

**Sol y Lomas Homeowner Association Annual Meeting**  
**The United Church of Santa Fe**  
**Also Via ZOOM**  
**January 18, 2025**

**Board Members Participating:** Susan Orth, President; Jackie Dulle, Secretary; Holly Porter, Treasurer; Wally Ausserer, ARC; Rachael Baca; and Via Zoom Dana Taylor, ARC.

**HOA Members Participating in person:** Gary Kilpatric, Bob Josephs, Laurie Ausserer, Steven Clark, Dave Steinkraus, Laura Holt and John Vavruska, Judy Montano, Melody Sullivan, Diane MacInnes and Warren Marr, Julia Sze, Jayne Cotten, David and Virginia Neville, Beth Lee and Matt Lane, Diane Lenssen, Tracie McCrary, Paula Woolworth, Mark Everett, David Dodge, and Kathy Elsberry.

**HOA Members Participating via Zoom:** Sharon and David Tolleson, Kathy Schepps, Sandra Ward and Tim Blöse

**CALL TO ORDER**

In the absence of a President, Jackie Dulle, Secretary, called the meeting to order at 10:10 a.m.

**INTRODUCTIONS**

Jackie explained that the former President, Lucia Deichmann, as well as her husband, Jens Deichmann, who was very active on the ARC, had both resigned from the Board at the end of 2024. Lucia will close her checking account access and debit card with Enterprise Bank, and Susan Orth, the incoming President, will be added to the bank account immediately. Jackie noted the tireless efforts of Lucia in serving as President for over three years and her particular involvement in protecting the beauty and nature of the Sol y Lomas neighborhood in opposing the Old Pecos Trail Development at 2200 Old Pecos Trail, which abuts a number of lots on Calle Halcon which are within the HOA. Jackie thanked both Lucia and Jens for their contributions to the Association and said they would be missed very much.

Following that, the other Board members introduced themselves, including Jackie Dulle, Holly Porter, Rachael Baca, Dana Taylor and Wally Ausserer. Susan Orth, who has volunteered to return to the Board and serve once again as President, introduced herself. Jackie then asked the HOA members in attendance to introduce themselves and to give a little information about them. Several residents reported having lived in the neighborhood for 30-40 years. Unfortunately, the Zoom connection was not permitting participation from those HOA members on Zoom.

**MINUTES – Jackie Dulle**

Jackie announced the minutes of the January 20, 2024 Annual HOA Meeting via Zoom were emailed to the Board members for review and approval and are posted on the Sol y Lomas HOA website: [www.solylomashoa.org](http://www.solylomashoa.org).

**TREASURY REPORT – Holly Porter**

Holly stated the 2024 Year End Financial Report and the proposed Budget for 2025 showing an anticipated revenue of \$5,745 with keeping the HOA Annual Dues at \$35.00 had been emailed out with the Annual Meeting Notice and were also handed out at the meeting. A motion to approve the proposed Budget for 2025 was made by Kathy Elsberry and seconded by Robert Josephs. Discussion was called for. David Dodge clarified the checking account balance is \$10,920. A vote on the motion was taken which carried unanimously.

**ELECTION OF TRUSTEES – Jackie Dulle**

The following slate of homeowners was offered as Trustees for 2025:

Susan Orth, President	Wally Ausserer, Trustee
Jackie Dulle, Secretary	Rachael Baca, Trustee
Holly Porter, Treasurer	Dana Taylor, Trustee

Paula Woolworth made a motion that this slate of Trustees be approved. David Dodge seconded the motion, Discussion was called for. There was none. A vote on the motion was taken, which passed unanimously.

**Re-elected President Susan Orth took over facilitating the meeting.**

**ADDITION TO THE AGENDA – MAINTENANCE OF WEEDS AND GRASSES ON HOA PROPERTIES**

Susan reported having received a request from Tim Blose to add discussion on the maintenance of weeds and grasses to the agenda. Discussion was held. The biggest concern is fire with the existing drought. Several years ago there was a fire on a property on West Zia Road that did some damage. Diane MacInnes suggested the HOA ask about scheduling a meeting with the Fire Department. Susan will check on that. Another suggestion was to have some neighborhood volunteer efforts to help those homeowners who cannot afford expensive yard maintenance. Paula Woolworth stated houses desirably should be cleared 50 ft. around of any weeds and grasses.

**NEIGHBORHOOD NEWS**

**Home Sales and Welcome Bags – Jackie Dulle**

Jackie reported there were six home sales within the HOA in 2024, and one in January, 2025. Additionally, there is one sale pending. There is currently one property listing on the market at 2110 Calle Azulejo within the HOA.

Jackie reported she had delivered welcome bags to four new homeowners in 2024, and that another three are pending. She indicated that several young families had moved into the area, with young children, which was a revitalizing sign for the neighborhood. Diane MacInnes volunteered to help with the welcome bags.

### **Safe Outdoor Space(SOS) – Pastor Joene Herr**

Pastor Joene Herr of Christ Lutheran Church (CLC), across St. Michael's Drive from United Church of Santa Fe, had been invited to address the Annual Meeting so the HOA residents would better understand their mission. Some salient points she made during her presentation included:

- CLC is the only host for SOS in the city of Santa Fe, although the City has many more SOS units in storage; the City is looking for more hosts
- CLC opened its 10 shelters in April 2024, with a capacity of 20 (two in each unit) and are open to pets
- They have had only a couple of incidents with residents
- They have a published list of rules for residents and if broken, the resident(s) are asked to leave
- They have had success in that five individuals have moved into permanent housing from the SOS, which is one of its missions
- On any given day there are from 240 – 460 homeless individuals in Santa Fe
- CLC is completing a laundry room for the SOS residents
- A Community Room is being built; CLC is looking for additional financial help for it
- A Dog Park donated by 100 Women Who Care and installed by Habitat for Humanity is in process
- Open Hands of Santa Fe is committed to the SOS on the church property
- Interested volunteers should check out the S3 Santa Fe Housing Initiative Volunteers meeting the first Tuesday of each month at CLC from 4-6 p.m. [info@volunteersantafe.com](mailto:info@volunteersantafe.com)
- Donations of food items, art supplies, hygiene supplies prepaid phones, gift cards and meals for holidays are always appreciated

Pastor Joene was thanked for her presentation and departed the meeting.

### **Updates on 2200 Old Pecos Trail Development and Appeals**

Susan reported recent statements from Bruce Throne would not be read at the meeting but will be added following these minutes.

### **ARCHITECTURAL REVIEW COMMITTEE (ARC) NEWS - Wally Ausserer**

Wally reported it had been a light year for ARC projects, which totaled 12. They included: four sheds, four fences, two additions, one casita and one solar. There were no ugly incidents over any of the projects. Wally was complimented on his ARC work.

It was announced the ARC Guidelines Document dated September 24, 2022 was emailed out with the Annual Meeting Notice, was handed out at this meeting and is posted on the Association website. They have been found to be very helpful.

Mark Everett had a question about outdoor lights and was referred to the Covenants which read: "All exterior lights on residential Lots shall be placed to prevent light nuisances to other Lots."

## **GRATITUDE**

Susan expressed gratitude to the HOA members who had come out to the meeting and to those who joined in on Zoom. Additionally, a big thank you was given to the United Church of Santa Fe who allowed the Sol y Lomas Homeowner Association meeting to be held there, the first time in five years and prior to the pandemic.

## **ADJOURNMENT**

Susan adjourned the meeting at 11:22 a.m.

Submitted by Jackie Dulle, Secretary

BELOW PLEASE FIND RECENT STATEMENTS FROM BRUCE THRONE REGARDING THE 2200 OLD PECOS TRAIL PROJECT.

From Bruce Throne.

Additional community funding is now needed for this ongoing litigation challenging the District Court's (Judge Biedscheld's) Order in May upholding the City's Decision to grant an Albuquerque developer's request to up-zone 9.6 acres of vacant land within the "Old Pecos Trail Scenic Corridor" (OPTSC) without first completing the "public participation process" for developing density and other development standards for that Scenic Corridor as "articulated" in its General Plan's "implementing policies" and provided in the City's Land Use Code.

In October, the N.M. Court of Appeals granted the Appellants' request for discretionary review of their claims that the District Court's Order erred by not concluding that the City's Decision did not comply with relevant provisions in Its Land Use Code addressing the criteria for approving rezonings and the procedures for amending policies in Its General Plan and their claims that, as articulated in that Plan, the city's Future Land Use Map, which is prepared by its Land Use Department staff and (that Plan states) is supposed to be "only used and interpreted in conjunction with the text" in that Plan, by itself did not constitute "substantial (credible) evidence" showing that the city adopted a 3-7 dwelling units per acre "policy" for this Property within the OPTSC in 1999 when it adopted that Plan, contrary to the text of that Plan, as concluded by the City in Its written Decision. The Court also granted review of Appellants' constitutional claims that, to reach its Decision, the City engaged in a variety of conduct (e.g., Ignoring Governing Body Resolution 2015-92, falling to swear In Staffs witness before they testified in support of the developer's rezoning request) that was "arbitrary and capricious" and violated their rights to procedural due process.

The Appellants' Brief-In-Chief to the Court of Appeals is due on January 17, 2025. It will explain that the District Court erred by Improperly deferring to the City's "expertise" and interpretation of relevant provisions in its Land Use Code and, like the City, falling to apply established rules of legal interpretation to the language in those provisions as required by N.M. Supreme Court precedent. It also will cite N.M. Supreme Court precedent holding that a city "may not ignore or revise its stated policies and procedures" In a city resolution (in this case the Governing Body's 2015 Resolution 2015-92 finding that the City had not yet completed that "public participation process" and Implemented that OPTSC policy as articulated In its General Plan and needed to do so to protect that Scenic Corridor) "for a single decision, no matter how well-intentioned the goal may be." It also will point to N.M. Supreme Court precedent holding that a court should not defer to a city's expertise "if the agency, rather than using Its resources to develop the facts

relevant to a proper interpretation, ignores the pertinent facts, or if the agency, rather than using its knowledge and expertise to discern the policies embodied in an enactment, decides on the basis of what it now believes to be the best policy.”

The Appellants' goal in this litigation is not only to reverse the City's unlawful rezoning Decision regarding this Property within the OPTSC, but also to obtain judicial precedent that will require the City to change its existing procedures in its quasi-judicial land use proceedings in a manner that provides community members generally with the "fundamental fairness" that the constitutional protection of "procedural due process" requires in its future land use proceedings. It is worth noting in this regard that, at a Governing Body meeting in August 2023, the Mayor broke a tie vote and the Governing Body voted to reject placing a proposed amendment to the City's Charter (i.e., its constitution), recommended to that Body by the City's Charter Commission and sponsored by Councilors Michael Garcia and Chris Rivera, on the November 2024 ballot (for residents to decide) that would have required that the City's Governing Body, Commissions and Boards adhere to procedural due process "when functioning in a quasijudicial role."

Thus, the outcome of this rezoning appeal has broad procedural implications for the entire Santa Fe community.

Answer briefs from the City and developer will be due 45 days after Appellants file their Brief-in-Chief in January. The Appellants' Reply Brief is due 20 days after Answer briefs are filed. Based on prior Court of Appeals' decisions and the fact that, due to Appellants' substantial evidence claim, the Court must review the entire case record (consisting of 4,303 pages of documents improperly assembled by the City and 5 different city hearing dates), the Appellants do not expect a decision by the Court of Appeals until late summer or early fall 2025, at the earliest.

All concerned:

FYI, the Appellants' "Brief in Chief" in their ongoing appeal of the city's Decision to up-zone 9.6 acres of vacant land within the Old Pecos Trail Scenic Corridor without completing the "public participation process" for that Scenic Corridor called for in the City's existing (1999) General Plan will be filed with the N.M. Court of Appeals on January 16. Per the current briefing schedule in that case and that Court's recent decision-making history, I expect the Court will not issue its decision in that Rezoning Appeal until at least the end of summer or fall of this year. At this point, it is not clear what the developer or the city will do (or try to do) if we win that appeal and the Court vacates the City's Rezoning Decision. If the Ct. of Appeals affirms that City Rezoning Decision, in my opinion based on the current rezoning approval criteria in the Code, that would likely establish a city precedent for further requests by landowners or developers to up-zone other vacant land within the south section of the OPT Scenic Corridor (between St. Michael's Dr. & Rodeo Rd./I-25) to 3 to up to 7 dwelling units per acre (R-3 to R-7), which also would further impact traffic conditions along that section of the Old Pecos Trail.

In the meantime, as many of you may be aware, the City is now moving forward with its "updates" of both its Land Use Code ("Chapter 14") and its General Plan. Regardless of how the Ct. of Appeals rules in our Rezoning Appeal, how the City addresses what remains of the "South Central Highway Corridor Protection overlay District," as that overlay

District currently is defined in the City's existing Land Use Code (e.g, after the City accomplished a "text amendment" to the City Code to allow it to up-zone and remove the 50./0 "open space" requirement for lots In the Zla Station/Candlelight section of that overlay District In 2022-2023), which includes the OPT Scenic Corridor, and addresses that Scenic Corridor (if at all) In its General Plan "update" will affect the extent of new development allowed within that Scenic Corridor going forward, particularly the southern section between St. Michael's Dr. and Rodeo Rd./I-25. For example. If we win our appeal of the City's rezoning of 2200 OPT, it wouldn't surprise me if the City attempts to negate (render "moot") that judicial decision via changes to relevant provisions In its Land Use Code and General Plan updates.

As some may recall, during the 2200 OPT rezoning hearing before the Governing Body last January, though the City's Attorney and its Land Use staff asserted that the Governing Body could lawfully rezone that Property within the OPT Scenic Corridor without first complying with Governing Body Resolution 2015-92, directing staff to re-start the "public participation process" for that Scenic Corridor as directed In the General Plan, so the City could codify specific density and other development standards to protect it as a community asset, one of Its Senior planners (Margaret Moore) told the Governing Body that City staff would conduct such a process as part of the city's update of the General Plan. I have no doubt that the City's Planning & Land Use Department staff and the Governing Body Intend to consider the current public input processes regarding the entire Land Use Code update and the General Plan update in general, which of course Is much broader in their scope than these corridor protection issues, as satisfying that "commitment."

Based on prior comments by members of the city's Land Use Department staff. Planning Commission and Governing Body, a majority of them appear to view the 50% "open space" requirement for any lot and the other existing protective provisions regarding development of vacant land within the South Central Highway Corridor Protection overlay District In the City's Land Use Code and the language In the existing General Plan addressing the OPT Scenic Corridor (defined there as between Cordova Rd. and Rodeo Rd.) as obstacles to the City's current market-priced and affordable housing/"infill" goals. I therefore expect them to propose/support weakening, if not eliminating altogether, those provisions in the City's Land Use Code and General Plan updates, assuming the General Plan update even continues to Include an "implementing policy" designating that part of the Old Pecos Trail as a "Scenic Corridor," which I expect many of them, as well as new housing advocates, will want to eliminate as well.

For these reasons, I would urge OSFA, the Sol y Lomas and The Plazas HOAs, other city HOAs and Interested community members to closely monitor and actively participate in these City Code and General Plan update processes and provide clear community Input to the City addressing density and other development standards (e.g., building heights, setbacks, access) within the OPT Scenic Corridor.

In this regard, I note and recommend the following based on the many hours I've spent since 2021 observing how the City has conducted itself with respect to the 2200 OPT Rezoning case:

- The current rezoning approval provisions in the City's Land Use Code regulate that

the City determine whether rezoning proposals are "more advantageous to the community as articulated in the general plan or other city plans," and the General Plan states that the "graphic" representations in the city's Future Land Use Map (FLUM) in the General Plan are "to be used and interpreted only in conjunction with the text and other figures in the General Plan." The city Code also currently requires that the City follow specific procedures and hearing requirements to "amend" its General Plan. Further, under the city's current Charter and Code, only the Governing Body can establish city "policy," either by resolution or codification in City Code.

- Nevertheless, the City Attorney, Mayor and other members of the Governing Body decided in the 2200 OPT rezoning case that density designations shown on the FLUM--which is completely controlled by the city's Planning and Land Use Department and "Geographic Information Systems" Staff--establish city density policies for property within the city limits. I recommend that community comments advocate that both the City Land Use Code and General Plan updates make it crystal clear that only the Governing Body--not City staff-- can establish City land use density and other "policies" for particular properties and must do so either by resolution or codification in the Code. Beware of any proposed changes to those provisions regarding how the City's FLUM is to be used and interpreted in the General Plan update:

- From a community and legal perspective, it is much easier to enforce land use requirements in the City's Land Use Code than to get the City to implement provisions and "policies" articulated in its General Plan) which the City generally regards as only "advisory" and not binding on it (e.g., as in the case of the 2200 OPT rezoning case). Therefore, protecting the OPT Scenic Corridor for the community will be most effectively accomplished if specific density limits and other development protections (e.g., the existing 50% "open space" for any lot and the 75-foot building setback from the Old Pecos Trail right-of-way between St. Michael's Dr. and Rodeo Rd. currently in Chap. 14 of the Code) are retained in the Code update.

- In particular, beware of proposals to eliminate the existing requirement in the City's Land Use Code that all lots within the South Central Highway Corridor Protection overlay District have a minimum of 50% of "open space," as that term is defined in the Code. That requirement is essential to protect the existing visual openness and scenic characteristics in that Corridor, particularly within its southern section between St. Michael's Dr. and Rodeo Rd./I-25. If City staff and/or others propose eliminating or changing the existing definition of the SCHC Protection overlay District in Chapter 14 of the Code, which I expect they will, I urge community members to advocate for retention of this "open space" requirement within the OPT Scenic Corridor, particularly between St. Michael's Dr. & Rodeo Rd./I-25.

- As most of you probably are aware, north section of the OPT Scenic Corridor (between Cordova Rd. and St. Michael's Dr.) has developed over time differently (e.g.) it includes the Women's Club, Elk's Club and some commercial offices as well as walls and other structures that appear to be located less than 75 ft. from the OPT

right-of-way) than the south section (between St. Michael's Dr. and Rodeo Rd./I-25). As a legal matter, new City development regulations cannot lawfully interfere with landowners' pre-existing property rights (which would be considered an unlawful "taking" under the substantive "due process" clause of the state Constitution). Thus, proposed density and other development standards (e.g. building setbacks from Old Pecos Trail, type of use) should distinguish and may reasonably discriminate between those two sections of the OPT Scenic Corridor based on their different existing developments and characteristics. To support that advocacy, community members could and I think should ask city Councilors to direct Staff to present the public and Governing Body with an up-to-date survey & report describing existing development within the OPT Scenic Corridor that distinguishes existing development within its northern section (between Cordova Rd. and St. Michael's Dr.) and its southern section (between St. Michael's Dr. & Rodeo Rd./I-25).

· With respect to density, I would recommend that community members advocate that, to protect the visual openness and scenic character of the southern section of the OPT Scenic Corridor (between St. Michael's Dr. and Rodeo Rd./I-25), density via Code provisions should be limited to "R-1 to R-2 or R-2 Planned Unit Development (PUD)." R-2 PUD is the rezoning density for "innovative" subdivision designs that the City approved for the Chapman development known as The Plazas at Old Pecos Trail in 2015, allowing it to be accomplished in a manner that did not conflict with the visual openness of the OPT Scenic Corridor by allowing the clustering and setting back of the homes that were built and providing "community open space," rather than the 50%/0 private "open space" on each lot that otherwise would have been required by the City Code for that part of the SCHC Protection Overlay District. I believe that density range is defensible from a community public interest point of view because it would allow for reasonable additional housing/"infill" of vacant land in that area while responding to members of the City's Planning and Land Use Department, Planning Commission and Governing Body and community housing advocates whose position is that limiting development within the City's limits to R-1 (one residential dwelling unit per acre) would establish an unreasonable obstacle to satisfaction of the city's housing needs and "infill" goals. In this regard, also be aware that, under existing city Code provisions, unless otherwise provided in the City Code when the City approves a new subdivision of vacant land, owners of lots in an area zoned R-2 (2 dwelling units per acre) are allowed to also build an "accessory dwelling unit" (ADU), such as a guest house, on their lot, assuming they can do so without violating any applicable "open space," setback or other Code requirements. Moreover, again based on recent experience with the City, it appears to me that even if the city retains the existing 50%/0 "open space" requirement for lots within the OPT Scenic Corridor section of the SCHC Protection overlay District in the Code, members of the City's Land Use staff, appointed Planning Commission and Governing Body may not be inclined to enforce that requirement, or may be inclined to grant lot owners a variance from it in the future regardless of the effects of those actions on the scenic character of this



area. So, even a proposed R-2 DU/AC zoning limit for vacant land within the OPT Scenic Corridor could result in greater housing densities than two DUs/AC that would affect the existing visual openness of this Scenic Corridor. For that reason, community members may wish to consider proposing provisions in the City's Land Use Code that either prohibit, substantially restrict or strongly discourage a property owner's right to request a city "variance" from any "open space" requirements applicable to vacant land within the OPT Scenic Corridor. If the City does so, I believe such a restriction for this sort of geographically limited, specifically-defined Scenic Corridor area in order to protect what has been characterized as a special asset for the entire SF community would be legally defensible.

I hope you find these observations and suggestions helpful.

Happy New Year and regards

Bruce

Bruce c. Throne  
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