

September 13, 2004

Vicki Lucero
Development Review Supervisor
Santa Fe County
102 Grant Avenue – P.O. Box 276
Santa Fe, NM 87504-0276

CERTIFIED
RETURN RECEIPT
REQUESTED
ANTICIPATED BY FAX

Re: EZC Case # MP-04-4450 Oshara Village, Phase I

Dear Ms. Lucero:

On August 16, 2004, the Office of the State Engineer (OSE) received a request to review the additional/amended documentation regarding the Final Development Plan Report for Phase I of “Oshara Village”.

The whole project, which is planned to be completed in six (6) phases, will encompass 470.6 acres, and will consists of an employment center, a community center, an institutional campus, office and commercial areas, and 735 residential units, which will consist of apartments, town houses, and single family homes. The property is located east of Richards Avenue and south of I-25, within Section 16, Township 16 North, Range 9 East, NMPM. The developer proposes to obtain water from Santa Fe County Water Utility (SFCWU). This office reviewed the proposal in 2002, and withheld a positive opinion. At that time, the project was known as “Oshara Ranch”. For details on the OSE review, please refer to the letter dated February 27, 2002.

The documents currently submitted refer only to Phase I of the project. The proposal states that it will consists of 175 dwelling units, and 136,000 square feet of commercial space, on 37.78 acres of land located in the SW ¼ of the above described 470.6 acres of land.

This submittal was reviewed pursuant to the Santa Fe County Land Development Code, the Community College District Land Use and Zoning Regulations, and the New Mexico Subdivision Act.

It is the opinion of this office that the developer's proposed modified water supply does not satisfy the requirements of Sections 6.6.1 and 6.6.2 of the County Code, and § 47-6-11.F (1) of the New Mexico Subdivision Act. Therefore, this office issues a negative opinion.

WATER DEMAND ANALYSIS

Section 6.6.1 of the County Code requires developers to submit a water budget for their proposed developments. Further, Section 6.6.2 requires a detailed water demand analysis for non-residential developments. The current submittal states, on page 4, that an average of 0.15 acre-feet of water per annum will be used by each residential unit, and that 1 acre-foot of water per annum will be used by every 40,000 square feet of commercial space.

Water for outdoor irrigation and for toilet flushing in the commercial spaces is not accounted for in the water budget, because the developer plans to use recycled water for these purposes. The proposal indicates that water will be trucked in to compensate, until the development is built and populated.

The proposal also states that the figures were originally (in the 2002 proposal) based on the American Water Works Association estimates from 1996, and that they have been modified to take into account innovations such as low flow toilets, front load clothes washers, and water recycling.

The following issues, omissions, and inconsistencies have been found:

- Dwelling Units - Page 3 of the proposal states that 175 dwelling units will be built during Phase I. However, Plat D-1 (attached to the proposal) states that this phase will include 97 residential units. This inconsistency must be clarified.
- Residential Water Use – Page 4 of the proposal states that each dwelling unit will use an average of 0.15 acre-feet of water per annum. It is not possible to verify the accuracy of this figure, because the proposal does not explain what methodology has been used, and does not indicate the number of apartments, townhouses, single family homes, and numbers of occupants per type of residence.
- Commercial Space – Page 3 of the proposal states that Phase I will include 136,000 square feet of commercial space, and Page 4 of the proposal states that one (1) acre-foot of water will be used annually for every 40,000 square feet. This means that the total water budget for the 136,000 square feet amounts to 3.42 acre-feet per year. This figure appears unrealistically low, when the following figures are considered:
 - The average water use for full service restaurants in Santa Fe was found to be 5.9 acre-feet per year per site, while the average for limited service restaurants was 2.5 acre-feet per year. These figures are contained in “A Survey of Residential and Commercial Water Use” published by the City of Santa Fe in February of 2001. It is obvious that just one restaurant would either exceed the overall commercial water budget or be very close to it. Please, note that the proposal includes at least one restaurant, as stated in Plat-D-1 states that 100,000 square feet will include retail, office, and restaurant.
 - The water use for wholesale and warehouses in the Santa Fe area was found to be approximately 0.4 acre-feet per year per 10,000 square feet in the aforementioned survey. Also, the water use will vary depending on the type of wholesale business (durable goods and nondurable goods). Again, wholesale is included within 36,000 square feet of commercial space (the rest being light manufacturing, assembly, craftwork, laboratory, wholesale and office).
 - The water use for offices was found to vary between 1.5 acre-feet per year (medical offices) and 0.6 acre-feet per year for 10,000 square feet of space in the same survey. Again, the proposal includes offices and laboratories among the commercial use.
- Distribution system losses – The current proposal is silent on this component of the water budget. The total water demand should be divided by 95%, to reflect at least 5% system loss.
- Outdoor irrigation – The proposal contains a detailed calculation of the amount of water that will be saved by irrigating all landscaped areas only with recycled water. However, water

for outdoor irrigation of non-native grasses (such as bluegrass) should have not been budgeted for in the first place, pursuant to Section 6.G of the Community College District Regulations, which states, “*Residential yards shall be required to use xeriscape designs incorporating drought-tolerant and native vegetation to the maximum extent possible. Non-native turf will not be permitted*”. Further, the disclosure statement and the restrictive covenants should state that only recycled water can be used for landscape irrigation.

In conclusion, due to the listed inconsistencies and omissions, it is the opinion of this office that the water budget does not satisfy the requirements of the two aforementioned sections of the County Code.

This office suggests that the developer refer to “*State Engineer Office Technical Report No. 48 (Wilson, 1996)*” as a guide to calculate indoor water demand for subdivisions, “*Water Use in Santa Fe – A Survey of Residential and Commercial Water Use, February 2001*” and “*Handbook of Water Use and Conservation (Amy Vickers, 2001)*” for water use figures in residential subdivisions and commercial establishments.

WATER AVAILABILITY ASSESSMENT

The developer has indicated that Santa Fe County Water Utility (SFCWU) will supply water to the subdivision. Copy of a water contract, between SFCWU and Greer Enterprises, for 24.9 acre-feet per year has been provided, and the proposal states that 30.56 acre-feet per year are currently available.

The OSE records indicate that SFCWU is not in possession of enough water rights to supply this subdivision. They also indicate that a good portion of the water rights relied upon at this time are San Juan/Chama diversion rights, which will expire on December 31, 2016.

Section 47-6-11.F(1) of the New Mexico Subdivision Act requires an opinion from the State Engineer to determine “*whether the subdivider can furnish water sufficient in quantity to fulfill the maximum annual water requirements of the subdivision*”. The OSE reviews the water rights and the physical water availability to issue an opinion. The proposal does not include a reasonable demonstration that SFCWU has sufficient water rights to provide the maximum amount of water required for Phase I of the “Oshara Village”.

If you have any questions, please call me at 505-827-4273.

Sincerely,

Mara Smith
Senior Water Resource Specialist

cc: John W. Longworth, OSE Water Use and Conservation Bureau Chief
OSE Water Rights Division, Santa Fe Office