O'Reilly, Director, Land Use Department  
Tamara Baer, Planner Manager, Current Planning Division – Staff liaison  
Kelley Brennan, Assistant City Attorney  
Heather Lamboy, Land Use Planner Senior, Current Planning Division  
Melessia Helberg, Stenographer

There was a quorum of the membership in attendance for the conducting of official business.

**B. PLEDGE OF ALLEGIANCE**

**C. APPROVAL OF AGENDA**

Ms. Baer said Item G(2) under new business has been withdrawn. She noted that Items G(4), G(5) and G(6), regarding Mission Viejo, have been postponed indefinitely and won't appear on future agendas.

**MOTION:** Commissioner Schackel-Bordegary moved, seconded by Commissioner Villarreal, to approve the Agenda as amended.

**VOTE:** The motion was approved on a voice vote, with Commissioners Harris, Lindell, Pava, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0].

#### **D. APPROVAL OF MINUTES AND FINDINGS/CONCLUSIONS**

##### **1) MINUTES – AUGUST 2, 2012**

A Memorandum of corrections to the minutes, prepared by staff, is incorporated herewith to these minutes as Exhibit "1."

Ms. Baer said there were quite a few corrections, so she prepared a two-page memorandum with the changes, and the Memorandum will be attached to these minutes, which will be approved at the next meeting of the Planning Commission.

Commissioner Pava proposed several corrections, saying he has additional changes which are ministerial in nature which he provided to the Stenographer to include in the corrections as follows.

The following corrections were made to the minutes:

- Page 8, paragraph 6, line 1, correct as follows: "... improvements to Siler ~~Road~~ Lane.
- Page 8, paragraph 7, line 1-2, correct as follows: "... improvements to Siler ~~Road~~ Lane.
- Page 10, paragraph 2, line 2, correct as follows: "...Pastor Martin ~~Bond~~ Ban..."
- Page 10, paragraph 2, line 8, correct as follows: "... a residential designer ..."
- Page 11, paragraph 1, line 12, correct as follows: "... ~~eye sore~~ eyesore..."
- Page 11, paragraph 1, line 23, correct as follows: "...and ~~adoptable~~ adaptable..."
- Page 16, paragraph 5, line 1, correct as follows: "...a fifteen ~~feet~~ foot..."
- Page 17, paragraph 1, line 3, correct as follows: "...the roof ~~service~~ surface?"
- Page 18, paragraph 5, line 2, strike the sentence as follows: "...~~So that language now encroaches some of limited and not necessarily applies here...~~"
- Page 18, paragraph 9, line 2, correct as follows: "...will be used to better..."
- Page 19, move the roll call vote to the end after the discussion on page 20.
- Page 20, paragraph 3, line 1, correct as follows: "...I do not think we need..."
- Page 20, paragraph 8, line 2, correct as follows: "...to the permit."
- Page 21, move the roll call vote to the end after the discussion on page 22.
- Page 21, paragraph 6, line 2, correct as follows: "... Ms. Brennan about the potential for..."
- Page 23, paragraph 5, line 3, correct as follows: "... 1978 and manufactures manufactured.."

**MOTION:** Commissioner Pava moved, seconded by Commissioner Harris, to approve the minutes, with the aforementioned corrections, and with the corrections contained in Exhibit "1."

**VOTE:** The motion was approved on a voice vote, with Commissioners Harris, Lindell, Pava, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0].

## **2. FINDINGS/CONCLUSIONS**

A copy of the City of Santa Fe Planning Commission Findings of Fact and Conclusions of Law in Case #2012-39 La Luz Health Complex General Plan Amendment and Case #2012-34 40 La Luz Health Complex Rezoning to MU/Preliminary Development Plan, are incorporated herewith to these minutes as Exhibit "2."

A copy of the City of Santa Fe Planning Commission Findings of Fact and Conclusions of Law in Case #2012-70 Eker Land LLC, is incorporated herewith to these minutes as Exhibit "3."

*[STENOGRAPHER'S NOTE: These were the Findings of Fact in this case which were included in the Commission packet.]*

A copy of the City of Santa Fe Planning Commission Findings of Fact and Conclusions of Law in Case #2012-72, Christ Church Santa Fe Special Use Permit and Case #2012-73, Christ Church Santa Fe Final Development Plan, are incorporated herewith to these minutes as Exhibit "4."

- a) **CASE #2012-39. LA LUZ HEALTH COMPLEX GENERAL PLAN AMENDMENT**
- b) **CASE #2012-40. LA LUZ HEALTH COMPLEX REZONING TO MU**

**MOTION:** Commissioner Harris moved, seconded by Commissioner Villarreal, to approve the Findings of Fact and Conclusions of Law in Cases #2012-39 and #2012-40, as presented by staff.

**VOTE:** The motion was approved on a voice vote, with Commissioners Harris, Lindell, Pava, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0].

- c) **CASE #2012-70. CLASSIC ROCK PRELIMINARY SUBDIVISION PLAT.**

**MOTION:** Commissioner Villarreal moved, seconded by Commissioner Pava, to approve the Findings of Fact and Conclusions of Law in Case #2012-70.

**VOTE:** The motion was approved on a voice vote, with Commissioners Harris, Lindell, Pava, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0].

- d) **CASE #2012-72. CHRIST CHURCH SANTA FE SPECIAL USE PERMIT**
- e) **CASE #2012-73. CHRIST CHURCH SANTA FE DEVELOPMENT PLAN**

**MOTION:** Commissioner Villarreal moved, seconded by Commissioner Pava, to approve the Findings of Fact and Conclusions of Law in Case #2012-72 and Case #2012-73, as presented by staff.

**VOTE:** The motion was approved on a voice vote, with Commissioners Harris, Lindell, Pava, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0].

## **E. BUSINESS FROM THE FLOOR**

### **1. CITY ATTORNEY GENO ZAMORA DISCUSSES THE ETHICS ORDINANCE, QUASI-JUDICIAL PROCEEDINGS AND THE OPEN MEETINGS ACT.**

A copy of *Ethics and Open Government* presented to the Planning Commission by the Santa Fe City Attorney's Office, September 13, 2012, is incorporated herewith to these minutes as Exhibit "5."

Geno Zamora, City Attorney, presented the information in Exhibit "5." Please see Exhibit "5" for specifics of this presentation.

Mr. Zamora said the Planning Commission is the first quasi-judicial body which has invited him to attend its meeting and make this kind of presentation as it applies to the Planning Commission, and said he applauds the Planning Commission for its interest in ethics and open government.

*The Commissioners commented and asked questions as follows:*

- Commissioner Lindell asked the reason for the definition of household member, which seems very narrow to her, and asked about grandparents, aunts or uncles, which seem to her to be areas of conflict of interest.

Mr. Zamora said household members are included first, regardless of relation or non-relation, noting it also includes children, step-children, brothers, sisters, parents, step-parents, domestic partners and all persons claimed as dependents. but does not include grandparents.

- Commissioner Lindell asked if that is from State Statute or the City Code.

Mr. Zamora said he is first reviewing the City Ethics Code, so this is the City Ethics Code as it was negotiated with several community groups in April 2001.

- Commissioner Pava asked if it is the custom, at the Planning Commission and Governing Body meetings, when there is such an occurrence, if the person should step off the dais and leave the room.

Mr. Zamora said, "It's not defined beyond, declare the conflict and not influence. The practice that I've seen ranges from stepping away from the dais and out of the room for the pendency of that issue. That tends to be the most frequent practice. Once, I have seen a Governing Body member leave the dais and sit in the crowd. The reason I would caution against it, is that it could be interpreted as attempting to influence the decision. Part of my advice is always to err on the side of caution. And so if you err on the side of caution, you make the declaration and step out of the room, although it's not required."

- Chair Spray asked, with regard to a member not being able to represent an item before this body during their term on the Commission, if this is specifically for an item, and not necessarily for an individual or a company that might represent one particular item.

Mr. Zamora said, "The item, with my summary language... which is if you have a party before this body within that one year for compensation, you may not advise, consult or represent [that party before the Commission]. And that clarification came in, and I have a feeling this is going to be a very shocking clarification, this came in about 1½ years ago, because language throughout the Code, whether the members were aware of it or not, tended to provide a lifetime ban, and this was the negotiated reduction."

- Commissioner Schackel-Bordegary said some former Commissioners have come before this Body representing cases when obviously they have recused themselves from the case. However, this sounds to her that that isn't possible – you can't serve on the Commission and actually serve a client on a case before the Planning Commission. She said, "If you recall, we had a member of the Planning Commission who did that, actually a few."

Mr. Zamora said, "Although it is a hard truth, that is correct under the new Ordinance. And it will become a little bit more clear when we hit the quasi-judicial portion. And as we get to quasi-judicial, you've chosen to take on this role that can be a judicial role, and therefore you are held to higher standards than the rest of the public, because you wear that cloak of the judiciary."

- Ms. Schackel-Bordegary asked for clarification, if that change is recent as of a year and a half ago.

Mr. Zamora said it was April 2011, and would apply to actions after that.

- Commissioner Harris asked, "A sitting Commissioner can recuse himself from consideration of a case before the body, correct, if they may have a conflict of interest. But if the Commissioner actually has a contract to work for a particular entity who has a case, that person cannot accept any compensation. It seems like, if I understand what you were saying earlier, that a Commissioner could recuse himself, and still come forward."

Mr. Zamora said, "Under the Ethics Code that person could not receive compensation to represent that entity before this [Commission] on any matter that is before the Commission."

- Mr. Harris said, "Before this Commission, but you can recuse yourself. The Commissioner can recuse themselves on that particular case."

Mr. Zamora said, "Where there is a conflict of interest, the Commissioners should recuse themselves, but I think, if I understand what you're asking, is should they recuse themselves if they're representing the party on that item that is before the Commission. And what the Ethics Code says is, a Commission member cannot represent that entity for compensation, cannot participate in the development of that item before the Commission. That is what that says."

Ms. Brennan said, "There's a distinction here. I think there's a distinction when you are a sitting member, which is if there is a conflict of interest, you disclose your conflict and recuse yourself. And then I think there's a period after you leave the Commission for a year when you cannot represent before the Commission for compensation on a case. Is that correct?"

Mr. Zamora said that is correct and thanked her for clarifying that.

- Chair Spray asked if that would be for a specific case or any case. "In other words, because we heard something as a sitting Commissioner, you're saying we can't hear any case. I'm confused."

Ms. Brennan said, "You can't appear before the Commission as a representative for a year, because that implies another conflict of interest – you've been working with people, and to come in here and present a case would be prejudicial presumably, or could be. I don't think it means that you couldn't, say, provide engineering services, but you cannot represent them before the Commission on an application."

Chair Spray said, "So we're saying you could go work for these people."

Ms. Brennan said, "I believe it doesn't forbid you from working for someone who may have business before the Commission, but you cannot stand at a podium and present a case."

- Chair Spray asked Commissioner Harris if that makes more sense to him.
- Commissioner Harris said, "We have agents for the applicants, so it seems to me that it may be specific to an agent for an applicant actually standing before the Commission. In other words, they're sworn in, they're testifying, and if that's really what we're talking about, that's one issue. But what I was hearing was much broader than that."

Mr. Zamora thanked the Commissioners for the clarification, saying sometimes we can "sort of miss each other with the communication." He said the City Attorney's Office works with the language to make the most practical application. He reiterated that there is a one year prohibition, and a practical reading of the language is that Commissioners cannot appear before this body to advocate on behalf of that entity for one year after leaving the Commission.



- Commissioner Pava said, for example, "We've had a long Planning Commission meeting and 2-3 Commissioners want to adjourn to the Palace for a drink. Is that a violation of the Public Meetings Act."

Mr. Zamora said, "The Open Meetings Act clearly kicks in at a quorum of the membership of the entity, so two members would not be a quorum. It depends on different schools of thought, as to the discussion of public business and how many members are really necessary. One thing to avoid is called a rolling quorum, where maybe two members have discussions about an issue on the agenda, and then go meet with 2 more members, and 2 more members, until those members have met with the entire board and a decision has been made prior to the meeting itself. So, I would avoid rolling quorums, but again it clearly kicks in at the time that a quorum is present."

Ms. Brennan said, "That question, the Open Meetings Act also addresses quorums where action is going to be taken or business is discussed. So if the entire Planning Commission gets together for a party and doesn't discuss their business or isn't there to take action, you can go to a party."

Mr. Zamora said, "Correct. That is correct. Yes, you can go to social events. You can be at the same event, like Fiestas or anything of that sort, but again be mindful of the discussion of public business at that event. Back to erring on the side of caution, things like the Mayor's State of the City that he presents annually, we publish in compliance with the Open Meetings Act. One, public business is being discussed. Two, it is likely there will be a quorum of the Governing Body members present during that discussion. It may be only a one-way discussion, but it's a discussion, so again we err on the side of caution in publish that and making it available to the public."

- Commissioner Harris asked if there are any matters which might come before this Commission where a closed meeting might be appropriate.

Mr. Zamora, referring to page 14 where it talks about exceptions, said, "You actually have the authority under the act to deliberate in executive session, in closed session. You may not reach an agreement, you may not vote on the action, but you do have the ability to deliberate in connection with an administrative adjudicatory proceeding under the Act. That being said, modern transparency policy encourages governmental bodies to minimize the use of executive sessions. The Governing Body, the City Council, is very mindful of the number of executive sessions it has, and in 2012 is making a concerted effort to minimize the number of executive sessions they have."

Mr. Zamora continued, "If you did choose to go into executive session, you could have a discussion and deliberations, but under the Act you would be required to return... let me go through the process. One, you would need to advertise within your agenda that you're going into executive session on a specific item, and you would specifically articulate why you were going in. You would need to take a roll call vote to go in on that matter. You would need to vote coming out that that was the only matter that was discussed in executive session. And then, any action, any decision on the deliberation would be taken in the public, and you can continue to have public deliberations at that point in time."

- Chair Spray asked, with regard to policy recommendations, "When we make a recommendation, say for a zoning change, would we be able to come back and testify for that. I see the shaking of heads over there."

Ms. Brennan said, "No. A rezoning is quasi-judicial matter because it affects property rights, even though you are only making a recommendation. You have on your agenda tonight something that's considered a legislative action, which is the approval and recommendations with respect to these proposed ordinances."

- Commissioner Harris said, "The big question I have. I looked at the Memorandum that you put together in November 2011, and particularly the asterisk, the footnote, that talked about where we're not quasi-judicial and in an advisory capacity. I looked at the Table in 14-2.1 and we're to recommend under amendments to general plan, amendments to the text of the Code, and you just spoke to that. Annexations, we also are a recommending body, as well as rezonings, and you just spoke to that. But what about the general plan. Does that fall under advisory. Are we to be quasi judicial on that as well as annexations."

Ms. Brennan said, "An amendment to the general plan that you very often see in conjunction with a rezoning request is quasi-judicial, affecting individual or property rights of a small group of people. You have a number of authorities, you're quite right, under the Code, that are legislative in nature. You can make recommendations to the Governing Body about modifications to the general plan overall that's not really affecting individual property rights, the larger planning function that this body has authority to undertake. So a number of those are legislative."

- Commissioner Harris said as he understands it, there are restrictions that apply to testimony that a Commissioner may want to provide to the Governing Body on amendments to a general plan or revisions to Chapter 14, as well as *ex parte* communications. He asked, "Are those... I mean, it's a little bit more of an open process in that regard."

Mr. Zamora said, "The imagery that I like to do, is when you put on that judicial robe, with that activity, as Kelley has clarified, that you have to put on the judicial robe, there is an additional standard. The standards for you as members are raised from that of non-judicial members to judicial members. And our Ethics Code recognizes this at Section 1-7.4, and says that quasi judicial acts are subject to additional standards. And I won't read the whole paragraph, but midway through, it says, "There are, however, additional standards of conduct that are required of public officials and employees when acting in a quasi-judicial capacity." And those standards are imposed by the New Mexico and United States Constitutions, and they're not set out in the Ethics Codes, they are in the Constitutions which are then interpreted by the case law. So this last sentence is really important which says, "Under the United States and New Mexico Constitutions, those standards prohibit official actions tainted by a decision-maker's conflict of interest, bias, prejudice, pre-judgment or other conduct creating the actuality or appearance of impropriety."

Mr. Zamora continued, "And so, in raising that standard, and while you are wearing that cloak of the judiciary, that's when *ex parte* communications kick in, because you're supposed to be

impartial, unbiased, uninfluenced by outside sources. So you come into the hearing fresh, for lack of a better word. And that's why in the Land Use Code there is a prohibition on communications with members in acting in a quasi-judicial matter. So, *ex parte* communications, and this is on page 16, with the Governing Body or Land Use Board are impermissible both prior to and during the pendency of the proceeding. For parties themselves, during the appeal period, after a final action is taken or after an appeal is filed, no party may communicate with individual members of a land use board that may hear the appeal, or the Governing Body outside an appeal hearing, and that's concerning the merits or substance of the appeal. Except in writing, filed with the Land Use Department within the prescribed time for inclusion in the public hearing record."

Mr. Zamora continued, "So folks can make a statement in writing, provide it to the Land Use Director at one time, of the aggregate, and provide it to the body."

- Commissioner Schackel-Bordegary asked if he could briefly discuss what happened in the Albuquerque Commons Partnership case – provide the basics and make it relevant.

Commissioner Schackel-Bordegary asked for the abbreviated version.

Mr. Zamora said, in preparation for this evening, he did not go back and review the case and the fact patterns in the case, and said perhaps Kelley could speak to this, because she dealt with that case a little longer than he did.

Ms. Brennan said it was an extremely complicated process which went on for quite a period of time. Ms. Brennan said, "I think that it could be summarized by saying, and it's organized differently in Albuquerque, or it was at the time. But basically, Albuquerque had zoned an area for a kind of use. Someone want that use to build something, to develop it, and they were entitled to it but, and this really over-simplified, they were entitled to develop it that way in that zoning, and the City changed the zoning, thus depriving them. And it was a single parcel in the middle of other similarly zoned parcels, and the implication was that it was specifically to thwart this development. Very over-simplified."

Mr. Zamora said he can provide a copy of the case.

Ms. Brennan said, "Also there were a lot of failures of notice. People were not allowed to examine witnesses that were presenting evidence that was substantiated, those kinds of things that got down into this very fine level of detail, but these are what these kinds of rules are intended to address."

Chair Spray thanked Mr. Zamora for the presentation and for all of the material so they can look at this information in one spot.

Mr. Zamora thanked the Commission for its interest in these issues and for the desire to learn more about them.

## **F. OLD BUSINESS**

There was no old business.

## **G. NEW BUSINESS**

- 1. AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987, REGARDING MOBILE HOME PARK DISTRICTS AND MOBILE HOME PARKS; AMENDING SECTION 14-4.2(J)(1) SFCC 1987, TO EXPAND THE PURPOSE OF THE MHP DISTRICT TO INCLUDE RESIDENTIAL SUBDIVISIONS AND MULTI-FAMILY DWELLINGS; AMENDING SECTION 14-6.1(C) TABLE OF PERMITTED USES TO CORRESPOND WITH 14-4.2(J)(1); AMENDING SECTION 14-6.2(A)(3) SFCC 1987, TO CLARIFY STANDARDS FOR EXISTING MOBILE HOME PARKS; AMENDING SECTION 14-7.2(I) SFCC 1987, TO PROHIBIT THE ESTABLISHMENT OF NEW MOBILE HOME PARKS AS OF THE EFFECTIVE DATE OF THIS ORDINANCE AND TO CLARIFY THAT MANUFACTURED HOMES ARE ALLOWED IN EXISTING MOBILE HOME PARKS; AMENDING TABLE 14-7.2-1 TO PROVIDE DIMENSIONAL STANDARDS IN THE MHP DISTRICT; AMENDING SECTION 14-12 REGARDING MOBILE HOME RELATED DEFINITIONS; AND MAKING OTHER SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY (COUNCILOR DOMINGUEZ). (MATTHEW O'REILLY)**

A Memorandum dated August 20, 2012, with attachments, to the City Council, Public Works, CIP & Land Use Committee and Planning Commission, from Matthew O'Reilly, Land Use Department Director, regarding this case, is incorporated herewith to these minutes as Exhibit "6."

Councilor Dominguez thanked the Commissioners for their service to the City, noting he served on the Planning Commission previously, and thanked their families as well for lending them to the City.

Councilor Dominguez said this Ordinance is part of the Airport Road initiative he's been working on for about a year, with an overarching theme to provide a high quality of life and to promote healthy communities. He asked the Commission to please keep in mind the difference between a mobile home, a manufactured home and a modular home. He said the intent of this bill is to update the definition of a manufactured home, and is relatively minor language clean-up. He said essentially it would require new manufactured home parks to comply with the subdivision standards, including providing sidewalks, curb and gutters, drainage and such, which is infrastructure which is necessary to obtaining and maintaining a healthy community. He said he thinks it is appropriate to apply these standards in these kinds of subdivisions as well.

Councilor Dominguez said the bill provides some flexibility for owners of new manufactured home parks. He said there is an easier transition from MHP to Residential and it might make the product a little more marketable. He said he will turnover presentation of the details of the proposed bill to Mr. O'Reilly, noting he will be available to answer questions.

Matthew O'Reilly, Land Use Department Director presented information from Exhibit "8." Mr. O'Reilly said the proposed Ordinance was considered by the Business & Quality of Life Committee earlier this week and was approved unanimously by that Committee. He said one of the things the proposed Ordinance does is to recognize the current practice of someone bringing a manufactured home into a mobile home park. The Ordinance also expands what is allowable in the MHP District to include, (1) existing old style mobile home parks to continue to exist, and leaves the existing standards for those mobile home parks in place; and (2) expands what is possible in an MHP District to allow residential subdivisions and/or multi-family projects to be built in those districts, which is very similar to standard Residential Districts R-1 through R-7.

Mr. O'Reilly said if someone cannot afford a stick-built home, it does not mean they should live in a development without sidewalks, curb and gutter to control drainage, and a basic number of street trees – the basic level of infrastructure development seen in every other residential project in the City. It makes manufactured housing, in this sense, exactly equal and treated precisely the same as any other residential development, which has not been the case previously.

Mr. O'Reilly said the proposed Ordinance tightens up language in terms of definitions, as well as sets the maximum density to R-7, instead of R-8, and allows the creation of fee simple lots on which a manufactured home can be placed. Also, it might make it easier in the future to remove the manufactured house from the lot and build a stick-built house which isn't possible in new or existing mobile home parks under the current Code.

#### **Questions by the Commissioners prior to the Public Hearing**

- Commissioner Schackel-Bordegaray asked if this something which has happened in other communities – changing mobile home districts provisions for types of housing. Where did this idea arise.

Mr. O'Reilly said he is unsure. He said Santa Fe's Mobile Home Park Ordinance always has been this way, and excluded everything but mobile homes from the Ordinance. He said another long time section of City Code "flat out" prohibits placing a mobile home anywhere other than a mobile home park. He doesn't know what other municipalities are doing in terms of mobile home parks and manufactured homes.

- Commissioner Schackel-Bordegary asked if it is legal to prohibit manufactured houses from being placed on lots throughout the City.

Mr. O'Reilly said by State law, and perhaps federal law, manufactured housing, modern style, post 1976 manufactured housing cannot be discriminated against in our Zoning Code. The City has to treat manufactured housing exactly like any other kind of housing, and the proposed Ordinance acknowledges that along with increasing the minimum level of infrastructure for a manufactured housing development to the same level as every other residential development. He said the difference in the way manufactured housing is treated in the City is the result of State law. He said

the City does not issue building permits for manufactured housing, noting those permits are issued by the State Manufactured Housing Division and are built to HUD standards, while stick built or modular housing is built to the International Building Code standards.

- Chair Spray said he will accept a brief question from the Commission, but after that he wants to move forward with the public hearing.
- Commissioner Pava asked what happens if the owner of a current mobile home park wants to change it to something more for manufactured homes – are they required to subdivide under the proposed Ordinance.

Mr. O'Reilly said under the proposed Ordinance, the owner of an existing mobile home park is not required to subdivide if they wanted to move every old-style mobile home and fill it with all new manufactured housing. He said, under the proposed Ordinance, if someone wants to do a development of all manufactured housing on a vacant piece of land with MHP zoning, they would have to develop it to residential subdivision standards. This is the difference.

- Responding to Commissioner Pava, Mr. O'Reilly said the Ordinance under Item G(3) has been withdrawn from consideration.

#### **Speaking to the Request**

**Douglas Ottersburg was sworn.** Mr. Ottersburg said he is with Creative Home Buyers, Inc., which is a manufactured home dealer, licensed by the State. It is also a community owner. He said he has been 18 years in the trenches in working with clients. He thanked Councilor Dominguez for this long overdue Ordinance, and Mr. O'Reilly for the time spent working with them to address their concerns. Mr. Ottersburg noted he is a member of the Manufactured Housing Association, but he isn't representing them this evening.

Mr. Ottersburg said this increases the cost of new development. He said they always want to protect the placement of the homes and ensure it is affordable for their clients. He said they provide a unique housing opportunity which fills the void between renting an apartment and for those who can't buy a stick-built home. He said there is the perception that when you own a manufactured home there is an automatic loss of equity which, in some cases it is and in some it is not. He said his family lived in a manufactured home and enjoyed a substantial upside. He said his clients look at it this way – "I'm going to have my home paid off in 7 years, I just saved 23 years of interest payments, and I bank the rest of it."

Mr. Ottersburg said they understand and can live with the increased subdivision standards, which he believes is a fine thing. He said the last two mobile home parks built in Santa Fe are Cottonwood and Riverside. He said they look much like a subdivision looks today, but without sidewalks and such. He said increasing the standards would make it even more attractive for their customers which they think is great, even though it does increase costs.

Mr. Ottersburg said the mobile home park owners are now able to use their property for other uses, such as single-family and/or multi-family, which is good. However, they are losing the flexibility to make the development on one single fee lot. He said to do a new subdivision it isn't possible to do this. He understands it makes sense theoretically for someone to have the opportunity to move the manufactured home and build a stick-built home. However, in real life, that creates a can of worms you might not want to open, involving all kinds of unintended consequences. He doesn't know there are any lenders who would finance such a project. He doesn't know where they could get a long term mortgage to do that. He said it sounds good in theory and it's a possibility. He said there are rental only developments where people own their manufactured home and pay rental. This gives the flexibility to do a fee simple development where people can buy the land, or the owner can rent them. However, it doesn't allow the development of one legal lot developed to subdivision standards, without the need to subdivide into individual fee simple lots.

Mr. Ottersburg would like the Commission to consider amending the legislation to make it possible to develop one legal lot to subdivision standards without the need to subdivide into individual fee simple lots.

**Joseph Aguilar was sworn.** Mr. Aguilar said he is in the process of purchasing a piece of MHP property from Dennis Branch. He said the property is Camino del Griego and it's been a problem, an eyesore and a lake. He said he will turn the property into a viable, usable piece of property. He said he would like to use the property in the manner in which it was intended. Mr. Aguilar offered to present a development plan noting a lot line adjustment has been done. He said the dark areas in the development plan are easements which currently exist in the neighborhood which gives him access to the strip, and asked to present it to the Commissioners.

Ms. Brennan said, "I don't think you should get into discussing the specifics of the project, as it sounds like you will be bring an application conceivably before this Commission."

Mr. Aguilar said he isn't bringing an application to the Commission right now, but he would like to discuss an issue.

Ms. Brennan said, "If, at any time in the future you anticipate bringing this project and you're talking about specifics, that needs to be done in the context of a hearing. So while you speak generally to the Ordinance, you should not discuss the project that will be before the Commission for a decision.

Mr. Aguilar said, "The issue that I want to bring across here is that in the process of doing all this, I think it's a great idea. You know, sidewalks and trees and landscaping all that kind of stuff and fee simple lots. I think it's great. But the thing is, these easements already exist and they're made to service 16 spaces here, which could be 16 legal lots of record, for all I care. It would be fine. I've got nothing against that. But to cut it down to 14 lots would render the easements incorrect, a couple would be useless. It would make a hardship, basically, for me to do this. So I just wanted to bring that to your attention. I don't know if there's a remedy for any of this, but that is one item that is bringing down the MHP from 8 per acre to 7 per acre, and not something I would agree with."



**The public testimony portion of the Public Hearing was closed.**

*The Commission commented and asked questions as follows:*

Mr. O'Reilly said Mr. Ottersburg is correct, under the proposed Ordinance, it would be necessary to create individual lots. He said the benefits which accrue for this change, coupled with the improvements, amenities and quality of life vastly outweighs any inconvenience there might be for someone having to create actual lots and then put manufactured homes in. He said he would take Mr. Ottersburg at his word that people would rarely pull out a manufactured home and build a stick built home. It still would allow that to happen, and we don't know what may happen in the future or financing options that might be available. He said without this provision, it wouldn't be possible. He said, "I would rather not take away the possibility just because it would be a little less convenient to, say get 10 tax bills for 10 lots, as opposed to one tax bill for one or something like that. In no means am I dismissing Mr. Ottersburg's concern. I just think that the benefits of this ordinance and the requirement to create lots on a new project outweigh those aspects of it."

- Chair Spray said this will only impact things which are new going forward.

Mr. O'Reilly said the revision of the Land Use Code affected every single property in the City, built and unbuilt, and that regularly occurs. He said this Commission often recommends changes to the Land Development Code, to Zoning, which then are approved by the City Council. He said it would be unwise to make large scale, City-wide decisions based on one particular property. He said Mr. Aguilar's property has not been submitted to staff for any kind of development. He said the Commission could decide to increase the density. However, that has to happen separately from what any person's future plans may or may not be for a property.

- Commissioner Lindell said she likes most of the Ordinance very much. However, she is concerned about the requirement for fee simple lots. She said she has worked in affordable housing and with people with a manufactured home they sold to someone so they could get into a stick built house. She said those transactions were very very tough, and it came down to "we've got to come up with another \$300 to buy the manufactured home, and once they buy it, we can then proceed into the home that we want to buy." She doesn't think requiring fee simple creates inconvenience. It creates costs and she is concerned about the cost. She said to create fee simple lots it isn't just \$200 in a 25 unit subdivision, but it is rather a fair amount of money to make that happen. She said it is kind of unlikely that people with a manufactured home on a fee simple lot would pull that home off and build a stick-built home, commenting she would find that highly unlikely from her experience with affordable housing. She said the requirement for fee simple lots is a speed bump in this for her, and she doesn't know where or if there is a compromise. She is unsure that fee simple lots would contribute to affordable housing, rather it would be a detriment to housing for people.
- Commissioner Harris asked, if the ordinance were revised to allow for development of a manufactured development, if it still could be structured in such a way as to meet the minimum residential requirements. He said that would seem to be possible for him.



Mr. O'Reilly said it could be, and he would add that when anything is developed to our current minimum level of residential standards, our water, wastewater and sewer ordinances, there would be almost no difference in cost to put in that same infrastructure on a 10 unit development that was all on one lot or 10 individual units on 10 individual lots. He said it is the reason City Code requires separate water and sewer service. He said it may be that there are problems in financing a manufactured home sitting on its own lot.

- Commissioner Harris said if there was to be a manufactured housing development on one lot, the property owner could be able to decide if they want a rental project. He agrees, especially when Mr. O'Reilly said the minimum standards would apply. He said most likely it would be the services of a surveyor and the costs associated with that to create the fee simple lot. He doesn't see the reason the City should impose that. He said it seems to him that should be the owner's decision.

Mr. O'Reilly said he doesn't agree. He said it is much harder to come in after something is developed and create lots and do a subdivision. He said it is easier to consolidate lots back into one. He said that would take away the possibility of the mobile home owner from owning the land his home sits on. He said the developer could develop the subdivision and never sell the lots and only rent the land. He said it gives more flexibility when it is done at the beginning.

- Commissioner Harris said he agrees it does give more flexibility, but he questions whether it is necessary for the City to say they have to develop with fee simple lots, and that should be the decision of the owner.
- Commissioner Villarreal asked Mr. O'Reilly if there had been any inquiries to develop mobile home parks to different residential uses.

Mr. O'Reilly said, "Not recently. But I can say that back in my time on the Planning Commission and on the Extraterritorial Land Use Commission, which I believe Commissioner Lindell was on with me back then, when the City was creating zoning for the annexation areas. He said 17 different property owners came to us when we were about to adopt the new zoning map and asked us to change the zoning of certain parcels they owned, before the City imposed its own zoning on them. And one of those property owners was a mobile home park who did not want mobile home park zoning assigned to their project, but wanted instead RMLD which was 12 units per acre zoning placed on their park, which essentially was the zoning they had in there at that time. And the Extraterritorial Land Use Commission and the Extraterritorial Land Use Authority granted that request. That zoning allows them to do things they never could have done in a mobile home park." He said doesn't know if they will take advantage of it, but presumably they wanted it because they had ideas about redeveloping their existing park and knew they couldn't under the mobile home park zoning.

- Commissioner Villarreal asked Mr. O'Reilly if he is saying that existing mobile home parks would be required to update their properties to provide the basic amenities, or are we talking only about new developments.

Mr. O'Reilly said existing mobile home parks stay the way they are and continue to be governed by the existing rules that the City has in place. The intent is to not create a hardship by making them bring their properties up to the new standard. If anything it helps them by allowing manufactured homes to be put in those parks. The only time they would have to comply with the new subdivision standards is if they completely redevelop their park to do something different.

- Commissioner Pava asked, compared to the overall housing stock in the City, what percentage is manufactured housing and/or mobile homes.

Councilor Dominguez said about 4% are manufactured homes. He said of all the homes in the Airport Road area, 35% are manufactured homes. He said in the City 66% are single family while in the Airport Road area about 43% are single family homes. He said there are 78% single family and manufactured homes in the Airport Road area, as opposed to 70% in Santa Fe proper. He said there are 2,705 mobile homes in the Airport Road area.

- Commissioner Pava said it implies that there are environmental injustice issues with the way zoning and land use has worked and been allocated within Councilor Dominguez's District the vast majority of mobile and manufactured homes. He understands how Councilor Dominguez may be familiar with the situation and want to propose changes to current Ordinances.
- Commissioner Pava asked, of the 4% City wide, 35% in the Airport Road area, if these are manufactured homes mostly owner occupied or rentals, commenting what is being proposed possibly could impact that.

Councilor Dominguez said he doesn't have the exact numbers, but generally speaking, the majority are rentals. He said there are what has been identified as "cluster sites," so they're not necessarily Cottonwood-type mobile home or manufactured home park, whatever we want to call it, but parcels of land with 4 or 5 mobile homes on them. He said, "Quite frankly, in those cluster sites, most of them are very old. There's 11 sites and I don't have the numbers.... actually I do have the numbers... no I don't. But the 2,705 is inclusive of whatever is in those sites."

- Commissioner Pava thanked Councilor Dominguez for his insight.
- Commissioner Pava said the proposal would allow for multi-family, and asked Mr. O'Reilly if he can tell us, under the proposed guidelines, what the density allowance would be, and if that would be about [inaudible] units per acre.

Mr. O'Reilly said that is correct, but we aren't necessarily talking about the stereotypical apartment complex which would have a higher density than that, but more about the ability for someone to duplexes, triplexes that kind of thing, a group of triplexes, as opposed to 2 and 3 story apartment buildings.

- Commissioner Pava said he would like to know the typical rental costs.

Mr. Ottersburg said the majority of the homes we're talking about here are owner-occupied, in that they may own the home and rent the land. He said they also operate a finance company, so he knows the number quite well. He said the site rent in Santa Fe is around \$450 a month. He said the average home payment will be \$300 to \$400 per month. He said there are subdivisions already existing in Santa Fe which are fee simple with manufactured homes on them. He said his company owns several of those scattered lots with homes on them as rentals, and they rent for \$700 to \$800 per month.

- Chair Spray asked if that includes the land and the home, and if Mr. Ottersburg is saying they are a wash.

Mr. Ottersburg said more or less, yes.

- Commissioner Pava said that's helpful, commenting most of the others are in his neighborhood in Barrio la Canada.

Mr. Ottersburg said that would be on acreages where it's a multi-section home or something like that, which would rent for about \$1,200.

- Commissioner Lindell asked where the section for the requirement for the fee simple lot of record is located in the Ordinance.

Mr. O'Reilly said it is on Page 2 of the Ordinance, Section J(1), line 9 which provides, "....or for the development of residential subdivisions.." This is the potential part of the Ordinance which would have to be changed if that was not a recommended requirement by this Commission.

- Chair Spray asked Councilor Dominguez to speak to the affordability issue, commenting he agrees with his colleagues that he likes a great deal of this. He said there obviously will be costs and people buying or renting the lots will pay those costs. He asked Councilor Dominguez what he thinks of that comment.
- Councilor Dominguez said sometimes, the "devil is in the details." He said the affordable housing staff has looked at some of the numbers, and Mr. O'Reilly can speak in more detail. He said, "Essentially if you were to purchase a lot with these requirements, the cost would be anywhere from \$8.83 to \$9.81 more a month. So that's what it would cost for each unit or lot. Matt can talk a little bit more about some of the numbers and where we got them from."

Mr. O'Reilly said, "Here's where I get to use my Columbia Real Estate Development Degree. We took a look at the additional cost of providing curb and gutter, sidewalks and street trees. And it came out, assuming that these projects were developed at about R-7 densities, it came out that that would add about \$1,350 to the cost of the infrastructure per lot or space in one of these new projects. Now that would be the cost to the developer, so on a 20 lot project, that comes out to about \$27,000 additional. Now, the actual cost to develop the whole site is much much more than that of course, but that would be the incremental increase based on our assumptions."

Mr. O'Reilly continued, "The next question is, the developer does that and he decides in one of these cases that he's going to sell those lots, it's presumed that he'll pass that increase in cost on to the buyer. So what does he pass on. He has his hard costs of \$1,350, soft costs of, we're assuming, around 30% soft costs on infrastructure, not a building, but on infrastructure. An internal rate of return on infrastructure of maybe 15% and you come up with a cost seen by the consumer of about \$2,000. If a lot like that sells for \$40,000, \$45,000 regularly, then it would be selling presumably for \$42,000 or \$47,000. When you take the \$2,000 incremental increase in cost and amortize that over a 30 year mortgage, assuming someone is putting down 25%, or in some cases 0% down on land, if they're doing a specific project with... through the Santa Fe Homes Program. That comes out, over a 30 year mortgage, of about \$8 or so, up to, as the Councilor said, almost \$10 per month more in payment associated with the buyer owning that lot."

Mr. O'Reilly continued, "Now those are, I hesitate to say Cowboy math. It's a little bit better than cowboy math, but call it Land Use Director math. But I think those are generally the order of magnitude numbers."

- Chair Spray thanked him for the numbers, saying then it is about \$2,000 per lot on that assumption. So, for someone renting that lot, "it depends I guess."

Mr. O'Reilly said, "I couldn't say. I will say this, is that when one is designing to subdivision standards, generally, there are lots of ways, based on the skill of the designer and the developer and the engineer and the architect, on how you offset and how you design a subdivision. You can design something that's very inefficient with your infrastructure and that raises costs. I'm sure we've seen those kinds of projects where there's way more asphalt than really needs to be in a project. So a lot of it comes down to how well you design something. There are some other requirements that are in the mobile home park, existing old style mobile home park standards. Things, like the requirement of a perimeter wall around all of the mobile homes that aren't in the subdivision regulations."

Mr. O'Reilly continued, "Now a lot of subdivision developers do put walls and fences around their projects, but they're not absolutely required. They are in the Mobile Home Park District right now. If you figure the same kind of lot of a certain width based on an R-7 density and the cost to build a perimeter wall along the back of the lot, at say \$150 per linear foot, times a 40 foot lot width, you're talking about \$6,000 that you have to do now in a mobile home park which you wouldn't have to do under residential standards. So that, in itself, is a net savings. The way we calculated it, was we were being very conservative. We were assuming that someone who would do a residential subdivision, probably would want to put a wall or fence around it, even though they're not required to do so. Oftentimes, as you all know, dealing with infill projects in your neighborhoods, that's a condition that gets put in on projects, so we didn't necessarily want to rely on that."

Mr. O'Reilly said the cost to the developer is approximately \$1,350 per lot, and the cost seen by the potential buyer is an additional \$2,000 per lot, but it could be less because of some of the other things. He said that would be the same whether it was a fee simple lot or not.

- Chair Spray said he understands that, and the rest of the Commission understands it as well, and he appreciates the information.

**MOTION:** Commissioner Pava moved, seconded by Commissioner Schackel Bordegary, to recommend approval of the Ordinance to the Governing Body, as presented by staff.

**DISCUSSION:** Commissioner Lindell reiterated that she would like to support the recommendation, but she can't support it with the requirement for the fee simple. She said it is much more complex than just \$1,300 per lot or whatever. She said, "I don't think it was cowboy math, I thought it was pretty good math. But we're still talking about \$1,300 on an additional \$40,000 cost to someone. I like this Ordinance very very much, except for that requirement, and I just don't think it's reasonable that we require that. So I can't support it for that reason.

Chair Spray said, "If you vote yes, you are voting to recommend the Ordinance, as presented to us tonight, to the Governing Body. If we vote no, we are voting not to recommend."

**VOTE:** The motion was approved on a roll call vote, [4-1], as follows:

**For:** Commissioner Harris, Commissioner Pava, Commissioner Schackel-Bordegary and Commissioner Villarreal.

**Against:** Commissioner Lindell.

Councilor Dominguez thanked the Planning Commission for its time, and said he will take everything that has been said this evening into consideration as this moves forward through the committees. He said, "I have some of the same questions and concerns. Staff has done a very good job. I would like to thank them as well for the work in putting this together, so it's a difficult issue to solve, especially out in the Southwest sector, so thanks for your indulgence."

*There was a short break at this time – 8:45 p.m. to 8:55 p.m.*

2. **AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987, REGARDING ARCHITECTURAL DESIGN REVIEW FOR DETACHED SINGLE-FAMILY DWELLING UNITS; AMENDING SECTION 14-3.11(C) SFCC 1987, TO PROVIDE FOR ARCHITECTURAL DESIGN REVIEW OF DETACHED SINGLE-FAMILY DWELLINGS; AND AMENDING SECTION 14-8.7(E) SFCC 1987, TO PROVIDE FOR ARCHITECTURAL DESIGN STANDARDS FOR DETACHED SINGLE-FAMILY DWELLING UNITS; AND MAKING SUCH OTHER STYLISTIC AND GRAMMATICAL CHANGES THAT ARE NECESSARY. (COUNCILOR CALVERT). (MATTHEW O'REILLY)**

This Ordinance was withdrawn.

3. **AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987, AND ARTICLE 18-5.1 SFCC 198. REGARDING DISTRESS MERCHANDISE SALES SIGNS AND LICENSES; AMENDING SECTION 14-8.10(B)(8) SFCC 1987, REGARDING VIOLATIONS OF SIGN REGULATIONS TO INCLUDE DISTRESS MERCHANDISE SALE SIGNS IN THE H DISTRICTS; CREATING A NEW SECTION 14-8.10(H)(28)(f) SFCC 1987, REGARDING THE REGULATION OF DISTRESS MERCHANDISE SALE SIGNS IN THE H-DISTRICTS; AMENDING SECTION 18-5.1 SFCC 1987, REGARDING THE GROUNDS FOR DENIAL OF A DISTRESS MERCHANDISE SALE LICENSE AND THE REVOCATION OF A DISTRESS MERCHANDISE SALE LICENSE; AND MAKING SUCH OTHER SUCH STYLISTIC AND GRAMMATICAL CHANGES AS ARE NECESSARY. (COUNCILOR CALVERT). (MATTHEW O'REILLY)**

A Legislative Summary, with attachments, regarding Distress Merchandise Sales, is incorporated herewith to these minutes as Exhibit "7."

Matthew O'Reilly said in 2011 this Commission recommended and the Council adopted very similar requirements for percentage off sale signs, and these apply only on the Historic Districts. A few months ago, the City Council adopted a Resolution directing staff to look into a number of issues, one of which was deceptive advertising in the downtown area. He said this Ordinance was in development by the time the Resolution was adopted and is now moving forward as part of that. He said this Ordinance treats distress merchandise sales signs very similarly to the percentage off sales signs.

Mr. O'Reilly said since becoming Land Use Director many of the complaints which came to him frequently were in the downtown area for people illegally doing percentage off sales signs and distress merchandise sales signs. He said since the changes were made to the percentage off sale signs last year, there has been only one citation issued for violation of that ordinance, noting since this was a repeat violator, the Court imposed the maximum fine of \$500 maximum fine. He said they believe those things will work for the distress merchandise sale signs and this is what this Ordinance does.

#### **Speaking to the Request**

There was no one speaking for or against this request.

#### **The public testimony portion of the Public Hearing was closed.**

*The Commission commented and asked questions as follows:*

- Commissioner Lindell asked if there is a definition of "distress merchandise" in the Ordinance.
- Chair Spray said that is in the Legislative Summary.
- Commissioner Lindell said she sees it in the summary but she couldn't find it in the Ordinance.

Mr. O'Reilly said other aspects of distress merchandise sales, other than signage, are regulated in Chapter 18 of the City Code, which follows closely and mirrors the State Distress Merchandise Sales Act, so definitions of "Distress Merchandise Sale" are to be found there. He said there are no proposed changes to the definitions, and the only changes proposed are in relation to legislation regarding signage associated with those sales. He said, "Generally, those are sales typically referred to going out of business sales."

- Commissioner Lindell said she knows what it is, and wonders if it would be reasonable to have that definition in the Ordinance.

Mr. O'Reilly said the definition already is in the City Code in Chapter 18, noting it is a long definition with lots of different aspects to it, and it probably is best not to repeat it here.

- Commissioner Lindell asked if the Land Use Office the only office which issues citations for violations.

Mr. O'Reilly said Distress Merchandise Sale Licenses actually are issued by the Business License Office which is administered by the Finance Department. He said the Finance Department which takes Distress Merchandise Sale License applications, does not have an enforcement arm. So enforcement of the signage portion of distress merchandise sales are handled by the Land Use Department Code Enforcement Officers, or by the Historic Preservation Inspector. He said we have the signs and "they've got everything else."

- Responding to Commissioner Lindell, Mr. O'Reilly said "they" are the Finance Department and the Business License Office are tasked with keeping up with other requirements which are imposed when you want to get a Distress Merchandise Sale License, which are lengthy. The kinds of things required by the Business License Office is an entire list and inventory of every single product you have in your business. There are instances where the City and the Business License Office may have reason to suspect that someone is adding to their inventory, stretching out the distress merchandise sale. This Ordinance addresses only signage, and fines and fees for violations.

- Commissioner Lindell noted that there are other things in the proposed Ordinance, such as "the licensee shall keep suitable books at the sale location that shall be open for inspection by the City during normal business hours." She said she doesn't know what suitable books would be and who would inspect the books.

Mr. O'Reilly said this is existing language that we're not amending. This bill is designed only to deal with signage, not to deal with any of the other parts of the City Code.

- Commissioner Schackel-Bordegary said she understands this, commenting when she served as the Historic District Planner 12 years ago, there was a huge issue with the going out of business signs that were posted downtown. She said they tried everything to address this problem, and spoke about her personal experience as a City employee in relation to the City's attempt to stop



this practice. She said those businesses didn't go through the process to put up a sign, and this is a mechanism to get them to quit doing these kinds of things. She asked if this is the reason this Ordinance is so important, and to focus on the signage so the City has direct enforcement on violations.

Mr. O'Reilly said there are some merchants who make having a regular going out of business sale part of their business model, and they always seem to go out of business around Indian Market, Fiestas, the winter holidays and such. He said the City is bound by State law with the Distress Merchandise Sales Act and our own Ordinance regarding those things. He said, "It is not possible according to the City Attorney's Office, to outright ban distress merchandise sales in the Historic District. However, if you think about how distress merchandise sales work downtown and how potential customers are lured into a business thinking they actually are experiencing a going out of business sale, they are brought into those businesses by signage placed in the windows. So limiting that signage and raising the penalties for violation of the signage is one way to get at that particular deceptive business practice."

- Commissioner Pava, referring to page 3, Sections A and B, said the fines and fees for violations are discussed there. He asked, "Are these additive or sequential. I read it a couple of times and maybe I didn't catch on. So, in A, is that somebody who is a non-business license holder, and then B is a business license holder. Could you clarify that for me."

Mr. O'Reilly said part of the confusion about this is the procedure when an ordinance is changed. We don't just give you just the one paragraph that's being changed, we have to provide the whole section. And this particular section, particularly Paragraph (a) at the top of page 2, are the existing minimum fines that are imposed for other sign violations in the downtown area. And (b) are the different and higher sign violations for this type of violation.

- Commissioner Pava, referring to page 3 of the proposed Ordinance, said it talks about the sign being placed in the window. He asked, for example, if he were a savvy distress merchant professional, if he might not just start advertising in *The Reporter* which costs money, or online or in other media. He asked if this Ordinance precludes these people from doing that.

Mr. O'Reilly said the Ordinance doesn't preclude them from doing that. However, whether we could prohibit that, he couldn't say, commenting perhaps the City Attorney could weigh in on that.

Ms. Brennan said, "I don't think we can regulate that, certainly. And I think that we're talking about visual signals and clutter that we can control. When you're talking about advertising in other media, you're getting more to the issue of fraud. What we're doing, is we're controlling the physical appearance and invitation on the site, but we're really doing it for appearance as much as anything. The State takes more control of the fraud aspect of it. We're addressing the on-site advertising."

Mr. O'Reilly said Ms. Brennan is correct. In the Historic Districts in particular, there are limits as to how much of your window surface can be covered by signs and that is an esthetic/historic kind of



thing because we don't want the architecture of our Historic Districts to be obscured by too many signs. He said the Ordinance, as currently written, is that if people obtain a distress merchandise sign, they could put it in their window in addition to all of the other signs in the window, and it does create visual clutter and take away from the historic appearance of the downtown. This is another reason for the size limitation on the signage.

- Commissioner Harris asked if there is thought by Councilor Calvert or staff to expand this Ordinance beyond the H-District, and Mr. O'Reilly said no, not that he knows about.
- Commissioner Harris said then the proposed Ordinance primarily has to do with an esthetic rather than protection of the public.

Mr. O'Reilly said it is, but the greatest concentration of tourists are in the H-District, but he agrees, it is mostly esthetic.

Ms. Brennan said that is the source of the City's authority in this matter.

- Chair Spray said the Commission is discussing only the new language/underlined language in the Ordinance, and only a small portion is related to this Commission which is (C)10 and D(6), and asked if this is correct.

Ms. Brennan said yes, and when an Ordinance is modified if affects other pieces of the Ordinance and we have to make changes there. What you are seeing, the underlined is new language and crossed out is deletions. She said as part of the changes at the core of this Ordinance, the sign issue, some other language had to be changed in Chapter 18.

- Chair Spray said the underlying core all will wind up with enforcement from the Land Use Department, and Ms. Brennan said this is correct.
- Chair Spray noted the application is submitted to the Finance Department.
- Mr. O'Reilly said the Land Use Department, through this Ordinance, is not ceding the point that it should be doing all of the enforcement of the Distress Merchandise Act. He said, "We will look after signs in the Historic District. And if at some point the Business License Office gets its own inspectors and wants to look into these other things, that's fine too, or some other arrangement. And this Commission has seen so many pieces of legislation lately, I would remind you back in 2011 when you recommended approval of the percentage off sign changes, there were bits of Chapter 18 in that as well, for the reasons just described by Ms. Brennan."

Chair Spray said a yes vote on the motion indicates that the Commission is recommending this Ordinance to the Governing Body as we have received it tonight, and no means that we are not.

**MOTION:** Commissioner Villarreal moved, seconded by Commissioner Pava, to recommend approval of the proposed Ordinance to the Governing Body.

**VOTE:** The motion was approved on a roll call vote [5-0], as follows:

**For:** Commissioner Harris, Commissioner Lindell, Commissioner Pava, Commissioner Schackel-Bordegary and Commissioner Villarreal.

**Against:** None.

4. **CASE #2012-74. MISSION VIEJO GENERAL PLAN AMENDMENT. JENKINS GAVIN DESIGN AND DEVELOPMENT, INC., AGENTS FOR RONALD SEBESTA, REQUEST APPROVAL OF A GENERAL PLAN FUTURE LAND USE MAP AMENDMENT TO CHANGE THE DESIGNATION OF 16.56± ACRES OF LAND FROM PUBLIC/INSTITUTIONAL TO OFFICE. THE PROPERTY IS LOCATED AT 4601 MISSION BEND, ON THE EAST SIDE OF RICHARDS AVENUE AND SOUTH OF GOVERNOR MILES ROAD. (DONNA WYNANT, CASE MANAGER) (POSTPONED FROM AUGUST 2, 2012). (TO BE POSTPONED INDEFINITELY).**
5. **CASE #2012-75. MISSION VIEJO REZONING TO C-1. JENKINS GAVIN DESIGN AND DEVELOPMENT, INC., AGENTS FOR RONALD SEBESTA, REQUEST REZONING OF APPROXIMATELY 16.56± ACRES OF LAND FROM R-1 (RESIDENTIAL, ONE DWELLING UNIT PER ACRE) TO C-1 (OFFICE AND RELATED COMMERCIAL. THE PROPERTY IS LOCATED AT 4601 MISSION BEND, ON THE EAST SIDE OF RICHARDS AVENUE AND SOUTH OF GOVERNOR MILES ROAD. (DONNA WYNANT, CASE MANAGER) (POSTPONED FROM AUGUST 2, 2012). (TO BE POSTPONED INDEFINITELY)**
6. **CASE #2012-76. MISSION VIEJO SPECIAL USE PERMIT. JENKINS GAVIN DESIGN AND DEVELOPMENT, INC., AGENTS FOR RONALD SEBESTA, REQUEST A SPECIAL USE PERMIT FOR A SCHOOL IN C-1 (OFFICE AND COMMERCIAL) AT 4601 MISSION BEND. (DONNA WYNANT, CASE MANAGER) (POSTPONED FROM AUGUST 2, 2012). (TO BE POSTPONED INDEFINITELY)**

A Memorandum dated August 29, 2012, to the Planning Commission, from Donna Wynant, Senior Planner, requesting to table Mission Viejo, is incorporated herewith to these minutes as Exhibit "8."

*Items G(4), G(5) and G(6) were withdrawn from the agenda to be postponed indefinitely, and won't appear on future agendas.*

7. **CASE #2012-91. ARROYO CENTRAL (TIERRA CONTENTA TRACT 50) PRELIMINARY SUBDIVISION PLAT. DAVID THOMAS OF THE TIERRA CONTENTA CORPORATION, AGENT FOR THE SANTA FE COMMUNITY HOUSING TRUST, PROPOSES A 24-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION PLAT. THE PROPERTY IS ZONED PRC (PLANNED RESIDENTIAL COMMUNITY) AND IS LOCATED ON THE SOUTHWEST CORNER OF PLAZA CENTRAL AND CONTENTA RIDGE DRIVE. (HEATHER LAMBOY, CASE MANAGER)**

*Items G(7) and G(8) were combined for purposes of presentation, discussion and public hearing, but were voted upon separately.*

A Memorandum dated August 16, 2012, with attachments, for the September 13, 2012 Meeting, to the Planning Commission, from Heather L. Lamboy, Senior Planner, Current Planning Division, Case Manager, is incorporated herewith to these minutes as Exhibit "9."

A power point presentation *Arroyo Central Tierra Contenta Tract 50*, Preliminary Subdivision Plat and Development Plan, is incorporated herewith to these minutes as Exhibit "10."

The Final Subdivision and Development Plans for Arroyo Central, Tierra Contenta Subdivision, Phase 2B, Tract 50, are on file in, and copies can be obtained from, the City Land Use Department, Current Planning Division.

Heather Lamboy, presented the Staff Report in this matter via power point presentation. Please see Exhibit "10 " for specifics of this presentation. Ms. Lamboy noted this is a Preliminary Plat Review, however this Commission will be doing the final action on the Development Plan tonight.

The Land Use Department recommends approval with conditions as outlined in this Report [Exhibit "9"].

## **Public Hearing**

### **Presentation by the Applicant**

**Dave Thomas, Project Engineer, Tierra Contenta Corporation, acting as Agents for the Santa Fe Community Housing Trust, was sworn.** Mr. Thomas the Santa Fe Community Housing Trust actually is doing the development of this tract of land. He said they have read and studied the staff report, and accept all conditions of approval, noting most of the conditions have been addressed and the corrections made in your set of plans. He said they are requesting approval this evening. He said, "And when you see us, hopefully, with the Final Plat approval, we'll have all the "t"s crossed and the "i"s dotted, and hopefully we'll see you again in December for final approval.

### **Speaking to the Request**

There was no speaking for or against this request.

### **The Public Testimony Portion of the Public Hearing was Closed**

Commissioner Harris asked how many model types there are in the proposed subdivision, and Mr. Thomas said there are 5.

Commissioner Lindell referred to the ENN discussion on road construction, and asked if there currently is road construction on Plaza Central.

Mr. Thomas said at time the ENN was held, there were more questions on what was going to happen outside of this particular subdivision. He said he thinks they were addressing the extension of Plaza Central and connecting it to Jaguar, but he doesn't have a firm date when that will happen.

Chair Spray said he is pleased that they have financing in place to develop the subdivision.

Mr. Thomas said there is financing in place to do the development of the subdivision.

**MOTION:** Commissioner Harris moved, seconded by Commissioner Schackel-Bordegary, to approve Case #2012-91 Arroyo Central (Tierra Contenta Tract 50) Preliminary Subdivision Plan, with all conditions of approval as recommended by staff.

**VOTE:** The motion was approved on a voice vote, with Commissioners Harris, Lindell, Pava, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0].

8. **CASE #2012-94. ARROYO CENTRAL (TIERRA CONTENTA TRACT 50) DEVELOPMENT PLAN. DAVID THOMAS OF THE TIERRA CONTENTA CORPORATION, AGENT FOR THE SANTA FE COMMUNITY HOUSING TRUST, PROPOSES A DEVELOPMENT PLAN FOR A 24-LOT SINGLE FAMILY RESIDENTIAL SUBDIVISION. THE PROPERTY IS ZONED PRC (PLANNED RESIDENTIAL COMMUNITY) AND IS LOCATED ON THE SOUTHWEST CORNER OF PLAZA CENTRAL AND CONTENTA RIDGE DRIVE. (HEATHER LAMBOY, CASE MANAGER)**

**MOTION:** Commissioner Harris moved, seconded by Commissioner Villarreal, to approve Case # 2012-94, Arroyo Central (Tierra Contenta Tract 50) Development Plan with all conditions of approval as recommended by staff.

**VOTE:** The motion was approved on a voice vote, with Commissioners Harris, Lindell, Pava, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0].

### **G. STAFF COMMUNICATIONS.**

Ms. Baer said at the Council Meeting last night, the Council unanimously approved the Harrison Road Rezoning, and by doing so, they validated the lot split which this Commission approved, conditioned

upon the rezoning action. She said at the August 29, 2012 Council meeting, the Council remanded back to the Planning Commission the Bienvenidos Rezoning, which will be heard before this Commission on November 1, 2012.

Ms. Brennan said she will have some comments on this by the October meeting. She said, "I wanted to caution you, particularly because this is coming back before you, that you should not discuss it with each other or with outsiders, or at least the merits. I'll speak to some of the procedural things. The fundamental thing that happened was, there was evidence before the Council that had not been presented to you, and it is coming back to you and you will have an opportunity to rehear the matter with that evidence."

Ms. Brennan said, "To clarify the discussion with the City Attorney, we talked about the one year after Commissioners leave the Commission where if they are doing business for someone who has an application that comes before the Commission in that year, they cannot present that case to the Commission. There is also another.... as decision makers on matters, you are not able, within that year after leaving the Commission, to be engaged with a party that did come before the Commission, and you made the decision. And the simple example is, if you voted to approve a WalMart, you could not then go take a job with WalMart within that year of leaving the Commission. You are a decision maker, and that's an appearance of impropriety issue because people tend to think of 'I will give you this now, if you will do that for me in a month.' Whereas, it can also be, 'if you will do that for me in a month, when you leave, I will take care of you.' So that's what that addresses. And I think that it does not arise that often. I think the more every day circumstance is the one that we were talking about, that Commissioner Harris brought up.'

Chair Spray said he appreciates the clarification on that, and he has a question on that.

Commissioner Lindell asked what is the penalty for violation. *[Commissioner Lindell's microphone was turned off, but I think this was the question she asked.]*

Ms. Brennan said, "I am not an expert on the subtleties of that Ordinance, but there are penalties and fines, and Geno talked about some of them I think, in those circumstances, where you are a decision maker and it materially benefits someone, or hurts someone. I think we tend to lose sight of the fact that sometimes it can work the other way. It's just something you have to be careful about when leaving the Commission."

Chair Spray asked, "With respect to, like approving a development plan for a shopping center, something not even built, we approve it, buildings go up, there's a Target or some other fine retail establishment and they say we want you. How would you..."

Ms. Brennan said, "I think it is intended to address the matter on which you were a decision-maker, so if you approve a development plan, that doesn't mean you could never work in another capacity in a business that's located in, say a mall. I think that would be over-extending the meaning of the rules."

Chair Spray said, "But you're talking about a specific case then, in that case, right? With the mall. You're specifically talking about WalMart."

Ms. Brennan said, "What I'm saying is if there's a... I can't say I've given a lot of thought to this on a daily basis, but if you approved a development plan for a mall, and a Target was built, and the Target said we want you to come and design our interior spaces, the Target would not really be the direct beneficiary of the approval vote. They wouldn't know. They wouldn't care. That would presumably be an arms length business transaction, but the developer of the mall would be the one that had the interest before the Commission."

Mr. O'Reilly thanked the City Attorney for making that clarification, because he wanted to do that as well. He said, "And also, just to let all the Commissioners know that, whether you've been on the Commission a short time, or a long time, you'll eventually have someone who will want to call you, ask you questions. It's a small town. You're going to bump into people at your kid's soccer practice, in the gym. Stuff's going to happen. And I think this Commission has been outstanding in the way they've handled that, but anytime there is a question, you should not hesitate to call me, Kelley or the City Attorney himself, and ask, this is happening, what do you think. And I think this Commission has done that so much, especially in the past 5- 6 years, we've created a really high level of integrity of this Planning Commission that didn't always exist many years ago. If it doesn't feel right to you, ask. And if you think you have a conflict, my suggestion is you step away, even if you just think you have one. I know everyone values their vote, but that is why there are so many of you. One person can step away and the rest of the Planning Commission can handle it, so it's so important in the public to believe that their decisions [cases] are being heard fairly, that I would just recommend that you do that."

Chair Spray thanked Mr. Reilly, saying this always bears repeating. He said the high integrity of this decision-making group is obvious, and everybody pays attention and does really hard work and does a very good job of verbalizing.

## **I. MATTERS FROM THE COMMISSION**

Commissioner Schackel-Bordegary asked Ms. Brennan about the cases which have been remanded back to the Commission – how did that happen.

Ms. Brennan said, "In fact, the two factors that affected the Commission's vote were traffic and density, and John Romero wasn't able to attend the Commission meeting that night that the case was heard, because there was an illness in his family. He was at the Council hearing, was able to answer questions, and it was very informative, I believe, and there were also some figures presented on density of adjacent properties. And those were the two issues that were critical to the Commission and the Council wanted it to come back here."

**J. ADJOURNMENT**

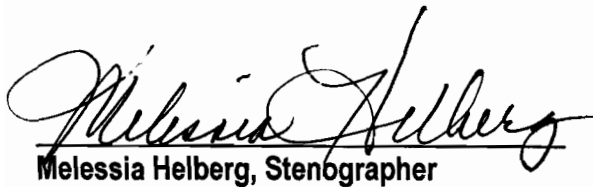
There was no further business to come before the Commission.

**MOTION:** Commissioner Lindell moved, seconded by Commissioner Harris, to adjourn the meeting.

**VOTE:** The motion was approved on a voice vote, with Commissioners Harris, Lindell, Pava, Schackel-Bordegary and Villarreal voting in favor of the motion and no one voting against [5-0], and the meeting was adjourned at approximately 9:35 p.m.

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Tom Spray, Chair



Melessia Helberg, Stenographer

# City of Santa Fe, New Mexico

# memo

**DATE:** September 13, 2012

**TO:** Planning Commission

**FROM:** Current Planning Division

**RE:** Additional Information

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The attached information is not in your September 13, 2012 Planning Commission packet. The information is in the following order:

## **Approval of Minutes**

- Staff recommended corrections to the minutes of August 2, 2012.

*Exhibit "1"*



Staff Recommended CORRECTIONS to the Minutes of the Planning Commission  
Meeting of August 2, 2012

Page 4 – 1<sup>st</sup> pp, line 2: ~~patters~~ – patterns  
Page 4 – 1<sup>st</sup> pp, line 5: ~~Marshall~~ – Marshal  
Page 4 – 2<sup>nd</sup> pp, line 2: ~~believe~~ – believe  
Page 4 – 3<sup>rd</sup> pp, throughout: ~~Mr.~~ Carrie Norris – Ms. Norris  
Page 4 – 3<sup>rd</sup> pp, line 3: ~~attorney and title company's~~ – attorneys and title companies  
Page 4 – 3<sup>rd</sup> pp, line 17: ~~owner's~~ – owners  
Page 4 – 5<sup>th</sup> pp, line 6: ~~supplement~~ – subsequent

Page 5 – 7<sup>th</sup> pp, line 2: ~~tricks~~ – trucks  
Page 5 – last pp, line 4: ~~is we approve~~ – if we approve

Page 6 – 4<sup>th</sup> pp, line 2: Phase I ~~consist of~~s – Phase I consists of  
Page 6 – 8<sup>th</sup> pp, line 1: ~~principle~~ - principal

Page 7 – 2<sup>nd</sup> pp, line 3: ~~than~~ – then  
Page 7 – 2<sup>nd</sup> pp, lines 3 and 5 – ~~cul-da-sae~~ – cul-de-sac

Page 8 – 5<sup>th</sup> pp, line 2 : No comments – No additional comments  
Page 8 – 10<sup>th</sup> pp, line 2: if provides – if the site provides

Page 9 – 8<sup>th</sup> pp, line 1: Two cases, 2012-72 and 2012-73 – Add Special Use Permit and  
Development Plan  
Page 9 – 8<sup>th</sup> pp, line 4: 5 ~~blocks~~ – 5 lots  
Page 9 – 8<sup>th</sup> pp, line 6: After “R-1 district,” insert [Shows map]  
Page 10 – 1<sup>st</sup> pp, line 3: ~~height~~ – high  
Page 10 – 2<sup>nd</sup> pp, line 6: neighbor ~~in~~ the public – neighbor to the public  
Page 10 – 5<sup>th</sup> pp, line 1: ~~Hellman~~ – Heltman  
Page 10 – 5<sup>th</sup> pp, line 5: ~~nigh~~ – high

Page 11 – 1<sup>st</sup> pp, line 14: Findings necessary – Findings are necessary  
Page 11 - 3<sup>rd</sup> pp, line 8: last word in line should be if, not “it”

Page 12 – 4<sup>th</sup> pp, line 19: ~~a 4 mile radius~~ – a ¼ mile radius

Page 13 – 3<sup>rd</sup> pp, line 2 – After “2 months time” delete the word “~~or~~”  
Page 13 – 6<sup>th</sup> pp, line 1: ~~There is a significant litigation in the Act~~ – There is significant  
litigation around the Act  
Page 13 – 6<sup>th</sup> pp, lines 3 and 4: ~~to consider in any additions in light~~ – to consider in light  
of any conditions  
Page 13 – 6<sup>th</sup> pp, line 4: ~~I can't see now~~ – I can say now  
Page 13 – 6<sup>th</sup> pp, line 4: ~~statute~~ – statute  
Page 13 – 6<sup>th</sup> pp, line 5: impose a condition

Staff Corrections to Minutes of the Planning Commission Meeting of August 2, 2012  
Page 2 of 2

Page 14 – 1<sup>st</sup> pp, line 7: ~~chance to time~~ – chance to have time

Page 15 - 12<sup>th</sup> pp, line 2: ~~within existing structure~~ – within the existing structure

Page 16 – 1<sup>st</sup> pp, line 1: ~~lantering~~ – lighting

Page 16 – 2<sup>nd</sup> pp, line 2: ~~12,000 ft.~~ – 10,000 sq. ft.

Page 16 – 2<sup>nd</sup> pp, line 4: ~~If it was by a school~~ – If it was a school

Page 16 – 6<sup>th</sup> pp, line 2: ~~correction~~ – correctly

Page 16 – 6<sup>th</sup> pp, line 4: After “where parking lots” add, abut residential areas.

Page 16 – 7<sup>th</sup> pp, line 1: ~~14-A~~ – 14-8.4 (J)(3)

Page 16 – 7<sup>th</sup> pp, lines 1 through 3: Delete entire code quote. Insert, “Nonresidential development that abuts a residential development or an undeveloped parcel in a residential zoning district shall provide a continuous landscaped buffer strip not less than fifteen (15) feet wide.”

Page 16 – 8<sup>th</sup> pp, line 1: ~~residential, non-residential to commercial~~ – residential to non-residential.

Page 16 – 8<sup>th</sup> pp, line 4: ~~exasperating~~ – exacerbating

Page 18 – 4<sup>th</sup> pp, line 5: ~~typically the development is~~ – typically the development plan is

Page 18 – 5<sup>th</sup> pp, line 1: ~~mix~~ – mixed

Page 18 – 5<sup>th</sup> pp, line 2: ~~encroaches some of limited~~ – encroaches into some limited applications

Page 18 – 6<sup>th</sup> pp, line 3: ~~they have listed for us~~ – they have been listed for us

Page 18 – 8<sup>th</sup> pp, line 2: ~~resident~~ – members

Page 19 – 8<sup>th</sup> pp, line 3: ~~than~~ – then

Page 20 – 4<sup>th</sup> pp, line 1: ~~I think we need to~~ – I do not think we need to – [Verify this correction]

Page 20 – 9<sup>th</sup> pp, line 2: After the words “conditions to the” add “Development Plan.”

Page 20 – 10<sup>th</sup> pp, line 2: ~~maintain~~ – maintained; and delete the words, “and it.”

Page 21 – 1<sup>st</sup> pp, line 2: ~~subsequent~~ – subject

Page 22 – 1<sup>st</sup> pp, line 1: ~~affect~~ – effect

Page 22 – 2<sup>nd</sup> pp, line 1: ~~to the motion~~ – to the maker of the motion

Page 22 – 2<sup>nd</sup> pp, line 2: ~~to the motion~~ – to the second on the motion

Page 22 – 6<sup>th</sup> pp, line 3: ~~City Council also recommended denial~~ – City Council voted to deny

Page 22 – 6<sup>th</sup> pp, line 4: ~~mute~~ – moot

Page 22 – 8<sup>th</sup> pp, line 1: ~~Shallaberger~~ – Shelleaberger; and ~~laureate~~ – Laureate

Page 22 – 10<sup>th</sup> pp, line 2: ~~Mrs. Hartman~~ – Mrs. Heltman

Page 22 – 10<sup>th</sup> pp, line 3: ~~better than~~ – better at

City of Santa Fe  
Planning Commission  
Findings of Fact and Conclusions of Law

Case #2012-39

La Luz Health Complex General Plan Amendment

Case #2012-31

La Luz Health Complex Rezoning to MU/Preliminary Development Plan

Owner's Name – Sandra Pacheco

Applicant's Name – James W. Siebert and Associates, Inc.

THIS MATTER came before the Planning Commission (Commission) for hearing on August 2, 2012 upon the application (Application) of James W. Siebert and Associates, Inc. as agent for Sandra Pacheco (Applicant).

The subject site is located on the south side of Rufina Street extending to Aggie Road (Property) and is comprised of 6.36± acres zoned MHP (Mobile Home Park).

The Applicant seeks (1) approval of an amendment to the City of Santa Fe General Plan Future Land Use Map (Plan) changing the designation of the Property from Low Density Residential (3-7 dwelling units/acre) to Transitional Mixed Use and (2) to rezone the Property from MHP to MU (Mixed Use). The Application includes a preliminary development plan for a medical complex consisting of a medical clinic, assisted housing for the elderly and medical offices (Project).

After conducting a public hearing and having heard from staff and all interested persons, the Commission hereby FINDS, as follows:

FINDINGS OF FACT

General

1. The Commission heard testimony and took evidence from staff, the Applicant, and members of the public interested in the matter.
2. Santa Fe City Code (Code) §14-3.2(D) sets out certain procedures for amendments to the Plan, including, without limitation, a public hearing by the Commission and recommendation to the Governing Body based upon the criteria set out in Code §14-3.2(E).
3. Code §§14-3.5(B)(1) through (3) set out certain procedures for rezonings, including, without limitation, a public hearing by the Commission and recommendation to the Governing Body based upon the criteria set out in Code §14-3.5(C).
4. Pursuant to Code §14-3.8(B)(2), a development plan is required in conjunction with rezoning in certain districts as provided in Code §14-4.

*Exhibit "2"*

5. Code §14-4.3(L)(2)(b) requires consideration and approval by the Commission and Governing Body of preliminary or final development plans for rezoning to MU as provided in Code §14-3.8.
6. Code §14-3.8(B)(3) requires that the development plans described in Code §14-3.8(B)(2) be reviewed by the Commission.
7. Code §14-3.8(C)(2)(f) requires that action by the Commission on a development plan be taken at a public hearing with notice provided in accordance with Code §14-3.1(H).
8. Code §14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) a pre-application conference [§14-3.1(E)(1)(a)(i)]; (b) an Early Neighborhood Notification (ENN) meeting [§14-3.1(F)(2)(a)(iii), (iv) and (xii)]; and (c) compliance with Code Section 14-3.1(H) notice and public hearing requirements.
9. A pre-application conference was held on January 26, 2012.
10. Code §14-3.8(B)(1) requires an ENN, notice and a public hearing on development plans in accordance with the provisions of Code §§14-3.1(F), (H) and (I).
11. Code §14-3.1(F) establishes procedures for the ENN meeting, including (a) scheduling and notice requirements [Code §14-3.1(F)(4) and (5)]; (b) regulating the timing and conduct of the meeting [Code §14-3.1(F)(5)]; and (c) setting out guidelines to be followed at the ENN meeting [§14-3.1(F)(6)].
12. An ENN meeting was held on the Application on March 27, 2012 at the Nancy Rodriguez Center.
13. Notice of the ENN meeting was properly given.
14. The ENN meeting was attended by the Applicant, City staff and other interested parties and the discussion followed the guidelines set out in Code Section 14-5.3.1(F)(6).
15. Commission staff provided the Commission with a report (Staff Report) evaluating the factors relevant to the Application and recommending approval by the Commission of the proposed Plan amendment and the rezoning, subject to the conditions set out in the Staff Report (Conditions).

#### The General Plan Amendment

16. Code §14-3.2(B)(2)(b) requires the City's official zoning map to conform to the Plan, and requires an amendment to the Plan before a change in land use classification is proposed for a parcel shown on the Plan's land use map.
17. The Commission is authorized under Code §14-2.3(C)(7)(a) to review and make recommendations to the Governing Body regarding proposed amendments to the Plan.
18. The Commission has considered the criteria established by Code §14-3.2(E)(1) and finds the following facts:
  - (a) *Consistency with growth projections for the City, economic development goals as set forth in a comprehensive economic development plan for the City, and with existing land use conditions, such as access and availability of infrastructure [§14-3.2(E)(1)(a)].*  
The Property is within the Southwest Santa Fe Community Area Master Plan (SWAMP) "Cerrillos Road Corridor", which identifies traditional land patterns of long narrow strips with residential patterns varying in type, pattern and density and promotes transitional land use types to integrate transitional buffering areas between the corridor and existing or future residential areas. Adjoining zoning includes C-2 (General Commercial), with

retail and restaurant uses and R-3 (Residential – 3 dwelling units/acre). The area north of Rufina Street is in the County and includes vacant land and land used for residential and agricultural purposes. The proposed amendment is thus more consistent with the SWAMP than the current Low Density Residential Land Use designation in that it will provide a transition between commercial and residential areas. Water, sanitary sewer, stormwater, electrical, and natural gas utilities located along Rufina Street are accessible for connection. Access to the Property from Rufina Street is sufficient to serve the Project with a cul-de-sac in the event that Aggie Road cannot be utilized to access the Property.

(b) *Consistency with other parts of the Plan [§14-3.2(E)(1)(b)].*

The proposed amendment is consistent with provisions of the Plan that promote a mix of uses and housing types in all areas of the City and the identification of infill sites that should develop at densities greater than existing zoning allows.

(c) *The amendment does not: (i) allow uses or a change that is significantly different from or inconsistent with the prevailing use and character of the area; (ii) affect an area of less than two acres, except when adjusting boundaries between districts; or (iii) benefit one of a few landowners at the expense of the surrounding landowners or the general public [§14-3.2(E)(1)(c)].*

The amendment will not allow a use or change that is inconsistent with the prevailing uses of the area, which include a range of traditional rural forms and urbanization and is currently underserved by compatible institutional uses. The amendment is consistent with the SWAMP, which promotes transitional land uses to buffer existing and proposed residential areas from commercial and high-density development in the Cerrillos Road Corridor. The proposed amendment addresses an area of 6.36± acres. Based upon the foregoing, the amendment would not benefit the Property owner at the expense of the surrounding landowners and the general public.

(d) *An amendment is not required to conform with Code §14-3.2(E)(1)(c) if it promotes the general welfare or has other adequate public advantage of justification [§14-3.2(E)(1)(d)].*

This is not applicable.

(e) *Compliance with extraterritorial zoning ordinances and extraterritorial plans [§14-3.2(E)(1)(e)].*

This is not applicable.

(f) *Contribution to a coordinated, adjusted and harmonious development of the municipality which will, in accordance with existing and future needs, best promote health, safety, morals, order, convenience, prosperity or the general welfare as well as efficiency and economy in the process of development [§14-3.2(D)(1)(e)].*

The proposed amendment will contribute to a coordinated, adjusted and harmonious development of the City in that it is consistent with the SWAMP and the policies of the Plan as set forth in paragraph 18(a)-(c) above.

### The Rezoning

19. Under Code §14-3.5(A)(1)(d) any individual may propose a rezoning (amendment to the zoning map).

20. Code §§14-2.3(C)(7)(c) and 14-3.5(B)(1)(a) provide for the Commission's review of proposed rezonings and recommendations to the Governing Body regarding them.
21. Code §§14-3.5(C) establishes the criteria to be applied by the Commission in its review of proposed rezonings.
22. The Commission has considered the criteria established by Code §§14-3.5(C) and finds, subject to the Conditions, the following facts:
  - (a) *One or more of the following conditions exist: (i) there was a mistake in the original zoning; (ii) there has been a change in the surrounding area, altering the character of the neighborhood to such an extent as to justify changing the zoning; or (iii) a different use category is more advantageous to the community, as articulated in the Plan or other adopted City plans [SFCC §14-3.5(C)(1)(a)].*

A different use category is more advantageous to the community, as articulated in the SWAMP, which promotes transitional zone types to integrate transitional buffering areas between the corridor and existing or future residential areas. Adjoining zoning south of Rufina Street includes C-2 (General Commercial), with retail and restaurant uses, and R-3 (Residential – 3 dwelling units/acre) and the area north of Rufina Street, which is in the County, includes vacant land and land used for residential and agricultural purposes. The proposed amendment is thus consistent with the SWAMP in that it will provide a transition between commercial and residential areas.
  - (b) *All the rezoning requirements of SFCC Chapter 14 have been met [SFCC §14-3.5(C)(1)(b)].*

In accordance with the facts found by the Commission in paragraphs 18 and 22(a) above, all the rezoning requirements of Chapter 14 have been met.
  - (c) *The proposed rezoning is consistent with the applicable policies of the Plan [Section 14-3.5(A)(c)].*

In accordance with the facts found by the Commission in paragraphs 18 and 22(a) above, the proposed rezoning is consistent with the Plan.
  - (d) *The amount of land proposed for rezoning and the proposed use for the land is consistent with City policies regarding the provision of urban land sufficient to meet the amount, rate and geographic location of the growth of the City [SFCC §14-3.5(C)(1)(d)].*

The Property consists of 6.36± acres and its development for mixed use is consistent with the cited City policies.
  - (e) *The existing and proposed infrastructure, such as the streets system, sewer and water lines, and public facilities, such as fire stations and parks, will be able to accommodate the impacts of the proposed development [Section 14-3.5(C)(e)].*

Water, sanitary sewer, stormwater, electrical, and natural gas utilities located along Rufina Street are accessible for connection. Access to the Property from Rufina Street is sufficient to serve the Project with a cul-de-sac in the event that Aggie Road cannot be utilized to access the Property.

The Preliminary Development Plan

23. The Commission has the authority under Code §14-2.3(C)(1) to review and decide applications for development plan approval.

24. Code §14-3.8(C)(1)(j) requires preliminary development plans to show sufficient detail to demonstrate the feasibility of meeting all applicable development standards (the Submittal Requirements).
25. The Applicant has complied with the Submittal Requirements.
26. Code §14-3.8(D)(1) sets out certain findings that must be made by the Commission to approve a development plan, including:
  - (a) That it is empowered to approve the development plan for the Project [§14-3.8(D)(1)];
  - (b) That approving the development plan for the Project does not adversely affect the public interest [§14-3.8(D)(1)]; and
  - (c) That the use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the Project [§14-3.8(D)(1)].
27. Based upon the analysis contained in the Staff Report, the evidence presented at the public hearing and the facts set forth in paragraphs 18 and 22 above, approving the preliminary development plan will not adversely affect the public interest.
28. Based upon the analysis contained in the Staff Report, the evidence presented at the public hearing and the facts set forth in paragraphs 18 and 22 above, the Project is compatible with and adaptable to adjacent properties and to other properties in the vicinity of the Project.
29. Code §14-3.8(D)(2) provides that the Commission may specify conditions of approval that are necessary to accomplish the proper development of area and to implement the policies of the Plan.
30. The preliminary development plan shows the feasibility of the Project meeting all applicable development standards.

### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Commission CONCLUDES as follows:

#### General

1. The proposed Plan amendment, rezoning and preliminary development plan were properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
2. The ENN meeting complied with the requirements established under the Code.

#### The General Plan Amendment

3. The Commission has the power and authority at law and under the Code to review the proposed amendment to the Plan and to make recommendations to the Governing Body regarding such amendment.

#### The Rezoning

5. The Applicant has the right under the Code to propose the rezoning of the Property.

6. The Commission has the power and authority at law and under the Code to review the proposed rezoning of the Property and to make recommendations regarding the proposed rezoning to the Governing Body based upon that review.

The Preliminary Development Plan

7. The Commission has the authority to review and decide the application for preliminary development plan approval.
8. The Applicant has complied with the Required Submittals.
9. The preliminary development plan shows the feasibility of the Project meeting all applicable development standards.
10. Approving the preliminary development plan does not adversely affect the public interest.
11. The proposed use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the Project.

**WHEREFORE, IT IS ORDERED ON THE \_\_\_\_\_ OF SEPTEMBER 2012 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:**

1. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends to the Governing Body that it approve the Plan amendment, subject to the Conditions.
2. That for the reasons set forth in the foregoing Findings of Fact and Conclusions of Law, the Commission recommends to the Governing Body that it approve the rezoning of the Property, subject to the Conditions.
3. That the preliminary development plan is approved, subject to the Conditions.

\_\_\_\_\_  
Thomas Spray  
Chair

\_\_\_\_\_  
Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM:



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Kelley Brennan  
Assistant City Attorney

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Date:

City of Santa Fe  
Planning Commission  
Findings of Fact and Conclusions of Law

Case #2012-70

Owner's Name – Eker Land, LLC

Applicant's Name – Morey E. Walker, P.E., for Morey Walker & Associates Engineering, Inc.

THIS MATTER came before the Planning Commission (Commission) for hearing on August 2, 2012 upon the application (Application) of Morey E. Walker, P.E., for Morey Walker & Associates Engineering, Inc. on behalf of Eker Land, LLC (Applicant).

The Applicant seeks the Commission's approval of the preliminary subdivision plat to divide 4.38± acres at 2865 Rufina Street (Property) into 5 lots. The Property is zoned I-2 (General Industrial).

After conducting a public hearing and having heard from staff and all interested persons, the Commission hereby FINDS, as follows:

FINDINGS OF FACT

1. The Commission heard reports from staff and received testimony and evidence from the Applicant and other interested parties.
2. Pursuant to Santa Fe City Code (Code) §14-2.3(C)(1) the Commission has the authority to review and approve or disapprove subdivision plats.
3. Code §14-3.7(B)(1) requires applicants for preliminary plat approval to comply with the pre-application conference procedures of Code §14-3.1(E).
4. Pursuant to Code §14-3.1(E)(1)(a)(ii), pre-application conferences are required prior to submission of applications for subdivisions unless waived.
5. A pre-application conference was held on January 26, 2012 in accordance with the procedures for subdivisions set out in Code §14-3.1(E)(2)(a) and (c).
6. Code §14-3.7(B)(2) requires compliance with the early neighborhood notification (ENN) requirements of Code §14-3.1(F) for preliminary subdivision plats and provides for notice and conduct of public hearings pursuant to the provisions of Code §§14-3.1 (H), and (I) respectively.
7. Code §14-3.1(F)(2)(a)(v) requires an ENN for preliminary subdivision plats and Code §§14-3.1(F)(4) and (5) establish procedures for the ENN.
8. The Applicant conducted an ENN meeting on the Application on May 31, 2012 at the Genoveva Chavez Community Center in accordance with the notice requirement of Code §14-3.1(F)(3)(a).
9. The ENN meeting was attended by the Applicant and City staff; approximately three members of the public were in attendance.
10. Code §14-3.7(B)(3)(b) requires the Applicant to submit a preliminary plat prepared by a professional land surveyor, together with improvements plans and other specified

*Exhibit "3"*

supplementary material and in conformance with the standards of Code §14-9 (collectively, the Applicable Requirements).

11. City Land Use Department staff reviewed the Application and related materials and information submitted by the Applicant for conformity with applicable Code requirements and provided the Commission with a written report of its findings (Staff Report) together with a recommendation that the preliminary subdivision plat be approved, subject to certain conditions (the Conditions) set out in such report.
12. The information contained in the Staff Report is sufficient to establish that the Applicable Requirements have been met.

### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the public hearing, the Commission CONCLUDES as follows:

1. The Commission has the authority to review and approve the preliminary plat subject to conditions.
2. The Applicant has complied with the applicable pre-application conference and ENN procedure requirements of the Code.
3. The public hearing was properly noticed and conducted pursuant to applicable Code requirements.
4. The Applicable Requirements have been met.

**WHEREFORE, IT IS ORDERED ON THE \_\_\_\_\_ OF SEPTEMBER 2012 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:**

That the preliminary subdivision plat for the Property is approved, subject to the Conditions.

\_\_\_\_\_  
Thomas Spray  
Chair

\_\_\_\_\_  
Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

[REMAINING SIGNATURES ON FOLLOWING PAGE]

APPROVED AS TO FORM:

\_\_\_\_\_  
Kelley Brennan  
Assistant City Attorney

\_\_\_\_\_  
Date:

City of Santa Fe  
Planning Commission  
Findings of Fact and Conclusions of Law

Case #2012-72

Christ Church Santa Fe Special Use Permit

Case #2012-73

Christ Church Santa Fe Final Development Plan

Owner's Name – Christ Church Santa Fe

Applicant's Name – JenkinsGavin Design & Development, Inc.

THIS MATTER came before the Planning Commission (Commission) for hearing on August 2, 2012 upon the application (Application) of JenkinsGavin Design & Development, Inc. as agent for Christ Church Santa Fe (Applicant).

The Applicant is a religious institution which acquired the property it occupies at 1213 Don Gaspar Avenue (Property) in 2007 from Capitol Christian, also a religious institution. The Property is improved with two buildings totaling approximately 17,000 square feet and is zoned R-1 (Residential – 1 dwelling unit/acre).

Prior to March 1, 2012, when Santa Fe City Code (Code) Chapter 14 was amended to require a special use permit for a religious assembly use in a residentially-zoned district, religious institutions were a permitted use in residential districts.

The Applicant is required to obtain a special use permit now because it proposes to intensify its use of the Property by demolishing a 4,270 square-foot building and constructing a new 20,640 square-foot addition to the remaining building, a net 16,370 square-foot increase, as well as certain related site improvements (the Project). Development plan approval is also required because the Project has a gross floor area in excess of 10,000 square feet and the Property is located in a residential district.

After conducting a public hearing and having heard from staff and all interested persons, the Commission hereby FINDS, as follows:

FINDINGS OF FACT

General

1. The Commission heard testimony and took evidence from staff, the Applicant, and members of the public interested in the matter.
2. The Commission has the authority under Code §14-2.3(C)(1) and (3) to review and decide applications for development plan approval and for a special use permit that is part of development plan review.

*Exhibit "4"*

3. Code §14-3.8(C)(2)(a) requires that a request for a special permit use be reviewed concurrently and approved or denied by the land use board that reviews the development plan.
4. Pursuant to Code §14-3.8(B)(3)(b), a development plan is required prior to new development with a gross floor area of ten thousand square feet or more in a residential district.
5. The Project includes new development with a gross floor area of approximately 16,370 square feet.
6. A development plan is required for the Project.
7. Pursuant to Code §14-3.6(B), the Commission has the authority to hear and decide applications for special use permits; to decide questions that are involved in determining whether special use permits should be granted; and to grant special permits with such conditions and safeguards as appropriate under Code Chapter 14 or to deny special use permits when not in harmony with the intent and purpose of Code Chapter 14.
8. Pursuant to Code §14-6.1(C) Table 14-6.1-1, entitled “Table of Permitted Uses”, “Religious Assembly” is a permitted use in an R-1 district with a special use permit.
9. The Property is zoned R-1.
10. A special use permit is required for the Applicant’s religious assembly use on the Property.
11. Code §14-3.8(B)(1) requires an ENN, notice and a public hearing on development plans in accordance with the provisions of Code §§14-3.1(F), (H) and (I).
12. Code §14-3.1 sets out certain procedures to be followed on the Application, including, without limitation, (a) an Early Neighborhood Notification (ENN) meeting [§14-3.1(F)(2)(a)( iv) and (viii)] and (b) compliance with Code Section 14-3.1(H) notice and public hearing requirements [Code §14-3.1(H)(1)(a)-(d)].
13. Code §14-3.1(F) establishes procedures for the ENN meeting, including (a) scheduling and notice requirements [Code §14-3.1(F)(4) and (5)]; (b) regulating the timing and conduct of the meeting [Code §14-3.1(F)(5)]; and (c) setting out guidelines to be followed at the ENN meeting [§14-3.1(F)(6)].
14. An ENN meeting was held on the Application on March 27, 2012 at Christ Church Santa Fe at 1213 Don Gaspar Avenue.
15. Notice of the ENN meeting was properly given.
16. The ENN meeting was attended by the Applicant, City staff and other interested parties and the discussion followed the guidelines set out in Code Section 14-5.3.1(F)(6).
17. Commission staff provided the Commission with a report (Staff Report) evaluating the factors relevant to the special use permit and the development plan and recommending approval by the Commission of both, subject to certain conditions set out in said report (the Conditions).

#### The Special Use Permit

18. Code §14-3.6(D) sets out the approval criteria (Permit Criteria) and certain potential conditions for the grant of a special use permit.

19. The Commission has considered the Permit Criteria established by Code §14-3.6(D) and finds, subject to the Conditions, the following facts:
- (a) *The Commission has the authority under the section of Code Chapter 14 cited in the Application to grant a special use permit [Code §14-3.6(D)(1)(a)].*  
The Commission has the authority to grant a special use permit for a religious assembly use in an R-1 district.
  - (b) *Granting the special use permit does not adversely affect the public interest [Code §14-3.6(D)(1)(b)].*  
Granting a special use permit for a religious assembly use on the Property will not adversely affect the public interest in that the Applicant is currently using the Property for a religious assembly use and while the use will intensify as a result of the Project, the Project is generally designed to minimize the impact on adjacent residential uses, including replacing the demolished building with a building of approximately the same height; utilizing for the Project areas of the Property that have already been disturbed in order to preserve as much of the existing open space as possible; maintaining height and scale compatible to residential buildings where the Project abuts residential property; adding landscape buffering; and providing more parking than required by Code to mitigate the possibility of intrusive on-street parking.
  - (c) *That the use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the premises under consideration [Code §14-3.6(D)(1)(c)].*  
The use and associated buildings are compatible with and adaptable to buildings and uses of abutting property and other properties in the vicinity in that the Property has legally been used for religious assembly and related incidental uses since prior to 2007 and there are a number of other religious assembly uses in the vicinity. For the reasons set forth in paragraph 19(b) above, the Project design is compatible with and adaptable to residential development on abutting property in that it is generally designed to minimize impact on those properties.
20. Code §14-3.6(D)(2) provides that the Commission may specify conditions of approval that are necessary to accomplish the proper development of the area and to implement the policies of the general plan.

#### The Development Plan

21. Code §14-3.8(C)(1) requires applicants for development plan approval to submit certain plans and other documentation that show compliance with applicable provisions of Code (the Submittal Requirements).
22. The Applicant has complied with the Submittal Requirements.
23. Code §14-3.8(D)(1) sets out certain findings that must be made by the Commission to approve a development plan, including:
- (a) That it is empowered to approve the development plan for the Project [§14-3.8(D)(1)];
  - (b) That approving the development plan for the Project does not adversely affect the public interest [§14-3.8(D)(1)]; and

- (c) That the use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the Project [§14-3.8(D)(1)].
24. Based upon the analysis contained in the Staff Report, the evidence presented at the public hearing and the facts set forth in paragraph 19 above, approving the development plan will not adversely affect the public interest.
25. Based upon the analysis contained in the Staff Report, the evidence presented at the public hearing and the facts set forth in paragraph 19 above, the Project is compatible with and adaptable to adjacent properties and to other properties in the vicinity of the Project.
26. Code §14-3.8(D)(2) provides that the Commission may specify conditions of approval that are necessary to accomplish the proper development of area and to implement the policies of the general plan.

### CONCLUSIONS OF LAW

Under the circumstances and given the evidence and testimony submitted during the hearing, the Commission CONCLUDES as follows:

#### General

1. The proposed special use permit and development plan were properly and sufficiently noticed via mail, publication, and posting of signs in accordance with Code requirements.
2. The ENN meetings complied with the requirements established under the Code.

#### The Special Use Permit

3. The Property is zoned R-1 and the Commission has the authority under the Code to grant a special use permit for a religious assembly use in an R-1 zone.
4. The proposed special use permit for a religious assembly use meets the Permit Criteria.

#### The Development Plan

5. The Commission has the power and authority under the Code to review and approve the Applicant's development plan.
6. The Applicant has complied with all applicable requirements of the Code with respect to the development plan, including the Submittal Requirements.

**WHEREFORE, IT IS ORDERED ON THE \_\_\_\_\_ OF SEPTEMBER 2012 BY THE PLANNING COMMISSION OF THE CITY OF SANTA FE:**

1. That the special use permit is approved as applied for, subject to the condition that light spill and glare from glass construction shall not be a nuisance to abutting residences.



Page 5 of 5

2. That the development plan is approved as applied for, subject to the Conditions and to the following additional conditions:
  - (a) That the dumpster shown on the site plan be relocated away from any immediate neighbors;
  - (b) That a landscaping buffer be designed and planted along the north and east property lines;
  - (c) That water harvesting be maximized, including the use of cisterns; and
  - (d) That some screening be employed that will operate mechanically so that during the day time hours the light spilling in can have the effect the Applicant desires, but that in the evening the mechanical screen can go down.
3. The special use permit granted herewith shall expire if (a) it is not exercised within three (3) years of the date these Findings of Fact and Conclusions of Law are adopted by vote of the Commission, subject to any right of the Applicant under applicable Code to request an extension of such time or (b) it ceases for any reason for a period of one hundred eighty (180) days.

\_\_\_\_\_  
Thomas Spray  
Chair

\_\_\_\_\_  
Date:

FILED:

\_\_\_\_\_  
Yolanda Y. Vigil  
City Clerk

\_\_\_\_\_  
Date:

APPROVED AS TO FORM:

\_\_\_\_\_  
Kelley Brennan  
Assistant City Attorney

\_\_\_\_\_  
Date:

# Ethics and Open Government

Presented to the Planning Commission  
By the  
Santa Fe City Attorney's Office  
September 13, 2012

*Exhibit "B"*

# Laws To Be Reviewed

- An overview of the following will be provided, focusing on provisions applicable to municipalities:
  - City of Santa Fe Ethics Ordinance, SFCC § 1-7, et seq.
  - New Mexico Governmental Conduct Act, § 10-16-1, et seq.
  - New Mexico Open Meetings Act (OMA), § 10-15-1, et seq.
  - Court Decisions regarding Quasi-Judicial entities

# Santa Fe Code of Ethics

- General Rules
  - Proper operation of City government requires (§ 1-7.1):
    - That public officials and employees be independent, impartial and responsible to the people
    - That decisions and policy be without conflicts of interest
    - That public office or employment not be used for personal gain
    - That the public has confidence in the integrity of its government
  - Purpose and intent (§ 1-7.2):
    - Standards of behavior for public officials and employees that ensure decisions are made without consideration of personal benefit
    - Provide clear guidance by clarifying acts allowed and prohibited
    - Adopt a code that suits the local concerns and needs

# Code of Ethics

- Conflict of Interest
  - Definition (§ 1-7.5): a specific and identifiable prospect of pecuniary gain or loss (not shared with the public) from an official act of any public official or employee to:
    - Self or Family member
      - Family defined as household members, children, step-children, brothers, sisters, parents, step-parents, domestic partner and all persons claimed as dependents on latest tax return.
    - Business owned by self or household member
    - Employer, client or customer
    - Non-profit where public official, employee or household member is an officer or director
    - Contributor to council or mayoral race in last 2 years (if over \$1,000 for council, or if over \$2,500 for mayor)
  - Disclosure (§ 1-7.7(L))
    - Method
      - For member of governmental body, at a public meeting of that body
      - For the City Manager, City Attorney or city Clerk, to the Governing Body at a public meeting
      - For a City employee, to the City Manager
    - When there is a conflict, public official or employee shall not perform an official act or attempt to influence another person to perform an official act in a conflicted matter

# Code of Ethics (cont.)

- Gifts (§ 1-7.7(A))
  - General rule: public officials shall not accept gifts or other financial benefits from persons or entities that have a prospect of pecuniary gain or loss from an official act (other than gains or losses shared with a substantial segment of the general public).
  - Exceptions:
    - Occasional meal or non-pecuniary gift less than \$50
      - \$250 limit for Governing Body, City Manager, City Attorney and City Clerk if related to official duties, must report within 10 days and post on website
      - \$250 limit for employees if related to official duties and prior approval by City Manager, must report immediately and post on website
    - Other: certain awards, campaign contributions, commercially reasonable loan, certain real property transactions

# Code of Ethics (cont.)

- Honoraria (§ 1-7.7(J))
  - Public official shall not request or receive an honorarium for a speech or service rendered in the performance of his or her official duties
  - Reasonable reimbursement for meals, lodging or travel expenses are permissible
    - Reimbursements shall be reported within 10 days
- Annual Disclosures (§ 1-7.6)
  - Upon election/appointment and each July thereafter public officials and department heads shall disclose:
    - Name, address phone number
    - Employer if other than the City
    - Professional, occupational or business licenses
    - For-profit and non-profit board memberships
    - Businesses owned

# Code of Ethics (cont.)

- Representation of Private Interests (§ 1-7.7(C)(3))
  - Governmental Body Members shall not accept monetary compensation to advise, consult or represent on an item before the governmental body, during the term of office or 1 year after.
- Other Important provisions:
  - Quasi Judicial Proceedings
  - Transactions with the City
  - Misuse of confidential information
  - Misuse of City resources
  - Political activity
  - Whistleblower Protection
- Enforcement and Penalties:
  - Code of Ethics enforced by the ECRB (§ 1-7.9)
  - Penalties include public reprimand, fines, recommendation of removal or suspension, referral to the District Attorney (§ 6-16.7)



# New Mexico Governmental Conduct Act

- General Rules for public officer or employee (§ 10-16-3):
  - Treat their position as public trust and use powers/resources only to advance the public interests, not obtain personal benefits or pursue private interests
  - Conduct themselves in a manner that justifies the confidence placed in them by the people
  - Full disclosure of real or potential conflicts of interest shall be a guiding principle for determining appropriate conduct
  - Make reasonable efforts to avoid undue influence and abuse of office

# NMGCA (cont.)

- Political activities (§ 10-16-3.1):
  - No coercion to contribute, vote or participate in political activity, or to make threats
  - No use of governmental property for non-authorized purposes
- Official Acts for personal financial interest prohibited (§ 10-16-3.1):
  - Knowing and willful violation is a 4<sup>th</sup> degree felony
  - Public officer or employee is disqualified from engaging in any official act directly affecting their financial interest

# NMGCA (cont.)

- Other important provisions:
  - Honoraria
  - Confidential information
  - Contracts involving current or former officers or employees
  - Prohibited bidding
- Enforcement and penalties (§ 10-16-14, 17, 18):
  - Enforced by Attorney General or District Attorney
  - Penalties include discipline, dismissal, demotion or suspension
    - Criminal penalties include misdemeanor (unless otherwise specified) and up to \$1,000 fine
    - Civil penalties of \$250 per violation up to \$5,000

# Open Meetings Act

- General Rules (§10-15-1(A)):
  - A representative government is dependent upon an informed electorate
  - All persons are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them
  - The formulation of public policy or the conduct of business by vote shall not be conducted in closed meetings
  - All meetings of any public body shall be public meetings, all persons shall be permitted to attend and listen, reasonable efforts shall be made to accommodate use of audio and video devices

# Open Meetings Act (cont.)

- Applicability (§10-15-1(D)):
  - All meetings by of a quorum of members of any board, commission, administrative adjudicatory body or other policymaking body of a municipality or political subdivision held for the purpose of formulating public policy
  - Any meetings at which the discussion or adoption of any proposed resolution, rule regulation or formal action occurs and at which a majority or quorum of the body is in attendance
  - Any closed meetings, shall be held only after reasonable notice to the public

# Open Meetings Act (cont.)

- Meeting Notices (§10-15-1(D) and (F)):
  - Annual determination by the Body of reasonable notice to the public
    - Notice shall include broadcast stations and newspapers that have provided written request for such notice
  - Shall include an agenda containing a list of specific items of business to be discussed or transacted or information on how the public may obtain a copy of such an agenda
  - Agenda shall be available at least 24 hours before meeting (exceptions for emergencies) (City Resolution requires first agenda posting 72 hours in advance)
- Minutes (§10-15-1(G)):
  - The policymaking body shall keep written minutes of all its meetings including:
    - Date, time and place of meeting
    - Names of members in attendance and absent
    - Substance of the proposals considered and a record of votes
    - Minutes shall be prepared within 10 days, shall be approved at the next meeting with a quorum and are not official until approved by the policymaking body

# Open Meetings Act (cont.)

- Exceptions (§10-15-1(E)), with proper notice, the portions of meetings dedicated to the following topics may be conducted in closed session such as:
  - Licenses. Discussion of the issuance, suspension, renewal or revocation of a license, final action in public.
  - Personnel. Discussion of limited personnel matters (hiring, promotion, demotion, dismissal, assignment, resignation, or investigation), final action in public
  - Adjudication. Deliberations in connection with an administrative adjudicatory proceeding
  - Collective Bargaining. Discussion of bargaining strategy preliminary to collective bargaining negotiations
  - Procurement. Certain discussions regarding procurement (sole source over \$2,500 or competitive bids), final action in public
  - Litigation. Attorney-Client privileged discussions regarding threatened or pending litigation
  - Real property and water. Discussion of real property or water right purchase, acquisition or disposal
- Entering closed session: requires a majority vote of a quorum, the subject and authority for closure shall be stated with reasonable specificity in the motion and an individual vote shall be taken in open meeting
  - Scope: Only those subjects announced or voted upon prior to closure may be discussed
- Enforcement and penalties: AG, DA or individual enforcement; penalties include misdemeanor and/or fines, attorneys fees and costs (§10-15-3)

# Quasi-Judicial Proceedings

- Proceedings at which the body is adjudicating the rights of applicants/parties:
  - Approving development/subdivision plans, requests, plats
  - Appeals, variances and special use permits
  - Not: policy recommendations to staff or governing body
- Ethics Code: Quasi-Judicial Acts Subject to Additional Standards (§ 1-7.4)
  - It is recognized that public officials and public employees are frequently called upon to participate in adjudicatory ("quasi-judicial") proceedings. The city of Santa Fe Code of Ethics applies to public officials and employees acting in a quasi-judicial capacity. There are, however, additional standards of conduct that are required of public officials and employees when acting in a quasi-judicial capacity which standards are imposed by the New Mexico and United States Constitutions and which are not set out in this section. Under the United States and New Mexico Constitutions those standards ***prohibit official actions tainted by a decision-maker's conflicts of interest, bias and prejudice, prejudgment, or other conduct creating the actuality or the appearance of impropriety.*** (Emphasis added).



# Quasi-Judicial (cont.)

## **EX PARTE COMMUNICATIONS**

- Communication with Members Prohibited (§ 14-3.17(H)(1) & (2))
  - *Ex parte* communications with the governing body or a land use board are impermissible both prior to and during the pendency of a proceeding.
    - (1) Parties- During the appeal period after any final action is taken or after an appeal is filed, no party may communicate with individual members of a Land Use Board that may hear the appeal or the Governing Body outside an appeal hearing, concerning the merits or substance of the appeal, except in writing filed with the Land Use Department within the prescribed time period for inclusion in the public hearing record.
    - (2) Other Persons- Persons other than the City Attorney shall not communicate outside a public hearing with a member of a Land Use Board or the Governing Body concerning the merits or substance of an appeal to be heard by that body.

# Quasi-Judicial (cont.)

Important New Mexico caselaw to keep in mind:

- *Albuquerque Commons Partnership v. City Council of Albuquerque*, 2008-NMSC-025. In quasi-judicial proceedings:
  - Zoning actions have important procedural consequences
  - Zoning matters are not politics-as-usual as far as the adjudicating body is concerned
  - The body does not sit as a mini-legislature, but instead must act like a judicial body bound by “ethical standards comparable to those that govern a court in performing the same function.”
  - “interested parties in a quasi-judicial zoning matters are entitled to an opportunity to be heard, to an opportunity to present and rebut evidence, to a *tribunal which is impartial in the matter-i.e., having had no pre-hearing or ex parte contacts concerning the question at issue-* and to a record made and adequate findings executed.”
- *Los Chavez Community Ass’n v. Valencia County Board of Commissioners*, 2012-NMCA-044.
  - Board members are bound by the due process protections of the state and federal constitutions, no deprivation of liberty and property without due process of law.
  - Procedural due process requires hearing before disinterested trier of fact, free from bias or predisposition
  - Due process requires a neutral and detached judge
  - “When acting in a quasi-judicial capacity, board members are bound by the New Mexico Constitution that they be impartial”

# City of Santa Fe, New Mexico

## memo

DATE: August 20, 2012

TO: City Council; Public Works; CIP & Land Use Committee; Planning Commission

FROM: Matthew O'Reilly, P.E., Land Use Department Director *MO*

Re: AN ORDINANCE RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987 REGARDING MOBILE HOME PARK DISTRICTS AND MOBILE HOME PARKS; AMENDING SECTION 14-4.2(J)(1) SFCC 1987 TO EXPAND THE PURPOSE OF THE MHP DISTRICT TO INCLUDE RESIDENTIAL SUBDIVISIONS AND MULTI-FAMILY DWELLINGS; AMENDING SECTION 14-6.1(C) TABLE OF PERMITTED USES TO CORRESPOND WITH 14-4.2(J)(1); AMENDING SECTION 14-6.2(A)(3) SFCC 1987 TO CLARIFY STANDARDS FOR EXISTING MOBILE HOME PARKS; AMENDING SECTION 14-7.2(I) SFCC 1987 TO PROHIBIT THE ESTABLISHMENT OF NEW MOBILE HOME PARKS AS OF THE EFFECTIVE DATE OF THIS ORDINANCE AND TO CLARIFY THAT MANUFACTURED HOMES ARE ALLOWED IN EXISTING MOBILE HOME PARKS; AMENDING TABLE 14-7.2-1 TO PROVIDE DIMENSIONAL STANDARDS IN THE MHP DISTRICT; AMENDING SECTION 14-12 REGARDING MOBILE HOME-RELATED DEFINITIONS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL CHANGES THAT ARE NECESSARY.

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### INTRODUCTION

The proposed bill addresses the Mobile Home Park zoning district and has two main purposes: 1) as a long-overdue update to reflect the physical and legal differences between "mobile homes" and "manufactured homes", and 2) to revise the purpose of the Mobile Home Park district in response to current practice and land development requirements.

### BACKGROUND

In 1976, the US Department of Housing and Urban Development (HUD) promulgated National Manufactured Housing Construction and Safety Standards pursuant to the National Manufactured Housing Construction and Safety Standard Act of 1974. The federal standards went into effect on June 15, 1976. Homes constructed to these federal standards are defined as "manufactured homes" not "mobile homes", a term used for homes produced prior to June 15, 1976.

New homes commonly referred to as "single-wides" or "double-wides" are properly defined as manufactured homes. Manufactured homes are constructed off-site and are equipped with a permanent chassis for transportation to a site. Manufactured homes are not subject to the 2009 International Building Code (IBC) or the 2009 International Residential Code (IRC).

Currently, SFCC Section 14-4.2(J), "Mobile Home Park District", defines the purpose of the mobile home park district as follows:

"The MHP mobile home park district is intended to provide premises for the continuous accommodation of more than one single-family mobile home."

Additionally, the current land development code further restricts mobile homes to mobile home parks. SFCC 14-6.2(A)(2) prohibits the permanent installation of "mobile homes" on individual lots outside of mobile home parks except in certain residential zoning districts and then only with the approval of a Special Use Permit by the Board of Adjustment. In no case does the land development code allow the rental or lease of a mobile home outside of a mobile home park.

Complicating matters, the "Mobile Home Park" district does not currently allow the placement of manufactured homes (or modular or site-built homes) within mobile home parks. However, manufactured homes do exist in mobile home parks, having been placed there as replacements when aging, older mobile homes were removed – an obvious code conflict. Inversely, SFCC 14-6.2(A)(4) provides that manufactured homes are currently allowed in any district in which site-built, single-family dwellings are allowed – but not in the mobile home park district.

#### **CITY ORDINANCE**

The proposed bill contains the following provisions:

##### **Sections 1 & 2**

These sections change the name of the "Mobile Home District" to the "MHP" district to reflect an expanded purpose of the district: 1) to provide for the continued operation of existing mobile home parks and, 2) to allow for the development of residential subdivisions or multi-family dwellings in the MHP zone. The intent of this change is to recognize and protect the entitlements of existing mobile home parks while acknowledging that no new "mobile homes" (post-1976) are being created. The expansion of the purpose of the district recognizes the current practice of manufactured homes being placed in mobile home parks. The expanded purpose also provides the opportunity for existing mobile home park owners to redevelop their parks for different residential uses.

##### **Sections 3, 4 & 5**

These sections remove references to an approval process for new mobile home parks in recognition of the fact that after 1976, new "mobile homes" are no longer being created and therefore the need for new mobile home parks does not exist.

New development or redevelopment in the MHP will be required to comply with the same development standards as do other residential projects. This will ensure that those who live in manufactured homes will enjoy the same basic amenities that those living in subdivisions of site-built housing enjoy: full streets, curbs and gutters, sidewalks, individual utility services, proper stormwater detention facilities, open space, parks, and landscaping. Further, the requirement in the MHP to develop to subdivision standards means that new homes (be they manufactured,

modular or site-built) will be located on a fee simple lot of record. This would make it possible for a homeowner to also own the land under the home, thereby providing some offset to the equity loss typically experienced by the manufactured home buyer. Fee simple lots of record would also make it easier to upgrade a manufactured home to a site-built home in the future - an additional benefit to the manufactured home owner.

Existing code provisions for general site standards for mobile home parks are retained for the continued regulation of existing mobile home parks. The gross density in the newly-titled MHP district is reduced from R-8 to R-7 in recognition of the new provision that residential subdivisions are now allowed in the MHP district. Section 5 also codifies the existing practice of placing manufactured homes in existing mobile home parks.

**Section 6**

This section updates the definitions section of the land development code to account for the changes described in Sections 2 through 5 of the bill.

**RECOMMENDATION**

Staff recommends that the Planning Commission and the Public Works Committee recommend approval of the attached bill to the Governing Body.

**CITY OF SANTA FE, NEW MEXICO**

**BILL NO. 2012-\_\_**

**INTRODUCED BY:**

**Councilor Carmichael Dominguez**

**AN ORDINANCE**

**RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987  
REGARDING MOBILE HOME PARK DISTRICTS AND MOBILE HOME PARKS;  
AMENDING SECTION 14-4.2(J)(1) SFCC 1987 TO EXPAND THE PURPOSE OF THE MHP  
DISTRICT TO INCLUDE RESIDENTIAL SUBDIVISIONS AND MULTI-FAMILY  
DWELLINGS; AMENDING SECTION 14-6.1(C) TABLE OF PERMITTED USES TO  
CORRESPOND WITH 14-4.2(J)(1); AMENDING SECTION 14-6.2(A)(3) SFCC 1987 TO  
CLARIFY STANDARDS FOR EXISTING MOBILE HOME PARKS; AMENDING SECTION  
14-7.2(I) SFCC 1987 TO PROHIBIT THE ESTABLISHMENT OF NEW MOBILE HOME  
PARKS AS OF THE EFFECTIVE DATE OF THIS ORDINANCE AND TO CLARIFY THAT  
MANUFACTURED HOMES ARE ALLOWED IN EXISTING MOBILE HOME PARKS;  
AMENDING TABLE 14-7.2-1 TO PROVIDE DIMENSIONAL STANDARDS IN THE MHP  
DISTRICT; AMENDING SECTION 14-12 REGARDING MOBILE HOME-RELATED  
DEFINITIONS; AND MAKING SUCH OTHER STYLISTIC OR GRAMMATICAL  
CHANGES THAT ARE NECESSARY.**

1 **BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:**

2 **Section 1. Section 14-4.2(J)(1) SFCC 1987 (being Ord. No. 2012-11, §8 as amended)**  
3 **is amended to read:**

4 **(J) MHP [~~Mobile Home Park~~] District**

5 **(1) Purpose**

6 The MHP [~~mobile home park~~] district is intended to provide premises for  
7 [~~the continuous accommodation of more than one single family mobile~~  
8 ~~home~~] mobile home parks in existence prior to                     , 2012 [*effective*  
9 *date of this Ordinance*] or for the development of residential subdivisions or  
10 multi-family dwellings.

11 **Section 2. Section 14-6.1(C) SFCC 1987 (being Ord. No. 2011-37, §8) is amended to**  
12 **read:**

13 **(C) Table of Permitted Uses**

14 Districts are designated in Table 14-6.1-1 as follows:

Abbreviations	Districts Described	District Designations
RR	14-4.2C	Rural Residential
R-1 - R-6	14-4.2D	Residential ~ numeral indicates maximum Number of dwelling units per acre, see Section 14-7.2.  “(I)” indicates Infill.
R-7 - R-9	14-4.2E	
R7(I)	14-4.2F	
RC-5, RC-8	14-4.2G	
R-10 - R-29	14-4.2H	
MHP	14-4.2J	<u>MHP [<del>Mobile Home Park</del>]</u>
RAC	14-4.2I	Residential Arts and Crafts
A-C	14-5.4	Arts and Crafts Overlay
C-1	14-4.3A	Office and Related Commercial
C-2	14-4.3B	General Commercial

Abbreviations	Districts Described	District Designations
C-4	14-4.3C	Limited Office and Arts and Crafts
HZ	14-4.3D	Hospital Zone
BCD	14-4.3E	Business-Capitol
I-1	14-4.3F	Light Industrial
I-2	14-4.3G	General Industrial
BIP	14-4.3H	Business and Industrial Park
SC-1, SC-2, SC-3	14-4.3K	Planned Shopping Center (Neighborhood, Community, Regional)
MU	14-4.3L	Mixed Use

Section 3. Section 14-6.2(A)(3) SFCC 1987 (being Ord. No. 2011-37, §8) is amended to read:

(3) Mobile Home Park

(a) Applicability

In a district in which *mobile home parks* are allowed, the minimum standards set out in this section apply.

(b) License

Prior to beginning operation, a *mobile home park* owner or operator must obtain a business license from the *city* under the provisions of Article 18-1 SFCC 1987.

(c) Inspection

The city may inspect a mobile home park for conformance with the provisions of this section.

(d) Transfer of License

The *city* may issue a transfer of the license only after the following:



- 1 (i) *application* in writing for transfer of a license and payment  
2 of the transfer,  
3 (ii) an inspection report by the land use director has been  
4 submitted to the governing body, stating conformance or  
5 nonconformance with the provisions of this section;  
6 (iii) approval by the governing body.

7 (e) Revocation of License

8 The *governing body* may revoke a license to maintain and operate a  
9 *mobile home park*, as provided in Article 18-1 SFCC 1987 when the  
10 *licensee* has violated any provision of this section.

11 (f) Posting

12 The license certificate shall be conspicuously posted in the office of  
13 or on the *premises* of the *mobile home park* at all times.

14 (g) Standards

15 *Mobile home parks shall comply with the standards set forth in*  
16 *Section 14-7.2(I).*

17 [~~Before an *application* for a *mobile home park* is approved, the~~  
18 ~~developer shall submit to the *land use director* an overall~~  
19 ~~*development plan* showing proposed land uses for the entire area~~  
20 ~~defined in the *mobile home park application*. The plan shall be in~~  
21 ~~accordance with the provisions of this section, including the~~  
22 ~~minimum site acreage of two acres. If the plan conforms with these~~  
23 ~~requirements, the plan shall be submitted to the planning~~  
24 ~~commission.~~

25 (h) ~~Location; Standards for Approval of Application~~

1 ~~All mobile home park development applications shall be reviewed by~~  
2 ~~the planning commission.]~~

3 Section 4. Section 14-7.2(I) SFCC 1987 (being Ord. No. 2011-37, §9-as amended) is  
4 amended to read:

5 (I) Mobile Home Park Standards

6 (1) Applicability

7 New mobile home parks are prohibited as of \_\_\_\_\_, 2012 [effective  
8 date of this ordinance]. The provisions of this Section 14-7.2(I) apply to  
9 mobile home parks in existence prior to \_\_\_\_\_, 2012 [effective date of  
10 this ordinance].

11 (2[4]) General Site Standards

- 12 (a) *Qualifying open space* shall be provided as required for *development*  
13 in the R-7[8] district as provided in Section 14-7.5(C).
- 14 (b) The mobile home park site shall be graded to ensure proper drainage.
- 15 (c) The mobile home park shall provide spaces that are well defined and  
16 delineated. Minimum lot size per mobile home unit shall be four  
17 thousand (4,000) square feet.
- 18 (d) Each mobile home space shall provide a mobile home stand of  
19 concrete footing adequate to support a mobile home. The stand and  
20 space shall be graded to provide adequate storm drainage away from  
21 the mobile home.
- 22 (e) A maximum of seven [eight] mobile home spaces per acre shall be  
23 allowed in any mobile home park.
- 24 (f) There shall be at least a twenty (20) foot clearance between mobile  
25 homes. No mobile home shall be located closer than ten (10) feet to

1 any building or to any property line. Accessory structures such as  
2 decks and stairways may be attached to the mobile home to which  
3 they provide access, but shall be separated from other buildings and  
4 structures by ten (10) feet.

5 (g) Each mobile home space shall be provided with two off-street  
6 parking spaces, which shall be paved or covered with crushed stone  
7 or other suitable material. No on-street parking shall be allowed.

8 (h) Walkways not less than thirty-six (36) inches in width shall be  
9 provided from all mobile home spaces to all service buildings.

10 (i) All driveways and walkways within the mobile home park shall be  
11 hard-surfaced and well lighted.

12 (j) All private subcollector, lane and place streets within the mobile  
13 home park shall have a minimum pavement width of twenty-four  
14 (24) feet. Private collector streets within the mobile home park shall  
15 have a minimum pavement width of thirty (30) feet. All public  
16 streets shall comply with the right-of-way requirements and  
17 subdivision design standards set forth in Article 14-9 SFCC 1987  
18 (Infrastructure Design, Improvement and Dedication Standards)  
19 except as specified in this Section 14-7.2.

20 (k) The perimeter of the mobile home park shall be landscaped and  
21 fenced. Landscaping shall consist of deciduous canopy trees spaced  
22 no more than twenty (20) feet apart, having a minimum two (2) inch  
23 caliper at the time of planting. Fencing shall consist of either a six  
24 (6) foot tall solid wall or fence constructed of opaque materials.

25 (l) All mobile home park signs shall conform to the requirements of

Section 14-8.10 (Signs).

(3[2]) Service Buildings

(a) If provided, service buildings that house sanitation facilities shall be permanent structures complying with all applicable ordinances and statutes regulating buildings, electrical installations and plumbing and sanitation systems.

(b) Service buildings shall be:

(i) well-lighted at all times of the day and night;

(ii) well-ventilated with screened openings;

(iii) constructed of moisture-proof material, which may be painted woodwork, that allows for repeated cleaning and washing;

(iv) maintained at a temperature of at least sixty-eight degrees Fahrenheit during the period from October 1 to May 1; and

(v) have floors of water-impervious material.

(c) All service buildings and the grounds of the mobile home park shall be maintained in a clean, sightly condition and kept free of any condition that menaces the health of any occupant or the public or constitutes a nuisance.

(4[3]) Solid Waste Containers

Solid waste containers shall be provided, maintained and emptied in accordance with applicable regulations and as approved of the Solid Waste Division.

(5[4]) Fire Protection

Every *mobile home park* shall be equipped at all times with fire

extinguishing equipment in good working order, of such type, size and number and so located within the *mobile home park* as to satisfy applicable reasonable regulations of the fire department.

(6[5]) Supervision

An attendant or caretaker shall be in charge at all times to keep the *mobile home park*, its facilities and equipment in a clean, orderly and sanitary condition. The attendant or caretaker shall be answerable, with the permittee, for violations of any provision of this Section 14-7.2 to which the permittee is subject.

(7) Manufactured Homes in Mobile Home Parks

Manufactured homes are permitted in mobile home parks in existence prior to \_\_\_\_\_, 2012 [effective date of this ordinance].

Section 5. Table 14-7.2-1 SFCC 1987 (being Ord. No. 2012-11, §20) is amended to

TABLE 14-7.2-1: Table of Dimensional Standards for Residential Districts (Note 1)						
DISTRICT	Max. Gross Density (dwelling units per acre) <sup>Note 2</sup>	Minimum Lot Size <sup>Note 2, Note 3</sup>	Maximum Height of Structures <sup>Notes 6, 8</sup>	Minimum Yard Requirements (feet) <sup>Notes 5, 6, 7</sup>	Maximum Lot Coverage (%) <sup>Note 10</sup>	Minimum Qualifying open space (Square Feet) <sup>Note 9, 10</sup>
R-7 R-8 R-9 <u>MHP</u>	R-7=7; R-8=8; R-9=9; <u>MHP=7</u>	Area: 4,000 sq. ft. per unit; 2,000 sq. ft. if common open space is provided <sup>Note 3</sup> . Width: No minimum, except to meet other Chapter requirements.	Same as R1-R6 Districts	Generally, setbacks are established by a development plan approved by the Planning Commission. Otherwise, same as R1-R6 Districts.	40; 55 if private open space provided See §14-7.5(C)(1): Increase in maximum lot coverage if private open space is provided.	Detached single-family dwellings. <sup>Note 3</sup> Multiple-family dwellings: common open space = 50% total gross floor area of all buildings, plus private open space = 25% of gross floor area of each unit.

1 read:

2 Section 6. Section 14-12 SFCC 1987 (being Ord. No. 2011-37, §15, as amended) is  
3 amended to amend the following definitions:

4 **MOBILE HOME PARK**

5 A development in existence prior to \_\_\_\_\_, 2012 [*effective date of this ordinance*] consisting  
6 of the [~~The~~] premises where one or more *mobile homes* are parked for *residential* use or where spaces  
7 or lots are set aside or offered for sale or rent for use by *mobile homes* for *residential* use, including  
8 any land, *building, structure* or facility used by occupants of *mobile homes* on such premises, but  
9 does not include a single *mobile home* located on a lot in a *residential* district pursuant to a special  
10 use permit. Manufactured homes may be located within mobile home parks as provided in  
11 Subsection 14-7.2(D)(7).

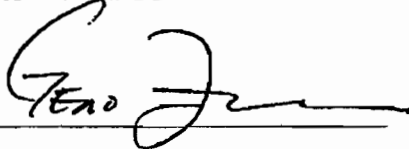
12 **MOBILE HOME SPACE**

13 A plot of land within a *mobile home park* designed for the accommodation of one *mobile home* or  
14 manufactured home.

15 **MOBILE HOME STAND**

16 That portion of the *mobile home space* intended for occupancy by the *mobile home* or manufactured  
17 home proper, consisting [~~of a rectangular plot~~] of dimensions to be determined by the size of the unit  
18 to be accommodated.

19 APPROVED AS TO FORM:

20   
21 \_\_\_\_\_

22 GENO ZAMORA, CITY ATTORNEY

## City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

### Section A. General Information

(Check) Bill: X Resolution: \_\_\_\_\_  
(A single FIR may be used for related bills and/or resolutions)

Short Title(s): Relating To The Land Development Code, Chapter 14 Sfcc 1987 Regarding Mobile Home Park Districts And Mobile Home Parks; Amending Section 14-4.2(J)(1) Sfcc 1987 To Expand The Purpose Of The Mhp District To Include Residential Subdivisions And Multi-Family Dwellings; Amending Section 14-6.1(C) Table Of Permitted Uses To Correspond With 14-4.2(J)(1); Amending Section 14-6.2(A)(3) Sfcc 1987 To Clarify Standards For Existing Mobile Home Parks; Amending Section 14-7.2(I) Sfcc 1987 To Prohibit The Establishment Of New Mobile Home Parks As Of The Effective Date Of This Ordinance And To Clarify That Manufactured Homes Are Allowed In Existing Mobile Home Parks; Amending Table 14-7.2-1 To Provide Dimensional Standards In The Mhp District; Amending Section 14-12 Regarding Mobile Home-Related Definitions; And Making Such Other Stylistic Or Grammatical Changes That Are Necessary.

Sponsor(s): Councilor Dominguez

Reviewing Department(s): City Attorney

Person Completing FIR: Melissa Byers Date: 8/20/12 Phone: 955-6518

Reviewed by City Attorney: [Signature] Date: 8/21/12

Reviewed by Finance Director: [Signature] Date: 8/21/12

### Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution.

The bill has two main purposes: (1) provides a long overdue update to reflect the physical and legal differences between "mobile homes" and "manufactured homes"; and (2) revises the purpose of the Mobile Home Park district in response to current practice and land development requirements.

### Section C. Fiscal Impact

**Note:** Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)\*

#### **1. Projected Expenditures:**

- a. Indicate Fiscal Year(s) affected -- usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)
- b. Indicate: "A" if current budget and level of staffing will absorb the costs  
"N" if new, additional, or increased budget or staffing will be required
- c. Indicate: "R" -- if recurring annual costs  
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs
- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns
- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

✓ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____
Total:	\$ _____			\$ _____			

\* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. \*\*For fringe benefits contact the Finance Dept.

## 2. Revenue Sources:

- To indicate new revenues and/or
- Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

_____	\$ _____	_____	\$ _____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____
Total:	\$ _____		\$ _____		



### 3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

Not applicable.

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### **Section D. General Narrative**

1. **Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None that staff is aware of.

### 2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

There would continue to be conflicts in the Land Development Code related to the mobile home park district, mobile homes and manufactured homes.

### 3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No.

### 4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

If proposed amendments to the Land Development Code are adopted, there will be an update to reflect the physical and legal differences between "mobile homes" and "manufactured homes." Additionally, the mobile home park district provisions will be consistent with current practice and land development requirements.

Form adopted: 01/12/05; revised 8/24/05; 4/17/08

# **City of Santa Fe, New Mexico**

## **LEGISLATIVE SUMMARY**

**BILL NO. 2012-\_\_\_\_**

### **Distress Merchandise Sales**

**SPONSOR(S):** Calvert

**SUMMARY:** Section 18-1.2 SFCC 1987 defines a "distress merchandise sale" as:

"any offer to sell to the public, or sale to the public, of goods, wares or merchandise on the implied or direct representation that such sale is in anticipation of the termination of a business at its present location or that the sale is being held other than in the ordinary course of business."

The proposed bill includes amendments to the following sections of the Santa Fe City Code 1987:

- Section 14-8.10(B)(8) to include mandatory fines for violation of the Distress Merchandise Sales Sign ordinance;
- Section 14-8.10(H)(28)(f) to establish regulations for temporary distress merchandise sale signs in the H District;
- Section 18-5.1(C)(10) to establish that a distress merchandise sale license shall not be issued if the applicant or any of its principle officers or agents have been issued a notice of violation of Subsection 18-5.1(C) or (D); and
- Section 18-5.1(D)(6) to require that any sign related to a distress merchandise sale shall, at all times, be in compliance with Subsection 14-8.10.

**FISCAL IMPACT:** No

**PREPARED BY:** Melissa D. Byers, Legislative Liaison

**DATE:** August 21, 2012

**Attachments:** Bill  
FIR

*Exhibit "7"*

1 CITY OF SANTA FE, NEW MEXICO

2 BILL NO. 2012-\_\_

3 INTRODUCED BY:

4 Councilor Chris Calvert

5  
6  
7  
8  
9  
10 AN ORDINANCE

11 RELATING TO THE LAND DEVELOPMENT CODE, CHAPTER 14 SFCC 1987 AND  
12 ARTICLE 18-5.1 SFCC 1987 REGARDING DISTRESS MERCHANDISE SALES SIGNS  
13 AND LICENSES; AMENDING SECTION 14-8.10(B)(8) SFCC 1987 REGARDING  
14 VIOLATIONS OF SIGN REGULATIONS TO INCLUDE DISTRESS MERCHANDISE SALE  
15 SIGNS IN THE H DISTRICTS; CREATING A NEW SECTION 14-8.10(H)(28)(f) SFCC 1987  
16 REGARDING THE REGULATION OF DISTRESS MERCHANDISE SALE SIGNS IN THE  
17 H DISTRICTS; AMENDING SECTION 18-5.1 SFCC 1987 REGARDING THE GROUNDS  
18 FOR DENIAL OF A DISTRESS MERCHANDISE SALE LICENSE AND THE  
19 REVOCATION OF A DISTRESS MERCHANDISE SALE LICENSE; AND MAKING SUCH  
20 OTHER STYLISTIC AND GRAMMATICAL CHANGES AS ARE NECESSARY.

21  
22 BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

23 Section 1. Section 14-8.10(B)(8) SFCC 1987 (being Ord. No. 2007-17, §2, as  
24 amended) is amended to read:

25 (8) Fines for Violations

1 (a) Except as set forth in paragraph (b) below, the following are  
2 mandatory minimum fines to be imposed by the municipal  
3 court for violation of Section 14-8.10 SFCC 1987 upon  
4 issuance of a citation by the [L]land [U]use [D]department.  
5 The effective date of this paragraph (8) is July 25, 2011.

6 First violation \$100

7 Second violation \$200

8 Third and subsequent violations \$300

9 (b) The following are mandatory minimum fines to be imposed  
10 by the municipal court upon the holder of a *business* license  
11 for violation of Subsections 14-8.10(H)(28)(f) or (29) upon  
12 issuance of a citation by the land use department. The fines  
13 shall be imposed for each day or part of a day that the  
14 violation exists. The effective date of this paragraph is [July  
15 25, 2011] \_\_\_\_\_, 2012 [*effective date of this*  
16 *ordinance*].

17 First violation \$250

18 Second violation \$500

19 Third and subsequent violations \$500 and up to  
20 ninety days in jail

21 Section 2. A new Subsection 14-8.10(H)(28)(f) SFCC 1987 is ordained to read:

22 (f) [NEW MATERIAL] Distress Merchandise Sale Signs

23 (i) A *sign* advertising a distress merchandise sale is  
24 prohibited unless the following conditions are met:

25 A. A *sign permit* shall be obtained from the

city. Each *permit* shall allow a *business* to place a *sign* for a *permit* period corresponding to the licensed duration of the distress merchandise sale.

- B. A *sign* shall not exceed 12 inches by 24 inches.
- C. A *sign* must bear an official *city* of Santa Fe sticker, tag, or other device at all times during the *permit* period indicating the approved dates of the *permit* period.
- D. A *sign* shall be removed by the *permit* holder immediately after the *permit* period.

- (ii) The *city* may remove a *sign* if the above conditions are not met.

**Section 3. Section 18-5.1 SFCC 1987 (being Code 1953, §21-1, as amended) is amended to read:**

**18-5.1 Distress Merchandise Sale License.**

A. *License.* It shall be unlawful for any person to advertise or conduct a distress merchandise sale without having first obtained a license to do so in accordance with this section.

B. *Application.* Any person desiring to conduct a distress merchandise sale within the city shall make a written application verified under oath to the finance department at least fifteen (15) days prior to the date on which the sale is to commence unless the merchandise to be sold consists of perishable goods, or goods damaged by smoke, fire or water in which case the fifteen (15) day time period is not applicable. The application shall contain the following information:

- (1) The name and address of the owner of the goods, wares or merchandise to be

1 sold;

2 (2) A description of the place where such sale is to be held;

3 (3) The nature of the occupancy of the place where such sale is to be held,  
4 whether by lease or otherwise, and the effective date of the termination of the occupancy of  
5 the premises;

6 (4) The commencement and termination dates of the distress merchandise sale;

7 (5) A full and complete statement of the facts regarding the reasons why the  
8 distress merchandise sale is being conducted, the manner in which the sale is to be conducted,  
9 the means to be employed in advertising the sale, together with the content of any proposed  
10 advertisement or advertising themes, or copies thereof;

11 (6) If a defunct business is involved, the name and address of the defunct  
12 business, and the owner or former owner thereof,

13 (7) A complete and detailed inventory of the goods, wares and merchandise  
14 including goods received on consignment to be offered at the distress merchandise sale, the  
15 terms and conditions of the acquisition of the property, the amount and description of the  
16 goods, wares or merchandise to be sold and the location of the goods, wares and merchandise  
17 at the time of the filing of the application;

18 (8) A statement that the applicant has not in contemplation of the distress  
19 merchandise sale ordered, purchased or received on consignment any goods, wares or  
20 merchandise for the purpose of selling them at the sale within ninety (90) days prior to the  
21 filing of the application;

22 (9) A statement that no goods will be added to the inventory after the application  
23 is made or during the sale; and

24 (10) A statement that the applicant or its principal officers or agents have not been  
25 convicted of a violation of the Distress Sales Act [57-10-1 to 57-10-12 NMSA 1987] or this

1 section or had a license issued under the Act or this section revoked within five (5) years of  
2 the filing of this application.

3 C. *Examination and Investigation; Grounds for Denial of License.* The city may upon  
4 the filing of an application investigate the applicant and examine the applicant's affairs in relation to  
5 the proposed sale and may examine the inventory and records of the applicant. A license shall not be  
6 issued if it is found that:

7 (1) The applicant has held a sale subject to regulation under the Distress Sales  
8 Act [57-10-1 to 57-10-12 NMSA 1978] or this section at the location described in the  
9 application, within three (3) years from the date of the application;

10 (2) The ~~[application states that the]~~ applicant or any of its principal officers or  
11 agents have been convicted of a violation of the Distress Sales Act or this section or has had a  
12 license issued under the act or this section revoked within five (5) years of the filing of the  
13 application;

14 (3) The inventory submitted with the application includes goods, wares or  
15 merchandise purchased or held on consignment by the applicant or added to the applicant's  
16 stock in contemplation of such sale and for the purpose of selling the stock at the distress  
17 merchandise sale. Any unusual addition to the stock of goods, wares or merchandise which is  
18 made within ninety (90) days prior to the filing of the application shall be prima facie  
19 evidence that the addition was made in contemplation of the sale and for the purpose of  
20 selling the goods at the sale;

21 (4) The applicant, in ticketing the goods, wares or merchandise for sale has  
22 misrepresented the original retail price or value thereof;

23 (5) The advertisement or advertising themes are false, fraudulent, deceptive or  
24 misleading in any respect;

25 (6) The sales methods to be used by the applicant in conducting the sale will

1 work a fraud upon the purchasers;

2 (7) The information set forth in the application is insufficient;

3 (8) Representations made in the application are false; [or]

4 (9) The applicant has acquired bankrupt stock or other distress sale merchandise  
5 from another area within six (6) months of the application[-]; or

6 (10) The applicant or any of its principle officers or agents have been issued a  
7 notice of violation of Subsections 18-5.1(C) or (D).

8 D. *Issuance of License; Conditions.* If the application complies with the provisions of  
9 the Distress Sales Act [57-10-1 to 57-10-12 NMSA 1978] or this section and the license fee as set  
10 forth below has been paid, a license shall be issued to advertise and conduct the sale described in the  
11 application subject to the following conditions:

12 (1) The sale shall be held at the place named in the application;

13 (2) The sale shall be held by the licensee for a period of not more than ninety  
14 (90) days following the date set forth in the license;

15 (3) Only goods, wares and merchandise included in the inventory attached to the  
16 application shall be displayed on the premises and sold at the sale;

17 (4) The license shall be prominently displayed at the location of the sale at all  
18 times; [and]

19 (5) The licensee shall keep suitable books at the sale location that shall be open  
20 for inspection by the city during normal business hours[-]; and

21 (6) Any sign related to the distress merchandise sale shall, at all times, be in  
22 compliance with Subsection 14-8.10 SFCC 1987.

23 Section 4. **Effective Date.** This ordinance shall be effective immediately upon  
24 adoption.  
25



1 APPROVED AS TO FORM:

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4 GENO ZAMORA, CITY ATTORNEY

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25 *cao/Melissa/bills 2012/distress merchandise sales (clean)*

## City of Santa Fe Fiscal Impact Report (FIR)

This Fiscal Impact Report (FIR) shall be completed for each proposed bill or resolution as to its direct impact upon the City's operating budget and is intended for use by any of the standing committees of and the Governing Body of the City of Santa Fe. Bills or resolutions with no fiscal impact still require a completed FIR. Bills or resolutions with a fiscal impact must be reviewed by the Finance Committee. Bills or resolutions without a fiscal impact generally do not require review by the Finance Committee unless the subject of the bill or resolution is financial in nature.

### Section A. General Information

(Check) Bill: X Resolution: \_\_\_\_\_  
(A single FIR may be used for related bills and/or resolutions)

Short Title(s): Relating To The Land Development Code, Chapter 14 SFCC 1987 and Article 18-5.1 SFCC 1987 Regarding Distress Merchandise Sales Signs and Licenses; Amending Section 14-8.10(B)(8) SFCC 1987 Regarding Violations Of Sign Regulations To Include Distress Merchandise Sale Signs In The H Districts; Creating A New Section 14-8.10(H)(28)(F) SFCC 1987 Regarding The Regulation Of Distress Merchandise Sale Signs In The H Districts; Amending Section 18-5.1 SFCC 1987 Regarding The Grounds For Denial Of A Distress Merchandise Sale License And The Revocation Of A Distress Merchandise Sale License; and Making Such Other Stylistic And Grammatical Changes As Are Necessary.

Sponsor(s): Councilor Dominguez

Reviewing Department(s): City Attorney

Person Completing FIR: Melissa Byers Date: 8/20/12 Phone: 955-6518

Reviewed by City Attorney: [Signature] Date: 8/21/12

Reviewed by Finance Director: [Signature] Date: 8/21/12

### Section B. Summary

Briefly explain the purpose and major provisions of the bill/resolution.

The purpose of the bill amendments is to regulate distress merchandise sales signs and licenses

### Section C. Fiscal Impact

Note: Financial information on this FIR does not directly translate into a City of Santa Fe budget increase. For a budget increase, the following are required:

- a. The item must be on the agenda at the Finance Committee and City Council as a "Request for Approval of a City of Santa Fe Budget Increase" with a definitive funding source (could be same item and same time as bill/resolution)
- b. Detailed budget information must be attached as to fund, business units, and line item, amounts, and explanations (similar to annual requests for budget)
- c. Detailed personnel forms must be attached as to range, salary, and benefit allocation and signed by Human Resource Department for each new position(s) requested (prorated for period to be employed by fiscal year)\*

#### 1. Projected Expenditures:

- a. Indicate Fiscal Year(s) affected – usually current fiscal year and following fiscal year (i.e., FY 03/04 and FY 04/05)

- b. Indicate: "A" if current budget and level of staffing will absorb the costs  
"N" if new, additional, or increased budget or staffing will be required

- c. Indicate: "R" – if recurring annual costs  
"NR" if one-time, non-recurring costs, such as start-up, contract or equipment costs

- d. Attach additional projection schedules if two years does not adequately project revenue and cost patterns

- e. Costs may be netted or shown as an offset if some cost savings are projected (explain in Section 3 Narrative)

☒ Check here if no fiscal impact

Column #:	1	2	3	4	5	6	7	8
	Expenditure Classification	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs Recurring or "NR" Non-recurring	FY _____	"A" Costs Absorbed or "N" New Budget Required	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

Personnel*	\$ _____	_____	_____	\$ _____	_____	_____	_____
Fringe**	\$ _____	_____	_____	\$ _____	_____	_____	_____
Capital Outlay	\$ _____	_____	_____	\$ _____	_____	_____	_____
Land/ Building	\$ _____	_____	_____	\$ _____	_____	_____	_____
Professional Services	\$ _____	_____	_____	\$ _____	_____	_____	_____
All Other Operating Costs	\$ _____	_____	_____	\$ _____	_____	_____	_____
Total:	\$ _____			\$ _____			

\* Any indication that additional staffing would be required must be reviewed and approved in advance by the City Manager by attached memo before release of FIR to committees. \*\*For fringe benefits contact the Finance Dept.

## 2. Revenue Sources:

a. To indicate new revenues and/or

b. Required for costs for which new expenditure budget is proposed above in item 1.

Column #:	1	2	3	4	5	6
	Type of Revenue	FY _____	"R" Costs Recurring or "NR" Non-recurring	FY _____	"R" Costs - Recurring or "NR" Non-recurring	Fund Affected

_____	\$ _____	_____	\$ _____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____
_____	\$ _____	_____	\$ _____	_____	_____
Total:	\$ _____		\$ _____		

### 3. Expenditure/Revenue Narrative:

Explain revenue source(s). Include revenue calculations, grant(s) available, anticipated date of receipt of revenues/grants, etc. Explain expenditures, grant match(s), justify personnel increase(s), detail capital and operating uses, etc. (Attach supplemental page, if necessary.)

Not applicable.

---

### **Section D. General Narrative**

1. **Conflicts:** Does this proposed bill/resolution duplicate/conflict with/companion to/relate to any City code, approved ordinance or resolution, other adopted policies or proposed legislation? Include details of city adopted laws/ordinance/resolutions and dates. Summarize the relationships, conflicts or overlaps.

None that staff is aware of.

### 2. Consequences of Not Enacting This Bill/Resolution:

Are there consequences of not enacting this bill/resolution? If so, describe.

There would continue to be no regulation of distress merchandise sale signs.

### 3. Technical Issues:

Are there incorrect citations of law, drafting errors or other problems? Are there any amendments that should be considered? Are there any other alternatives which should be considered? If so, describe.

No.

### 4. Community Impact:

Briefly describe the major positive or negative effects the Bill/Resolution might have on the community including, but not limited to, businesses, neighborhoods, families, children and youth, social service providers and other institutions such as schools, churches, etc.

The proposed bill amendments will affect businesses that have distress merchandise sales by: regulating the types of signs that are used for such sales; including an enforcement mechanism to ensure compliance with the distress merchandise sale sign ordinance; and providing that applicants for a distress merchandise sale license may be denied such license if the applicant or any of its principle officers or agents have been issued a notice of violation of Subsections 18-5.1(C) or (D) SFCC 1987.

Form adopted: 01/12/05; revised 8/24/05; 4/17/08

# City of Santa Fe, New Mexico

# memo

DATE: August 29, 2012  
TO: Planning Commission  
FROM: Donna Wynant, AICP, Senior Planner *D.W.*  
SUBJECT: Request to Table- Mission Viejo

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**Case #2012-74. Mission Viejo General Plan Amendment.** JenkinsGavin Design and Development, Inc., agents for Ronald Sebesta, request approval of a General Plan Future Land Use Map Amendment to change the designation of 16.56± acres of land from Public/Institutional to Office. The property is located at 4601 Mission Bend, on the east side of Richards Avenue and south of Governor Miles Road. (Donna Wynant, Case Manager)

**Case #2012-75. Mission Viejo Rezoning to C-1.** JenkinsGavin Design and Development, Inc., agents for Ronald Sebesta, request rezoning of 16.56± acres from R-1 (Residential, one dwelling unit per acre) to C-1 (Office and Related Commercial). The property is located at 4601 Mission Bend, on the east side of Richards Avenue and south of Governor Miles Road. (Donna Wynant, Case Manager)

**Case #2012-76. Mission Viejo Special Use Permit.** JenkinsGavin Design and Development, Inc., agents for Ronald Sebesta, request a Special Use Permit for a school in C-1 (Office and Related Commercial) at 4601 Mission Bend, on the east side of Richards Avenue and south of Governor Miles Road. (Donna Wynant, Case Manager)

## RECOMMENDATION:

The applicant has requested the cases listed above for Mission Viejo be tabled until further notice as stated in the attached letter.

Attachment: 8/15/12 Letter from JenkinsGavin Design & Development, Inc.

*Exhibit '8'*



**jenkinsgavin**  
DESIGN & DEVELOPMENT INC

August 15, 2012

Donna Wynant  
Land Use Planner Senior  
Current Planning Division  
City of Santa Fe  
200 Lincoln Avenue  
Santa Fe, NM 87501

**RE: CASE #2012-74, MISSION VIEJO GENERAL PLAN AMENDMENT  
CASE #2012-75, MISSION VIEJO REZONING TO C-1  
CASE #2012-76, MISSION VIEJO SPECIAL USE PERMIT**

Dear Donna:

This letter is submitted to formally table the applications for the above cases until further notice. The applicant is working to address some neighbor concerns prior to proceeding with a public hearing.

Please do not hesitate to call should you have any questions or need additional information.

Thank you for your consideration.

Sincerely,

**JENKINS GAVIN DESIGN & DEVELOPMENT, INC.**

Jennifer Jenkins

Colleen Gavin, AIA

# City of Santa Fe, New Mexico

# memo

**DATE:** August 16, 2012 for the September 13, 2012 Meeting

**TO:** Planning Commission

**VIA:** Matthew S. O'Reilly, P.E., Director, Land Use Department *MSO*  
Tamara Baer, Planning Manager, Current Planning Division *TB*

**FROM:** Heather L. Lamboy, AICP, Senior Planner, Current Planning Division *HL*

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**Case #2012-91. Arroyo Central (Tierra Contenta Tract 50) Preliminary Subdivision Plat.** David Thomas of the Tierra Contenta Corporation, agent for the Santa Fe Community Housing Trust, proposes a 24-lot single family residential subdivision. The property is zoned PRC (Planned Residential Community) and is located on the southwest corner of Plaza Central and Contenta Ridge Drive. (Heather Lamboy, Case Manager)

**Case #2012-94. Arroyo Central (Tierra Contenta Tract 50) Development Plan.** David Thomas of the Tierra Contenta Corporation, agent for the Santa Fe Community Housing Trust, proposes a development plan for a 24-lot single family residential subdivision. The property is zoned PRC (Planned Residential Community) and is located on the southwest corner of Plaza Central and Contenta Ridge Drive. (Heather Lamboy, Case Manager)

## I. RECOMMENDATION

The Land Use Department recommends **APPROVAL WITH CONDITIONS** as outlined in this report.

*Cases #2012-91 and #2012-94 are combined for purposes of staff report, public hearing and Planning Commission comment, but each is a separate application and should be voted upon separately.*

## II. APPLICATION OVERVIEW

The applicant is requesting Preliminary Subdivision Plat and Development Plan approval to subdivide Tract 50 of Tierra Contenta, which was previously approved for a mix of single-family and townhouse development in 2006. The property was in foreclosure when it was purchased by the Santa Fe Community Housing Trust. The Housing Trust proposes to develop the tract with

*Exhibit "9"*

24 single-family residences.

The tract is part of Tierra Contenta Phase 2B, and is subject to the previously adopted design standards for Phase 2B. The design standards address architecture, site design, landscape, and infrastructure design.

The development will have two open space tracts, and will connect pedestrians to multi-purpose trails and sidewalks within Tierra Contenta. The site is located on a slope, with the Plaza Central elevation at approximately 12 feet higher than the lowest lots. There will be a series of small retaining walls constructed between lots to deal with this grade change. Water and sewer are available to serve the tract.

An Early Neighborhood Notification meeting was held on June 12, 2012, and 12 members of the public attended. Concerns expressed at the meeting included the location of two-story homes, which could impact views, and construction impacts. Other questions related to pricing and size of the homes.

### III. APPROVAL CRITERIA

#### 14-3.7 SUBDIVISIONS OF LAND

(C) **Approval Criteria**

- (1) In all subdivisions, due regard shall be shown for all natural features such as vegetation, water courses, historical sites and structures, and similar community assets that, if preserved, will add attractiveness and value to the area or to Santa Fe.

*Staff Comment: Although some fill will be utilized in this subdivision, the natural features have been preserved and protected. There are pedestrian connections through the Tierra Contenta drainages that create a community open space amenity.*

- (2) The planning commission shall give due regard to the opinions of public agencies and shall not approve the plat if it determines that in the best interest of the public health, safety or welfare the land is not suitable for platting and development purposes of the kind proposed. Land subject to flooding and land deemed to be topographically unsuited for building, or for other reasons uninhabitable, shall not be platted for residential occupancy, nor for other uses that may increase danger to health, safety or welfare or aggravate erosion or flood hazard. Such land shall be set aside within the plat for uses that will not be endangered by periodic or occasional inundation or produce unsatisfactory living conditions.

*Staff Comment: The subject tract is not subject to flooding or topographically unsuited for building. All review agencies find that all criteria for the public health, safety and welfare are addressed.*



- (3) All plats shall comply with the standards of Chapter 14, Article 9 (Infrastructure Design, Improvements and Dedication Standards).

***Staff Comment: The Infrastructure Design, Improvement and Dedication standards have been met.***

- (4) A plat shall not be approved that creates a nonconformity or increases the extent or degree of an existing nonconformity with the provisions of Chapter 14 unless a variance is approved concurrently with the plat.

***Staff Comment: No nonconformities will be created with the proposed plat.***

- (5) A plat shall not be approved that creates a nonconformity or increases the extent or degree of an existing nonconformity with applicable provisions of other chapters of the Santa Fe City Code unless an exception is approved pursuant to the procedures provided in that chapter prior to approval of the plat.

***Staff Comment: No nonconformity will be created with this plat.***

#### **14-3.8 DEVELOPMENT PLANS**

##### **(D) Approval Criteria and Conditions**

- (1) Necessary Findings

To approve a development plan, a land use board must make the following findings:

- (a) that it is empowered to approve the plan under the section of Chapter 14 described in the application;

***Staff Comment: The Planning Commission is empowered to act and either approve or deny this Development Plan proposal.***

- (b) that approving the development plan will not adversely affect the public interest; and

***Staff Comment: This proposal does not adversely affect the public interest.***

- (c) that the use and any associated buildings are compatible with and adaptable to buildings, structures and uses of the abutting property and other properties in the vicinity of the premises under consideration.

***Staff Comment: The proposed single-family residential uses are compatible with and adaptable to the buildings in this master-planned community. The proposal is consistent with the Tierra Contenta Master***

***Plan, the City of Santa Fe Zoning Code, and the City of Santa Fe General Plan policies and Future Land Use Map.***

(2) Conditions

The land use board may specify conditions of approval that are necessary to accomplish the proper development of the area and to implement the policies of the general plan, including:

- (a) special yards or open spaces;

***Staff Comment: Open Spaces have been designated on the site and link to other open spaces within this master-planned community.***

- (b) fences, walls or landscape screenings;

***Staff Comment: Fences, walls and landscaping comply with the Phase 2B Design Standards for Tierra Contenta.***

- (c) provision and arrangement of parking and vehicular and pedestrian circulation;

***Staff Comment: Vehicular circulation has been reviewed by the Traffic Engineer and the Fire Department, and residential parking will be provided on site while 12 guest parking spaces will be provided on the street.***

- (d) on-site or off-site street, sidewalk or utility improvements and maintenance agreements;

***Staff Comment: Street and sidewalk and other infrastructure improvements are provided and comply with Tierra Contenta Phase 2B Design Standards..***

- (e) noise generation or attenuation;

***Staff Comment: Not applicable.***

- (f) dedication of rights of way or easements or access rights;

***Staff Comment: Right-of-way will be dedicated as part of the plat, and meets all criteria to be accepted by the City.***

- (g) arrangement of buildings and use areas on the site;

***Staff Comment: Arrangement of the buildings and use areas on the site are consistent with the Tierra Contenta Master Plan and Santa Fe City Code.***

- (h) special hazard reduction measures, such as slope planting;

***Staff Comment: Retaining walls are designed in such a manner as to step with the landscape and minimize the height of the walls.***

- (i) minimum site area;

***Staff Comment: The proposal complies with the minimum lot size requirement.***

- (j) other conditions necessary to address unusual site conditions;

***Staff Comment: No comment.***

- (k) limitations on the type, extent and intensity of uses and development allowed;

***Staff Comment: The type and density of development is limited through the Tierra Contenta Master Plan. This proposal complies with the plan.***

- (l) maximum numbers of employees or occupants permitted;

***Staff Comment: Not applicable.***

- (m) hours of operation;

***Staff Comment: Not applicable.***

- (n) phases of development, if applicable;

***Staff Comment: Not applicable.***

- (o) establishment of an expiration date, after which the use must cease at that site;

***Staff Comment: Not applicable.***

- (p) establishment of a date for annual or other periodic review at a public hearing;

***Staff Comment: No additional review will be required in this case except for the Final Subdivision Plat review.***

- (q) plans for sustainable use of energy, recycling and solid waste disposal;

***Staff Comment: The site will be served by City of Santa Fe recycling and solid waste disposal services. Passive solar designs will be incorporated in order to ensure a more sustainable use of energy in the homes.***

- (r) any other appropriate conditions and safeguards, in conformity with Chapter 14 or provisions of other chapters of the Santa Fe City Code that regulate the development and use of land; and

***Staff Comment: This proposal complies with the provisions of Chapter 14 with the proposed conditions of approval.***

- (s) conditions may not be imposed that restrict the use to a specific person or group.

*Staff Comment: Not applicable.*

#### IV. CONDITIONS OF APPROVAL

The conditions of approval for Arroyo Central are generally technical in nature and can be addressed prior to the Final Plat public hearing. Some minor adjustments may have to be made to the street location and radius in order to accommodate comments from Traffic Engineering and the Fire Department.

#### V. ATTACHMENTS:

##### EXHIBIT A: Conditions of Approval

1. Conditions of Approval

##### EXHIBIT B: Development Review Team Memoranda

1. Request for Additional Information, Heather Lamboy
2. Technical Review Division Memorandum, Noah Berke
3. Technical Review Division Memorandum, Risana "RB" Zaxus
4. Solid Waste Division Memorandum, Randall Marco
5. Wastewater Division Memorandum, Stan Holland
6. Fire Department Memorandum, Rey Gonzales
7. Traffic Engineering Comments, John Romero

##### EXHIBIT C: Maps

1. Current Zoning
2. Future Land Use Map
3. Aerial

##### EXHIBIT D: ENN Materials

1. ENN Meeting Notice
2. ENN Responses to Guidelines
3. Meeting Notes 6-12-12

##### EXHIBIT E: Applicant Submittals

1. Transmittal Letter
2. Proposed Subdivision Plat, Arroyo Central
3. Proposed Development Plan, Arroyo Central

**City of Santa Fe, New Mexico**

# **Exhibit A**

**Conditions of Approval**

**Arroyo Central Subdivision Plat and Development Plan-Conditions of Approval**  
 Planning Commission  
 Case #2011-91 and #2011-94 – Arroyo Central Preliminary Subdivision Plat and Development Plan

Conditions	Department	Staff
<p>Review comments are based on submittals received on July 19, 2012. The comments below should be considered as Conditions of Approval to be addressed prior to subsequent submittals unless otherwise noted:</p> <ol style="list-style-type: none"> <li>1. Acceptance of this development plan does not imply approval of the temporary traffic control plan. The temporary traffic control plan shall be submitted at the time of building permit.</li> <li>2. The Developer shall change the term CMP to Storm Drain Pipe throughout the development plan set.</li> <li>3. The Developer shall add a sheet(s) to the development plans for Street Lighting:                         <ol style="list-style-type: none"> <li>a. Indicate locations of additional Street Lights. Locate one Street Light on the northeast side (inside) of the curve of the 90 degree bend in Arroyo Central and one on the northwest corner of the intersection of Arroyo Central and Contenta Ridge Road.</li> <li>b. Street Light Poles shall be 23 ft. high Aluminum poles with 100 watt High Pressure Sodium (HPS) Luminaires; design and specifications subject to review and approval by the City of Santa Fe Traffic Engineering Division.</li> </ol> </li> <li>4. The Developer shall increase the radius of the driving surface at the ninety degree (90°) bend in the alley to R=15 feet, and adjust the 16 ft wide Right-of-Way lines correspondingly. The developer shall revise all relevant sheets including sheet C-10 of the development plan and sheet S-2 (also known as 4B) of the preliminary plat submittal.</li> <li>5. The Developer shall make the following changes to the Note Sheet, sheet C-15, within the group of notes titled <b>City of Santa Fe Public Infrastructure General Construction Notes</b>:                         <ol style="list-style-type: none"> <li>a. In note 3 - delete "2000" before the word edition and replace it with the word "current";</li> <li>b. Replace note 4 in its entirety with "The order of precedence, listed in order of highest precedence, shall be: project specifications, plans, City of Santa Fe Standard Drawings, SSHBC and APWASS."</li> <li>c. In notes 15 and 27 replace the telephone number with 505-955-6631.</li> </ol> </li> <li>6. The Developer shall make the following changes to the Striping and Signage Plan, sheet C-17, to be reviewed and approved by the Traffic Engineering Division:                         <ol style="list-style-type: none"> <li>a. No Parking Fire Lane Signs: Change the sign designation per the Manual on Uniform Traffic Control Devices (MUTCD) to R7-1-FL, "NO PARKING, FIRE LANE" and the size to 12 x 18 inches, red letters on white background; Signs shall have right, left or double arrow as applicable and shall be spaced approximately every 100-200 feet apart.</li> <li>b. Delete notes calling out "yellow painted curb in no parking zone";</li> <li>c. 15 mph advisory speed warning plaque W13-1 (used below curve signs): Change size to 18 x 18 inches;</li> <li>d. Street Name Signs: Change lettering on street name signs to be a combination lower-case with initial upper-case, white letters on green background, series C in accordance with the current MUTCD;                                 <ol style="list-style-type: none"> <li>i. Arroyo Central (2 signs): Use 4.5 inch lower-case letters with 6 inch initial upper-case letters.</li> </ol> </li> </ol> </li> </ol>	Traffic Engineering	John Romero/ Sandra Winkelmaier

**Arroyo Central Subdivision Plat and Development Plan—Conditions of Approval**  
 Planning Commission  
 Case #2011-91 and #2011-94 – Arroyo Central Preliminary Subdivision Plat and Development Plan

Conditions	Department	Staff
ii. Plaza Central and Contenta Ridge: Use 3 inch lower-case letters with 4 inch initial upper-case letters. e. Replace SIGN NOTE, "All signs to be per MUTCD latest edition" with the following notes and title: <b><u>CITY OF SANTA FE STRIPING, SIGN AND POST REQUIREMENTS:</u></b> i. All striping shall comply with the current edition of the NMDOT Standard Specifications for Highway and Bridge Construction (SSHBC); ii. All aluminum panel signing and steel posts shall comply with the current editions of the NMDOT – SSHBC and the MUTCD; and iii. Sign posts with approved breakaway device shall be "Marion" brand four (4) lb/ft, U channel – Black. No substitutes allowed; and iv. Sign sheeting shall be "3M" brand high intensity. No Substitutes allowed.		
A review has been conducted of the case for compliance with the International Fire Code (IFC) 2009 Edition. Below are the following requirements that shall be addressed prior to approval by Planning Commission.  1. Shall Comply with International Fire Code (IFC) 2009 Edition. 2. Shall Provide <b>No Parking Fire Lane</b> signs with minimum dimension of 12 inches wide by 18 inches high and red letters on a white background in alleys or other locations as indicated on plat. 3. Shall meet all water requirements set forth by IFC 2009 Edition. 4. Shall meet the 150 feet linear fire hose access to each building from the roadway.	Fire	Rey Gonzales
The subject property is accessible to the City sanitary sewer system and connection to the City sewer system is mandatory and shall be made prior to any new construction on the lot. Additionally, the following notes shall be included on the plat and development plans:  Wastewater Utility Expansion Charges (UEC) shall be paid at the time of building permit application.  <b>Additional Comments:</b> 1. Correct 40' ROW roadway sections to show correct stationing, road names and correct dimensioning of features. 2. Show water and sewer locations in all typical roadway sections. 3. Provide the P&P for the proposed new sewer line connection to the existing manhole. 4. Provide typical section detail showing geometric relation of sewer main, water main, dry utilities and sewer service lines for sewer lines with less than 6 feet burial depth.	Wastewater	Stan Holland

**Arroyo Central Subdivision Plat and Development Plan—Conditions of Approval**  
 Planning Commission  
 Case #2011-91 and #2011-94 – Arroyo Central Preliminary Subdivision Plat and Development Plan

<p>The following review comments are to be considered as conditions of approval:</p> <p><u>Preliminary Plat (sheet 4A):</u></p> <ul style="list-style-type: none"> <li>• Modify Subdivision Note #6 to reflect that the pond that serves Tract 50 is existing and was built with Phase 2A, Unit 2.</li> <li>• Revise Subdivision Note # 7 to remove reference to surety bond and refer instead to Financial Guarantee.</li> <li>• Add a note that no lot shall have access off of Plaza Central or Contenta Ridge.</li> </ul> <p><u>Preliminary Plat (sheet 4B):</u></p> <ul style="list-style-type: none"> <li>• Revise Flood Zone Note to reference ONLY the 2/18/11 FIRM.</li> </ul> <p><u>Development Plan (sheet D-1)</u></p> <ul style="list-style-type: none"> <li>• Add to the legend a definition of “POS.”</li> </ul> <p><u>Grading and Drainage Plan (Sheet C-2):</u></p> <ul style="list-style-type: none"> <li>• Show entire existing stormwater pond and label as such (or define hatching in legend.</li> </ul>	<p>Technical Review</p>	<p>RB Zaxus</p>
<p>Staff recommends approval if the following items are addressed and brought into compliance prior to recordation of the Final Plat:</p> <ol style="list-style-type: none"> <li>1. On sheet D-1, note 10 needs to have language changed or removed to indicate that the Developer will take full responsibility of the approved landscape until the Financial Guarantee is released by the City. It is recommended that the Developer provide information on how they will ensure that the adjacent homeowner will know when they become responsible for the street tree.</li> <li>2. On sheet D-1, note 17, states that street trees will be a minimum of 2 ½ inch caliper at time of planting and that they will be spaced every 45 feet. On sheet L-1, the Planting List says trees are 1 ½ inch caliper and according to Tierra Contenta Streetscape Standards these trees should be 30 feet on center. Provide uniform tree sizes throughout plan set and staff recommends a 2 inch caliper tree.</li> <li>3. Provide more than one species of tree and provide full species name. For example, if the common name is “Honey Locust”; identify and specify which type of “Honey Locust” is being used.</li> <li>4. Follow “Streetscape Standards” for placement of trees in relation to curbs and sidewalks.</li> </ol>	<p>Technical Review</p>	<p>Noah Berke</p>
<ol style="list-style-type: none"> <li>1. A feeder trail shall be constructed in the open space tract to connect to the Tierra Contenta trails network (to the south of the subdivision plat).</li> </ol>	<p>Current Planning</p>	<p>Heather Lamboy</p>




**City of Santa Fe, New Mexico**

# **Exhibit B**

**Development Review Team Memoranda**



## City of Santa Fe Land Use Department Request for Additional Submittals

Project Name	Arroyo Central @ Tierra Contenta (Phase 2B, Tract 50)
Project Location	Southwest corner of Plaza Central and Contenta Ridge
Project Description	<p><b>Case #2012-91. Arroyo Central (Tierra Contenta Tract 50) Preliminary Subdivision Plat.</b> David Thomas of the Tierra Contenta Corporation, agent for the Santa Fe Community Housing Trust, proposes a 24-lot single family residential subdivision. The zoning for the property is PRC (Planned Residential Community) and the property is located on the southwest corner of Plaza Central and Contenta Ridge Drive. (Heather Lamboy, Case Manager)</p> <p><b>Case #2012-94. Arroyo Central (Tierra Contenta Tract 50) Development Plan.</b> David Thomas of the Tierra Contenta Corporation, agent for the Santa Fe Community Housing Trust, proposes a development plan for a 24-lot single family residential subdivision. The zoning for the property is PRC (Planned Residential Community) and the property is located on the southwest corner of Plaza Central and Contenta Ridge Drive. (Heather Lamboy, Case Manager)</p>
Applicant / Owner	Dave Thomas, Tierra Contenta Corporation
Application Type	Subdivision Plat and Development Plan
Land Use Staff	Heather L. Lamboy, AICP 

### Comments:

I have reviewed the plans and offer the following comments:

- Remove the "Approved for Construction" box on the cover sheet. This is not consistent with City of Santa Fe signature line protocols. The signature line was done correctly on the Preliminary Plat, Sheet 1 of 2.
- Note #10, under "Subdivision Notes" is incomplete. Please finish the sentence.
- On Sheet D-1, Note #1, please include that property development is also subject to the Design Standards for Phase 2B of Tierra Contenta.
- On Sheet D-1, Note #18 is incomplete. Since the Development Plan is only one sheet long, you may consider deleting this note.

- On Sheet C-5, the Water Service Table references "Alegria Street." That should be changed to Arroyo Central.

The Technical Review Division (Noah Berke) had numerous concerns regarding landscaping for the subdivision. Please see his memorandum, which is attached hereto. Additionally, the City Engineer had some technical issues that need to be addressed.

Additional comments may be received after the date of this review. As I receive them, I will send them along to you.

If you would like to have your updated drawings reviewed prior to the hearing, please provide one CD and two paper copies of the updated drawings by August 15, 2012. This last review will reduce the overall number of conditions that will be required going forward to Final Subdivision Plat.

The case is scheduled to be heard by the Planning Commission on September 6, 2012. Around August 20<sup>th</sup> we will be contacting you to give you the public notice sign and public notice letter for the hearing. Finally, on August 27, we will be asking you to submit reduced 11"x17" copies for the Planning Commission public hearing packets.

If you have any questions, please feel free to contact me at 955-6656.

# City of Santa Fe, New Mexico

# memo

**DATE:** August 27, 2012  
**TO:** Heather Lamboy, AICP, Land Use Planner Senior  
**FROM:** Noah Berke, CFM, Planner Technician Senior  
**SUBJECT:** Request for Additional Submittals for Case #2012-91 Arroyo Central Preliminary Subdivision Plat and Case #2012-94 Arroyo Central Development Plan

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Below are comments for Arroyo Central Preliminary Subdivision Plat and Development Plan requests. These comments are based on documentation and plans dated July 9, 2012:

Staff recommends approval if the following items are addressed and brought into compliance:

- On sheet D-1, note 10 needs to have language changed or removed to indicate that the Developer will take full responsibility of the approved landscape until the Financial Guarantee is released by the City. It is recommended that the Developer provide information on how they will ensure that the adjacent homeowner will know when they become responsible for the street tree.
- On sheet D-1, note 17, states that street trees will be a minimum of 2 ½ inch caliper at time of planting and that they will be spaced every 45 feet. On sheet L-1, the Planting List says trees are 1 ½ inch caliper and according to Tierra Contenta Streetscape Standards these trees should be 30 feet on center. Provide uniform tree sizes throughout plan set and staff recommends a 2 inch caliper tree.
- Provide more than one species of tree and provide full species name. For example, if the common name is "Honey Locust"; identify and specify which type of "Honey Locust" is being used.
- Follow "Streetscape Standards" for placement of trees in relation to curbs and sidewalks.

# City of Santa Fe, New Mexico

# memo

DATE: July 26, 2012

TO: Heather Lamboy, Case Manager

FROM: Risana "RB" Zaxus, PE  
City Engineer for Land Use Department

RE: Cases # 2012-91 and # 2012-94  
Arroyo Central (TC Tract 50) Preliminary Subdivision Plat  
Arroyo Central (TC Tract 50) Development Plan

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The following review comments are to be considered as conditions of approval:

Preliminary Plat (sheet 4A):

- Modify Subdivision Note #6 to reflect that the pond that serves Tract 50 is existing and was built with Phase 2A, Unit 2.
- Revise Subdivision Note # 7 to remove reference to surety bond and refer instead to Financial Guarantee.
- Add a note that no lot shall have access off of Plaza Central or Contenta Ridge.

Preliminary Plat (sheet 4B):

- Revise Flood Zone Note to reference ONLY the 2/18/11 FIRM.

Development Plan (sheet D-1)

- Add to the legend a definition of "POS."

Grading and Drainage Plan (Sheet C-2):

- Show entire existing stormwater pond and label as such (or define hatching in legend).

# City of Santa Fe, New Mexico

# memo

DATE: July 26, 2012

TO: Heather Lamboy, Case Manager

FROM: Randall Marco, Solid Waste Division

RE: Cases # 2012-91 and # 2012-94  
Arroyo Central (TC Tract 50) Preliminary Subdivision Plat  
Arroyo Central (TC Tract 50) Development Plan

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There are no solid waste issues at this time.

# City of Santa Fe, New Mexico

# memo

**DATE:** August 2, 2012  
**TO:** Heather Lamboy, Senior Planner  
**FROM:** Stan Holland, Engineer, Wastewater Division  
**SUBJECT:** Case #2012-91 & 94 Arroyo Central Preliminary Plat and Development Plan

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**The subject property is accessible to the City sanitary sewer system:**

Connection to the City sewer system is mandatory and shall be made prior to any new construction on the lot. Additionally, the following notes shall be included on the plat and development plans:

1. Wastewater Utility Expansion Charges (UEC) shall be paid at the time of building permit application.

**Additional Comments:**

1. A minimum 25 foot wide exclusive water and sewer easement is required in the alley.
2. Update the alley typical roadway section to reflect a 25 foot water and sewer easement
3. Correct 40' ROW roadway sections to show correct stationing, road names and correct dimensioning of features
4. Show water and sewer locations in all typical roadway sections
5. Provide the P&P for the proposed new sewer line connection to the existing manhole
6. Provide typical section detail showing geometric relation of sewer main, water main, dry utilities and sewer service lines for sewer lines with less than 6 feet burial depth.

# City of Santa Fe, New Mexico

## memo

**DATE:** August 1, 2012

**TO:** Case Manager: Heather Lamboy

**FROM:** Reynaldo Gonzales, Fire Marshal 

**SUBJECT:** Case #2012-91, 2012-94 Arroyo Central ( Tierra Contenta Tract 50)

I have conducted a review of the above mentioned case for compliance with the International Fire Code (IFC) 2009 Edition. Below are the following requirements that shall be addressed prior to approval by Planning Commission. If you have questions or concerns, or need further clarification please call me at 505-955-3316.

1. Shall Comply with International Fire Code (IFC) 2009 Edition.
2. Shall Provide **No Parking Fire Lane** signs with minimum dimension of 12 inches wide by 18 inches high and red letters on a white background.
3. Shall meet all water requirements set forth by IFC 2009 Edition.
4. Shall meet the 150 feet radius access to each building from the roadway.



# City of Santa Fe, New Mexico

# memo

**DATE:** August 1, 2012

**TO:** Heather Lamboy, Planning and Land Use Department

**VIA:** John Romero, Traffic Engineering Division Director *JR*

**FROM:** Sandra Kassens, Traffic Engineering Division *SK*

**SUBJECT:** Arroyo Central (Tierra Contenta Tract 50) Preliminary Subdivision Plat and Development Plan. (Case #2012-091 and 94)

## ISSUE

David Thomas of the Tierra Contenta Corporation, agent for the Santa Fe Community Housing Trust, requests Preliminary Subdivision Plat and Development Plan approval for a 24-lot single family residential subdivision. The Zoning for the property is PRC (Planned Residential Community) and the property is located on the southwest corner of Plaza Central and Contenta Ridge Drive.

## RECOMMENDED ACTION:

Review comments are based on submittals received on July 19, 2012. The comments below should be considered as Conditions of Approval to be addressed prior to subsequent submittals unless otherwise noted:

1. Acceptance of this development plan does not imply approval of the temporary traffic control plan. The temporary traffic control plan shall be submitted at the time of building permit.
2. The Developer shall change the term CMP to Storm Drain Pipe throughout the development plan set.
3. The Developer shall add a sheet(s) to the development plans for Street Lighting:
  - a. Indicate locations of additional Street Lights. Locate one Street Light on the northeast side (inside) of the curve of the 90 degree bend in Arroyo Central and one on the northwest corner of the intersection of Arroyo Central and Contenta Ridge Road.
  - b. Street Light Poles shall be 23 ft. high Aluminum poles with 100 watt High Pressure Sodium (HPS) Luminaires; design and specifications subject to review and approval by the City of Santa Fe Traffic Engineering Division.
4. The Developer shall increase the radius of the driving surface at the ninety degree (90°) bend in the alley to R=15 feet, and adjust the 16 ft wide Right-of-

Way lines correspondingly. The developer shall revise all relevant sheets including sheet C-10 of the development plan and sheet S-2 (also known as 4B) of the preliminary plat submittal.

5. The Developer shall make the following changes to the Note Sheet, sheet C-15, within the group of notes titled **City of Santa Fe Public Infrastructure General Construction Notes**:

- a. In note 3 - delete "2000" before the word edition and replace it with the word "current";
- b. Replace note 4 in its entirety with "The order of precedence, listed in order of highest precedence, shall be: project specifications, plans, City of Santa Fe Standard Drawings, SSHBC and APWASS."
- c. In notes 15 and 27 replace the telephone number with 505-955-6631.

6. The Developer shall make the following changes to the Striping and Signage Plan, sheet C-17, to be reviewed and approved by the Traffic Engineering Division:

- a. No Parking Fire Lane Signs: Change the sign designation per the Manual on Uniform Traffic Control Devices (MUTCD) to R7-1-FL, "NO PARKING, FIRE LANE" and the size to 12 x 18 inches, red letters on white background; Signs shall have right, left or double arrow as applicable and shall be spaced approximately every 100-200 feet apart.
- b. Delete notes calling out "yellow painted curb in no parking zone";
- c. 15 mph advisory speed warning plaque W13-1 (used below curve signs): Change size to 18 x 18 inches;
- d. Street Name Signs: Change lettering on street name signs to be a combination lower-case with initial upper-case, white letters on green background, series C in accordance with the current MUTCD;
  - i. Arroyo Central (2 signs): Use 4.5 inch lower-case letters with 6 inch initial upper-case letters.
  - ii. Plaza Central and Contenta Ridge: Use 3 inch lower-case letters with 4 inch initial upper-case letters.
- e. Replace SIGN NOTE, "All signs to be per MUTCD latest edition" with the following notes and title: **CITY OF SANTA FE STRIPING, SIGN AND POST REQUIREMENTS**:

- i. All striping shall comply with the current edition of the NMDOT Standard Specifications for Highway and Bridge Construction (SSHBC);
- ii. All aluminum panel signing and steel posts shall comply with the current editions of the NMDOT - SSHBC and the MUTCD; and
- iii. Sign posts with approved breakaway device shall be "Marion" brand four (4) lb/ft, U channel - Black. No substitutes allowed; and
- iv. Sign sheeting shall be "3M" brand high intensity. No Substitutes allowed.

If you have any questions or need any more information, feel free to contact me at 955-6697. Thank you.

**City of Santa Fe, New Mexico**

# **Exhibit C**

**Maps:**

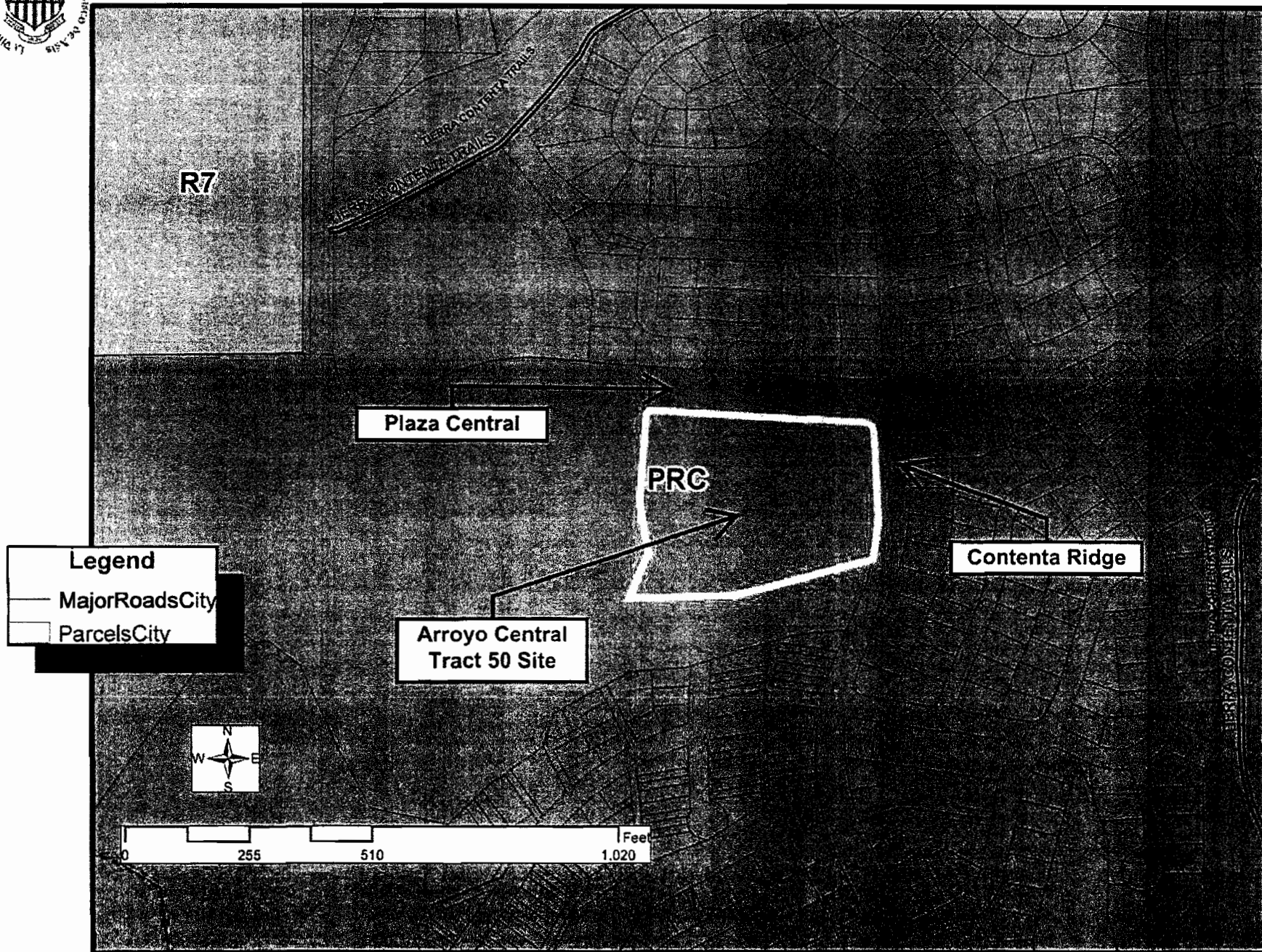
**Zoning**

**Future Land Use**

**Aerial**

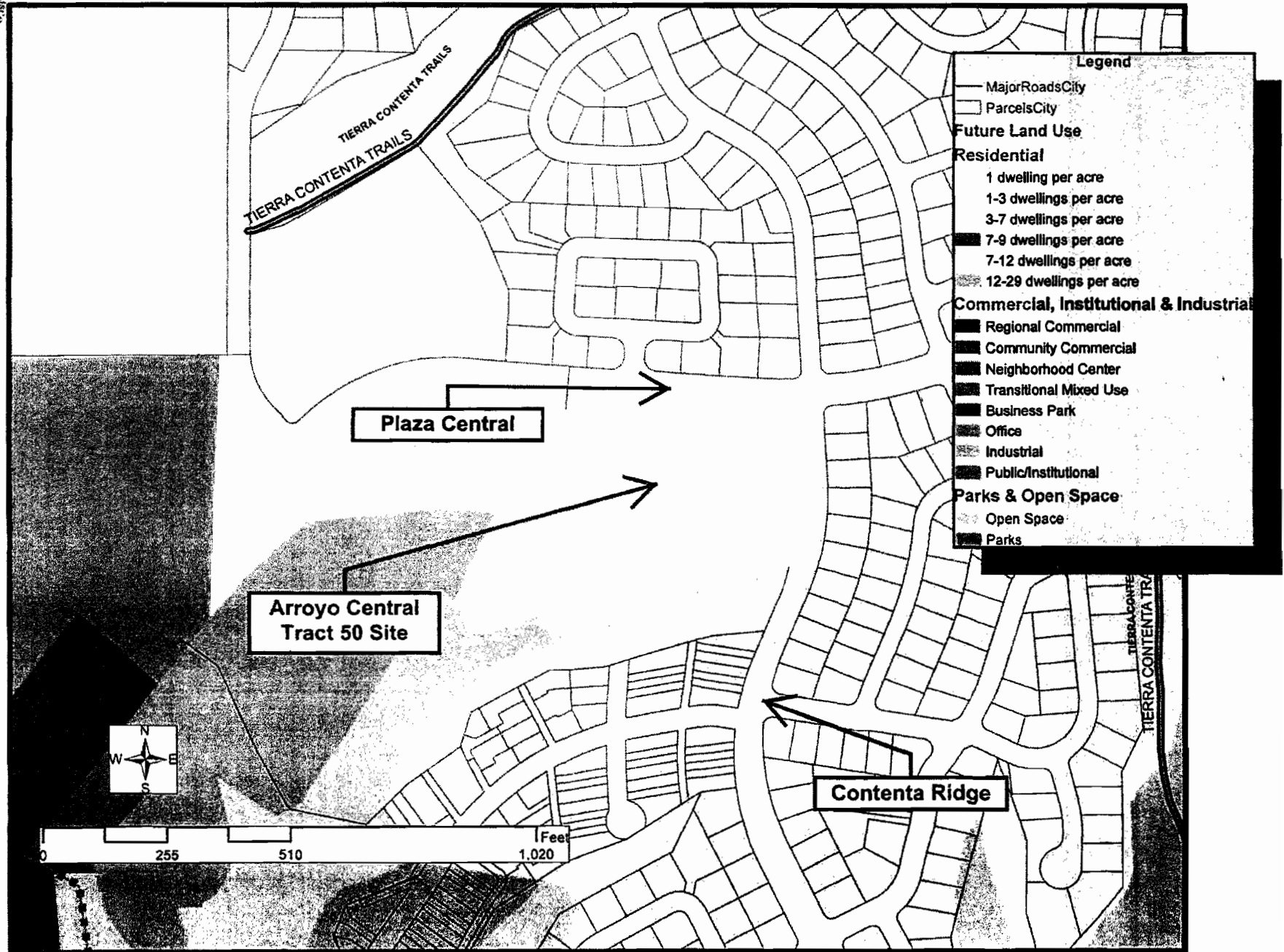


# ARROYO CENTRAL





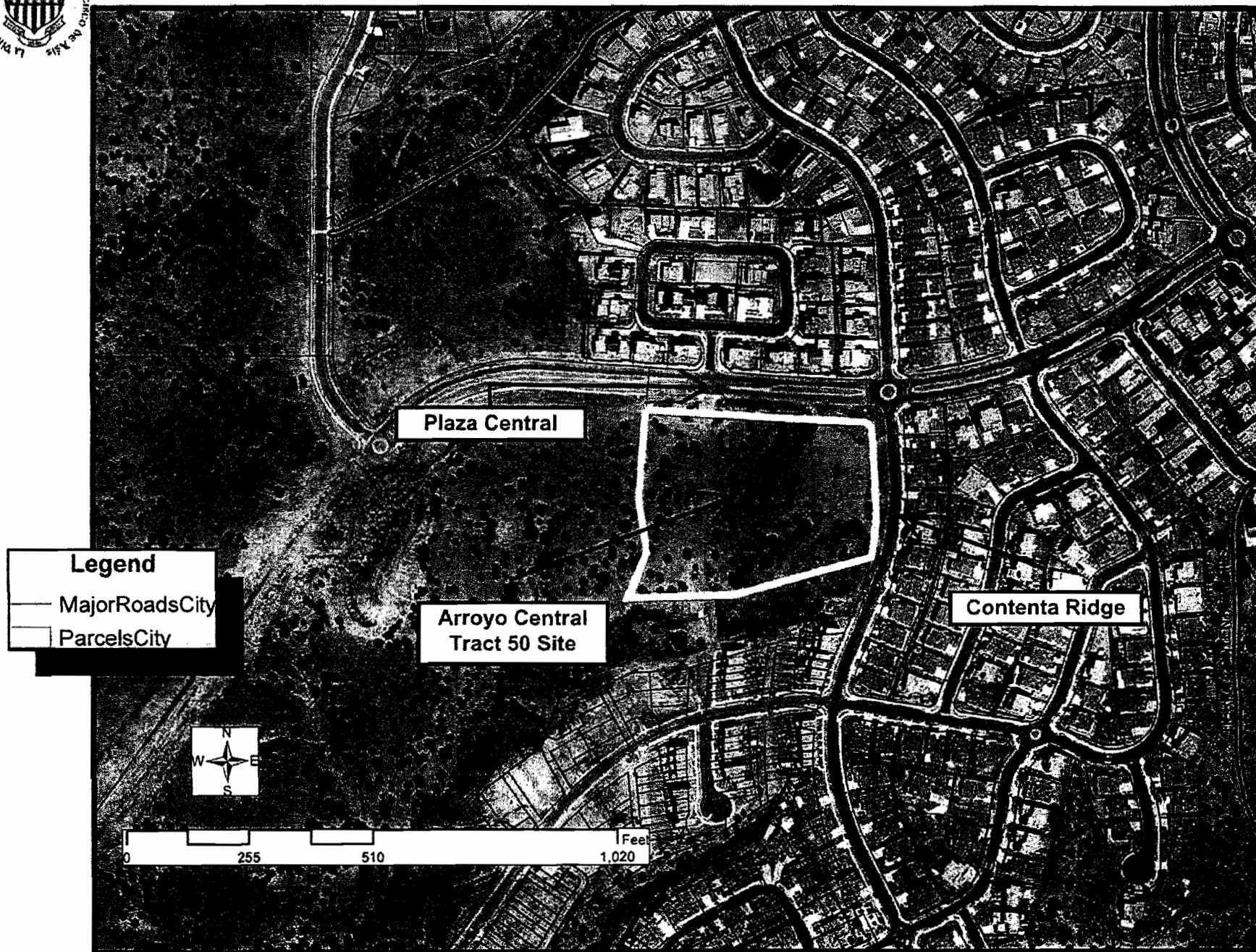
# ARROYO CENTRAL







# ARROYO CENTRAL



**City of Santa Fe, New Mexico**

# **Exhibit D**

**ENN Materials:**

**Meeting Notice**

**Responses to Guidelines**

**ENN Meeting Summary 6-12-12**

# ENN Meeting Notice Letter

## EARLY NEIGHBORHOOD NOTIFICATION MEETING

May 25, 2012

Dear Neighbor:

**David R. Thomas, Agent for Santa Fe Community Housing Trust is requesting to subdivide 3.84 acres of vacant property at the southwest corner of Plaza Central and Contenta Ridge in Phase 2B of Tierra Contenta into 24 lots for development as single-family housing.**

In accordance with the requirements of the City of Santa Fe's Early Neighborhood Notification regulations, this is to inform you that a meeting is scheduled for:

**Time: 5:30 PM**  
**When: Tuesday, June 12, 2012**  
**Where: Southside Library**  
**6599 Jaguar Drive**  
**Santa Fe, NM 87507**

Early Neighborhood Notification is intended to provide for an exchange of information between prospective applicants for development projects and the project's neighbors before plans become too firm to respond meaningfully to community input.

Attached, please find a vicinity map and proposed site plan. If you have any questions or comments, please contact **Dave Thomas at 505-471-4551 or email at [dave@tierracontenta.org](mailto:dave@tierracontenta.org).**

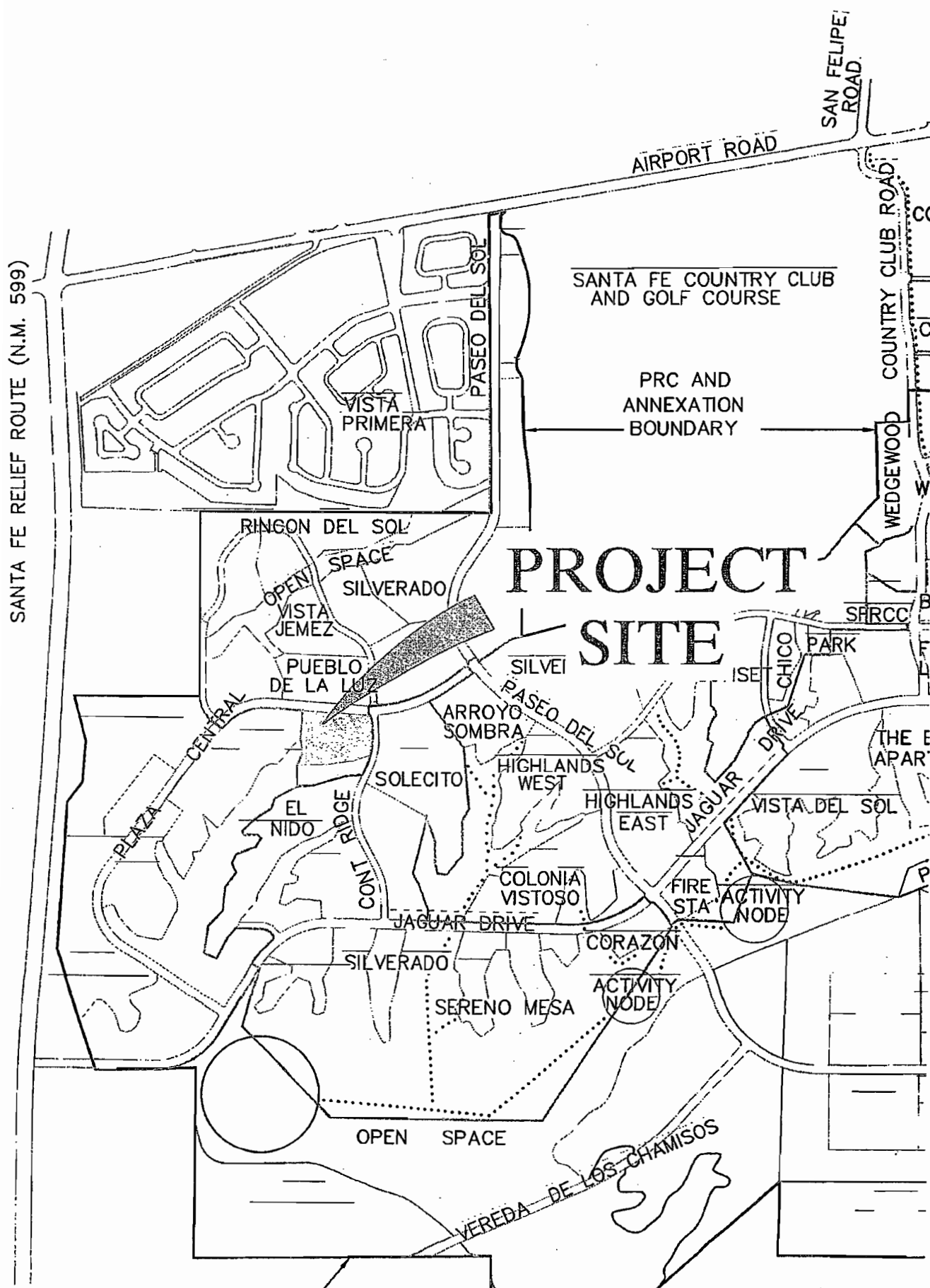
Sincerely,

**David R. Thomas, P.E.**  
**Project Engineer**

Attachments:  
Vicinity map  
Site plan



SANTA FE RELIEF ROUTE (N.M. 599)



## **Project Description**

**Name of Project:** Arroyo Central

**Location:** Southwest quadrant of Plaza Central and Contenta Ridge

**Legal Description:** Tierra Contenta Phase 2B, Tract 50

**Developer:** Santa Fe Community Housing Trust

**Area:** 3.844 acres

**Development:** 24 Single-family detached homes.

**Density:** 6.24 dwelling units per acre (6.24 d.u./ac.)

**History:** This property was created with Phase 2B of Tierra Contenta in 2004 and entitled to a maximum of 27 units with a maximum allowable density of 7 d.u./ac. The property was sold to a private developer in 2005 and received all necessary approvals for development by the City in 2006. The developer failed to develop the property within the time required by the City and the approvals were lost. The property was sold to the Santa Fe Community Housing Trust in 2010 with the intent to develop the property in a similar manner as previously approved.

Planning and design for development of the property, renamed Arroyo Central, resumed in 2011. The original design was used as much as possible. The street and alley through the subdivision remains basically the same as in the original design. The townhome units were eliminated reducing the number of homes from 27 to 24.

There is a single street through the subdivision connecting Plaza Central and Contenta Ridge. Vehicle access to about half the homes are by an alley which will have garages in the rear. The other half will be served with single driveways off the interior street. No driveways will connect directly to either Plaza Central or Contenta Ridge. The existing connection to Plaza Central will remain. A new street connection and a new alley connection will be made to Contenta Ridge.

**Anticipated Schedule:** The application for preliminary subdivision and development plan approval is scheduled for July 2012. The hearing before the Planning Commission would likely to be in September 2012. Assuming preliminary approval the hearing before the final approval would be in November 2012. Construction would begin in the spring of 2013.

**ENN Guidelines:** Responses to the 11 discussion items for ENN meetings as required by the City is attached.



## ENN GUIDELINES

### Applicant Information

Project Name: Arroyo Central (Tierra Contenta Phase 2B, Tract 50)

Name:	<u>Thomas</u>	<u>David</u>	<u>R</u>
	<i>Last</i>	<i>First</i>	<i>M.I.</i>
Address:	<u>PMB 220 369 Montezuma</u>		
	<i>Street Address</i>	<i>Suite/Unit #</i>	
	<u>Santa Fe</u>	<u>NM</u>	<u>87501</u>
	<i>City</i>	<i>State</i>	<i>ZIP Code</i>
Phone:	<u>( 505 ) 920-5503</u>		E-mail Address: <u>dave@tierracontenta.org</u>

**Please address each of the criteria below. Each criterion is based on the Early Neighborhood Notification (ENN) guidelines for meetings, and can be found in Section 14-3.1(F)(5) SFCC 2001, as amended, of the Santa Fe City Code. A short narrative should address each criterion (if applicable) in order to facilitate discussion of the project at the ENN meeting. These guidelines should be submitted with the application for an ENN meeting to enable staff enough time to distribute to the interested parties. For additional detail about the criteria, consult the Land Development Code.**

**(a) EFFECT ON CHARACTER AND APPEARANCE OF THE SURROUNDING NEIGHBORHOODS. For example: number of stories, average setbacks, mass and scale, landscaping, lighting, access to public places, open spaces and trails.**

There are approximately 140 homes that are completed and occupied within 300 feet of the proposed project. When adjacent tracts are developed there will be an additional 80 residential units. The project will be surrounded by housing on all sides except the south where there is a strip of arroyo open space about 200 feet wide.

The single-family detached homes in Arroyo Central will be subject to the Tierra Contenta Design Standards as are the existing and future homes in the area. These standards include architectural guidelines, setbacks, landscaping, lighting, etc. The homes will be one and two stories as are the others in the area.

**(b) EFFECT ON PROTECTION OF THE PHYSICAL ENVIRONMENT. For example: trees, open space, rivers, arroyos, floodplains, rock outcroppings, escarpments, trash generation, fire risk, hazardous materials, easements, etc.**

The entire tract will be graded, including removal of vegetation, for home construction, pavement for roads, alleys, and driveways. Disturbed land will be re-seeded and landscaped. One and two story homes will rise above the horizon and affect views. Gabion retaining walls are necessary along the west and south sides of the project. These walls will be similar to those across the arroyo open space to the south. Construction will not significantly disturb the adjacent open space. A public access easement and stairs will be provided to the open space within the project.

Most storm water runoff will be directed to the storm drains in the interior and adjacent streets. It will then be discharged to the arroyo open space and the existing regional detention pond system. City regulations require that the storm water be conveyed to the regional detentions ponds in a manner that minimizes damage from erosion and sedimentation.

- (b) IMPACTS ON ANY PREHISTORIC, HISTORIC, ARCHAEOLOGICAL OR CULTURAL SITES OR STRUCTURES, INCLUDING ACEQUIAS AND THE HISTORIC DOWNTOWN. For example: the project's compatibility with historic or cultural sites located on the property where the project is proposed.**

An archaeological report has been prepared which encompasses all of the Tierra Contenta master planned area including this development and all pertinent data has been recovered and/or recorded. Archaeological clearance has been provided by the City.

- (c) RELATIONSHIP TO EXISTING DENSITY AND LAND USE WITHIN THE SURROUNDING AREA AND WITH LAND USES AND DENSITIES PROPOSED BY THE CITY GENERAL PLAN. For example: how are existing City Code requirements for annexation and rezoning, the Historic Districts, and the General Plan and other policies being met.**

The entire area is zoned PRC and within the Tierra Contenta annexation and master planned area. The development of this project is in compliance with the density, zoning and land use established by the Tierra Contenta Master Plan the approved Development Plan for Phase 2B, Unit Tierra Contenta Phase 2B Design Standards.

- (d) EFFECTS ON PARKING, TRAFFIC PATTERNS, CONGESTION, PEDESTRIAN SAFETY, IMPACTS OF THE PROJECT ON THE FLOW OF PEDESTRIAN OR VEHICULAR TRAFFIC AND PROVISION OF ACCESS FOR THE DISABLED, CHILDREN, LOW-INCOME AND ELDERLY TO SERVICES. For example: increased access to public transportation, alternate transportation modes, traffic mitigation, cumulative traffic impacts, pedestrian access to destinations and new or improved pedestrian trails.**

Tierra Contenta Design Standards for Phase 2B will be applied. These Design Standards require that 25% more parking be made available in Arroyo Central than required by the city code. The development will add of traffic to adjacent streets. Traffic impacts of this project have been considered in the Traffic Impact Analysis accompanying the development plan for Phase 2B. A bus route is planned on Plaza Central (the adjacent street to the north) when the spine infrastructure in Phase 2C is complete. Pedestrian access in the areas will be enhanced with the completion of sidewalks and construction of the connections to the pedestrian trails system in the open space. Implementation of this development will have no effect on the ability of disabled persons, children, low-income and the elderly to access services.

- (e) IMPACT ON THE ECONOMIC BASE OF SANTA FE. For example: availability of jobs to Santa Fe residents; market impacts on local businesses; and how the project supports economic development efforts to improve living standards of neighborhoods and their businesses.**

As a residential development, there are no direct significant impacts on the economic base of Santa Fe. Secondary impacts include jobs created and the sale of building materials for the construction of roads, utilities, and homes. The property tax base will be increased with the completion of 24 new homes.

- (g) EFFECT ON THE AVAILABILITY OF AFFORDABLE HOUSING AND AVAILABILITY OF HOUSING CHOICES FOR ALL SANTA FE RESIDENTS. For example: creation, retention, or improvement of affordable housing; how the project contributes to serving different ages, incomes, and family sizes; the creation or retention of affordable business space.**

This project is being developed for the Santa Fe Housing Trust. They will be required to price the homes so that all are priced to be affordable to persons below 120% of the area median income level and at least 40% are affordable to those earning 80% or less and 20% are affordable to those earning 85% or less. This will have a positive impact in the availability of affordable housing in Santa Fe.

- (h) **EFFECT UPON PUBLIC SERVICES SUCH AS FIRE, POLICE PROTECTION, SCHOOL SERVICES AND OTHER PUBLIC SERVICES OR INFRASTRUCTURE ELEMENTS SUCH AS WATER, POWER, SEWER, COMMUNICATIONS, BUS SYSTEMS, COMMUTER OR OTHER SERVICES OR FACILITIES** *For example: whether or how the project maximizes the efficient use or improvement of existing infrastructure; and whether the project will contribute to the improvement of existing public infrastructure and services.*

The project will increase the need for police, fire, school, and other public services. It will also increase the need for infrastructure such as water, power, sewer, communications, and commuter services. The project is adjacent to existing infrastructure on the north and east side. This existing infrastructure is designed and built to accommodate the development of Tract 50 and will connect to existing stub-outs already in place. The developer is responsible for the cost of installing all infrastructure.

- (i) **IMPACTS UPON WATER SUPPLY, AVAILABILITY AND CONSERVATION METHODS** *For example: conservation and mitigation measures; efficient use of distribution lines and resources; effect of construction or use of the project on water quality and supplies.*

Water conservation measures such as water reducing fixtures are required in the homes. Higher densities that reduce yard size and the demand for water for irrigation, landscaping plants that use low to moderate amounts of water and water harvesting measures are also required in Tierra Contenta.

- (j) **EFFECT ON THE OPPORTUNITIES FOR COMMUNITY INTEGRATION AND SOCIAL BALANCE THROUGH MIXED LAND USE, PEDESTRIAN ORIENTED DESIGN, AND LINKAGES AMONG NEIGHBORHOODS AND RECREATIONAL ACTIVITY AND EMPLOYMENT CENTERS** *For example: how the project improves opportunities for community integration and balance through mixed land uses, neighborhood centers and/or pedestrian-oriented design.*

Tierra Contenta is a master planned community founded on the principles of mixed-use, mixed-income with emphasis on creating residential neighborhoods that surround commercial and community centers linked by pedestrian facilities as well as roads.

- (k) **EFFECT ON SANTA FE'S URBAN FORM.** *For example: how are policies of the existing City General Plan being met? Does the project promote a compact urban form through appropriate infill development? Discuss the project's effect on intra-city travel and between employment and residential centers.*

As a master planned community Tierra Contenta has been adopted, without change, into the City's current General Plan. The Tierra Contenta Master Plan provides for the creation of an urban community that attempts to emulate some of the best areas of traditional Santa Fe. The residential compound reminiscent of some of Santa Fe's east-side neighborhoods is one acceptable form of residential development.

- (l) **ADDITIONAL COMMENTS (optional)**

This project was previously approved as Tierra Bonita for 27 units by an earlier developer. The plat and plan were never filed due to the failure in the market and lack of funds for infrastructure. The tract was purchased by the Santa FE Housing Trust and is proposed for development with 24 units.



## CITY OF SANTA FE

## EARLY NEIGHBORHOOD NOTIFICATION MEETING SIGN-IN SHEET

Development Name Arroyo Central Subdivision CTC Phase 2B Tract 50  
 Meeting Date June 12, 2012 Time: 5:30pm Meeting Location: Southside Library

Name	Address	Phone #/E-mail
<input type="checkbox"/> DONALD D. YOUNG	4548 CONTENTA RIDGE, SANTA FE, NM 87507	505/386562
<input type="checkbox"/> Laura Baca	4613 Contenta Ridge Santa Fe NM 87507	505-660 2134
<input type="checkbox"/> Ramona Shultz	4641 Camino Cuervo " 87507	660-9186
<input type="checkbox"/> Earl + Lou Streeter	7273 Vuelta de la Luz " " "	507-2160
<input type="checkbox"/> LUIS HERNANDEZ	4813 GARDEN RAY CIRCLE 87507	471-8075
<input type="checkbox"/> Justin Robinson	1111 Agua Fria " " 87501	455-8114
<input type="checkbox"/> Tharron Welsh	" " " " " 455-8110	
<input type="checkbox"/> Chris Pacheco	4601 Contenta Ridge SF NM 87507	231-9421
<input type="checkbox"/> Prakash Bhadeta	4766 Silecito Way SF NM 87507	474-3219
<input type="checkbox"/> Jacqueline Phil	4645 Camino Cuervo 87507	660-5168

FOR CITY USE: I hereby certify that the ENN meeting for the above named development took place at the time and place indicated.

Name

Date

City of Santa Fe



New Mexico

## CITY OF SANTA FE

### EARLY NEIGHBORHOOD NOTIFICATION MEETING SIGN-IN SHEET

Development Name Arroyo Central Subdivision CTC Phase 2B Tract 50  
Meeting Date June 12, 2012 Time: 5:30pm Meeting Location: Southside Library

Name

Address

Phone #/E-mail

✓ If Applicant's  
Representative

- |                          |                           |                              |                             |
|--------------------------|---------------------------|------------------------------|-----------------------------|
| <input type="checkbox"/> | <u>Boris Costa-Guerra</u> | <u>7208 Vuelta de la Luz</u> | <u>505 930-0365</u>         |
| <input type="checkbox"/> | <u>CHUNGHEE ADAMS</u>     | <u>4708 Sundial way</u>      | <u>SF NM 87507 473-3543</u> |
| <input type="checkbox"/> |                           |                              |                             |
| <input type="checkbox"/> |                           |                              |                             |
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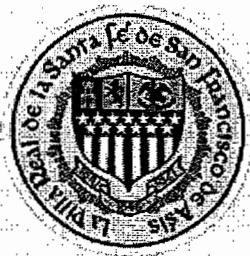
FOR CITY USE: I hereby certify that the ENN meeting for the above named development took place at the time and place indicated.

Name

[Signature]

Date

6/12/12



## City of Santa Fe Land Use Department Early Neighborhood Notification Meeting Notes

Project Name	Arroyo Central @ Tierra Contenta (Phase 2B, Tract 50)
Project Location	Southwest corner of Plaza Central and Contenta Ridge
Project Description	24-lot subdivision plat
Applicant / Owner	Dave Thomas, Tierra Contenta Corporation
Agent	
Pre-App Meeting Date	
ENN Meeting Date	Tuesday, June 12, 2012
ENN Meeting Location	Southside Library
Application Type	Subdivision Plat
Land Use Staff	Heather L. Lamboy, AICP
Other Staff	
Attendance	12 members of the public

### Notes/Comments:

Ms. Lamboy began the meeting by introducing herself and explaining the Early Neighborhood Notification process. She encouraged meeting participants to feel free to ask questions and offer suggestions. She explained that the applicant has not yet applied for the subdivision plat and now was a good time to have input on the project. Then Ms. Lamboy explained the public hearing review process and gave estimated hearing dates. Finally, she introduced Mr. Dave Thomas.

Mr. Thomas provided an overview of the project. He explained that the Tierra Contenta Corporation was created to develop the master planned community of Tierra Contenta. He commented that Tierra Contenta is approximately two-thirds built out (completed). Originally, it was expected that all construction of the master planned community would be completed by 2012, but with the slow economy it will take longer. Mr. Thomas explained how the Santa Fe Community Housing Trust owns the Arroyo Central property; however, no builder has been selected for the property.



Mr. Thomas then pointed out the property on the aerial. He stated that the tract of land was created with the approval of Phase 2B of Tierra Contenta. The original development plan allowed for 27 units and the 2006 subdivision approval has lapsed. The project has been redesigned to propose 3 fewer lots (in the previous approval, townhomes were proposed as part of the development). Mr. Thomas described the access to the site, via Plaza Central and Camino Rojo. He also pointed out the alley that is proposed with the development. He stated that the layout of the site will be similar to the Arroyo Sombra development.

Mr. Thomas explained that the big pile of dirt in the area will serve as fill for the site, as some building up of the site will be necessary. In areas where retaining walls are necessary, gabion walls will be installed (similar to that at El Nido). One neighbor complained that the rocks had deteriorated and the gabion walls did not look good at El Nido; Mr. Thomas responded that he would look into the matter.

Another neighbor wanted clarification as to whether Arroyo Central was planned to connect to another street and Mr. Thomas responded that it would not.

A neighbor asked about the schedule. Mr. Thomas responded that the first hearing would be in September, and a second hearing would likely be held in November. Mr. Thomas stated that it is the aim to begin road construction in spring 2013, and then the houses would be constructed in the later part of 2013.

Another neighbor asked how long the construction would last. Ms. Sharon Welsh of the Santa Fe Community Housing trust stated that it was likely that they would construct the 24 homes over the course of 1 year, and it was likely that they would finish the later part of 2014.

A neighbor asked whether the homes would be one story or two stories. Mr. Thomas responded that it would be similar to Arroyo Sombra, where approximately  $\frac{1}{4}$  of the homes are two story and the remaining homes are one story. Ms. Welsh added that there are 4 lots that are smaller than the rest and it is likely that those lots will be the location of the two-story units. She commented that they would try to design the 2 story homes so they would not "stare into" another subdivision.

In response to a question, Mr. Thomas pointed out that the subdivision slopes away from Plaza Central. The Plaza Central elevation is about 12 feet higher than the lowest lots, which is a significant drop. A neighbor asked whether a wall would be constructed along Plaza Central. Mr. Thomas pointed out that the homes would face Plaza Central and would have vehicle access from behind. He stated that the only wall along Plaza Central would potentially be a garden wall.

A neighbor asked whether parking would be permitted along Plaza Central. Mr. Thomas replied no, and added that each property would have a two-car garage and room for 2 additional parking spaces.

In response to questions about the roadways in the area, Mr. Thomas gave the group a status update on the future extensions of Jaguar Road and Plaza Central. He commented that those improvements will be made either late fall/early spring concurrent with development on the Village Plaza site.

In response to a question about construction traffic at Arroyo Central, Mr. Thomas stated that the trucks would be using Plaza Central to access the site. He also commented that there will be silt fence and dust control procedures will be followed to mitigate construction impact on neighboring properties.

A neighbor asked whether the landscaping would be similar in Arroyo Central. Mr. Thomas responded that yes, it would comply with the design standards for Phase 2B of Tierra Contenta, which requires street trees and front yard landscaping at a minimum.

A neighbor asked what the anticipated prices would be in the development. Ms. Welsh responded that the homes would range – although this could change - from \$200,000 to \$260,000. She stated that they try to have a mix of incomes in their neighborhoods, and cater to families with incomes between 65% and 120% of the AMI (Area Median Income).

When asked about the size of the homes, Ms. Welsh responded that the homes would vary between 1,200 and 1,800 square feet. At this point, 5 2-bedroom homes are planned and the rest will be either 3 or 4 bedroom units. When asked about the buyer approval process, Ms. Welsh explained the Housing Trust purchasing process and required home ownership classes.

A neighbor commented that there is still a lot of housing vacant as a result of the recession. Why is additional housing being proposed? Mr. Thomas responded that no home is built until there is a buyer, and in this price range, demand is beginning to pick up. He added that by late 2013, when the site is ready for construction of homes, the demand will be about 200 new homes a year in Santa Fe. Ms. Welsh agreed that based on recent activity, it is likely that there will be at least 25 homebuyers by 2013/2014.

A neighbor asked about the completion of Las Palomas. Ms. Lamboy replied that she had been working with the applicant on a redesign of the subdivision to make it more attractive. She commented that it was likely that construction would begin soon again in Las Palomas.

There were questions about the location of SWAN park and the anticipated timeframe for the construction of the park. Mr. Thomas stated that, in addition to

SWAN park, Tierra Contenta has 33% of its land area in open space with trails and other smaller parks that is available to the neighborhood.

When asked, Mr. Thomas stated that the Arroyo Central tract would have no playground.

When asked about surrounding developments, Mr. Thomas responded that once Plaza Central is built, tracts 51A and 53A can be developed, which is planned to have approximately 25 houses each.

There was a question about a new school in Tierra Contenta. Mr. Thomas stated that the school district was considering a site near the Fire Station, but nothing is firm as of yet.

The meeting ended at approximately 6:45pm.

**City of Santa Fe, New Mexico**

# **Exhibit E**

**Applicant Submittals:**

**Justification Letter**

**Subdivision Plat**

**Development Plan**

# Tierra Contenta

PMB 220, 369 Montezuma Santa Fe, NM 87501 505-471-4551 / fax 505-471-4561

---

July 13, 2012

Tamara Baer, Planning Manager  
Current Planning Division  
Land Use Department  
City of Santa Fe  
P.O. Box 909  
Santa Fe, New Mexico 87504-0909

Re: Arroyo Central Subdivision  
Tract 50, Phase 2B  
Final Plat and Development Plan Application

Dear Tamara:

Please accept our applications for preliminary plat and development plan approval for Arroyo Central Subdivision located on Tract 50, Phase 2B, Unit 1 of Tierra Contenta. The Tierra Contenta Corporation, a subsidiary of the Santa Fe Community Housing Trust is acting on behalf of the Trust this application process. We have attached items required in checklist as follows:

1. **Application Form:** The completed Final Subdivision Application and the Miscellaneous Application (Development Plan) forms are attached.
2. **Letter of Application:** TCC requests final plat and development plan approval for Arroyo Central Subdivision on Tract 50 of Phase 2B, consisting of 24 lots on 3.844 acres, west of Contenta Ridge and south of Plaza Central. All units are to be single family detached and are designed under the Single Family Residential chapter of the Tierra Contenta Design Standards for Phase 2A.
3. **Application Fee:** We have attached the approved Request for Fee Waivers certifying that development application review fees are waived for this project.
4. **Final Plat and Development Plan:** 6 copies plus one CD of the final plat and development plan containing all required information are included in the plan set. The plat was prepared by Santa Fe Surveying.

5. **Engineering Plans:** 6 copies plus one CD of the final engineering plans, containing all required information, prepared by Walker Engineering are included.
6. **Traffic Impact Analysis:** The TC Design Standards provide for traffic impact analyses to be prepared and approved on a phase-by-phase basis and not for individual tracts (Chpt. II, C.3.J. on page II-5). "Traffic Impact Study for Tierra Contenta Phase 2B, Final Submittal" provided in May 2004 was approved with the TC Phase 2B final application.
7. **Sewer Availability Statement:** A sewer availability statement has been requested.
8. **Phasing Plan:** The project will be built in one phase.
9. **Parking Plan:** Not applicable
10. **Proof of Compliance with previous conditions:**
  - The proposed Arroyo Central Subdivision is consistent with the land uses and development intensity entitlements provided under the Tierra Contenta Master Plan approved by the City Council in 1994, and the Phase 2B Subdivision, approved by the Planning Commission on July 1, 2004.
  - The proposed subdivision is also consistent with the Tierra Contenta Annexation Agreement approved by the City Council in 1994.
  - Proposed infrastructure, parks and open space are provided by Tierra Contenta Corporation as stipulated in the Phase 2B Master Plat and development program.
  - It is anticipated that 100% of the homes provided in the subdivision will be affordable by those at or under 100% of the area median income level.
11. **Landscaping Plans:** Developer will provide street trees along Contenta Ridge and Plaza Central as well as the interior street, Arroyo Central, in accordance with the Phase 2B Design Standards. Streetscape plans are included in the final plan set.
12. **Homeowners' association documents & covenants:** No homeowners' association will be created. The Santa Fe Community Housing Trust is developing protective covenants for the subdivision.

**Applicable Section of Tierra Contenta Design Standards for Phase 2B:** All 24 lots are to be evaluated under the Single Family Residential (Chapter V) of the standards.

**Affordable Housing Component:** This Project is being developed for the Santa Fe Community Housing Trust. Tierra Contenta will develop the finished lots and turn them over to the Trust. A Certification of Affordable Housing for Waiver of Development Fees" stating that the project will have 100% of the units priced to be affordable by those at or below 100% of the area median income level is attached.

**Archaeological Clearance:** The archaeological clearance for Phase 2B was approved by the City in November 2001. A copy of the approval form was attached to the preliminary application.

**Material Submitted:** Attached to this submittal are the following items:

1. Completed final subdivision application
2. Six (6) copies of final subdivision plat, development plan, engineering and landscaping plans containing information required in the submittal checklist.
3. One CD containing the plans referenced above.
4. Deed to property in favor of the Santa Fe Community Housing Trust
5. A copy of the "Certificate of Affordable Housing for Waiver of Development Review Fees".
6. A copy of the sewer service availability statement.
7. Archaeological Clearance

If you have any questions on this submittal and on this request, please call me at 471-4551. Thank you.

Sincerely,

David R. Thomas, P.E.  
Project Engineer

Enclosures

xc: Sharon Welsh, Santa Fe Community Housing Trust  
Morey Walker, P.E. Walker Engineering



# Arroyo Central Tierra Contenta Tract 50 Preliminary Subdivision Plat Development Plan



Sheet "10"



# Arroyo Central



## Tierra Contenta:

- Part of Phase 2B – Subject to Design Standards previously approved by the Planning Commission
- Previous approval for mix of townhouse and single family in 2006

# Arroyo Central

## Tierra Contenta:

- Santa Fe Community Housing Trust has purchased the land
- Only Single-Family Residential Development is proposed

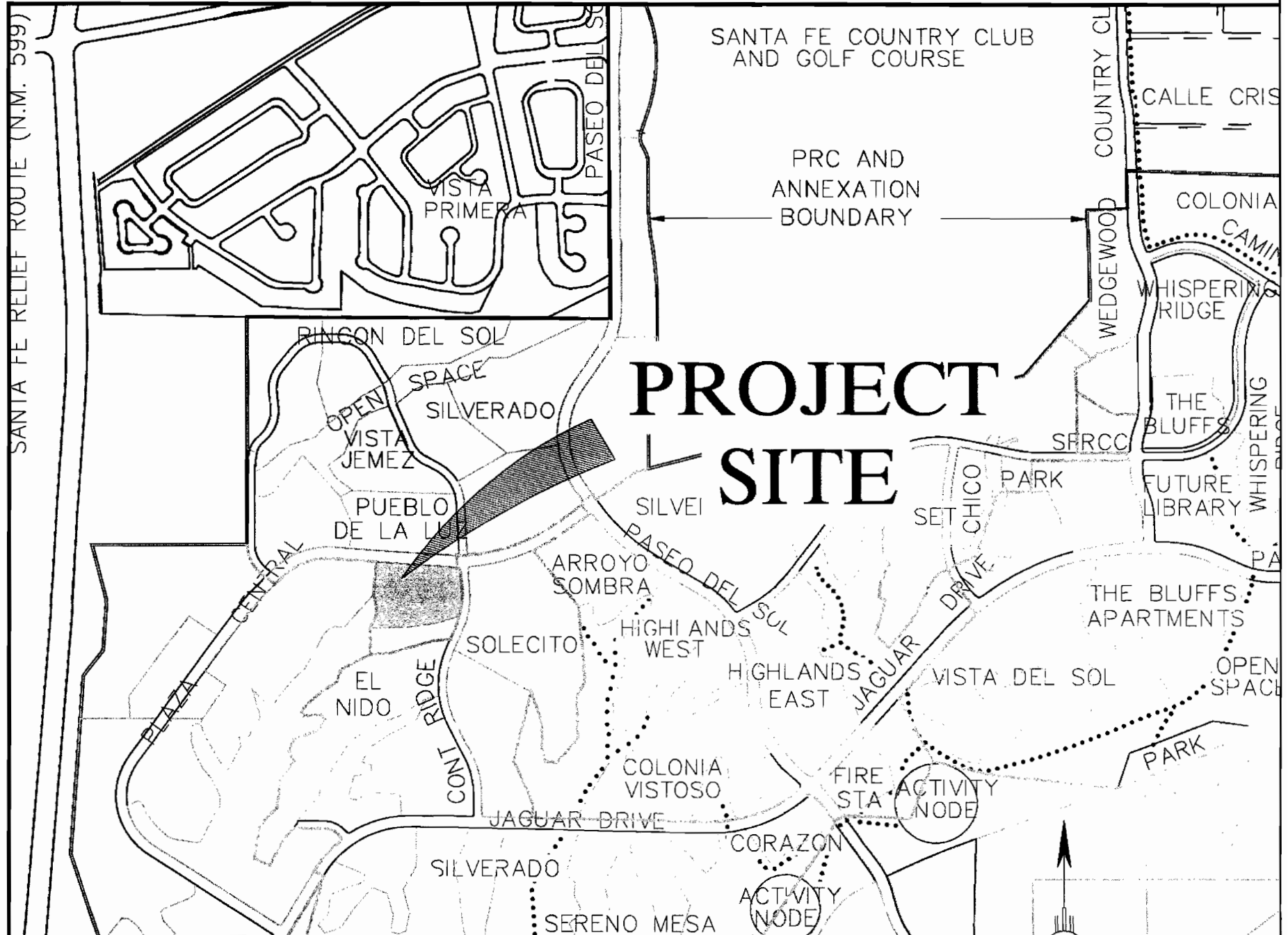


# Arroyo Central

- 3.8-acre site
- Subdivide 24 lots
- Currently zoned Planned Residential Community (PRC)
- Development Plan commits to Design Standards as approved for Phase 2B

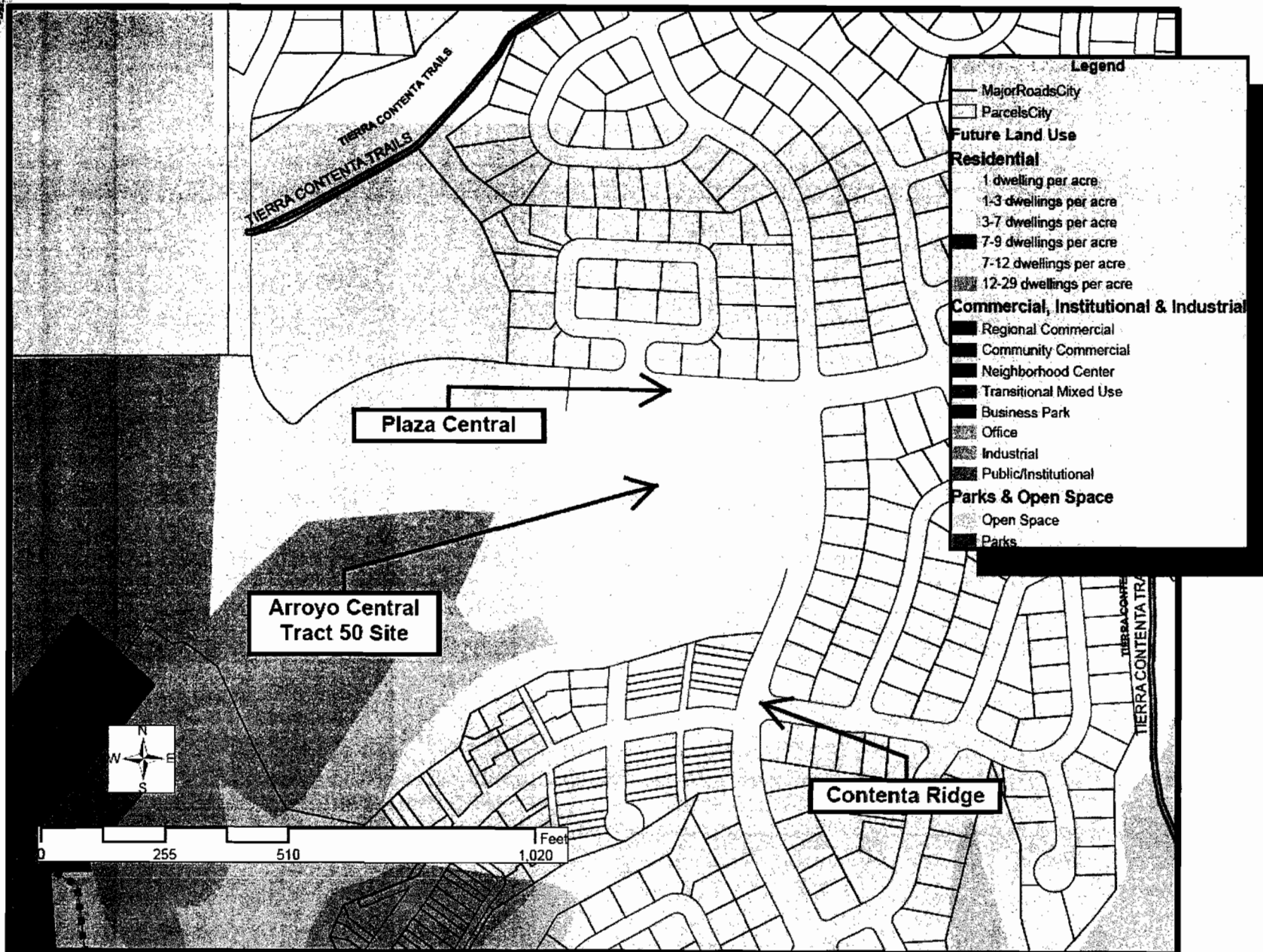


# VICINITY MAP





# ARROYO CENTRAL





# ARROYO CENTRAL

R7

Plaza Central

PRC

Contenta Ridge

Arroyo Central  
Tract 50 Site

## Legend

MajorRoadsCity

ParcelsCity

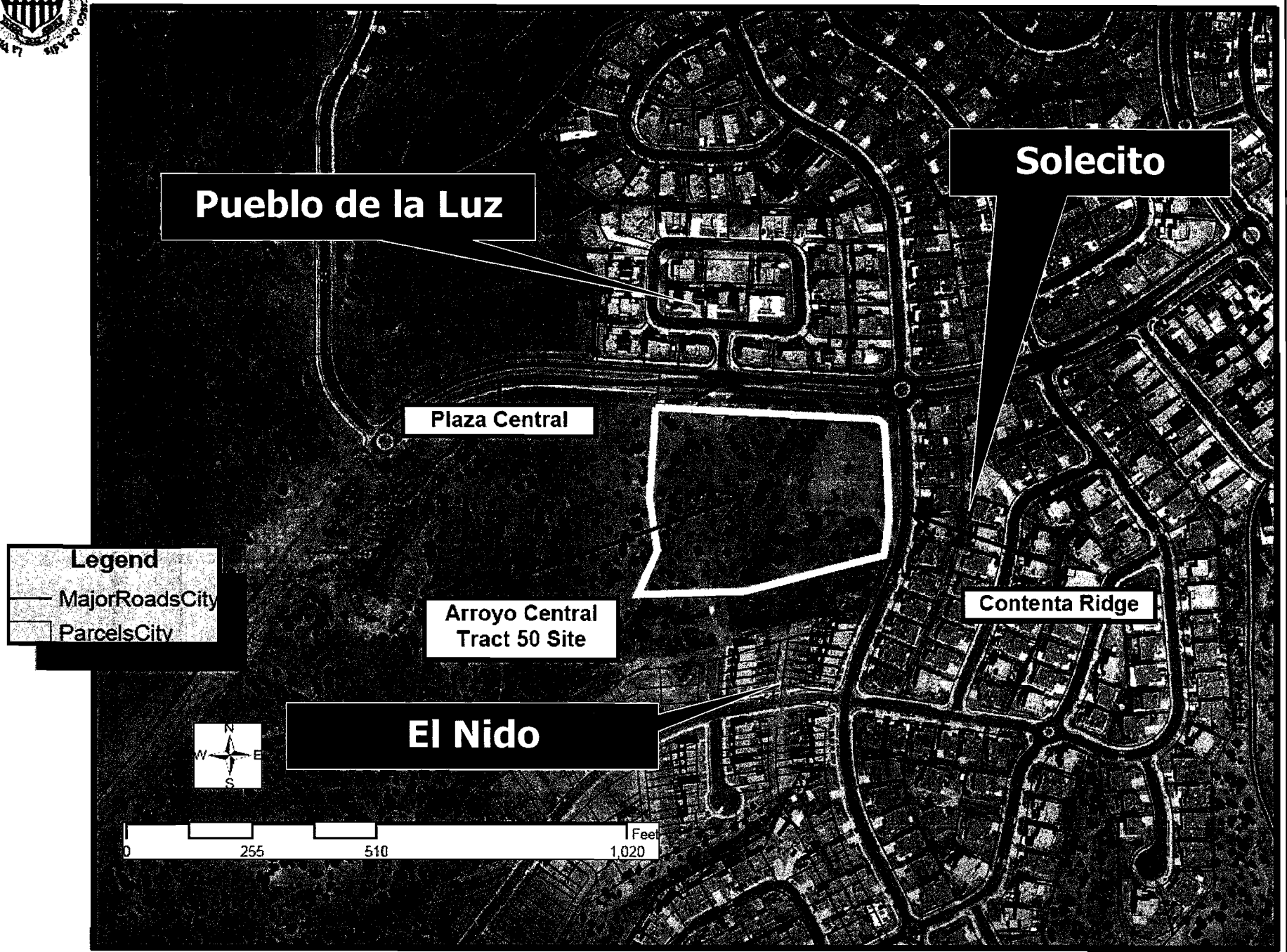


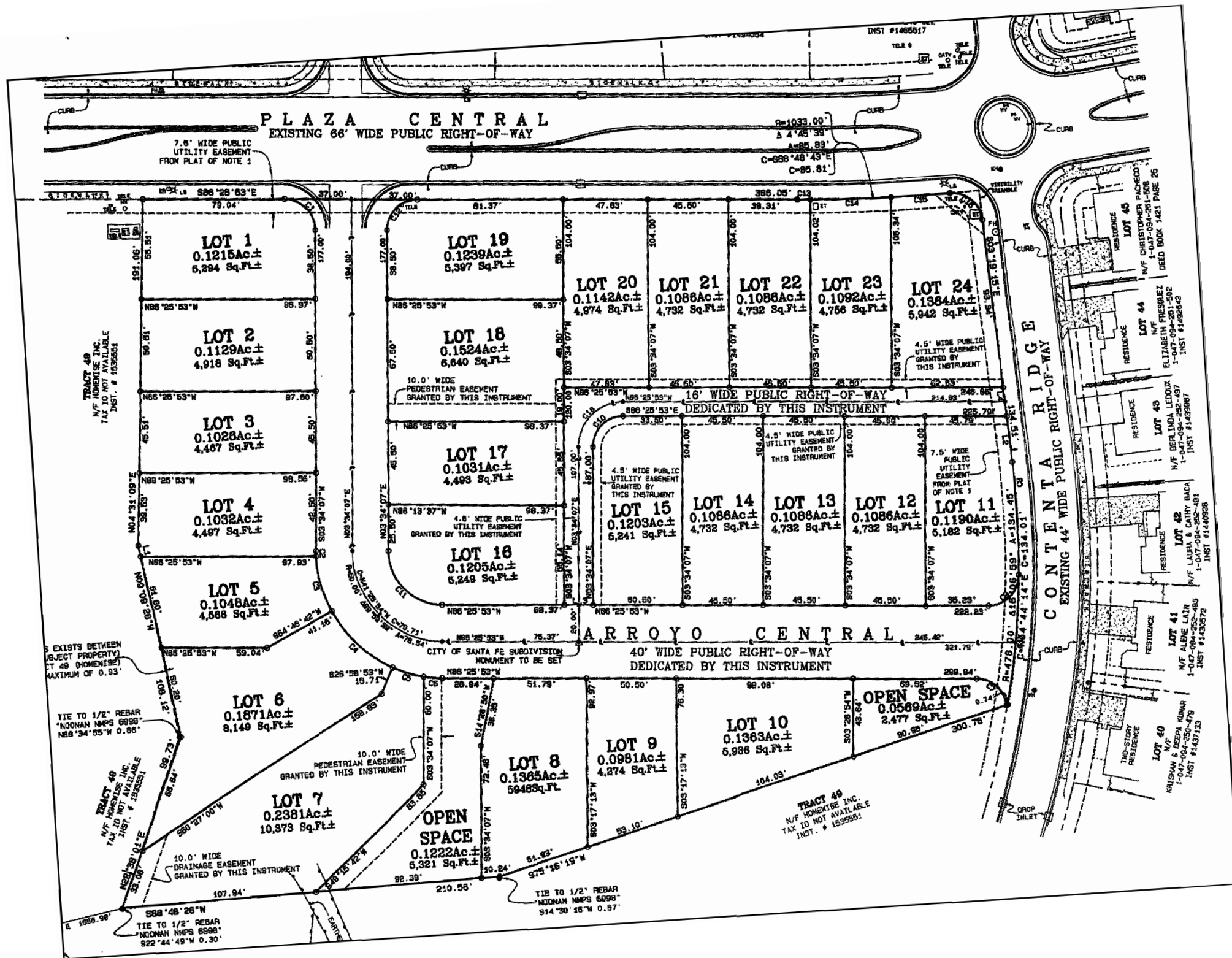
0 255 510 1,020 Feet





# ARROYO CENTRAL









# Arroyo Central

## Conditions:

- Slight modifications to the radius in the bend of the street
- No lot may be directly accessed off Plaza Central or Contenta Ridge
- Update landscape tree species and caliper
- Ensure pedestrian connections to trail network



# Arroyo Central

**Staff recommends CONDITIONAL  
APPROVAL for the Development Plan  
and Preliminary Subdivision Plat.**

