

SECOND JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF BERNALILLO

Javier Benavidez, James Santiago Maestas,
Roberto Roibal, the SouthWest Organizing
Project, the New Mexico Health Equity Working
Group, and the Pajarito Village Association,

Appellants/Petitioners,

v.

No. D-202-CV-2015-04466
Consolidated with No. D-202-CV-2015-05363

the Bernalillo County Board of County
Commissioners, and Art De La Cruz,
Wayne Johnson, Debbie O'Malley, Maggie
Hart Stebbins, and Lonnie Talbert, Bernalillo
County Commissioners,

and

Consensus Planning and Western
Albuquerque Land Holdings, LLC,

Appellees/Respondents.

THE APPELLANTS/PETITIONERS' REPLY
TO THE BERNALILLO COUNTY
APPELLEES/RESPONDENTS' RESPONSE
TO THE APPELLANTS/PETITIONERS'
STATEMENT OF APPELLATE ISSUES

I. Introduction

This Reply is filed by the Appellants/Petitioners¹ to address the Response to the Appellants/Petitioners' Statement of Appellate Issues (the "Response") filed by the Bernalillo County Appellees/Respondents (the Bernalillo County Board of County Commissioners and the individual Bernalillo County Commissioners) (referred to collectively as "Bernalillo County" or the "County"). As is explained below, the arguments presented by Bernalillo County in its Response are not persuasive.

¹ Javier Benavidez, Santiago James Maestas, Roberto Roibal, the SouthWest Organizing Project (including its individual and group members), the New Mexico Health Equity Working Group (including its individual and group members), and the Pajarito Village Association (including its individual and group members).

First, Bernalillo County has argued unpersuasively that the proceedings conducted by the Bernalillo County Board of County Commissioners (the “Board of County Commissioners” or the “Board”) did not deny the Appellants/Petitioners due process. The County’s argument on this issue depends upon several incorrect assertions.

- Bernalillo County’s first incorrect assertion is that Bernalillo County Commissioner Art De La Cruz did not demonstrate bias in favor of the proposed Santolina development (“Santolina”) in his opinion editorial (“op-ed”) that was published in the *Albuquerque Journal* before the Board began its hearings.
- The County’s second inaccurate allegation is that Mr. De La Cruz was not required to be unbiased about the proposed Santolina development during the Board of County Commissioners’ proceedings concerning the zoning for the Santolina property and the Santolina Level A Community Master Plan (the “Santolina Master Plan”) because the proceedings were legislative in nature and not quasi-judicial.
- The County’s final inaccurate allegation is that the Appellants/Petitioners were provided with due process because of the number of hearings held by the Bernalillo County Planning Commission (the “Planning Commission”) and the Board of County Commissioners, the number of findings and conditions imposed on the Santolina Master Plan approval by the Board, and the size of the Record.

The second unpersuasive argument made by Bernalillo County is that the Board of County Commissioners has addressed all matters of public concern.

Third, Bernalillo County has argued unpersuasively that the development agreement between the Board and the Santolina developers (the “Development Agreement”) is a valid contract that does not constitute zoning.

Finally, Bernalillo County has asserted without presenting any argument that the Appellants/Petitioners lack standing and that their claims are not ripe.

II. Argument

A. The Board of County Commissioners’ proceedings denied the Appellants/Petitioners due process.

1. County Commissioners Art De La Cruz demonstrated his bias in favor of Santolina in his op-ed published before the Board began its hearings.

Bernalillo County has alleged that Commissioner Art De La Cruz’s op-ed (attached as Exhibit A), which was published in the *Albuquerque Journal* on March 23, 2015 – two days before the Board hearings started on

March 25th – addressed only planning in general and did not focus on the proposed Santolina development.

Response, 27. Although there are parts of the op-ed that appear to address planning in general, the allegation that Mr. De La Cruz did not indicate a bias in favor of Santolina is belied by the language of the op-ed itself.²

Mr. De La Cruz’s bias is apparent from the first three paragraphs of the op-ed:

It is important for the public to know why I and others support thoughtful, well-planned developments in Bernalillo County, such as the proposed Santolina development. It is important that the county “get the facts out” and dispel the distortions and misinformation being spread by opponents, most notably a group referring to itself as WTF – “What’s The Future.”

Strong planning, standards and accountability efforts should determine what the future of Bernalillo County and the [C]ity of Albuquerque should look like. Presently, Santolina fits this model as a master-planned residential and commercial development.

Because growth is inevitable, I consider Santolina to be appropriate progress for our county because we will determine what the development will ultimately become. ...

Exhibit A, ¶¶1-3.

Moreover, later in the op-ed, Mr. De La Cruz specifically endeavored to rebut arguments against the proposed development:

By potentially denying Santolina or others like it, we send the message that new residents are not welcome here. This notion is not realistic because the population will grow and development will occur. ...

This 50-year project is primarily being opposed for fear of lack of water and fear of urban sprawl. ...

The truth is this: The Albuquerque Bernalillo County Water Utility Authority ... can accommodate Santolina within the water utility’s existing water rights portfolio.

...

With respect to fear of urban sprawl, true urban sprawl only occurs when the growth is unplanned and uncontrolled. It is foolhardy to believe that the state’s most populous county will not continue to grow.

Besides the opponents’ concerns about available water and urban sprawl, some folks just do not want any growth, period. Often, these opponents claim that they can only support infill projects, yet there is not enough area to infill in the long term.

Id., ¶¶4-9.

Finally, at the end of the op-ed, Mr. De La Cruz returned to his argument in favor of the proposed Santolina development:

Should the county deny approval of the Santolina development, there is nothing to prevent the owner from selling the land in small parcels to multiple individual owners who have

² The op-ed is at page 80980 of the Record. The Appellants/Petitioners apologize to the Court for mistakenly stating in their earlier pleadings that it was at page 80080 of the Record.

the right to seek any variety of smaller developments, potentially resulting in either a vast quiltwork of ununified projects at best or the well-documented situation at Pajarito Mesa at worst.

I prefer to more thoughtfully and proactively determine the destiny of Bernalillo County's unavoidable and foreseeable growth.

Id., ¶¶15-16.

These excerpts from Mr. De La Cruz's op-ed demonstrate his bias in favor of the proposed Santolina development.

2. Bernalillo County's arguments that Mr. De La Cruz could properly be biased about the proposed Santolina development are unpersuasive.
 - a. The County's assertion that Mr. De La Cruz's op-ed was published after he heard the parties' arguments is contrary to the facts.

There is no support in the Record for Bernalillo County's argument that Mr. De La Cruz did not demonstrate bias concerning the proposed Santolina development. First, the County has asserted that it was "abundantly clear" from Mr. De La Cruz's op-ed that he would let the Board of County Commissioners' process play out before reaching a decision on Santolina. In fact, however, there is nothing in the op-ed or in the Record to support that assertion.

Second, Bernalillo County has alleged that the Court of Appeals' decision in Siesta Hills Neighborhood Association v. City of Albuquerque, 1998-NMCA-028, 124 N.M. 670 is on point and supports the County's position that Mr. De La Cruz could be biased at the beginning of the Board of County Commissioners' proceedings. That allegation is inaccurate because the facts in this matter are materially different from those in the Siesta Hills Neighborhood Association case, and that case therefore is neither on point nor persuasive as to this matter.

As Bernalillo County acknowledged (Response, 27) the Court of Appeals pointed out in the Siesta Hills Neighborhood Association case that the record was clear that the member of the Planning and Zoning Committee who made the statements at issue did so after she heard the Siesta Hills Neighborhood Association's arguments. Response, 26, 1997-NMCA-028, ¶21. That record is in contrast to the Record in this matter. Mr. De La Cruz made his statements in the *Albuquerque Journal* op-ed on March 23rd, two days before the Board of County Commissioners began its hearings on March 25th, and therefore before Mr. De La Cruz heard the Appellants'/Petitioners' arguments.

The County has attempted to address this point by asserting that before Mr. De La Cruz made his statements there had been eight Planning Commission hearings and that Mr. De La Cruz had “met with County zoning staff during the course of those proceedings” and was “familiar with the relevant issues related to the Santolina Level A application” before the Board’s hearings started.³ Response, 27. However, meeting with County staff is not equivalent to hearing the Appellants/Petitioners’ arguments, particularly because the County staff favored the proposed Santolina development in the proceedings below. *See, e.g.*, R, 11275, 79466-79469, 87309-87310, Moreover, the Appellants/Petitioners were not represented by counsel during the Planning Commission proceedings but only during the proceedings conducted by the Board. Finally, the County has relied upon several statements made by Mr. De La Cruz during the Board’s consideration of this issue (Response, 27), but those statements were his efforts to rationalize his op-ed after the fact and they therefore lack credibility.⁴ Moreover, there is no evidence elsewhere in the Record to support his assertion that he would be objective in the proceedings.

- b. The Board of County Commissioners’ zone map amendment proceedings were quasi-judicial proceedings.
- i. The State Court of Appeals has determined that zoning proceedings are quasi-judicial.

The Court of Appeals has indicated that proceedings conducted by local governments concerning zoning are quasi-judicial in a case relied upon by Bernalillo County, Dugger v. City of Santa Fe, 1992-NMCA-022, 114 N.M. 47:

In New Mexico, decisions that determine how a particular piece of property can be used have been held to be quasi-judicial. *See, e.g., State ex rel. Battershell v. Albuquerque* [1989-NMCA-045, 108 N.M. 658] (hearings before zoning hearing examiner and Environmental Planning Commission regarding application for conditional use permits were quasi-judicial); *Duke City Lumber Co. v. New Mexico Env’tl. Improv. Bd.* [1980-NMCA-160; 95 N.M. 401] (public hearing to consider petition by sawmill operator for variance in air quality regulation limiting emissions from wood incinerator was quasi-judicial).

1992-NMCA-022, ¶9.

³ Notably, the County did not assert that Mr. De La Cruz was familiar with the issues relating to the zone map amendment for Santolina.

⁴ It is significant that Mr. De La Cruz did assert that he had been “thoughtful to avoid specificity related to any zoning issues”, thereby implying that he regarded the zoning issues as quasi-judicial issues. Record, 87293.

The Court also explained that the statutes that govern zoning provide for zoning decisions to be quasi-judicial in nature:

However, the statutes governing zoning specifically provide for zoning decisions to be quasi-judicial in nature. The municipality is authorized to set up an administrative agency to make zoning decisions. *NMSA 1978, § 3-21-7* (Repl.Pamp,1985); *Corodoni v. City of Albuquerque, 72 N.M. 422, 384 P.2d 691 (1963)*. ... Because the legislature demonstrated its intent that zoning decisions be handled administratively, application of the administrative standard of review is appropriate.

Id., ¶20.

This analysis describes the organization of the Bernalillo County government entities that address zoning. The Board, which is the zoning authority (NMSA 1978 §3-21-1), has established the Planning Commission, which is the County zoning commission. NMSA 1978 §3-21-7. Pursuant to section 3-21-8.B, NMSA 1978 and sections 25.D and 25.E of the Bernalillo County Code of Ordinance, any person aggrieved by a decision of the Planning Commission may appeal to the Board. The Bernalillo County processes used to address the zone map amendment were similar to the proceedings described in *Dugger v. City of Santa Fe, supra*.

The Court of Appeals also ruled that zoning proceedings are quasi-judicial in *Los Chavez Community Association v. Valencia County*, 2012-NMCA-044, 277 P.3d 475. There, the Court noted that decisions on zoning changes involve determining the rights, duties, or obligations of individuals according to current legal standards, and that members of boards that make those decisions must act like the members of judicial bodies and be bound by ethical standards comparable to those that govern courts. 2012-NMCA-044, ¶19. Finally, in a case relied upon by the County in its Response, the Court of Appeals repeated its position that “[z]oning actions are quasi-judicial in nature” *Siesta Hills Neighborhood Association v. City of Albuquerque*, 1998-NMCA-028, ¶6, 124 N.M. 670.

- ii. The zone map amendment issue before the Board of County Commissioners was a zoning issue.

The Board’s proceedings concerning whether to grant the zone map amendment sought by Consensus Planning and Western Albuquerque Land Holdings, LLC (collectively “WALH”) were zoning proceedings. Those proceedings were conducted to determine whether to amend the Bernalillo County zone map to change the zoning of the Santolina property from A-1 Rural Agricultural zoning to a Planned Communities zone. By definition, those

proceedings were zoning proceedings, and the Board's agendas for the hearings on the zone map amendment indicate that the hearings were zoning meetings. *See, e.g.*, R, 88832, 88866, 88887, 88907.

- iii. The Supreme Court's criteria indicate that the Board's proceedings concerning the zone map amendment were quasi-judicial proceedings.

The criteria established by the Supreme Court for determining whether a proceeding is quasi-judicial or legislative indicate that the Board of County Commissioners' proceedings concerning the zone map amendment were quasi-judicial. The Court explained in Dick v. City of Portales, 1994-NMSC-092, 118 N.M. 541 the factors that make a proceeding quasi-judicial:

A local governing body is acting in a quasi-judicial capacity when it is "required to investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence, and draw conclusions from them, as a basis for their official action, and to exercise discretion of a judicial nature." *Black's Law Dictionary* 1245 (6th ed. 1990); *cf. State ex rel. Battershell v. Albuquerque*, 108 N.M. 658, 662, 777 P.2d 386, 390 (Ct. App. 1989) (stating that hearings before a zoning commission are quasi-judicial)

1994-NMSC-092, ¶5.

The Supreme Court also explained the difference between quasi-judicial actions and legislative actions in Albuquerque Commons Partnership v. City Council of the City of Albuquerque, 2008-NMSC-0025, 144 N.M. 99, *rev'd on other grounds*, Albuquerque Commons Partnership v. City Council of the City of Albuquerque, 2011-NMSC-002, 149 N.M. 308:

[L]egislative action reflects public policy relating to matters of a permanent or general character, is not usually restricted to identifiable persons or groups, and is usually prospective; quasi-judicial action, on the other hand, generally involves a determination of the rights, duties, or obligations of specific individuals on the basis of the application of currently existing legal standards or policy considerations of past or present facts developed at a hearing conducted for the purpose of resolving the particular interest in question.

2008-NMSC-0025, ¶32; citation omitted.

According to these criteria, the Board of County Commissioners' proceedings to address the zone map amendment were quasi-judicial in nature. As is more fully explained in the Appellants/Petitioners' Statement of Appellate Issues (the "Statement of Appellate Issues"), which provides references to the Record to support the following points, the Board's conduct of its proceedings complied with the Supreme Court's definition of a quasi-

judicial proceeding. The specific criteria enunciated by the Supreme Court and their application to the Board's proceedings are as follows.

First, the Supreme Court indicated in Dick v. City of Portales, *supra*, that one of the indicia of a quasi-judicial proceeding is the conduct of hearings. In the proceedings below, the Board conducted hearings addressing the zone map amendment and the Appellants/Petitioners' appeal of the Planning Commission decision that the zone map amendment should be approved. Those hearings were recorded by a court reporter, and involved the Board's receipt of evidence from sworn witnesses and consideration of arguments from the County Planning Staff, the Appellants/Petitioners, proponents of the zone map amendment, and members of the public. Statement of Appellate Issues, pages 10-12.

Second, the Supreme Court explained in Albuquerque Commons Partnership v. City Council of the City of Albuquerque, *supra*, that quasi-judicial proceedings are characterized by determinations of the rights of specific individuals, and the Board's proceeding addressing the zone map amendment involved such determinations. In the Board of County Commissioners' proceedings, the Board decided whether WALH's application for the zone map amendment would be granted or whether the Appellants/Petitioners' (except Santiago James Maestas) opposition to the zone map amendment would prevail. *Id.*

Third, another feature of quasi-judicial proceedings according to the Supreme Court in its opinion in the Albuquerque Commons Partnership v. City Council of the City of Albuquerque, *supra*, case is the evaluation of facts according to existing legal standards or policy considerations. WALH's counsel, John Salazar, and Consensus Planning's agent, Jim Strozier, both indicated during hearings conducted by the Board of County Commissioners that existing requirements applied to the zone map amendment. Moreover, the Board itself purported to evaluate the zone map amendment pursuant to existing requirements, which included section 19.5 of the Bernalillo County Comprehensive Zoning Code, the requirements for the Planned Communities Zone and the Reserve Area goals, and Resolution 116-86. *Id.*

- c. Bernalillo County’s arguments to the effect that the Board’s proceedings were legislative are unpersuasive.
 - i. The decisions addressing the zone map amendment and the Santolina Master Plan were not public policy decisions.

The County has asserted incorrectly that the Board of County Commissioners was making public policy when it decided to approve the zone map amendment and the Santolina Master Plan. Response, 19. In fact, the Board was making decisions addressing proposals for the private development of a particular piece of private property. The property involved is all owned by WALH (R, 41343), and it was treated throughout the Board of County Commission’s proceedings as one piece of property. For that reason, although the Board was considering the zone map amendment and the Santolina Master Plan in public proceedings, the proceedings were conducted to address private interests.

- ii. The zone map amendment and the Santolina Master Plan decisions were restricted to identifiable groups of people.

Bernalillo County has also argued unpersuasively that the proceedings concerning the zone map amendment Santolina Master Plan are not quasi-judicial because they are “not restricted to identifiable persons or groups”. Response, 20. The basis for this argument is the assertion that an estimated 90,000 people will live in Santolina eventually. Response, 21. But this assertion is irrelevant to the nature of the Board’s proceedings. The dispute in those proceedings about whether the zone map amendment and the Santolina Master Plan should be approved was not a dispute between those 90,000 people and the Appellants/Petitioners. Rather, it was a dispute between the Santolina developers, who are readily identifiable – they are Consensus Planning and Western Albuquerque Land Holdings, LLC – and the Appellants/Petitioners and other opponents of Santolina. Those proceedings were conducted to determine the rights of those two sets of parties, and the proceedings therefore were quasi-judicial according to the criteria enunciated by the Supreme Court in Albuquerque Commons v. City Council of the City of Albuquerque, *supra*.

Moreover, there is no merit to the County’s assertion that the proceedings were legislative because the Planned Communities Zone is only a “floating zone”. Response, 20. The term “floating zone” is never defined by the County; it was not used during the Board’s proceedings; and it is not mentioned in either the Board of County

Commissioners' decision approving the zone map amendment (attached as Exhibit B) or the Board's Ordinance No. 2015-20, which amended the zone map (attached as Exhibit C). The term is merely a *post hoc* rationalization for the County's position that the Board's proceedings were legislative and did not determine the rights and obligations of private parties, and it is not persuasive.

- iii. The prospective nature of the zone map amendment and the Master Plan did not make the proceedings legislative.

Bernalillo County has asserted incorrectly that the Board of County Commissioners' proceedings and decisions were legislative because they were prospective and applied to the entire Santolina property as a "floating zone". Response, 21-22. Although the Supreme Court indicated in Albuquerque Commons Partnership v. City Council of the City of Albuquerque, *supra*, that prospective application is one mark of a legislative decision, prospective application alone does not make a decision legislative. The proceedings at issue in Dugger v. City of Santa Fe, *supra* and Los Chavez Community Association v. Valencia County, *supra*, both addressed future uses of property, but in each case the Court of Appeals determined the proceedings at issue to be quasi-judicial. Moreover, the County's assertion that the Board's proceedings addressed a "floating PC zone, without considering any particular piece of property" (Response, 21) is inaccurate. The proceedings did consider a particular piece of property – the property where the proposed Santolina development would occur – and that property is one contiguous property that is all owned by one entity – WALH. The assertion that the proceedings pertained to a "floating zone" with no relationship to any one piece of property has no basis in law, the Record, or fact.

- iv. The County's assertion that the Board's proceedings were conducted in a legislative manner is inaccurate.

Bernalillo County has alleged incorrectly that the Board of County Commissioners' proceedings that the proceedings were conducted in an overtly legislative manner. Response, 22. This assertion is based on a statement of then County Attorney Randy Autio, but Mr. Autio's opinion does not overrule the decisions of the Court of

Appeals and the Supreme Court cited above. Moreover, Mr. Autio's statement is contradicted by the Record of the proceedings below and by the County's own procedures.⁵

First, at least two members of the Board of County Commissioners as well as other participants in the proceedings understood that the proceedings were quasi-judicial. Those Board members told their constituents that they (the Commissioners) could not speak with the constituents about the pending proceedings because they were quasi-judicial. Statement of Appellate Issues, 11. In addition, the Appellants/Petitioners filed a motion to disqualify Commissioner Art De La Cruz that was based in part on the quasi-judicial nature of the proceedings. R, 88970-88980. The only point that was clear during the hearings was that there was a difference of opinion about the nature of the proceedings.

Second, Bernalillo County has alleged inaccurately that the proceedings concerning the Appellants/Petitioners' appeals from the Planning Commission's decisions were not quasi-judicial because the appeals were a "legal fiction" according to Mr. Autio. Response, 22. Mr. Autio's position was an argument that there were no appeals because the Planning Commission made "recommendations", not "decisions". *Id.* However, his position conflicts with the Bernalillo County Code of Ordinances. It states that the Planning Commission:

shall make its decision on each application, and in the event of approval shall make a recommendation to the Board of County Commissioners.

Bernalillo County Code of Ordinances §25.D.

The assertion that the appeals were a "legal fiction" also conflicts with section 3-21-8.B, NMSA 1978 and with the manner in which the appeals were treated by the Board. The Board conducted a proceeding concerning each of the appeals that involved presentations by the Bernalillo County Planning Staff, the party advocating for the appeal, the opponents of the appeal, and members of the public. Statement of Appellate Issues, 12. Moreover, each person who planned to speak concerning each of the appeals was sworn as a witness, and the proceedings were recorded by a court reporter. Statement of Appellate Issues, 11. These procedures indicate that the appeals were not treated as "legal fictions".

⁵ In addition, in a conversation before the Board proceedings began, Mr. Autio told counsel for the Appellants/Petitioners, Douglas Meiklejohn, that the proceedings concerning the zone map amendment were quasi-judicial. Mr. Autio later said that he did not recall saying that, but he did not deny that he said it. R, 88052.

The third faulty assertion relied upon by the County for its position that the proceedings concerning both the zone map amendment and the Santolina Master Plan were legislative is that the Board's Rules of Procedure indicate that consideration of the Santolina Master Plan was legislative. Response, 23. However, the County's argument is limited to the proceedings concerning the Santolina Master Plan, and it does not address the zone map amendment proceedings. Moreover, the Rule's language is circular because the language states that "[q]uasi judicial actions do not include legislative actions". Response, 23.

In addition, the Board's Rules of Procedure do not trump the rulings of the State Supreme Court and Court of Appeals. If there is a conflict between the Board's Rules and those Courts' rulings, the rulings of those Courts govern. Finally, the Board's Rules of Procedure also do not override the provisions of section 3-21-8.B NMSA 1978 or the provisions of sections 25.D and 25.E of the Bernalillo County Code of Ordinances, which indicate that the Appellants/Petitioners had the right to appeal to the Board from the decisions of the Planning Commission.

3. The County's argument that the Appellants/Petitioners were given more process than was due is inaccurate and irrelevant.

The County has asserted that the Appellants/Petitioners received "more process than was due" (Response, 23), but that assertion is incorrect. In addition, the "process" to which the County refers is irrelevant to the Appellants/Petitioners' claim that they were denied due process.

The County's argument that the Board provided the Appellants/Petitioners with "more process than was due" is based on the premise that the Board's proceedings were legislative in nature. Response, 23. However, as was explained above, the Board's proceedings were quasi-judicial and not legislative in nature. The County's argument therefore fails.

The County also has argued that specific aspects of the Board's proceedings indicate that ample due process was provided, but the aspects to which the County refers are irrelevant to the Appellants/Petitioners' due process claim. The County cites the number of findings made by the Board and the number of paragraphs of conditions concerning the Santolina Master Plan. The County also refers to the appeals filed by the Appellants/Petitioners from the decisions of the Planning Commission and the numbers of hearings conducted by the Planning Commission and the Board. Finally, the County points out the number of pages in the Record, but fails to note that

much of the Record consists of two or more copies of the same materials. Response, 24. All of these references are irrelevant to the Appellants/Petitioners' claims in two respects.

First, none of these references refers to the Board's proceedings concerning the zone map amendment; rather, they all refer only to the proceedings concerning the Santolina Master Plan. The references therefore have no application to the Appellants/Petitioners' claim that they were denied due process in the proceedings concerning the zone map amendment. More importantly, none of these references addresses whether the Appellants/Petitioners were denied a fair hearing in the Board of County Commissioners' proceedings because of the bias of County Commissioner Art De La Cruz. It does not matter, for example, how many hearings the Board held; the issue is whether those hearings were not fair because Mr. De La Cruz participated in them even though he had already demonstrated his bias in favor of Santolina.

C. Bernalillo County's claim that the Board addressed all matters of public concern relating to Santolina is neither supported nor accurate.

The County asserted that the Board of County Commissioners "addressed all matters of public concern" (Response, 28-29), but the County has not supported this assertion with any specific information. Moreover, the assertion is not supported by the Record.

The County's argument for its assertion that the Board addressed matters of public concern rests on general statements about the size of the Record (without any reference to the duplication of documents in the Record), the alleged legislative nature of the Board's proceedings, and the Board's findings and conditions. In all of this, there are only two citations to the Record, and those are to conclusory findings made by the Board. R, 86949-86956, 86958-86959. None of this is supported by references to evidence or arguments presented during the Board's proceedings. Moreover, none of this contradicts the Appellants/Petitioners' arguments (which were supported by Record references) concerning the Board's failure to comply with the Planned Communities Criteria requirements concerning availability of water rights and water, adequate transportation and schools, and no net expense to local government, and the mandates of Bernalillo County Resolution 116-86 relating to zoning changes. Statement of Appellate Issues, 33-37, 45-48.

D. Bernalillo County has argued unpersuasively that the Development Agreement did not violate applicable law and ordinances.

1. The Development Agreement constitutes zoning under New Mexico law.

Bernalillo County has argued unpersuasively that the Development Agreement “does not zone,” (Response, 30), and is “simply a contract between the County and Applicant that codifies the Level A Master Plan and defines the specific financial requirements related to infrastructure and public services within Santolina.” Response, 29. However, this argument mischaracterizes the Development Agreement, which does constitute zoning as that term has been defined by the Supreme Court.

The Supreme Court’s definition of “zoning” is “governmental regulation of the uses of land and buildings according to districts or zones.” Miller v. City of Albuquerque, 1976-NMSC-052, ¶10, 89 N.M. 503, 503.

Therefore, when a development agreement purports to regulate the uses of land and buildings, it is no longer an “agreement”; it is a zoning action. The Development Agreement’s provisions indicate that it is zoning.

First, the Development Agreement purports to be “authorized” by New Mexico zoning statutes and various County zoning and planning ordinances (R, 88661), thereby indicating the understanding of the Board of County Commissioners and the Santolina developers that the Development Agreement is a zoning action. Second, the Development Agreement goes beyond mere codification⁶ of the Santolina Master Plan and allocation of specific financial requirements by purporting to govern many zoning actions. In the words of WAHL attorney, John Salazar, “What really defines how we’re going to move forward [with development] is the development agreement.” R, 88180.

The Development Agreement purports to serve several zoning functions. First and foremost it establishes governance of interim uses of the land until Level B Master Plan approvals (R, 88667; *see also* Bernalillo County Code Zoning Ordinance, §19.5), and authorizes certain platting and building actions by the owner in accordance

⁶ NMSA 1978, Section 3-17-5 only provides for codification of ordinances and not for codification of master plans. Additionally, NMSA 1978, Section 3-21-6.A authorizes zoning being “supplemented” by ordinance, not by contract, and Bernalillo County Zoning Ordinance Section 25.A provides that any “supplement” to zoning shall be sent to the County Planning Commission for its review and recommendation.

with Planned Communities zoning. Development Agreement, §6.11; R, 88668. It also purports to establish requirements for the issuance of future residential building permits. Development Agreement, §4.4, R, 88662-88663. Finally, it states that the owner “shall have the right to develop the Project,” including the right to “engage in the land uses in the manner and to the extent set forth” in the development agreement “in such order and at such rate and time as the market dictates.” Development Agreement, §8.1-8.2, R, 88669. Based on these provisions, the Development Agreement satisfies the New Mexico Supreme Court’s definition of “zoning.” Miller v. City of Albuquerque, *supra*, 1976-NMSC-052, ¶10.

Finally, the County argues that under the Planned Communities Criteria “three (3) levels of approval are required before any actual development takes place, and” therefore the development agreement “does not zone.” Response, 30. In support of this statement, the County cites to the Development Agreement rather than to a provision in the Planned Communities Criteria. *Id.* In fact, the Planned Communities Criteria do not restrict the issuance of building permits until all three levels (of master plans and development agreements) have been approved. *See* R, 11789-11796. The Development Agreement also permits the issuance of building permits before all level master plans and development agreements are approved. R, 88667. For those reasons, the Development Agreement does constitute a zoning action.

2. The Board lacked authority to enter into the Development Agreement.

The use of a development agreement is authorized by section 19.5 of the Bernalillo County Zoning Code. It provides that:

Uses not established by a Level B Plan. Until a Level B plan has been adopted by the County to govern a site, uses and regulations specified in the Level A Development Agreement, which must accompany initial county zoning, shall govern the interim permissive use and conditional uses.

Bernalillo County Code of Ordinances, §19.5.

However, there is nothing in New Mexico law authorizing zoning by means of a development agreement. In fact, NMSA 1978, Section 3-21-6.A states that zoning shall be provided by ordinance. There is therefore no authority for the zoning by development agreement that section 19.5 purports to allow. Furthermore, when a county ordinance conflicts with state law, state law preempts the ordinance. Rancho Lobo v. Devargas, 303 F.3d 1195, 1205 (10th Cir. 2002).

In addition, there is also no State law or County ordinance which authorizes the County to enter into any type of development agreement, much less a development agreement which purports to govern zoning actions. The County has argued that Bernalillo County “is authorized under state law to enter into contracts.” Response, 34 (citing to NMSA 1978, Section 4-37-1, “the County enjoys all powers granted to municipalities”). However, only “home rule municipalities” may enter into development agreements, and those municipalities may do so only if it is not expressly denied “by general law or charter” and the municipality grants itself the authority to do so through passage of an ordinance. N.M. Constitution. Article X, §10(D). *See also* New Mexico Attorney General Opinion 02-02. Bernalillo County does not have such “home rule” status.

3. The preparation of the Development Agreement violated applicable state law and Bernalillo County ordinances.

The County has argued that the Development Agreement was both publicly available and the subject of extensive discussions during the Board’s proceedings. Response, 34. Yet the County fails to provide any citations to the record in support of this claim. In fact, the Development Agreement was not available to members of the public for a period of more than six months, including several months prior to its adoption by the Board. R, 87958. Moreover, the County’s assertions do not address most of the points concerning the Development Agreement made by the Appellants/Petitioners in their Statement of Appellate Issues. *Compare* Response, 34 *with* Statement of Appellate Issues, 38-41.

As is explained in the Statement of Appellate Issues, a draft of the Development Agreement was provided to Bernalillo County in January, 2014, but the first draft that was officially made available to members of the public was not released until May 22, 2015. Statement of Appellate Issues, 14. That draft was based on negotiations that had occurred between WALH and the Bernalillo County staff during a period of more than a year. R, 87884. Members of the public were not permitted to participate in those negotiations, and although members of the public were given opportunities to comment on the May 22, 2015 draft and a draft dated June 1, 2015, those opportunities were very limited. As an example, members of the public had only until June 8, 2015 to comment on the June 1, 2015 draft. R, 86526.

The County's assertion that the Development Agreement was available throughout the Board of County Commissioners' proceedings (Response, 34) is therefore incorrect. The appeals that were filed with the Board were filed at the end of December, 2014 (R, 40165-40177), and the Board began its hearings on March 25, 2015, but the first opportunity that members of the public had to comment on the Development Agreement occurred on May 22, 2015.⁷ R, 86526.

Finally, the County's argument that the Development Agreement did not constitute zoning, and that its preparation therefore did not have to involve discussion by the Board or members of the public (Response, 34), is contrary to the provisions of section 19.5 of the Bernalillo County Code of Ordinances and NMSA 1978, Section 3-21-6.A. Those provisions indicate that the Development Agreement was zoning, and that both the Planning Commission and members of the public were required to be involved in its preparation. Statement of Appellate Issues, 39.

- E. The County's assertions that the Appellants/Petitioners lack standing and that their claims are not ripe are without merit.

Bernalillo County's Response alleges, based solely on WALH's motions to dismiss for lack of ripeness and lack of standing, that the Appellants/Petitioners lack standing and that their claims are not ripe. Response, 35. The County presents no argument on these issues and cites no authority to support its position. As the Appellants/Petitioners' explained in their responses to WALH's motions on those issues, however, there is no merit to either of those claims. In addition, one of the primary bases for WALH's motions is its assertion that the Board's approval of the zone map amendment and the Santolina Master Plan will have no consequences in the near future because WALH has yet to submit its proposed Level B and Level C Master Plans for Santolina. The inaccuracy of that premise is demonstrated by WALH's recent filing of its application for approval of its Level B Master Plan. As is indicated on page 2 of attached Exhibit D, the Planning Commission has already scheduled a hearing on that application. The assertion that development at Santolina will not occur in the foreseeable future is not correct.

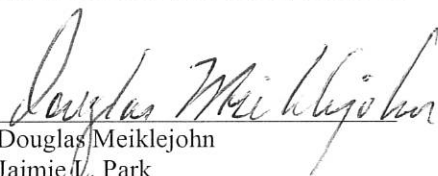
⁷ That members of the public had only limited opportunities to comment on the Development Agreement is not contradicted by the summaries provided in Exhibits C and D to WALH's Response. Those summaries (which include some incomplete information and errors) do not demonstrate that members of the public had reasonable opportunities to comment.

III. Conclusion

The arguments presented by Bernalillo County in its Response to the Appellants/Petitioners' Statement of Appellate Issues are without merit, and the Court therefore should grant the relief requested by the Appellants/Petitioners in their Statement of Appellate Issues. Specifically, the Court should vacate the Board of County Commissioners' decisions approving the zone map amendment, the Santolina Master Plan, and the Development Agreement. The Court also should vacate the Board's decisions denying the Appellants/Petitioners' appeals of the Planning Commission's decisions addressing the zone map amendment and the Santolina Master Plan.

Dated: March 17, 2016.

NEW MEXICO
ENVIRONMENTAL LAW CENTER



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Jaimie L. Park
Eric Jantz
Jonathan Block
1405 Luisa Street, Suite 5
Santa Fe, N.M. 87505
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dmeiklejohn@nmelc.org
jpark@nmelc.org

Attorneys for the Appellants/Petitioners

Certificate of Service

I certify that on March 17, 2016 copies of this Reply were sent by electronic mail to:

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Assistant County Attorney
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Bernalillo County Attorney's Office
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mikgarcia@bernco.gov

Attorney for Bernalillo County

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jordon@roblesrael.com

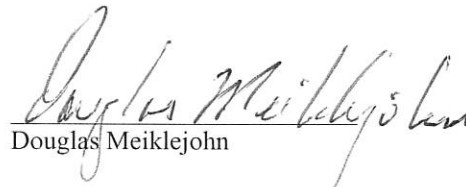
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Board of County Commissioners

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215 Gold Avenue, S.W.
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Albuquerque, N.M. 87102
hess@yntema-law.com

Attorney for the South Valley Coalition
of Neighborhood Associations


Douglas Meiklejohn

Santolina development isn't the threat opponents claim

Good planning prevents urban sprawl, and water need is accounted for

BY ART DE LA CRUZ
VICE CHAIR, BERNALILLO COUNTY
COMMISSION

It is important for the public to know why I and others support thoughtful, well-planned developments in Bernalillo County, such as the proposed Santolina development. It is important that the county "get the facts out" and dispel the distortions and misinformation being spread by opponents, most notably a group referring to itself as WTF — "What's The Future."

Strong planning, standards and accountability efforts should determine what the future of Bernalillo County and the city of Albuquerque should look like. Presently, Santolina fits this model as a master-planned residential and commercial development.

Because growth is inevitable, I consider Santolina to be appropriate progress for our county because we will determine what the development will ultimately become. Conversely, why would we allow our future to be that of unplanned, smaller hodgepodge growth?

By potentially denying Santolina or others like it, we send the message that new residents are not welcome here. This notion is not realistic because the population will grow and development will occur. Not properly planning for the needed homes, places to work, shop, play and learn would be short-sighted and negligent.

This 50-year project is primarily being opposed for fear of lack of water and fear of urban sprawl. It has been postulated that the development would take all available water, with our *acequias* and river running dry and that we would be left with no drinking or irrigating water.

The truth is this: The Albuquerque Bernalillo County Water Utility Authority, as required by the state engineer, has a water resources management strategy in place that takes future growth into account and can accommodate Santolina within the water utility's existing water rights portfolio.

This revelation has not stopped opponents from spreading fear, especially in the South Valley, which is one of the areas I serve.

With respect to fear of urban sprawl, true urban sprawl only occurs when the growth is unplanned and uncontrolled. It is foolhardy to believe that the state's most populous county will not continue to grow.

Besides the opponents' concerns about available water and urban sprawl, some folks just do not want any growth, period.

Often, these opponents claim that they can only support infill projects, yet there is not enough area to infill in the long term.

Infill efforts, even with reasonable and thoughtful projects, very often face stiff and aggressive opposition by those who claim to support infill growth. And then there are those residents who support infill growth as long as it is not "in my backyard."

Should we abdicate our right to dictate how well-planned growth happens because some don't want to see any growth at all? Bernalillo County staff has made every effort to ensure that every development project in the county's jurisdiction is well-planned, sustainable and attractive. County law also helps to this end by guaranteeing exhaustive public review and input.

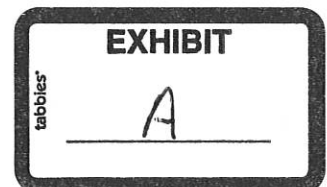
The county is dedicated to ensuring smart growth through standards via sector plans. The alternative is to make master-planned developments so difficult to get approved that developers forego Bernalillo County and

seek approvals in our neighboring counties. Should this occur, we will have absolutely no say in the elements of these developments and yet we will experience all the unplanned, unfunded repercussions related to traffic and supporting infrastructure.

Unfortunately, large unbridled developments in our neighboring counties really do fit the definition of urban sprawl and impact us today.

Should the county deny approval of the Santolina development, there is nothing to prevent the owner from selling the land in small parcels to multiple individual owners who have the right to seek any variety of smaller developments, potentially resulting in either a vast quiltwork of ununified projects at best or the well-documented situation at Pajarito Mesa at worst.

I prefer to more thoughtfully and proactively determine the destiny of Bernalillo County's unavoidable and foreseeable growth.





County of Bernalillo
State of New Mexico

Planning & Development Services
111 Union Square SE, Suite 100
Albuquerque, New Mexico 87102
Office: (505) 314-0350
www.berncogov.org/zoning-building-and-planning/

**NOTIFICATION OF DECISION
BOARD OF COUNTY COMMISSION**

June 18, 2015

COMMISSIONERS

- Maggie Hart Stebbins, Chair**
District 3
- Art De La Cruz, Vice Chair**
District 2
- Debbie O'Malley, Member**
District 1
- Lonnie C. Talbert, Member**
District 4
- Wayne A. Johnson, Member**
District 5

COUNTY MANAGER

Tom Zdunek

ELECTED OFFICIALS

- Tanya R. Giddings**
Assessor
- Maggie Toulouse Oliver**
Clerk
- Willow Misty Parks**
Probate Judge
- Manuel Gonzales III**
Sheriff
- Manny Ortiz**
Treasurer

Western Albuquerque Land Holdings, Youth Development, Inc.
P. O. Box 56790
Albuquerque, NM 87187

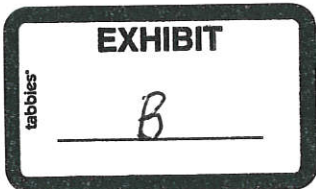
SUBJECT: FILE NO: CZ-20130009

LEGAL DESCRIPTION: Consensus Planning, agent for Western Albuquerque Land Holdings, Youth Development, Inc., and Central New Mexico Community College and Martin Eckert, agent for Albuquerque Public Schools requests a zone map amendment from A-1 Rural Agricultural to Planned Community Zone in connection with the proposed Santolina Planned Communities Level A Master Plan. The plan area is generally bounded by Interstate 40 to the north, 118th Street and the escarpment open space to the east, the Pajarito Mesa on the south, and the escarpment area adjacent to the Rio Puerco Valley on the west, encompassing projected sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16 & 17, T9N, R1E and sections 6, 7, 8, 16, 17, & 18, T9N, R2E and sections 32, 33, 34, 35, & 36, T10N, R1E and sections 30 & 31, T9N, R2E, N.M.P.M., Town of Atrisco Grant, Albuquerque, Bernalillo County, New Mexico, and containing approximately 13,700 acres, generally zoned A-1 Rural Agricultural. (CONTINUED FROM THE OCTOBER 1, 2014 HEARING)

ACTION: APPROVED A ZONE MAP AMENDMENT FROM A-1 RURAL AGRICULTURAL TO PLANNED COMMUNITY ZONE IN CONNECTION WITH THE ADOPTED SANTOLINA PLANNED COMMUNITIES LEVEL A MASTER PLAN (ORDINANCE #2015-20)

To Whom It May Concern:

At the June 16, 2015 public hearing, the Board of County Commissioners approved the request for a zone map amendment from A-1 Rural Agricultural to Planned Community Zone in connection with the adopted Santolina Planned Communities Level A Master Plan. The plan area is generally bounded by Interstate 40 to the north, 118th Street and the escarpment open space to the east, the Pajarito Mesa on the south, and the escarpment area adjacent to the Rio Puerco Valley on the west, encompassing projected sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16 & 17, T9N, R1E and



sections 6, 7, 8, 16, 17, & 18, T9N, R2E and sections 32, 33, 34, 35, & 36, T10N, R1E and sections 30 & 31, T9N, R2E, N.M.P.M., Town of Atrisco Grant, Albuquerque, Bernalillo County, New Mexico, and containing approximately 13,700 acres, generally zoned A-1 Rural Agricultural.

The decision was based on the following Findings.

1. The request is for a zone map amendment from A-1 Rural Agricultural to Planned Community Zone in connection with the proposed Santolina Planned Communities Level A Master Plan. The plan area is generally bounded by Interstate 40 to the north, 118th Street and the escarpment open space to the east, the Pajarito Mesa on the south, and the escarpment area adjacent to the Rio Puerco Valley on the west, encompassing projected sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16 & 17, T9N, R1E and sections 6, 7, 8, 16, 17, & 18, T9N, R2E and sections 32, 33, 34, 35, & 36, T10N, R1E and sections 30 & 31, T9N, R2E, N.M.P.M., Town of Atrisco Grant, Albuquerque, Bernalillo County, New Mexico, and containing approximately 13,700 acres, generally zoned A-1 Rural Agricultural.
2. The request for approval of the PC Planned Communities Zone has been submitted in accordance with Section 19.5 of the Bernalillo County Zoning Code (Planned Communities Zone). Development of the Santolina Master Planned Community will take place following the regulations in Section 19.5 of the Bernalillo County Zoning Code.
3. The request for approval of the PC Planned Communities Zone has been submitted in conjunction with the request for approval of the Santolina Level A Master Plan (SPR-20130004).
4. The Santolina development will take place within the next 40-50 years in accordance with the Level A Santolina Master Plan and subsequent Level B and Level C Plans. The Plan is responsive to the population and economic growth that is anticipated to occur in the Albuquerque Metropolitan Area by the Mid-Region Council of Governments.
5. The plan includes goals of providing for mixed land uses, a broad range of housing, employment, educational, and recreational opportunities in distinct land use areas that include residential village centers, industrial/business parks, parks and Open space, an urban center, a business park, and a town center with an open space network that provides connections to all portions of the development. The Santolina Zoning incorporates the land use areas that will be further defined in subsequent Level B and Level C planning and zoning.
6. The Santolina Level A Master Plan has been approved based on consistency with the Planned Communities Criteria and the Reserve Area policies of the Albuquerque/Bernalillo County Comprehensive Plan, with conditions of approval.
7. The request for Level A Planned Community Zoning for Santolina is consistent with Resolution 116-86 for the following reasons:
 - a. The request is consistent with the goals and plans in the approved Santolina Level A Master Plan, as well as policies in Albuquerque/Bernalillo County Comprehensive Plan for master planned communities;

- b. The request has demonstrated that the existing zoning on the property (primarily A-1 zoning) is no longer appropriate and the proposed development is more advantageous to the community by furthering and implementing the goals and plans articulated in the approved Santolina Level A Master Plan, as well as the Planned Communities Criteria and the Albuquerque/Bernalillo County Comprehensive Plan for master planned communities.
8. The request is consistent with the health, safety, and general welfare of the residents of Bernalillo County.

If you have any questions, please feel free to contact me at 314-0385 or Catherine VerEecke at 314-0387.

Sincerely,


Enrico Gradi
Community Development Manager

EG/fs

cc: File

Kevin Grovet, Public Work
Christi L. Tanner, Public Works
Raeleen Marie Bierner, Public Works
Youth Development Inc., 516 1st Street NW, Albuquerque, NM 87102
Central New Mexico Community College, 525 Buena Vista SE, Albuquerque, NM 87106
Consensus Planning, 302 8th St NW, Albuquerque, NM 87102
Western Albuquerque Land Holding LLC
6991 E. Camelback Road, Suite B297, Scottsdale, AZ 85251
New Mexico Environment Law Center,
Douglas Meiklejohn, 1405 Luisa St. #5, Santa Fe, NM 87505
Rodey Law Firm, John P. Salazar, P.O. Box 1888, Albuquerque, NM 87103
Southwest Organizing Project, 211 10th St. SW, Albuquerque, NM 87102
South Valley Coalition of Neighborhood Associations, P.O. Box 12841, Albuquerque, NM 87105
South Valley Regional Association of Acequias, 5734 Evans Road SW, Albuquerque, NM 87105
Albuquerque Public Schools, Brad Winter, P.O. Box 25704, Albuquerque, NM 87125
Ray Cook, USDOT/FAA,
Real Estate and Utilities Group, ASW-53, 2601 Meacham Blvd., FT. Worth, TX 76137
Carol and Gilbert Perez, 4621 Spring Valley SW, Albuquerque, NM 87105
Rudy and Angel Garcia, 1200 Don Francisco PL. NW, Albuquerque, NM 87107
Charles W. Travelstem, 6100 Buffalo Grass Ct. NE, Albuquerque, NM 87111
Frank Sanchez, 609 Briar Rd., Bellingham, WA 98225
Ruben Marquez, 2927 Cabral Tr. SW, Albuquerque, NM 87121
Claus Zahn and Conrad Zahn, 9 Dama Rd., Los Lunas, NM 87031
Toan Luong, 1835 Shadow Leader SE, Albuquerque, NM 87123
James Thomas, 2641 San Mateo NE, Albuquerque, NM 87110

BERNALILLO COUNTY

BOARD OF COUNTY COMMISSIONERS

ORDINANCE NO. 2015-20

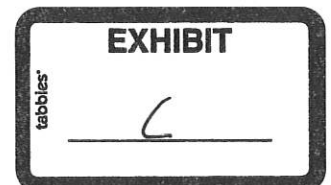
1 **AMENDING THE ZONE CODE AND ZONE MAP OF BERNALILLO COUNTY AS**
2 **SHOWN IN ORDINANCE NO. 213 APPENDIX A, FOR THE SANTOLINA LEVEL A**
3 **MASTER PLAN WHICH ESTABLISHES PLANNED COMMUNITIES ZONING FOR**
4 **SANTOLINA PROPERTY WITHIN THE UNINCORPORATED AREA OF**
5 **BERNALILLO COUNTY.**
6

7 SECTION 1. The Zoning Code and Zone Map of Bernalillo County is hereby amended to
8 establish general zoning categories and procedures in accordance with Section 19.5 of the
9 Bernalillo County Zoning Code, as set forth in Chapter 4 of the adopted Santolina Level A
10 Master Plan, summarized as follows:

11 Section 1. The Santolina Planned Communities PC Zone applies to the
12 approximately 13,800 acre property defined as generally bounded by Interstate 40 to the
13 north, 118th Street and the escarpment open space to the east, the Pajarito Mesa on the
14 south, and the escarpment area adjacent to the Rio Puerco Valley on the west,
15 encompassing projected sections 1, 2, 3, 4, 5, 8, 9, 10, 11, 12, 13, 14, 15, 16 & 17, T9N,
16 R1E and sections 6, 7, 8, 16, 17, & 18, T9N, R2E and sections 32, 33, 34, 35, & 36,
17 T10N, R1E and sections 30 & 31, T9N, R2E, N.M.P.M., Town of Atrisco Grant,
18 Albuquerque, Bernalillo County, New Mexico

19 Section 2. The Santolina Level A Master Plan generally identifies a general zoning
20 classification and a three-step process that requires selection of specific uses, site
21 attributes, and development standards during the land development process from the
22 following components: (1) Land Use Districts (listed in Chapter 4 and spatially shown in
23 the Land Use Map in Chapter 3 of the Santolina Level A Master Plan, attached as Exhibit
24 A); (2) Site Characteristics; and (3) Design Standards.

25 Section 3. Zoning and Governance. The zoning framework and regulations
26 identified in the Santolina Level A Master Plan will be expanded upon in future Level B
27 Plans for Santolina.



**CONTINUATION PAGE 2, ORDINANCE NO. 2015-20 SANTOLINA
PLANNED COMMUNITIES ZONING.**

1 SECTION 2. Severability Clause. If any section, paragraph, sentence, word or phrase of this
2 ordinance is for any reason held to be invalid or unenforceable by any court of competent
3 jurisdiction, such decision shall not affect the validity of the remaining provisions of the
4 ordinance. The Commission hereby declares that it would have passed this ordinance and each
5 division, section, paragraph, sentence, clause, word or phrase thereof irrespective of any
6 provision declared unconstitutional or invalid.

7 SECTION 3. Effective Date. This ordinance shall take effect thirty days after final adoption by
8 the Bernalillo County Board of County Commissioners.

9


CONTINUATION PAGE 3, ORDINANCE NO. 2015-20 SANTOLINA
PLANNED COMMUNITIES ZONING.

1 BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF BERNALILLO,
2 NEW MEXICO this 16 day June 2015.

3

4 **DONE** this ___ day of ___, 2015.

5 **APPROVED AS TO FORM**

6 
7 Randy Autio, County Attorney

8

9

10

11

12

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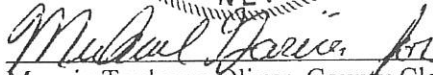
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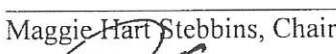



ATTEST


Maggie Toulouse Oliver, County Clerk

BOARD OF COUNTY COMMISSIONERS

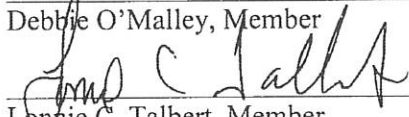
VOTED 'NO'

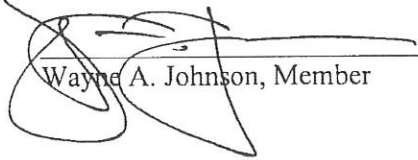

Maggie Hart Stebbins, Chair


Art De La Cruz, Vice Chair

VOTED 'NO'

Debbie O'Malley, Member


Lonnie C. Talbert, Member


Wayne A. Johnson, Member



County of Bernalillo

State of New Mexico

Planning & Development Services

111 Union Square SE, Suite 100

Albuquerque, New Mexico 87102

(505) 314-0350

APPLICATION

SITE ADDRESS/LOCATION

PERMIT NO: ZSPR2016-0001

Printed: January 25, 2016

PROPERTY OWNER

WESTERN ALBUQ LAND HOLDINGS LL
PO BOX 56790
ALBUQUERQUE, NM 87187

UPC

100505641701040201

LEGAL DESCRIPTION

WLY POR TRACT 130 ROW 1 UNIT
B W OF WESTLAND EXC POR TO
R/W CONT 1.230 A

AGENT

Jim Strozier
CONSENSUS PLANNING
302 8TH ST NW

ALBUQUERQUE, NM 87102

Fees Paid: \$200.00

Description: Santolina Level B Master Plan
UPC# 100505641701040201

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS DOCUMENT AND KNOW THE SAME TO BE TRUE AND CORRECT. ALL PROVISIONS OF LAWS AND ORDINANCES GOVERNING THIS TYPE OF WORK WILL BE COMPLIED WITH WHETHER SPECIFIED HEREIN OR NOT. GRANTING OF A PERMIT DOES NOT PRESUME TO GIVE AUTHORITY TO VIOLATE OR CANCEL THE PROVISIONS OF ANY OTHER STATE OR LOCAL LAW REGULATING LAND USE.

Signature: 
(Applicant/Owner Or Authorized Agent)

1-25-15
Date

Approved By: _____
(PDS Staff)

Date

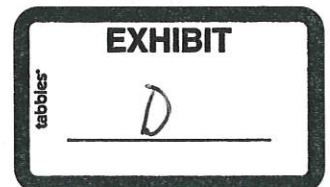
FOR INFORMATION CALL (505) 314-0350

Hearing Date: 03/02/2016

Sign Posting Date(s)

From: 2/17/14

To: 3/18/14



BERNALILLO COUNTY

Planning & Development Services
111 Union Square SE, Suite 100
Albuquerque, NM 87102
(505) 314-0350 Fax: (505) 314-0480
www.bernco.gov



PLANNING SECTION

SPECIAL PROJECT REVIEW APPLICATION

PLEASE SCHEDULE A PREAPPLICATION MEETING WITH A PLANNER AT 314-0350 SO THAT WE MAY BETTER ASSIST YOU IN THE APPLICATION PROCESS.

- Specific use
- Section 18.B
- Other A Planned Communities Criteria Level B Master Plan

APPLICANT Western Albuquerque Land Holdings, LLC, C/O Garrett Development Corporation PHONE 480-970-4002
 ADDRESS/CITY/ZIP 6991 E. Camelback Road, Suite D-212, Scottsdale, Arizona 85251

AGENT (Include letter of Authorization) Consensus Planning, Inc. PHONE 505-764-9801
 ADDRESS/CITY/ZIP 302 Eighth Street NW, Albuquerque, New Mexico 87102

Title of Plan & Location

Santolina Level B Master Plan - Located in the Southwest Mesa and is generally bound by I-40 to the north, 118th Street and the escarpment open space to the east, Dennis Chavez Boulevard on the south, and the escarpment area adjacent to and just west of Shelly Drive on the west (see attached Zone Atlas composite)

LEGAL DESCRIPTION (if application is for specific parcels) Please see attached UPC Codes										PROPERTY SIZE IN ACRES
UPC #										4.243.1 acres
UPC #										(LIST ALL ADDITIONAL UPC # IF NECESSARY)

BRIEF SUMMARY OF THE REQUEST

We are requesting a Special Project Review of a Planned Communities Criteria Level B Master Plan, known as the Santolina Level B Master Plan. The predecessor of this Level B Plan is the Santolina Level A Master Plan, which was approved on June 16, 2015 by the Bernalillo County Board of Commissioners along with a Zone Map Amendment to the Planned Communities Zone. The associated Development Agreement was recorded on August 10, 2015.

Application must include the following:

- Owner's name and Address
- Agent's name and address (if necessary, accompanied by a letter of authorization signed by the property owner)
- Uniform property code number(s) (if application is for specific parcels)
- Written statement describing the request
- Proof of neighborhood notification
- 5 Copies of the new plan (if applicable)

We are providing 12 hard copies (11 bound, 1 unbound) and 25 CDs, per instructions from Catherine VerEecke

I hereby acknowledge that I have read this entire application and affirm that all of the provided information is correct. I agree to comply with the requirements of Bernalillo County and the State of New Mexico as outlined in all applicable laws, ordinances and regulations.

James K. Strozier, AICP
Print Name

[Signature]
Signature

1.25.2016
Date

OFFICE USE ONLYOFFICE USE ONLY***OFFICE USE ONLY***OFFICE USE ONLY***	
APPLICATION DATE <u>1/25/16</u>	HEARING DATE <u>3/2/16</u>
APPLICATION # <u>ZSPR 2016-0001</u>	RECEIVED BY <u>AM</u>