

October 21, 2020



City of Rio Rancho
Planning & Zoning Board
3200 Civic Center Circle, NE
Rio Rancho, NM 87144
Submitted via Email: arincon@rrnm.gov

Re: Jemez Vista Subdivision Final Plat Approval
Case No. 20-220-00010

Dear Planning & Zoning Board Members,

This comment letter is being submitted by the Mariposa Neighborhood Association (MNA) to be included in the members' packets and read into the public record at the regularly scheduled meeting on October 27, 2020. The purpose of this letter is to both document and convey the MNA's concerns regarding the initial and current construction activities within the Jemez Vista Subdivision, as well as our request that the P&Z Board seriously consider our concerns and the lack of design standards included in the applicant's proposed final plat prior to approval.

Background

Without notice or warning, on the morning of June 6, 2020, heavy equipment rolled into Mariposa East and began tearing into Jemez Vista, a 10-acre parcel of undisturbed land, located in the center of and surrounded by established neighborhoods. The impacts could be heard, seen, and felt from blocks away. The sound of 100+-year-old juniper trees with active bird nests being ripped from the ground and mechanically crunched into mulch. The nightly sounds of displaced coyotes and screeching owls searching for new habitat. Tree debris and dirt clods flying into the backyards of residences adjacent to and facing the development. Dust coating the yards of residences blocks away. The continuous reverberating sound of heavy equipment 6 days a week, from 6 AM to 6 PM. And a permanent brown cloud of dust that had settled over Mariposa East. We would soon learn that 41 homes were going to be built—an in-fill project that was delayed over the years for one reason or another.

Several complaints were made, and the responsibility for assuaging concerns and monitoring compliance with local, state, and federal laws were either condescendingly referred to as temporary nuisances, inconveniences, or disruptions or passed along to someone else. The HOA and current developer passed the buck to the City and the Construction Superintendent, who was rarely one-site or responsive. The NM Environment Department passed the buck to the City's Code Enforcement Division. Our City Councilor passed the buck to the City's Development Services. And so on.

Air Quality/Fugitive Dust

In June, during days of high wind warnings, air quality alerts, hazy and smoky skies, allergy and asthma season, and a respiratory disease pandemic, the City's Dust Control Ordinance 91.08 was repeatedly violated. Numerous residents complained about the brown cloud of dust and exhaust that more often than not hung over Mariposa East. Calls were made to the NM Environment Department's Air Quality Bureau, to our HOA manager, to our City Councilor, etc. All fingers at that time pointed to the City's Code Enforcement Division, who initially sent out inspectors multiple times a week to monitor the situation. Eventually water towers were brought in, but not without significant intervention by the residents. However, even then dust abatement measures were often not or ineffectively applied. In

order to be effective, water should be sprayed prior to, during, and after ground disturbing activities. Therefore, the water towers were not the panacea to mitigating the air quality issues. More complaints were raised and Matt B. Geisel, Acting Development Services Director, responded that “[t]he use of water on a job site for dust mitigation is influenced by atmospheric conditions. At some points, it evaporates too quickly for optimal effectiveness.” Yes, it does. But, our recommended solution, and it should be the City’s as well, is to suspend dirt disturbing activities during days of high wind warnings and air quality alerts.

Clean Water Act Violations

On June 8, 2020, two days after DR Horton broke ground on the Jemez Vista Subdivision, one of the MNA’s Infrastructure Committee members, who has 25+ years of experience in environmental planning and compliance, pondered how DR Horton was allowed to destroy mature junipers with active bird nests, during nesting season, in violation of the Migratory Bird Treaty Act (MBTA), if they had a 404 permit allowing them to fill in multiple arroyos that traversed Jemez Vista. (Compliance with the MBTA is a condition of all 404 permits.) These arroyos were identified by the U.S. Army Corps of Engineers (USACE) as jurisdictional waters in 2004 and were tributaries to an unnamed arroyo situated on the far north section of the Jemez Vista plat which is protected by a SSCAFCA easement.

This resident contacted Forrest Luna at USACE and was initially told that DR Horton did not have a 404 permit. Mr. Luna called back later and said he had been contacted by DR Horton’s engineering firm, BHI, and was told that the work was being conducted under a 2004 individual 404 permit. The MNA had to file a FOIA request to receive a copy. Once we did, we discovered that USACE issued said 404 permit for Mariposa East to High Desert Investment Corp in 2004 and extended it another 10 years in 2014. It has been transferred 2 times since: once in 2014 and again in 2019. The current permittee is Harvard Investments or its affiliate Mariposa East LP. And from the preliminary information we have received, it is our understanding that Harvard/Mariposa East LP has neither transferred said 404 permit to DRHorton nor has DRHorton applied for a permit on their own.

The MNA submitted another FOIA request with USACE for the entire Administrative Record of the 2004 permit and will be receiving the information next week. We have also filed a formal protest through an attorney, and it will be up to USACE to evaluate our protest and determine remedies. It will also be up to the MNA to file a formal complaint in court if we do not agree with their proposed remedies or resolutions. (Note: silt fencing along the perimeter of Jemez Vista has rarely been properly maintained in violation of their NPDES permit.)

Design Standards

Another concern is that the entrance and perimeter of Jemez Vista is inferior to the standards outlined in the Mariposa Master Plan for its subdivisions. All other subdivision entrances have a divided entrance with a landscaped island, and all others have a landscaped berm and/or sidewalk around the property. The wall along Jemez Vista is directly abuts the sidewalk, with no area available for landscaping between the perimeter wall and sidewalk. There will definitely not be a sidewalk, or significant berm area, along the Blue Grama perimeter because of the perimeter wall placement. This is an impact to the walkability of Mariposa and the views and current property values of existing owners.

Moreover, and most importantly, prior to final plat approval, the MNA is requesting consideration be given to limiting homes built along the perimeter of the Vista De Santa Fe and across from Sierra Vista Subdivisions to one-story homes so as not to completely obliterate the views of property owners adjacent to the new subdivision. Owners of these lots paid significant premiums for their views and

were promised that Jemez Vista would remain open space. Limiting homes to one story would somewhat maintain privacy and views given the close nature of the subdivision without privacy walls, as the proximity of many of the proposed homes will be invasive to existing homes.

Impacts to Roads and Traffic

It should also be noted that Blue Grama, between Mariposa Parkway and Redondo Sierra Vista, has taken a beating with construction traffic. Cracks that were a couple of inches wide are now multiple times larger. And the vibratory effects of the construction equipment are still unknown. When the contractors installed the piping connections at the Redondo Sierra Vista entrance, they didn't bother to clean the road after the installation. As that is now the only entrance into the subdivision, there is constant dirt, rocks and debris on that well-traveled arterial. Further, the sidewalks on Blue Grama were never contained from the construction hazards, and proper access to the development was not being maintained, resulting in traffic congestion.

Conclusion

Many residents have come to the conclusion that the interests of the developers and the City are well aligned: the developers want to make a profit and the City needs to increase its tax base to provide much needed services. We do not begrudge these objectives. Many of us are not anti-development, though we are definitely proponents of environmentally and socially sensitive development. And Jemez Vista has been an example of the complete opposite, with a blatant disregard and disrespect for the health, safety, and welfare of existing residents. The summer of 2020 has literally been complete hell for a lot of these residents; many have fled, while others have stayed to fight the fight. Mariposa East is also filled with educated, experienced, knowledgeable, aware, and active residents. If our elected officials and government aren't responsive to our concerns and are lackadaisical in enforcing compliance with all laws, regulations, and ordinances, then we are prepared to monitor every developer and development activity, continue submitting FOIA requests and filing formal complaints, and frankly seek to replace our current representatives with those who will prevent these situations from happening and are responsive to our concerns.

We also ask that Development Services and the P&Z Board keep in mind that Jemez Vista is an in-fill project, in the center of and surrounded by established neighborhoods. It isn't like other pockets of residential development one finds throughout Rio Rancho, located on isolated, sandy, and barren mesas. We have a beautiful community rich with natural resources, beautiful vistas, tranquility when not surrounded by construction activity, and residents who settled here for those specific reasons.

The MNA thanks you for your service and attention to and consideration of our concerns. We also hope that you continue to hold in high regard the quiet enjoyment, health and safety, and property values of Mariposa East residents.

Respectfully Submitted By:
Mariposa Neighborhood Association



Eric Gregory, President

Infrastructure Committee Members: Angela Muxworthy, Cassandra & John D'Antonio,
William Kitson, John Hamm, and Lonnie Rowell

Photographs/Illustrations



Example of proximity of Jemez Vista to backyard of Vista de Santa Residents



Plat provided to buyers of existing homes along the perimeter of Jemez Vista showing open space



View of residential backyards of Vista de Santa Fe



Illustrations of No Dust Abatement



Overtured Cement Truck