



Planning and Zoning Commission

Summary of Commission Action

Hearing Date: None

CASE NUMBER:	Z 2014-8		
ACTION REQUESTED:	Petition for the Issuance of a Special Use Permit		
PURPOSE:	To permit the operation of an equestrian facility and conduct rodeo-type events on a regular basis		
PETITIONER:	Guadalupe Lomeli		
PROPERTY LOCATION:	64 East Lupton Road		
COMPLIANCE WITH COMPREHENSIVE PLAN:	Yes	COMPLIANCE WITH CHAVES COUNTY ZONING ORDINANCE:	Upon Approval of Special Use Permit
STAFF RECOMMENDATION:	Approval, subject to 7 Conditions of Approval		
PLANNING COMMISSION ACTION	This petition was not heard by the Chaves County Planning Commission due to a lack of a quorum at both its October and November meeting		
CONDITIONS OF APPROVAL:	<ol style="list-style-type: none"> 1. The applicant comply with all applicable Office of the State Engineer, the New Mexico State Health Department, and New Mexico Environmental Department regulations and permit requirements, and submit copies of all permits obtained to the Planning Department; 2. The driveway and parking area be periodically treated to reduce dust, in accordance with the zoning ordinance, and to the satisfaction of the Planning Department; 3. The total capacity of participants, spectators and horses shall not exceed 50 for any single event or venue; 4. All events, including live musical performances, close no later than 9:00PM; 5. All on-site lighting be shielded from surrounding uses and be developed in accordance with the New Mexico Night Skies Act; 6. The Special Use Permit shall be issued for a 3 year period, and shall expire on November 1, 2017. Upon expiration, a review of this Special Use Permit may be via an Administrative Review process; and 		

	7. Conditions of Approval number 1 and 2 shall be met prior to operating any event venue.
EXHIBITS:	Planning Department Revised Staff Report, November 12, 2014 Attachments a. through f.

**CHAVES COUNTY
PLANNING COMMISSION
PLANNING AND ZONING REPORT**

APPLICATION NO: Z 2014-08 **DATE OF HEARING:** November 12, 2014

NAME OF APPLICANT: Guadalupe Lomeli

REASON FOR HEARING: Special Use Permit, to operate an Equestrian Facility
and to conduct periodic Rodeo-Type Events

1. REQUEST:

Issuance of a Special Use Permit to operate an Equestrian Facility and to conduct rodeo-type events on a regular basis.

2. LOCATION OF PROPERTY:

64 East Lupton Road. The property is roughly rectangular in shape, and contains approximately 4.77±acres of land. The subject property contains approximately 652' of frontage along East Lupton Road. The property is approximately 330' in depth.

The subject property is located on East Lupton Road, approximately midway between SR 2 (Old Dexter Highway) and US 285 (SE Main Street).

The UPN of the subject property is 4-141-069-101-282-000000.

The property is developed with a single family residential dwelling unit, and two agriculturally-related accessory buildings (barn, shop); all located in the NE quarter of the subject property. An equestrian activity arena and small corral will be the focus of the planned equestrian events. These amenities are located on the southern half of the subject property. No new permanent structures are proposed to be constructed to accommodate the uses outlined and described in the Special Use Permit petition.

3. NATURE OF REQUEST:

The petitioner (Guadalupe Lomeli) proposes to operate an Equestrian Facility venue up to three times per year, from May through September. Occasional special events may run outside of these hours. Also proposed will be live and recorded music and the vending of snacks on-site. A covered open area will be utilized to provide shade for the horses. A modest entry fee may be charged for admission to planned events. Portable bathrooms and 2 small structures for changing clothes are proposed to be placed on the property when events are scheduled to be conducted.

4. **COMMISSION DISTRICT:**

The subject property is located in Commission District Number 2. This District is represented by Commissioner Kim Chesser.

5. **NATURE OF SURROUNDING LAND USE AND ZONING:**

In accordance with *Article VI* of the *Chaves County Zoning Ordinance*, this parcel and all adjacent properties are zoned Agricultural. Surrounding properties are all zoned Agricultural. The majority of adjacent parcels contain agricultural (open field) uses, and are developed with a mix of traditional and manufactured home single family residences.

6. **KEY ISSUES:**

Staff has not identified any significant key issues related to this request. There are issues that may need to be discussed and resolved via review of this petition:

1. Staff is unaware of the total number of participants and spectators anticipated to attend any one event. A moderately large crowd may overwhelm the facility, and potentially negatively impact traffic on East Lupton Road, SR 2 and US 285. Staff is therefore recommending a maximum capacity of 50 participants and spectators in attendance for any event or venue.
2. Access to the site is currently an unpaved driveway. Use of this driveway and the unpaved parking area by participants and spectators will create significant airborne dust, which may create negative environmental and health impacts. Staff will therefore condition approval of this petition on the proper treatment of the driveway and parking area with gravel or other treatment acceptable to the Planning Department, prior to conducting events.
3. There is no mention of water and large scale wastewater disposal facilities in the petition. Staff will therefore condition approval of this petition by requiring the petitioner to contact the New Mexico Environmental Department, the New Mexico State Health Department, and the Office of the State Engineer to ascertain and comply with their respective requirements and regulations that address “places of assembly.”
4. Although the land use could be considered a commercial enterprise in nature, similar land uses already occur on lands located within Chaves County. In all cases, the petitioners obtained Special Use Permits to conduct these uses. Staff considers the use proposed to be Agricultural in nature. Additionally, the petitioner proposes conducting events only a few times during the year, during the late spring and summer months. In accordance with *Article VI, Agricultural District, Area II*, Livestock grazing and Extensive recreation, are listed as permitted land uses within the District.

7. **EXISTING SITE ACCESS:**

Access to the project site will be via an existing 55' wide privately owned unpaved driveway that tapers to a width of 30' that has direct access to East Lupton Road. East Lupton Road is a two-lane paved road with limited shoulders. It runs in an east-west direction and connects SE Main Street with the Old Dexter Highway.

8. **LAND USE HISTORY:**

There are no records of past land use petitions or zoning violations on the subject property.

9. **CHAVES COUNTY COMPREHENSIVE PLAN:**

The proposed land use is in general conformance with Section F, Chaves County Custom and Culture, of the Public Lands Element, Chapter 3 (see pages 24 – 33).

10. **ZONING ORDINANCE AND COUNTY CODE REQUIREMENTS:**

Special Use Permits

Special Use Permits are governed by *Article XVIII* of the *Chaves County Zoning Ordinance*. The Ordinance permits the Planning Commission and the Board of Chaves County Commissioners to impose appropriate conditions and safeguards, which may include a specified period of time for the Special Use Permit to protect the general plan to conserve and protect the property values in the neighborhood.

Section 2, Supplemental Regulations, 11. states, “*Before issuance of any special permit for any of the above buildings or uses, the Board of Chaves County Commissioners shall refer the proposed application to the Planning and Zoning Commission, which commission shall be given sixty (60) days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood traffic conditions, public utility facilities, and other matters pertaining to the general welfare. No action shall be taken upon the application for the proposed building or use above referred to until and unless the report to the Chaves County Planning and Zoning Commission has been filed. Provided, however, that if no report is received from the Chaves County Planning and Zoning Commission within sixty (60) days, it shall be assumed that approval of the application has been given by said Commission.*”

Appeals

Section 2, Supplemental Regulations, 12. states, “*Any aggrieved persons or any officer, department, board, or bureau of the Zoning Authority affected by the decision of approval, disapproval, or any conditions required of the Ordinance Enforcement Officer may appeal to the Zoning Authority. The appeal procedure will be in accordance with Article 1, Section 5.H.9.*”

Article I, General Statements, Section 5, Zoning Ordinance – Mode of Determination, Establishment, Official Zoning Map, Enforcement, Amendment, Supplementation, Repeal or Appeal, H. Amendment, Supplementation or Repeal 9. Appeals to Zoning Authority – Grounds – Stay of proceedings. states, in part,

b. “*Any aggrieved persons or any officer, department, board, or bureau of the zoning authority affected by a decision of an administrative officer, commission, or committee in the enforcement of Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation, or ordinance, resolution, rule or regulation adopted pursuant to these sections may appeal to the zoning authority. An appeal shall stay all proceedings in furtherance of the action appealed unless the Ordinance Enforcement Officer, commission, or committee from whom the appeal is taken,*

certifies that by reason of facts stated in the certificate, a stay would cause imminent peril of life or property. Upon certification, the proceedings shall not be stayed except by order of district court after notice to the official, commission, or committee from whom the appeal is taken and due cause shown."

- c. *"When an appeal alleges that there is error in any order, requirement, decision, or determination by an administrative official, commission, or committee in the enforcement of Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation, or any ordinance, resolution, rule, or regulation adopted pursuant to these sections, the Board of Chaves County Commissioners by a two-thirds ($\frac{2}{3}$) vote of all its members may:*
1. *authorize, in appropriate cases and subject to appropriate conditions and safeguard, special conditions to the terms of the zoning ordinance or resolution;*
 - (a) *which are not contrary to the public interest;*
 - (b) *where, owing to special conditions, a literal enforcement of the zoning ordinance will result in unnecessary hardship; and*
 - (c) *so that the spirit of the zoning ordinance is observed and substantial justice done; or*
 2. *In conformity with Sections 3-21-1 through 3-21-14 N.M.S.A., 1978 Compilation;*
 - (a) *reverse any order, requirement, decision, or determination of an administrative official, commission, or committee;*
 - (b) *decide in favor of the appellant; or*
 - (c) *make any change in any order, requirement, decision, or determination of an administrative official, commission or committee."*

11. **STAFF ANALYSIS AND FINDINGS:**

General Findings:

Staff finds that equestrian-related activities are appropriate, given the predominantly agricultural and rural nature of land uses existing within Chaves County.

Special Use Permits:

Finding: The land use requested by the petitioner requires issuance of a Special Use Permit upon a duly noticed public hearing.

Floodplain:

Finding: The subject property is not located within a FEMA floodplain.

Setbacks:

Findings: All required yard setbacks and building separation requirements will be met by the proposal.

Compatibility with the Chaves County Comprehensive Plan:

Finding: Although not regulatory in its scope of authority, the Chaves County Comprehensive Plan contains narrative that supports a number of custom and cultural activities unique to Chaves County. Chaves County is located within a predominantly agricultural and ranching region of the state and nation. Equestrian-related land uses are associated with the promotion of agricultural land uses. Agricultural/recreational land uses are generally in conformance with the goals and objectives of the Chaves County Comprehensive Plan.

Compatibility with Surrounding Land Uses:

Finding: Lot sizes in the immediate area are typically 5 acres in size, with a few parcels measuring 10-25 acres in size. Most of the surrounding parcels are developed with single family residences. Staff finds that, with the proposed Conditions of Approval recommended, the proposed Equestrian facility will not likely have a detrimental impact on the character of the immediate neighborhood, traffic conditions or public utility facilities, and will likely not have an impact in the foreseeable future.

Impact on Adjacent Land Uses, Existing Infrastructure, and Neighborhood Traffic Conditions:

Finding: This area of Chaves County can best be described as a “rural residential” area. Most of the adjacent properties are developed with single family residential dwellings. Several properties contain farm animals and horses, with the predominant animal being horses. The land use proposed will create minimal impact on the existing infrastructure (electrical power, water wells, septic tanks), but may have a significant impact on neighborhood traffic conditions. For this reason, Planning staff recommends limiting the number of participants, spectators and horses on the site during events to be no more than 50. Planning staff further finds that by limiting the total number of people and horses on the property, negative impacts of this use on adjacent land uses and properties will be minimized.

Public Participation:

Finding: No comments or protests have been received from the adjacent property owners as a result of public notification and legal advertising of the Special Use Permit petition as of [October 27, 2014](#).

Permits:

Finding: No additional Chaves County permits have been identified for the proposed land use. The petitioner shall contact the New Mexico Environmental Department, the New Mexico State Health Department, and the Office of the State Engineer to ascertain and comply with their respective requirements and regulations, and if any permits are required for specific details

associated with the proposed land use, such as water availability, solid waste disposal, and health requirements.

12. RECOMMENDATION:

Staff finds that the land use proposed by the petitioner is appropriate for the subject property, given its general location.

Staff believes that approving a Special Use Permit for the land use on the subject property is appropriate, subject to certain conditions of approval that are designed to mitigate potential negative impacts on the subject property, local infrastructure, and on surrounding land uses.

Therefore, staff recommends approval of the Special Use Permit petition, Case Number Z 2014-8, subject to the following seven Conditions of Approval:

1. The applicant comply with all applicable Office of the State Engineer, the New Mexico State Health Department, and New Mexico Environmental Department regulations and permit requirements, and submit copies of all permits obtained to the Planning Department;
2. The driveway and parking area be periodically treated to reduce dust, in accordance with the zoning ordinance, and to the satisfaction of the Planning Department;
3. The total capacity of participants, spectators and horses shall not exceed 50 for any single event or venue;
4. All events, including live musical performances, close no later than 9:00PM;
5. All on-site lighting be shielded from surrounding uses and be developed in accordance with the New Mexico Night Skies Act;
6. The Special Use Permit shall be issued for a 3 year period, and shall expire on November 1, 2017. Upon expiration, a review of this Special Use Permit may be via an Administrative Review process; and
7. Conditions of Approval number 1 and 2 shall be met prior to operating any event venue.

13. BOARD OF CHAVES COUNTY COMMISSIONERS PUBLIC HEARING:

The recommendation of the Planning and Zoning Commission will be presented for public review and action at the **November 20, 2014** regular meeting of the Board of Chaves County Commissioners. This public hearing will begin at 9:00AM Mountain Standard Time.

14. ATTACHMENTS:

- a. Petition for Case Review, Chaves County Planning & Zoning Department
- b. Vicinity Map
- c. Assessor's Aerial Map
- d. Site Development Plan
- e. Excerpt from Chapter 3 of the Draft Chaves County Comprehensive Plan
- f. Photographs of the property



CHAVES COUNTY APPLICATION CHAVES COUNTY ZONING ORDINANCE

Case Number: Z2014-8 Date Received: SEPT 2, 2014 Fee: \$150.00

Type of Request: Rezoning Special Use Variance Change of Use

Name of Property Owner: GUADALUPE LOMELE Phone Number: _____

Mailing Address: 64 E LUPTON ROAD

Name of Applicant: SAME AS ABOVE

Mailing Address: SAME AS ABOVE Home Phone Number: (575) 317-5747 ^{wrong#}

Business Phone Number: 317-5748

Applicant Status: Owner Agent Tenant Other (Spouse) 317-9776
(Cecilia)

Case Address, Legal Description, and Parcel Number: 74 E LUPTON ROAD, parcel #
4-14-019-101-282, S9 T12S R25E, N2NE4NW4SW4
less E 30 feet.

Present Land Use: AGRICULTURAL HORSE FACILITY

Intended Use: OPERATE RODEO

Present Zoning: AG - AGRICULTURE Requested Zoning: NO CHANGE PROPOSED

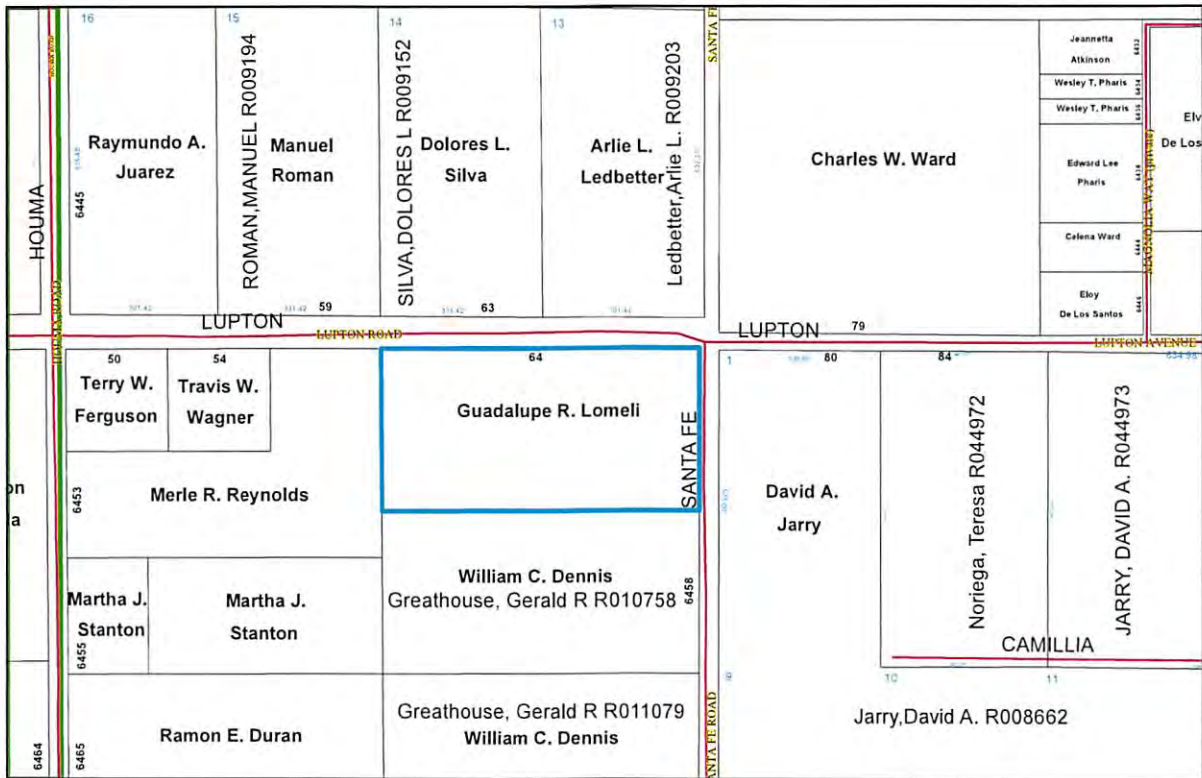
Applicant's Reason for Requested Change: (Use back if more space is needed) OPERATE A RODEO
AND HAVE MUSIC / MEXICAN SNACKS UP TO THREE TIMES PER YEAR
(MAY, JULY - SEPTEMBER)

I ACKNOWLEDGE THAT I HAVE BEEN INFORMED OF THE DATES, TIMES, AND LOCATIONS OF THE PUBLIC MEETINGS WHICH I OR MY AGENT MUST ATTEND IN ORDER TO FULFILL THE REQUIREMENTS OF THIS APPLICATION.

Guadalupe Lomele
Owner's Signature

SEPTEMBER 2, 2014
Date

VICINITY MAP

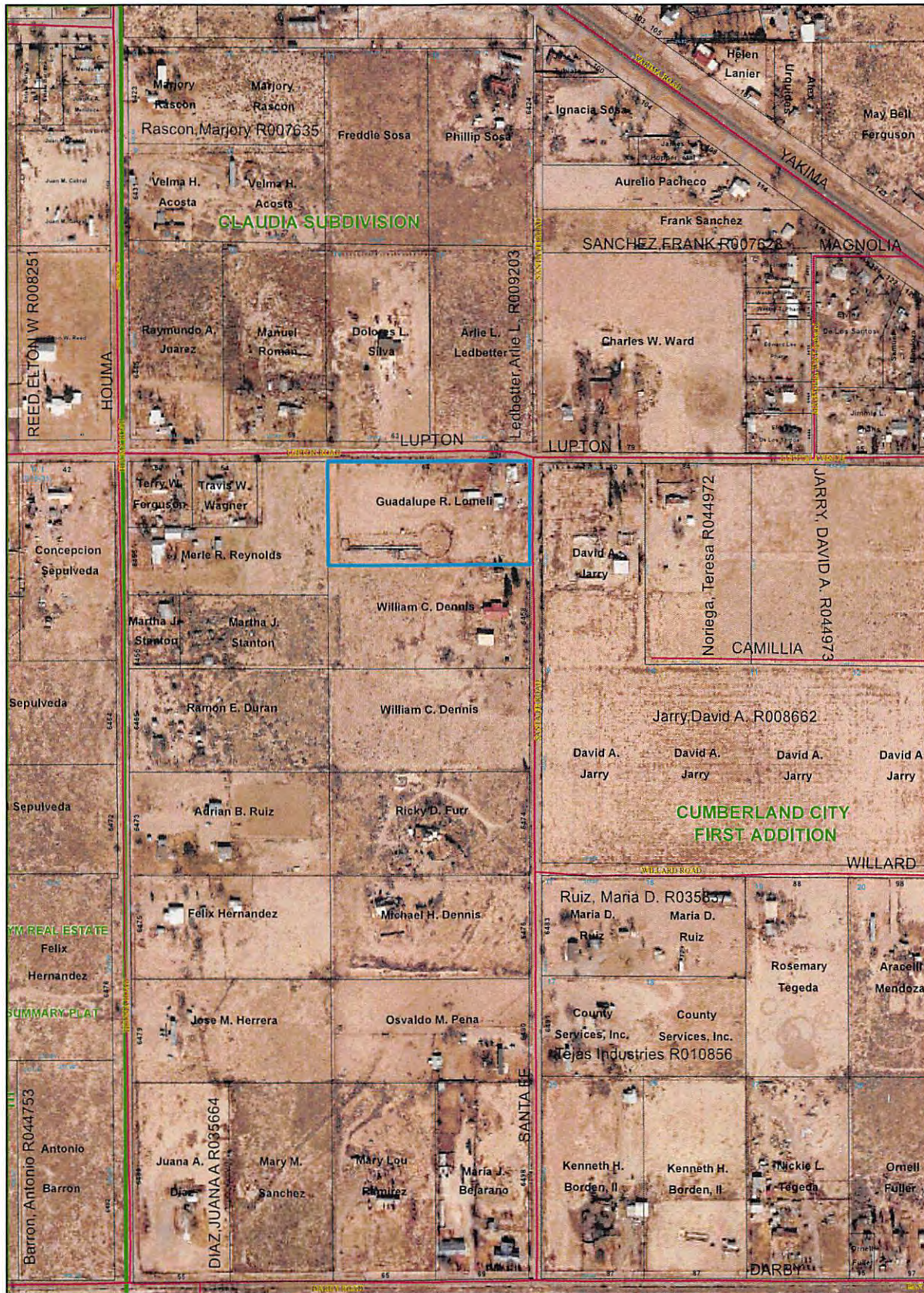


74 E. LUPTON RD.
CASE Z 2014-8

b.



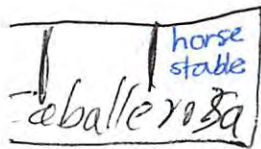
AERIAL MAP



74 E. Lupton Rd.
Case Z 2014-8

C.





d.

Reagan. It requires all federal departments and agencies to avoid actions that infringe on private property rights. The Executive Order goes on to say that any undue delay in decision making during which private property is interfered with carries the risk of being held to be a taking, which requires financial compensation and due process.

Pursuant to this Executive Order and Supreme Court cases, the Attorney General of the United States has promulgated guidelines that define private property and private property rights. In doing so, the Attorney General also established a procedure for federal agencies and departments to utilize in analyzing the effects of their proposed rules, actions, and decisions on private property.

F. CHAVES COUNTY CUSTOM and CULTURE

The term “custom and culture” is an integral part of the Land Use Element of the Chaves County Comprehensive Plan because it helps to define and enhance the County’s position concerning federal and state trust lands within Chaves County.

Federal land use planning laws and regulations require all federal agencies to consider the impacts from proposed actions on the social structure and economy of an affected area. Federal agencies have accepted the term “custom and culture” in the context of land use planning as synonymous with social structure and economy.

In land use planning, Chaves County defines culture as:

“The body of customary beliefs, social forms, and material traits constituting a distinct complex of traditions of a racial, religious, or social group that includes knowledge, belief, morals, law, customs, opinions, religion, superstition, and art.”

Adding the term “custom” in the context of comprehensive land use planning, refers to land uses and practices that have acquired the force of tacit and common consent. This essentially means that certain land uses have historically helped shape the values, attitudes, and traditions of County residents by providing them ways to earn a living, offering recreation, or by providing them places to live. These traditional land uses, which help to define the “custom and culture” of Chaves County, are still active today. They include:

- Grazing/ranching;
- Agriculture;
- Mineral production; and
- Recreation.

FINAL DRAFT

Grazing has always played a prominent role in the history of Chaves County and as a practice, has been utilized by many residents. Livestock grazing was the one of the original economic engines in Chaves County. Grazing/ranching began in the Pecos Valley in the 1860s. The practice of grazing was an activity of the early Hispano and Anglo settlers alike, forging a major component in the early economic history of Chaves County. Grazing has always been more difficult in an area like Chaves County due to its hot summers and sporadic rainfall, requiring more land for livestock to graze. Throughout southern and southeastern New Mexico, ranchers would lead their herds to unclaimed public lands to graze, which soon became the norm.

Western expansion and settlement was encouraged by Congress with the passage of a series of Homestead Acts. In 1934, Congress passed the Taylor Grazing Act, which authorized the issuance of grazing permits on vacant unappropriated and unreserved lands constituting a portion of the public domain. Preference in the issuance of grazing permits was given to those land owners engaged in the livestock business, bona fide occupants or settlers, or owners of water rights as may be necessary to permit the proper use of the lands.

The “custom and culture” associated with agricultural production in Chaves County is necessary to the livelihood and well being of its citizens (*see Land Use Element for more information regarding agricultural production*). Therefore, it is the intent of Chaves County to protect agricultural land and promote the continuation of agricultural pursuits by protecting private property rights, relying on self-determination, and ensuring open market conditions. The County will not support unsound agricultural practices that cause watershed damage, soil erosion, and reductions in water quality.

Dairies have always been a part of the agricultural community in Chaves County, but in the 1990s, the number of dairies, milk cows, and milk produced increased and continues to increase. The New Mexico Agricultural Statistics for 2007 published by the New Mexico Department of Agriculture reports that 1,941,200,000 pounds of milk were produced in Chaves County as compared to 1,814,600,000 pounds in 2002, an increase of 7%.

Chaves County recognizes that the development of its abundant hydrocarbon and mineral resources is desirable and necessary to the state and nation. It is, therefore, the intent of Chaves County to encourage the practice of responsible mining and mineral resource extraction.

Chaves County also recognizes that outdoor recreation activities have contributed to the “custom and culture” of County residents. The County realizes that the large amounts of public land within the County provide recreational opportunities to the citizens, but that recreational use of public lands often cause conflicts with private property rights. Chaves County intends to promote the continued use

of public lands for recreation, but will not permit such recreational use to violate private property rights.

As noted earlier, federal and state trust lands comprise a substantial portion of Chaves County and are used for recreation, grazing, and for mineral extraction. These activities are very important for many County residents and work in concert with other activities that take place on private land. Together, these activities contribute to the “custom and culture” of Chaves County, which can be defined as all those elements that form the values and morals of County residents, as well as define their sense of place. Much of the concept of the County’s “custom and culture” stems from the County’s history found in Section 2 of this Comprehensive Plan. Chaves County residents are very much tied to the land. Their shared history is rooted in farming and ranching in the context of a rural atmosphere. The reason that people choose to live in the unincorporated portions of the County is that they still value this life style and wish to maintain the rural qualities of Chaves County. Associated with this desire is the belief that protection of private property rights is extremely important and government, be it federal, state, or local, needs to be respectful of this principle.

Chaves County strives to protect the “custom and culture” and private property rights in the County through the enactment and enforcement of ordinances and insists that public land use decisions made at the federal and state level do the same.

In order to maintain the “custom and culture” of Chaves County and protect property rights, the County will be involved in land use decisions regarding public lands. The goals, objectives, and implementation policies listed below are intended to help Chaves County direct this involvement. In compliance with federal and state law, all federal and state agencies are directed to use this Comprehensive Plan as a guide in the coordination of planning for management of federal and state trust lands within the geographical boundaries of Chaves County.

G. PUBLIC LANDS GOALS, OBJECTIVES, and POLICY ACTIONS

The following goals, objectives, and policy actions address the issues arising from the County’s interaction with federal and state trust lands within the County.

Goal 3.1: Preserve and protect the County’s “custom and culture” by incorporating it into federal and state trust land use decisions.

Objective 3.1.a: To ensure that federal and state agencies’ land use policies and plans are compatible with the Comprehensive Plan and other County land use policies.

FINAL DRAFT

Objective 3.1.b: To ensure that future development of federal and/or state wilderness, park, recreational, or other specially designated areas in Chaves County is compatible with the custom, culture, and economic stability of the County.

Objective 3.1.c: To ensure that federal and state agency's plans do not increase the total amount of land under federal or state management, and whenever possible, increase the amount of private land within Chaves County.

Objective 3.1.d: To ensure the County's legal standing and coordination with state and federal agency's land use planning efforts prior to the decision making stage so that close consultation, communication, coordination and cooperation with full public participation is fulfilled.

Objective 3.1.e: To share land use data with federal agencies through the existing Memorandum of Understanding for the purpose of updating land use maps.

Policy Action 3.1.a: Chaves County, through the Public Lands Advisory Committee (PLAC), shall transmit a copy of the adopted Comprehensive Plan to all state and federal agencies for those agencies to use the Plan as a guide for the purpose of planning for the management of federal and state lands within the geographic boundaries of Chaves County.

Policy Action 3.1.b: Chaves County, through the PLAC, shall establish a mechanism for tracking and reviewing all federal and state land transactions, including land adjustments, purchases, disposals, and exchanges by close consultation, coordination, and cooperation and with full public participation.

Policy Action 3.1.c: Chaves County, through the PLAC, shall monitor federal and state agency plans, policies, and changes to land status/ ownership as they relate to Chaves County land use policies.

Policy Action 3.1.d: On a continual basis, Chaves County Planning and Zoning, in conjunction with the County Assessor's office, shall update and keep current all County land use maps including data from the federal and state agencies located in Chaves County.

Policy Action 3.1.e: Chaves County shall formally request that federal and state agencies managing public land in Chaves County prepare regular written and oral reports to the County Commissioners, notify the County Commission when proposing actions with possible impacts to Chaves County, require legal standing and coordinate with local government in the planning and implementation of proposed actions, and provide the County

FINAL DRAFT

Commissioners with documentation of all impact analyses, including socioeconomic impacts.

Policy Action 3.1.f: Chaves County shall develop monitoring and compliance standards to evaluate this Comprehensive Plan and to ensure consistency between federal and state actions and activities and the land use requirements enumerated within this Plan.

Goal 3.2: Protect private property rights and the preservation of Chaves County's "custom and culture" through the continued use and enjoyment of state and federal lands for grazing/ranching, agriculture, mineral extraction/production, and recreation.

Objective 3.2.a: To ensure that traditional land uses are continued in order to protect the custom and culture of Chaves County.

Objective 3.2.b: To increase opportunities for local economic development by increasing the amount of patented and non-federal land within the County.

Objective 3.2.c: To identify those federal and state parcels that have a conflicting use or those that lie in isolated tracts so that they will be targeted for disposal.

Objective 3.2.d: To rely on the established New Mexico Department of Agriculture Range Improvement Task Force to help advise the Chaves County Commissioners to prevent economic disruption and harm to the western livestock industry.

Policy Action 3.2.a: Chaves County shall declare grazing an "equitable estate".

Policy Action 3.2.b: Chaves County shall adopt a definition of private property rights and endorse the private property protections guaranteed by the US Constitution and to ensure that those protections and rights are afforded to the citizens of Chaves County.

Policy Action 3.2.c: Chaves County shall promote use of federal and state trust lands that respect private property rights and increase free market opportunities for all County residents.

Policy Action 3.2.d: Chaves County shall coordinate with federal land agencies to ensure that they do not acquire any private lands or rights

FINAL DRAFT

on private lands within Chaves County without addressing the following considerations:

- That as a minimum, parity in land value by status is maintained in each school district; and
- That private property interests are protected and enhanced.

Policy Action 3.2.e: Chaves County shall encourage the exchange or adjustment of land by utilizing the following strategies:

- Permittees or other users will have preferential options to purchase federal or state Trust lands that lie within or adjacent to lands they currently lease or own when those lands are being considered for adjustment or disposition.
- Request that the New Mexico State Land Office assist Chaves County in coordinating land exchanges so as to maximize patented fee simple lands.
- In situations where the Chaves County Commissioners determine that federal land agencies are proposing to change the local historic custom, culture, and community stability of land use, the Chaves County Commissioners, at their option, may require adverse impact studies as outlined in Presidential Executive Order 12630, which requires that all federal agencies complete a Taking Implication Assessment to evaluate the effect of their rules, regulations, and decisions on: 1) Private property; 2) Private property rights; and 3) The investment backed expectations of private citizens. These requirements shall be conducted and mitigation measures adopted with concurrence from Chaves County. Adverse impact studies shall also address all classes of grazing rights, flood prone areas, public access, and the health and well-being of the citizens of Chaves County.

Policy Action 3.2.f: Chaves County shall adopt the Public Rangelands Improvement Act, 43 U.S.C. 1901 et seq. as County policy. The procedures set forth in the Public Rangelands Improvement Act and accompanying Memorandums of Understanding as modified by this Comprehensive Plan shall govern all actions involving the federal Agencies, including the Bureau of Land Management and the US Forest Service, and either an individual or group of livestock grazing permittee(s) or lessee(s), including but not necessarily limited to the creation or revision of an allotment management plan, and other like actions or as requested by the permittee(s) or lessee(s).

FINAL DRAFT

3. PUBLIC LANDS

Policy Action 3.2.g: Chaves County shall coordinate with the Bureau of Land Management and US Forest Service in initiating the consultation procedures described in the Memorandum of Understanding between the Governor of New Mexico and the New Mexico State Director, Bureau of Land Management, US Department of the Interior, dated July 30, 1980. In addition, the County shall coordinate the initiation of consultation procedures described in the Memorandum of Understanding between the Director of the New Mexico Department of Agriculture (NMDA) and the Regional Forester, US Department of Agriculture, Forest Service (USFS) Southwestern Region, dated July 28th, 1987.

Policy Action 3.2.h: Chaves County shall continue opportunities for grazing livestock on federal and state trust lands at levels consistent with proper range management, 'custom and culture', and the protection of equitable property rights.

Policy Action 3.2.i: Chaves County shall develop incentives for improving grazing land and promoting good land stewardship through:

- Encouraging permittee ownership of range improvements;
- Encouraging the development of Grazing Advisory Boards;
- Appropriate fee schedules;
- Encourage the subleasing of grazing permits and leases;
- Allotment management plan flexibility; and
- Increasing grazing capacity or allowing other economic benefits to accrue to permittees making investment in range betterment.

Policy Action 3.2.j: Chaves County may develop, in coordination with federal and state governments, an effective Section 8 process pursuant to the Public Rangeland Improvement Act of 1978 and may implement procedures and guidelines to account for the allocation expenditures of range improvements funds and funds collected through the Sikes Act.

Policy Action 3.2.k: Chaves County may adopt a policy in relation to the Public Rangelands Improvement Act (PRIA) 43 U.S.C. 1901 et seq. with a Memorandum of Understanding between the State of New Mexico and the Bureau of Land Management, the Regional Forester, U.S.D.A., Forest Service, the purpose of which is to promote efficient multiple management of the range resources in Chaves County.

Policy Action 3.2.l: Chaves County shall adopt a definition of private property rights that is based upon the definition found in the Attorney General's Guidelines for the evaluation of Risk and Avoidance of Unanticipated Takings dated June 30, 1988. The definition shall include protection by the Fifth and Fourteenth Amendments of the Constitution of

FINAL DRAFT

the United States that includes real and personal, tangible, and intangible property and ensures that private property includes “investment backed expectations”.

Goal 3.3: Protect the public’s safety on all land within Chaves County, including federal and state trust lands.

Objective 3.3.a: To ensure communication among law enforcement agencies and that the County Sheriff has access to public lands.

Policy Action 3.3.a: Chaves County shall recognize that the County Sheriff is the senior law enforcement officer in the County. As such, the Chaves County Sheriff shall have primary jurisdiction over all law enforcement matters within Chaves County outside the limits of incorporated cities, towns, and villages.

Goal 3.4: Prevent damage to private or public lands from wild animals on federal and state trust lands relative to grazing or other traditional land uses vital to the economy of Chaves County.

Objective 3.4.a: To provide for the identification, removal, or relocation of excessive numbers of all wild animals that damage private or public lands within the confines of the law, that have an economic impact on the County or its citizens.

Objective 3.4.b: To establish, with the New Mexico Department of Game and Fish, the maximum and minimum hunting for big game.

Policy Action 3.4.a: Chaves County shall establish a mechanism to make a determination and notify affected federal and state agencies concerning issues regarding wild animals, hunting, or other issues impacting private land or the ‘custom and culture’ of Chaves County.

Goal 3.5: Provide proper stewardship of the County’s natural resources in a way that respects that custom and culture, protects the economic vitality, and quality of life of Chaves County.

Objective 3.5.a: To ensure coordination with federal and state agencies responsible for management of the County’s natural resources.

Objective 3.5.b: To ensure that public lands continue to be managed under the multiple use concept to provide opportunities for all users of public lands in accordance with the County’s custom and culture.

FINAL DRAFT

Objective 3.5.c: To ensure that all Sikes Act funds collected in Chaves County are spent in Chaves County.

Policy Action 3.5.a: Chaves County may encourage Congress to promote a wetlands policy to include only those areas that actually function as wetlands, which would allow for the development of wetlands areas when overriding public need requires such development and it is offset by suitable mitigation actions, and does not require land designated as agricultural land by the USDA prior to 1985 to be restored to conditions that existed prior to agricultural use. Chaves County may, at the option of the County Commissioners, be the lead agency in designating wetlands. Wetlands are defined as “Those areas that are inundated or saturated by surface or ground water at a frequency and duration to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.”

Policy Action 3.5.b: Chaves County shall continue to coordinate with the Natural Resources Conservation Service (NRCS) Noxious Weed Program and the noxious weed coordinator.

Policy Action 3.5.c: Chaves County shall promote and facilitate public and private recreational opportunities compatible with local ‘custom and culture’.

Policy Action 3.5.d: Chaves County shall participate and require legal standing and coordination in the formulation of plans for the recovery of any federal or state listed threatened or endangered species, including any proposed introduction or re-introduction of a species by artificial actions of government agencies or personnel.

Policy Action 3.5.e: Chaves County shall coordinate with federal and state trust land and wildlife management and enforcement agencies on matters regarding wildlife and resources. The Board of County Commissioners shall review and comment on all plans and proposals prior to finalization or initiation of actions by federal and state agencies.

Policy Action 3.5.f: Chaves County shall work to ensure that proposed federal or state specially designated areas in Chaves County are presented to the PLAC in a timely manner so that the County may participate in the planning process.

FINAL DRAFT

Goal 3.6: Protect the continued use of mineral resources as a vital aspect of Chaves County's custom and culture and economy.

Objective 3.6.a: To promote responsible mineral resource development and management in the County.

Policy Action 3.6.a: Chaves County shall review all decisions made by federal and state agencies concerning the extractive industries that have an economic impact on the citizens of Chaves County.



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